

APPROPRIATIONS

CHAPTER 1

HOUSE BILL NO. 1001

(Appropriations Committee)
(At the request of the Legislative Management)

AN ACT providing an appropriation for defraying the expenses of the legislative branch of state government; to provide for applications, transfers, and cancellation of unexpended appropriations; to amend and reenact sections 54-03-20, 54-35-06, and 54-35-10 of the North Dakota Century Code, relating to legislative compensation and expenditures; to provide for a legislative management study; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from the insurance regulatory trust fund, not otherwise appropriated, to the legislative branch of state government for the purpose of defraying the expenses of that branch, for the fiscal period beginning with the effective date of this Act and ending June 30, 2017, as follows:

Subdivision 1.

SIXTY-FOURTH AND SIXTY-FIFTH LEGISLATIVE ASSEMBLIES AND BIENNIUM

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,205,759	\$811,614	\$10,017,373
Operating expenses	3,940,926	1,109,005	5,049,931
Capital assets	0	416,800	416,800
National conference of state legislatures	<u>233,286</u>	<u>7,977</u>	<u>241,263</u>
Total general fund	\$13,379,971	\$2,345,396	\$15,725,367

Subdivision 2.

LEGISLATIVE MANAGEMENT AND LEGISLATIVE COUNCIL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$8,660,860	\$885,837	\$9,546,697
Accrued leave payments	143,087	(143,087)	0
Operating expenses	3,753,527	(271,091)	3,482,436
Capital assets	<u>0</u>	<u>30,000</u>	<u>30,000</u>
Total all funds	\$12,557,474	\$501,659	\$13,059,133
Less estimated income	<u>69,999</u>	<u>1</u>	<u>70,000</u>

Total general fund	\$12,487,475	\$501,658	\$12,989,133
Full-time equivalent positions	37.00	0.00	37.00

Subdivision 3.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$25,867,446	\$2,847,054	\$28,714,500
Grand total special funds	69,999	1	70,000
Grand total all funds	\$25,937,445	\$2,847,055	\$28,784,500

SECTION 2. LEGISLATIVE ASSEMBLY ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation for the legislative assembly in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Legislative wing equipment and improvements	\$500,000	\$400,000
Information technology projects	42,000	0
Information technology equipment	0	603,050
LEGEND maintenance	0	191,760
Council of State Governments conference	0	350,000
Total general fund	\$542,000	\$1,544,810

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The legislative assembly shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. LEGISLATIVE MANAGEMENT AND LEGISLATIVE COUNCIL ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation for the legislative management and legislative council in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Information technology projects	\$50,000	\$0
Office equipment replacement	25,000	30,000
Office improvements	50,000	50,000
Education funding study	100,000	0
Higher education study	150,000	0
Information technology equipment	0	135,460
Total general fund	\$375,000	\$215,460

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The legislative council shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. TRANSFERS. Notwithstanding section 54-16-05, the director of the office of management and budget and the state treasurer shall make transfers of funds between line items of appropriations for the legislative management and legislative council as may be requested by the chairman of the legislative

management or the director of the legislative council upon the finding by the chairman or the director that the nature of studies and duties assigned to the legislative management or legislative council requires the transfers in properly carrying on the legislative management's and legislative council's functions and duties. The director of the office of management and budget and the state treasurer shall similarly make transfers of funds between the line items for the sixty-fourth and sixty-fifth legislative assemblies, upon request by the chairman of the legislative management or the director of the legislative council upon the finding by the chairman or director that the transfers are required for the legislative assembly to carry on its functions and duties.

SECTION 5. APPLICATION, TRANSFER AUTHORITY, AND CANCELLATION OF UNEXPENDED APPROPRIATIONS. Sections 54-16-04 and 54-44.1-11 do not apply to chapter 32 of the 2013 Session Laws. The director of the office of management and budget and the state treasurer shall make transfers of funds between the line items and the agencies of the legislative branch within section 1 of that chapter as requested by the chairman of the legislative management or the director of the legislative council. The office of management and budget shall cancel unexpended appropriations for the legislative assembly and legislative council enacted prior to the 2013-15 biennium as directed by the chairman of the legislative management or the director of the legislative council.

1 SECTION 6. AMENDMENT. Section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly.

1. Each member of the legislative assembly is entitled to receive as compensation for services the sum of one hundred ~~sixty-seven~~seventy-two dollars for each calendar day during any organizational, special, or regular legislative session and for each day that member attends a meeting of a legislative committee between the organizational session and the regular session as authorized by legislative rule.
2. a. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed per calendar month the amount established under this subdivision by the director of the office of management and budget for lodging in state and which may not exceed the rate provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session. On August first of each even-numbered year, the director of the office of management and budget shall set the maximum monthly reimbursement for the subsequent two-year period at an amount equal to thirty times seventy percent of the daily lodging reimbursement in effect on that date as provided under subdivision d of subsection 2 of section 44-08-04.
- b. Notwithstanding subdivision a:
 - (1) A member of the legislative assembly may elect to be reimbursed for less than the amount to which the legislator is entitled under this subsection by claiming the lesser amount on a voucher submitted with the receipt required by section 44-08-04.

¹ Section 54-03-20 was also amended by section 7 of House Bill No. 1001, chapter 1, and section 1 of House Bill No. 1199, chapter 366.

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- (2) The legislative management may establish guidelines that may result in a reduced maximum reimbursement for a single dwelling in which two or more legislators share lodging and the total rent for that dwelling exceeds the amount to which a legislator is entitled under subdivision a.
3. a. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees with the additional limitation that reimbursement for travel by common carrier may be only at the cost of coach fare and may not exceed one and one-half times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle.
 - b. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed the maximum monthly reimbursement allowed under subdivision a of subsection 2.
 4. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.
 5. If during a special session, the legislative assembly adjourns for more than three days, a member of the legislative assembly is entitled to receive compensation during those days only while in attendance at a standing committee if the legislator is a member of that committee, a majority or minority leader, or a legislator who is not on that committee but who has the approval of a majority or minority leader to attend.
 6. A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session or a legislative committee meeting must be included as a calendar day during a legislative session or as a day of a legislative committee meeting for the purposes of this section.
 7. a. In addition, each member is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of four hundred ~~sixty-seven~~eighty-one dollars a month, paid monthly.
 - b. If a member dies or resigns from office during the member's term, the member may be paid only the allowances provided for in this section for the period for which the member was actually a member.

- c. The majority and minority leaders of the house and senate and the chairman of the legislative management, if the chairman is not a majority or minority leader, are each entitled to receive as compensation, in addition to any other compensation or expense reimbursement provided by law, the sum of three hundred ~~thirty-five~~forty-five dollars per month during the biennium for their execution of public duties.
8. Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and compensation and expense allowances must be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section 127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)].
 9. Before each regular legislative session, the legislative management shall make recommendations and submit any necessary legislation to adjust legislative compensation amounts.

² **SECTION 7. AMENDMENT.** Section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly.

1. Each member of the legislative assembly is entitled to receive as compensation for services the sum of one hundred ~~seventy-two~~seventy-seven dollars for each calendar day during any organizational, special, or regular legislative session and for each day that member attends a meeting of a legislative committee between the organizational session and the regular session as authorized by legislative rule.
2. a. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed per calendar month the amount established under this subdivision by the director of the office of management and budget for lodging in state and which may not exceed the rate provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session. On August first of each even-numbered year, the director of the office of management and budget shall set the maximum monthly reimbursement for the subsequent two-year period at an amount equal to thirty times seventy percent of the daily lodging reimbursement in effect on that date as provided under subdivision d of subsection 2 of section 44-08-04.
- b. Notwithstanding subdivision a:
 - (1) A member of the legislative assembly may elect to be reimbursed for less than the amount to which the legislator is entitled under this subsection by claiming the lesser amount on a voucher submitted with the receipt required by section 44-08-04.
 - (2) The legislative management may establish guidelines that may result in a reduced maximum reimbursement for a single dwelling in which two or more legislators share lodging and the total rent for that dwelling

² Section 54-03-20 was also amended by section 6 of House Bill No. 1001, chapter 1, and section 1 of House Bill No. 1199, chapter 366.

exceeds the amount to which a legislator is entitled under subdivision a.

3. a. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees with the additional limitation that reimbursement for travel by common carrier may be only at the cost of coach fare and may not exceed one and one-half times the amount the member would be entitled to receive as mileage reimbursement for travel by motor vehicle.
- b. A member of the legislative assembly who does not receive reimbursement for lodging and whose place of residence in the legislative district that the member represents is not within the city of Bismarck is entitled to reimbursement at the rate provided for state employees for necessary travel for not to exceed one round trip taken per day between the residence and the place of meeting of the legislative assembly when it is in session and may receive reimbursement for lodging at the place of meeting of the legislative assembly as provided in section 44-08-04 for each calendar day for which round trip travel reimbursement is not claimed, provided that the total reimbursement may not exceed the maximum monthly reimbursement allowed under subdivision a of subsection 2.
4. The amount to which each legislator is entitled must be paid following the organizational session in December and following each month during a regular or special session.
5. If during a special session, the legislative assembly adjourns for more than three days, a member of the legislative assembly is entitled to receive compensation during those days only while in attendance at a standing committee if the legislator is a member of that committee, a majority or minority leader, or a legislator who is not on that committee but who has the approval of a majority or minority leader to attend.
6. A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session or a legislative committee meeting must be included as a calendar day during a legislative session or as a day of a legislative committee meeting for the purposes of this section.
7. a. In addition, each member is entitled to receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of four hundred ~~eighty-one~~ninety-five dollars a month, paid monthly.
- b. If a member dies or resigns from office during the member's term, the member may be paid only the allowances provided for in this section for the period for which the member was actually a member.
- c. The majority and minority leaders of the house and senate and the chairman of the legislative management, if the chairman is not a majority or minority leader, are each entitled to receive as compensation, in addition to any other compensation or expense reimbursement provided

by law, the sum of three hundred ~~forty-five~~^{forty-five} dollars per month during the biennium for their execution of public duties.

8. Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and compensation and expense allowances must be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section 127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)].
9. Before each regular legislative session, the legislative management shall make recommendations and submit any necessary legislation to adjust legislative compensation amounts.

SECTION 8. AMENDMENT. Section 54-35-06 of the North Dakota Century Code is amended and reenacted as follows:

54-35-06. Officers - Accept funds - Expenditures.

The legislative management shall select a chairman and a vice chairman from its own members and may prescribe its own rules of procedure. The legislative management may appoint a secretary who need not be a member, and shall appoint a director who must be in charge of the legislative council and who must be paid such salary as the legislative management may determine. The director may employ such persons and obtain the assistance of such research agencies as determined necessary. The director may use available funds for salary adjustments to assist with staff recruitment, retention, and recognition of exceptional performance. The legislative management and the legislative council may accept and use any funds made available through the terms of any agreement made with any agency whatsoever for the accomplishment of the purpose of this chapter. Expenditures of funds made available by legislative appropriation must be made in accordance with rules or motions duly approved by the legislative management.

³ **SECTION 9. AMENDMENT.** Section 54-35-10 of the North Dakota Century Code is amended and reenacted as follows:

54-35-10. Compensation of members and leadership.

1. The members of the legislative management and the members of any committee of the legislative management are entitled to be compensated for the time spent in attendance at sessions of the legislative management and of its committees at the rate of one hundred ~~sixty-seven~~^{sixty-seven}~~seventy-two~~ dollars per day and must also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.
2. In addition to the compensation provided in subsection 1, the chairman of the legislative management is entitled to receive an additional five dollars for each day spent in attendance at sessions of the legislative management and of its committees, and the chairman of each of the legislative management's committees is entitled to receive five dollars for each day spent in attendance at sessions of the legislative management or of the committee which the person chairs.

³ Section 54-35-10 was also amended by section 10 of House Bill No. 1001, chapter 1.

⁴ **SECTION 10. AMENDMENT.** Section 54-35-10 of the North Dakota Century Code is amended and reenacted as follows:

54-35-10. Compensation of members and leadership.

1. The members of the legislative management and the members of any committee of the legislative management are entitled to be compensated for the time spent in attendance at sessions of the legislative management and of its committees at the rate of one hundred ~~seventy-two~~~~seventy-seven~~ dollars per day and must also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.
2. In addition to the compensation provided in subsection 1, the chairman of the legislative management is entitled to receive an additional five dollars for each day spent in attendance at sessions of the legislative management and of its committees, and the chairman of each of the legislative management's committees is entitled to receive five dollars for each day spent in attendance at sessions of the legislative management or of the committee which the person chairs.

SECTION 11. LEGISLATIVE MANAGEMENT STUDY - FINANCING STATE CONSTRUCTION PROJECTS. During the 2015-16 interim, the legislative management shall consider studying the use of bonding to finance state building, road, and water construction projects. If conducted, the study must include consideration of the effect that financing state construction projects with existing oil revenue has had on both the construction industry and the oil and gas industry. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 12. EFFECTIVE DATE. Sections 6 and 9 of this Act become effective on July 1, 2015, and sections 7 and 10 become effective on July 1, 2016.

SECTION 13. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 27, 2015
Filed April 27, 2015

⁴ Section 54-35-10 was also amended by section 9 of House Bill No. 1001, chapter 1.

CHAPTER 2

HOUSE BILL NO. 1002

(Appropriations Committee)
(At the request of the Supreme Court)

AN ACT to provide an appropriation for defraying the expenses of the judicial branch; to provide for the establishment of additional district court judgeships; and to amend and reenact sections 27-02-02 and 27-05-03 of the North Dakota Century Code, relating to salaries of supreme and district court judges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the judicial branch for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017.

Subdivision 1.

SUPREME COURT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,851,552	\$1,557,557	\$11,409,109
Accrued leave payments	531,696	(531,696)	0
Operating expenses	2,754,254	390,745	3,144,999
Capital assets	0	1,012,377	1,012,377
Judges retirement	75,017	4,571	79,588
Guardianship monitoring program	<u>70,000</u>	<u>233,789</u>	<u>303,789</u>
Total general fund	\$13,282,519	\$2,667,343	\$15,949,862

Subdivision 2.

DISTRICT COURTS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$61,177,621	\$10,591,709	\$71,769,330
Accrued leave payments	2,399,277	(2,399,277)	0
Operating expenses	20,847,479	2,780,840	23,628,319
Capital assets	0	1,968,460	1,968,460
Judges retirement	500,936	(92,287)	408,649
UND central legal research	<u>80,000</u>	<u>0</u>	<u>80,000</u>
Total all funds	\$85,005,313	\$12,849,445	\$97,854,758
Less estimated income	<u>1,808,090</u>	<u>114,060</u>	<u>1,922,150</u>
Total general fund	\$83,197,223	\$12,735,385	\$95,932,608

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Judicial conduct commission and disciplinary board	<u>\$1,020,874</u>	<u>\$106,613</u>	<u>\$1,127,487</u>
Total all funds	\$1,020,874	\$106,613	\$1,127,487
Less estimated income	<u>367,499</u>	<u>77,157</u>	<u>444,656</u>
Total general fund	\$653,375	\$29,456	\$682,831

Subdivision 4.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$97,133,117	\$15,432,184	\$112,565,301
Grand total special funds	<u>2,175,589</u>	<u>191,217</u>	<u>2,366,806</u>
Grand total all funds	\$99,308,706	\$15,623,401	\$114,932,107
Full-time equivalent positions	363.00	28.00	391.00

SECTION 2. APPROPRIATION. There are appropriated any funds received by the supreme court, district courts, and judicial conduct commission and disciplinary board, not otherwise appropriated, pursuant to federal acts and private gifts, grants, and donations for the purpose as designated in the federal acts or private gifts, grants, and donations for the period beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Office equipment and furniture	\$331,470	\$220,000
Information technology equipment	516,556	924,460
Juvenile case management system replacement study	90,000	0
Disaster recovery planning	95,000	0
Criminal justice information sharing publisher project	139,850	0
Disaster recovery project	0	2,000,000
Facility space expansion	0	1,149,377
Criminal case eFile initiation	<u>0</u>	<u>99,000</u>
Total general fund	\$1,172,876	\$4,392,837

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The supreme court shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. TRANSFERS. The director of the office of management and budget and the state treasurer shall make such transfer of funds between line items of appropriation for the judicial branch of government as may be requested by the

supreme court upon a finding by the court that the nature of the duties of the court and its staff requires the transfers to carry on properly the functions of the judicial branch of government.

SECTION 5. DISTRICT JUDGES. The appropriation provided in subdivision 2 of section 1 of this Act provides for four additional district court judges to be assigned pursuant to section 27-05-01 and to be assigned to chambers by the supreme court. Within thirty days after the effective date of this Act, the judgeship vacancies created by this section must be filled in accordance with section 13 of article VI of the Constitution of North Dakota. In accordance with section 9 and 13 of article VI of the Constitution of North Dakota, each judge appointed to fill a vacancy created by this section continues in office until the next general election immediately following two years of service after the appointment. The individual then elected holds office for the remainder of the term and until a successor is elected and duly qualified.

SECTION 6. AMENDMENT. Section 27-02-02 of the North Dakota Century Code is amended and reenacted as follows:

27-02-02. Salaries of justices of supreme court.

The annual salary of each justice of the supreme court is one hundred ~~forty-three~~forty-three~~hundred~~hundred ~~two~~two thousand ~~six~~six hundred ~~eighty-five~~eighty-five ~~thirty-six~~thirty-six dollars through June 30, ~~2014~~2016, and one hundred ~~forty-seven~~forty-seven thousand ~~nine~~nine hundred ~~ninety-six~~ninety-six dollars thereafter. The chief justice of the supreme court is entitled to receive an additional four thousand ~~one~~one ~~hundred~~hundred ~~twenty-seven~~twenty-seven ~~seventy-seven~~seventy-seven dollars per annum through June 30, ~~2014~~2016, and four thousand ~~two~~two ~~hundred~~hundred ~~fifty-eight~~fifty-eight dollars per annum thereafter.

SECTION 7. AMENDMENT. Section 27-05-03 of the North Dakota Century Code is amended and reenacted as follows:

27-05-03. Salaries and expenses of district judges.

The annual salary of each district judge is one hundred ~~thirty-one~~thirty-one ~~thirty-nine~~thirty-nine thousand ~~six~~six hundred ~~sixty-one~~sixty-one ~~seventy-nine~~seventy-nine dollars through June 30, ~~2014~~2016, and one hundred ~~thirty-five~~thirty-five ~~forty-three~~forty-three thousand ~~six~~six ~~hundred~~hundred ~~elevensixty-nine~~elevensixty-nine dollars thereafter. Each district judge is entitled to travel expenses, including mileage and subsistence while engaged in the discharge of official duties outside the city in which the judge's chambers are located. The salary and expenses are payable monthly in the manner provided by law. A presiding judge of a judicial district is entitled to receive an additional ~~three~~three ~~four~~four thousand ~~eight~~eight ~~hundred~~hundred ~~threethirty-five~~threethirty-five dollars per annum through June 30, ~~2014~~2016, and ~~three~~three ~~four~~four thousand ~~nine~~nine ~~one~~one hundred ~~seventeen~~fifty-six dollars thereafter.

Approved April 27, 2015

Filed April 27, 2015

CHAPTER 3

HOUSE BILL NO. 1003

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the North Dakota university system; to create and enact five new sections to chapter 15-10, chapters 15-62.4 and 15-62.5, and a new subsection to a new section to chapter 54-10 as created in section 5 of Senate Bill No. 2004, as approved by the sixty-fourth legislative assembly, of the North Dakota Century Code, relating to a unified workforce, vocational, and technical education program system, the workforce education advisory council, the required use of electronic mail, file server administration, database administration, application server, and hosting services, audits of higher education computer systems, annual reports regarding scholarships, the student financial assistance program, the scholars program, and higher education audits; to amend and reenact subdivision c of subsection 1 of section 15-10-17, sections 15-18.2-02, 15-18.2-03, 15-18.2-04, 15-18.2-05, 54-12-08, and 54-44.1-04, subsection 4 of section 54-44.1-06, and section 54-44.1-11 of the North Dakota Century Code, relating to university system office personnel, state aid to institutions, attorneys hired by the state board of higher education, budget requests submitted to the office of the budget, preparation of budget data, and the cancellation of unexpended appropriations; to repeal chapter 15-62.2 of the North Dakota Century Code, relating to the student financial assistance program and the scholars program; to provide for the transfer of funds; to authorize the state board of higher education to issue and sell bonds for capital projects; to limit tuition rate increases; to reauthorize projects for North Dakota state university and Minot state university; to provide for budget section reports; to provide for reports to the sixty-fifth legislative assembly; to provide for legislative management reports and studies; to provide an appropriation to the attorney general; to provide contingent appropriations to the state board of higher education; to provide exemptions; to provide legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income to the state board of higher education and to the entities and institutions under the supervision of the board, for the purpose of defraying the expenses of the state board of higher education and the entities and institutions under the control of the board, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

Subdivision 1.

NORTH DAKOTA UNIVERSITY SYSTEM OFFICE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Capital assets - bond payments	\$10,436,045	(\$2,067,209)	\$8,368,836

Competitive research program	7,050,000	0	7,050,000
System governance	12,666,502	(5,139,509)	7,526,993
Title II	1,006,472	0	1,006,472
Core technology services	38,662,551	7,318,414	45,980,965
Student financial assistance grants	21,245,679	4,388,597	25,634,276
Professional student exchange program	4,275,015	0	4,275,015
Academic and technical education scholarships	10,000,000	4,054,677	14,054,677
Two-year campus marketing	800,000	0	800,000
Scholars program	2,113,584	0	2,113,584
Native American scholarships	649,267	0	649,267
Tribally-controlled community college grants	1,000,000	0	1,000,000
Education incentive programs	3,349,000	0	3,349,000
Student mental health	282,520	33,480	316,000
Veterans assistance grants	325,000	0	325,000
Deferred maintenance pool	0	8,700,000	8,700,000
Campus security pool	0	3,000,000	3,000,000
Open education resources training	0	110,000	110,000
Internal audit pool	0	300,000	300,000
Total all funds	\$113,861,635	\$20,698,450	\$134,560,085
Less estimated income	2,299,912	211,304	2,511,216
Total general fund	\$111,561,723	\$20,487,146	\$132,048,869
Full-time equivalent positions	112.91	(8.52)	104.39

Subdivision 2.

BISMARCK STATE COLLEGE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$32,653,654	\$3,509,499	\$36,163,153
Capital assets	417,673	2,175,000	2,592,673
Total all funds	\$33,071,327	\$5,684,499	\$38,755,826
Less estimated income	0	600,000	600,000
Total general fund	\$33,071,327	\$5,084,499	\$38,155,826
Full-time equivalent positions	126.96	6.57	133.53

Subdivision 3.

LAKE REGION STATE COLLEGE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$12,429,097	\$2,403,092	\$14,832,189
Capital assets	155,367	1,648,423	1,803,790
Total all funds	\$12,584,464	\$4,051,515	\$16,635,979
Less estimated income	0	0	0
Total general fund	\$12,584,464	\$4,051,515	\$16,635,979
Full-time equivalent positions	40.22	9.97	50.19

Subdivision 4.

WILLISTON STATE COLLEGE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$12,783,506	(\$233,042)	\$12,550,464
Capital assets	<u>197,801</u>	<u>0</u>	<u>197,801</u>
Total all funds	\$12,981,307	(\$233,042)	\$12,748,265
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
Total general fund	\$12,981,307	(\$233,042)	\$12,748,265
Full-time equivalent positions	44.15	5.81	49.96

Subdivision 5.

UNIVERSITY OF NORTH DAKOTA

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$149,683,005	\$17,591,333	\$167,274,338
Capital assets	<u>4,411,566</u>	<u>74,760,000</u>	<u>79,171,566</u>
Total all funds	\$154,094,571	\$92,351,333	\$246,445,904
Less estimated income	<u>0</u>	<u>6,000,000</u>	<u>6,000,000</u>
Total general fund	\$154,094,571	\$86,351,333	\$240,445,904
Full-time equivalent positions	633.60	(3.40)	630.20

Subdivision 6.

NORTH DAKOTA STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$140,341,540	\$14,336,756	\$154,678,296
Capital assets	<u>2,732,244</u>	<u>11,600,000</u>	<u>14,332,244</u>
Total all funds	\$143,073,784	\$25,936,756	\$169,010,540
Less estimated income	<u>0</u>	<u>11,600,000</u>	<u>11,600,000</u>
Total general fund	\$143,073,784	\$14,336,756	\$157,410,540
Full-time equivalent positions	491.21	45.89	537.10

Subdivision 7.

NORTH DAKOTA STATE COLLEGE OF SCIENCE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$38,181,456	\$5,537,929	\$43,719,385
Capital assets	<u>1,012,379</u>	<u>13,298,000</u>	<u>14,310,379</u>
Total all funds	\$39,193,835	\$18,835,929	\$58,029,764
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
Total general fund	\$39,193,835	\$18,835,929	\$58,029,764
Full-time equivalent positions	171.87	(3.57)	168.30

Subdivision 8.

DICKINSON STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$26,299,227	\$2,307,626	\$28,606,853
Capital assets	<u>409,078</u>	<u>0</u>	<u>409,078</u>
Total all funds	\$26,708,305	\$2,307,626	\$29,015,931
Less estimated income	<u>0</u>	<u>2,000,000</u>	<u>2,000,000</u>
Total general fund	\$26,708,305	\$307,626	\$27,015,931
Full-time equivalent positions	100.32	19.94	120.26

Subdivision 9.

MAYVILLE STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$14,364,424	\$2,015,729	\$16,380,153
Capital assets	<u>358,992</u>	<u>0</u>	<u>358,992</u>
Total all funds	\$14,723,416	\$2,015,729	\$16,739,145
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
Total general fund	\$14,723,416	\$2,015,729	\$16,739,145
Full-time equivalent positions	62.78	3.45	66.23

Subdivision 10.

MINOT STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$43,810,211	\$4,048,350	\$47,858,561
Capital assets	<u>899,620</u>	<u>0</u>	<u>899,620</u>
Total all funds	\$44,709,831	\$4,048,350	\$48,758,181
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
Total general fund	\$44,709,831	\$4,048,350	\$48,758,181
Full-time equivalent positions	201.76	2.34	204.10

Subdivision 11.

VALLEY CITY STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$20,691,135	\$4,370,214	\$25,061,349
Capital assets	<u>408,319</u>	<u>30,289,000</u>	<u>30,697,319</u>
Total all funds	\$21,099,454	\$34,659,214	\$55,758,668
Less estimated income	<u>0</u>	<u>16,000,000</u>	<u>16,000,000</u>
Total general fund	\$21,099,454	\$18,659,214	\$39,758,668
Full-time equivalent positions	97.29	8.30	105.59

Subdivision 12.

DAKOTA COLLEGE AT BOTTINEAU

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$7,892,043	\$697,566	\$8,589,609
Capital assets	114,007	11,746,983	11,860,990
Total all funds	\$8,006,050	\$12,444,549	\$20,450,599
Less estimated income	0	10,648,194	10,648,194
Total general fund	\$8,006,050	\$1,796,355	\$9,802,405
Full-time equivalent positions	36.12	10.84	46.96

Subdivision 13.

UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH
SCIENCES

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$52,762,590	\$18,674,806	\$71,437,396
Total all funds	\$52,762,590	\$18,674,806	\$71,437,396
Less estimated income	0	0	0
Total general fund	\$52,762,590	\$18,674,806	\$71,437,396
Full-time equivalent positions	156.55	28.03	184.58

Subdivision 14.

NORTH DAKOTA FOREST SERVICE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$6,249,979	\$306,655	\$6,556,634
Capital assets	101,210	0	101,210
Total all funds	\$6,351,189	\$306,655	\$6,657,844
Less estimated income	1,650,000	0	1,650,000
Total general fund	\$4,701,189	\$306,655	\$5,007,844
Full-time equivalent positions	29.00	(0.04)	28.96

Subdivision 15.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$679,271,846	\$196,909,865	\$876,181,711
Grand total special funds	3,949,912	47,059,498	51,009,410
Grand total all funds	\$683,221,758	\$243,969,363	\$927,191,121

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Capital projects - general fund	\$155,691,350	\$99,909,212

Capital projects - other funds	168,531,029	44,848,194
Capital projects contingency pool	5,483,413	0
Campus security pool	0	3,000,000
CTS technology projects	0	2,821,500
Open education resource training	0	110,000
Theodore Roosevelt center	6,000,000	800,000
Williston state college energy development impact	0	2,500,000
Dickinson state university leadership transition	0	2,000,000
Museum of art deferred maintenance	0	760,000
Williston state college workforce training facility	2,500,000	0
Campus deferred maintenance projects	440,000	0
Performance funding pool	5,000,000	0
Dickinson state university operating funds	800,000	0
Minot state university flood recovery funds	2,500,000	0
Dakota college at Bottineau - campus software updates	28,500	0
Deferred maintenance pool	10,000,000	8,700,000
Education challenge fund	29,000,000	0
School of medicine and health sciences residency positions	0	4,700,000
Health care workforce initiative	7,414,806	13,814,806
Master plan and space utilization study	1,000,000	0
Total all funds	\$394,389,098	\$183,963,712
Total other funds	171,031,029	46,848,194
Total general fund	\$223,358,069	\$137,115,518

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The North Dakota university system shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. CONTINGENT APPROPRIATION - LEGISLATIVE MANAGEMENT REPORT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the state board of higher education for the unified workforce, vocational, and technical education program system, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is available only if the state board of higher education certifies to the office of management and budget that a unified workforce, vocational, and technical program system has been established. The board shall provide reports to the legislative management on the status of the development of the unified system.

SECTION 4. CONTINGENT APPROPRIATION - BUDGET SECTION APPROVAL. Subject to budget section approval as provided in this section, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of reorganizing the office of the commissioner of higher education, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funds provided under this section are available only if the state board of higher education submits to the budget section for approval a plan to reorganize the office of the commissioner of higher education. The plan must detail the proposed organizational structure of the office, priorities of the office, and process changes to increase office and systemwide efficiencies. The budget section may approve the entire appropriation provided under this section, or a portion of the appropriation, for the board of higher education to use for the purposes identified in this section. The funding provided in this section is considered a one-time funding item.

SECTION 5. CONTINGENT GENERAL FUND APPROPRIATIONS - STATE BOARD OF HIGHER EDUCATION - CAPITAL PROJECTS - BUDGET SECTION APPROVAL.

1. Subject to the provisions of this section, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$25,850,000, or so much of the sum as may be necessary, to the state board of higher education for the Valley City state university fine arts building project, including the demolition of two existing buildings, for the biennium beginning July 1, 2015, and ending June 30, 2017.
2. Subject to the provisions of this section, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$46,000,000, or so much of the sum as may be necessary, to the state board of higher education for the North Dakota state university Dunbar Hall project, for the biennium beginning July 1, 2015, and ending June 30, 2017.
3. a. The appropriation in subsection 1 of this section is available only if the director of the office of management and budget determines actual general fund revenues for the period beginning July 1, 2015, and ending December 31, 2015, exceed the legislative estimates made at the close of the 2015 legislative session for general fund revenues during the same period by at least \$126,000,000, or if the director of the office of management and budget determines actual general fund revenues for the period beginning July 1, 2015, and ending June 30, 2016, exceed the legislative estimates made at the close of the 2015 legislative session for general fund revenues during the same period by at least \$126,000,000.
- b. The appropriation in subsection 2 of this section is available only if the director of the office of management and budget determines actual general fund revenues for the period beginning July 1, 2015, and ending December 31, 2016, exceed the legislative estimates made at the close of the 2015 legislative session for general fund revenues during the same period by at least \$200,000,000. Additionally, the appropriation in subsection 2 is available only if the state board of higher education certifies to the budget section that the Dunbar Hall project conforms to the university system campus master plan and space utilization study and the board receives budget section approval to proceed with the project.
- c. For purposes of this subsection, "estimated general fund revenues" excludes the unobligated general fund balance on July 1, 2015, and transfers to the general fund from the strategic investment and improvements fund, property tax relief fund or tax relief fund, the lottery, the mill and elevator, and gas tax administration.

SECTION 6. APPROPRIATION - ATTORNEY GENERAL. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from the general fund in the state treasury, not otherwise appropriated, to the attorney general for the following purposes:

Intellectual property attorney	\$436,994
Continuation of contracted higher education legal services	<u>700,000</u>
Total general fund	\$1,136,994

The attorney general is authorized one intellectual property attorney full-time equivalent position. The attorney general may not spend any funds designated for the intellectual property attorney position for purposes other than the salaries and wages and operating expenses of the intellectual property attorney. The funding designated for contracted higher education legal services is considered a one-time funding item.

***SECTION 7. AMENDMENT.** Subdivision c of subsection 1 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

- c. Appoint and remove, at will, all university system office personnel, fix their salaries within the limits of legislative appropriations, ~~fix their terms of office~~, and prescribe their duties. The board may provide severance pay to an employee upon termination of employment only in accordance with section 54-14-04.3.

SECTION 8. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Required use of electronic mail, file server administration, database administration, application server, and hosting services.

Each institution and entity under the control of the state board of higher education shall obtain electronic mail, file server administration, database administration, research computing, storage, application server, and hosting services through a delivery system established by the board. The board shall establish policies and guidelines for the delivery of services, including the transition from existing systems to functional consolidation, with consideration given to the creation of efficiencies, cost-savings, and improved quality of service.

SECTION 9. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Audits of computer systems - Penalty.

1. Any auditor hired to conduct audits of the state board of higher education and the entities under the control and supervision of the board may:
 - a. Conduct a review and assessment of any computer system or related security system of the state board of higher education or any entity under the control and supervision of the board. A review and assessment under this section may include an assessment of system vulnerability, network penetration, any potential security breach, and the susceptibility of the system to cyber attack or cyber fraud.
 - b. Disclose the findings of a review and assessment to an individual or committee designated by the state board of higher education or to the board. Any record relating to a review and assessment, including a working paper or preliminary draft of a review and assessment report and a report of the findings of a review and assessment, and any record that may cause or perpetuate vulnerability of a computer system or related security system which is obtained or created during a review and assessment is an exempt record.
 - c. In conjunction with the state board of higher education or a committee designated by the board, procure the services of a specialist in information security systems or any other contractor deemed necessary in conducting a review and assessment under this section.

2. Any person hired or contracted to provide services in relation to a review and assessment under this section is subject to the privacy and confidentiality provisions of subsection 1 and any other section of law, including section 44-04-27, and for the purposes of section 12.1-13-01, is a public servant.

SECTION 10. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Unified workforce, vocational, and technical education program system.

The state board of higher education shall establish and maintain a unified system to offer workforce training, vocational education, and technical education programs at institutions under its control. The board shall periodically review programs offered by institutions under its control and revise program offerings based on the workforce needs of the state identified by the workforce education advisory council. The board shall develop administrative arrangements that make possible the efficient use of facilities and staff. The board shall limit administrative costs by eliminating duplicative administrative positions.

SECTION 11. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Workforce education advisory council - Membership - Duties.

The state board of higher education shall establish a workforce education advisory council to advise the board regarding skills and qualifications needed for workforce training, vocational, and technical education programs offered at institutions under the control of the board. The council is composed of a representative of the department of career and technical education, a representative of job service North Dakota, a representative of the department of commerce, and eight members representing business and industry in the state. The eight members representing business and industry shall be appointed by the chairman of the legislative management. The North Dakota university system office shall provide staff services for the advisory council and members of the council who are not employees of the state are entitled to expense reimbursement from the board, as provided by law for state officers, for attending meetings of the council.

SECTION 12. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Annual report - Scholarships.

The state board of higher education shall provide to the legislative management an annual report regarding the number of North Dakota academic scholarships and career and technical education scholarships provided and demographic information pertaining to the recipients.

SECTION 13. AMENDMENT. Section 15-18.2-02 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-02. Weighted credit-hours - Determination - Instructional program classification factors - Submission to legislative management.

1. In order to determine the weighted credit-hours for each institution under its control, the state board of higher education shall multiply each of an institution's completed credit-hours, as determined under section 15-18.2-01, by an instructional program classification factor, as set forth in this section.

- a. The factors for credits completed in agriculture are:
 - (1) 1.9 for lower division credits;
 - (2) 3.8 for upper division credits;
 - (3) 5.7 for professional level credits; and
 - (4) 7.6 for graduate level credits.
- b. The factors for credits completed in architecture are:
 - (1) 1.8 for lower division credits;
 - (2) 3.6 for upper division credits;
 - (3) 5.4 for professional level credits; and
 - (4) 7.2 for graduate level credits.
- c. The factors for credits completed in ~~aviation~~aviation/transportation are:
 - (1) 1.9 for lower division credits;
 - (2) 3.8 for upper division credits;
 - (3) 5.7 for professional level credits; and
 - (4) 7.6 for graduate level credits.
- d. The factors for credits completed in the biological and physical sciences are:
 - (1) 1.9 for lower division credits;
 - (2) 3.8 for upper division credits;
 - (3) 5.7 for professional level credits; and
 - (4) 7.6 for graduate level credits.
- e. The factors for credits completed in business are:
 - (1) 1.9 for lower division credits;
 - (2) 3.8 for upper division credits;
 - (3) 5.7 for professional level credits; and
 - (4) 7.6 for graduate level credits.
- f. The factors for credits completed in education are:
 - (1) 1.9 for lower division credits;
 - (2) 3.8 for upper division credits;

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- (3) 5.7 for professional level credits; and
 - (4) 7.6 for graduate level credits.
 - g. The factors for credits completed in engineering are:
 - (1) 2.5 for lower division credits;
 - (2) 5.0 for upper division credits;
 - (3) 7.5 for professional level credits; and
 - (4) 10.0 for graduate level credits.
 - h. The factors for credits completed in the health sciences are:
 - (1) 3.0 for lower division credits;
 - (2) 6.0 for upper division credits;
 - (3) 9.0 for professional level credits;
 - (4) 12.0 for graduate level credits; and
 - (5) 38.0 for medical school credits.
 - i. The factors for credits completed in legal studies are:
 - (1) 3.5 for lower division credits;
 - (2) 7.0 for upper division credits;
 - (3) 10.5 for professional level credits; and
 - (4) 14.0 for graduate level credits.
 - j. The factors for credits completed in the core disciplines are:
 - (1) 1.0 for lower division credits;
 - (2) 2.0 for upper division credits;
 - (3) 3.0 for professional level credits; and
 - (4) 4.0 for graduate level credits.
 - k. The factor for credits completed in career and technical education is 2.0.
 - l. The factor for completed ~~remedial~~basic skills credits is 2.3.
2. a. The state board of higher education shall ensure that all delineations in this section reflect the requirements of a nationally recognized and standardized instructional program classification system.
- b. Before adopting any changes to the delineations implemented in accordance with this section, the state board of higher education shall

present the proposed changes to and receive the approval of the legislative management.

SECTION 14. AMENDMENT. Section 15-18.2-03 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-03. Credit completion factor - Determination.

1. ~~For~~Except as provided in subsections 2 and 3 of this section, for each institution under its control, the state board of higher education shall multiply the product determined under section 15-18.2-02 by a factor of:
 - a. ~~1.00 if the number of credit hours is at least 100,000;~~
 - b. ~~1.05 if the number of credit hours is at least 95,000 but less than 100,000;~~
 - c. ~~1.10 if the number of credit hours is at least 90,000 but less than 95,000;~~
 - d. ~~1.15 if the number of credit hours is at least 85,000 but less than 90,000;~~
 - e. ~~1.20 if the number of credit hours is at least 80,000 but less than 85,000;~~
 - f. ~~1.25 if the number of credit hours is at least 75,000 but less than 80,000;~~
 - g. ~~1.30 if the number of credit hours is at least 70,000 but less than 75,000;~~
 - h. ~~1.35 if the number of credit hours is at least 65,000 but less than 70,000;~~
 - i. ~~1.40 if the number of credit hours is at least 60,000 but less than 65,000;~~
 - j. ~~1.45 if the number of credit hours is at least 55,000 but less than 60,000;~~
 - k. ~~1.50 if the number of credit hours is at least 50,000 but less than 55,000;~~
 - l. ~~1.55 if the number of credit hours is at least 45,000 but less than 50,000;~~
 - m. ~~1.60 if the number of credit hours is at least 40,000 but less than 45,000;~~
 - n. ~~1.65 if the number of credit hours is at least 35,000 but less than 40,000;~~
 - o. ~~1.70 if the number of credit hours is at least 30,000 but less than 35,000;~~
 - p. ~~1.75 if the number of credit hours is at least 25,000 but less than 30,000;~~
 - q. ~~1.80 if the number of credit hours is at least 20,000 but less than 25,000;~~
 - r. ~~1.85 if the number of credit hours is at least 15,000 but less than 20,000;~~
 - s. ~~1.90 if the number of credit hours is at least 10,000 but less than 15,000;~~
 - t. ~~1.95 if the number of credit hours is at least 5,000 but less than 10,000;~~
and
 - u. ~~2.00 if the number of credit hours is less than 5,000.~~
 - a. 1.00 if the number of credit hours is at least 240,000;

- b. 1.05 if the number of credit-hours is at least 180,000 but less than 240,000;
 - c. 1.10 if the number of credit-hours is at least 120,000 but less than 180,000;
 - d. 1.15 if the number of credit-hours is at least 90,000 but less than 120,000;
 - e. 1.20 if the number of credit-hours is at least 80,000 but less than 90,000;
 - f. 1.30 if the number of credit-hours is at least 70,000 but less than 80,000;
 - g. 1.40 if the number of credit-hours is at least 60,000 but less than 70,000;
 - h. 1.50 if the number of credit-hours is at least 50,000 but less than 60,000;
 - i. 1.60 if the number of credit-hours is at least 40,000 but less than 50,000;
 - j. 1.70 if the number of credit-hours is at least 30,000 but less than 40,000;
and
 - k. 1.80 if the number of credit-hours is less than 30,000.
2. If the square footage of an institution, when divided by the institution's weighted credit-hours results in a quotient greater than 5.00, the state board of higher education shall multiply the product determined under section 15-18.2-02 by a factor of 1.00. For purposes of this subsection, the square footage of an institution includes real property as determined by the state board of higher education in accordance with section 15-18.2-04.
 3. If the number of credit-hours completed by an institution causes a decrease in the credit completion factor for that institution, the new credit completion factor shall not be in effect for calculation purposes for the first two fiscal years following the change.
 4. For purposes of this section, the number of credit-hours must be those determined by the state board of higher education in accordance with section 15-18.2-01.

SECTION 15. AMENDMENT. Section 15-18.2-04 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-04. Institutional size factor - Determination.

1. For each institution under its control, the state board of higher education shall multiply the product determined under section 15-18.2-03 by a size factor of:
 - a. 1.0 if the square footage of the institution, when divided by the institution's weighted credit-hours results in a quotient of less than 5.00; or
 - b. ~~4.8~~1.7 if the square footage of the institution, when divided by the institution's weighted credit-hours results in a quotient of 5.00 or more.

2. For purposes of this section, an institution's square footage:
 - a. Includes all real property owned by the state within an institution's perimeter, except for agricultural experiment stations, agricultural research extension centers, technology parks, and state agencies; and
 - b. Is determined as of June thirtieth in each odd-numbered year.

SECTION 16. AMENDMENT. Section 15-18.2-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.2-05. Base funding - Determination of state aid.

In order to determine the state aid payment to which each institution under its control is entitled, the state board of higher education shall multiply the product determined under section 15-18.2-04 by a base amount of:

1. ~~\$66.35~~\$72.63 in the case of North Dakota state university and the university of North Dakota;
2. ~~\$95.57~~\$107.33 in the case of Dickinson state university, Mayville state university, Minot state university, and Valley City state university; and
3. ~~\$98.75~~ in the case of Minot state university;
4. ~~\$101.73~~\$114.88 in the case of Bismarck state college, Dakota college at Bottineau, Lake Region state college, and North Dakota state college of science; and
5. ~~\$104.88~~ in the case of Williston state college.

SECTION 17. Chapter 15-62.4 of the North Dakota Century Code is created and enacted as follows:

15-62.4-01. Student financial assistance program.

The state board of higher education shall administer the North Dakota student financial assistance program for the purpose of providing a grant to an individual who demonstrates significant financial need and who:

1. a. Graduated from a high school in this state;
- b. Graduated from a high school in a bordering state, pursuant to chapter 15.1-29;
- c. Graduated from a nonpublic high school in a bordering state while residing with a custodial parent in this state;
- d. Completed a program of home education supervised in accordance with chapter 15.1-23; or
- e. Received a general educational development high school diploma from the superintendent of public instruction;

2.
 - a. Is enrolled at an accredited institution of higher education in this state, provided the institution offers a program of instruction equal to at least two academic years; or
 - b. Because of a medically certifiable disability is enrolled at an accredited institution of higher education outside of this state which offers the individual special services or facilities not available in this state, provided the institution offers a program of instruction equal to at least two academic years; and
3. Is pursuing a course of study determined by the state board of higher education to be at least quarter-time.

15-62.4-02. Student financial assistance program - Criteria and procedures.

The state board of higher education shall adopt:

1. Criteria governing the application process;
2. Criteria governing the determination of financial need, which must include consideration of parental contributions to educational expenses;
3. Criteria governing the selection process; and
4. Procedures for providing fiscal control, fund accounting, and reports.

15-62.4-03. Student financial assistance program - Grants.

1. The state board of higher education shall provide to each eligible student a financial assistance grant in an amount not exceeding:
 - a. Nine hundred seventy-five dollars per semester; or
 - b. Six hundred fifty dollars per quarter.
2.
 - a. A student is not entitled to receive grants under this chapter for more than the equivalent of:
 - (1) Eight semesters of full-time enrollment; or
 - (2) Twelve quarters of full-time enrollment.
 - b. Notwithstanding subdivision a, a student is not entitled to receive a grant under this chapter after the student obtains a baccalaureate degree.
3. The board shall forward grants payable under this chapter directly to the institution in which the student is enrolled.

15-62.4-04. Student financial assistance program - Advisory board.

1. The student financial assistance advisory board is created for the purposes of:
 - a. Providing advice to the state board of higher education regarding the student financial assistance program; and

- b. Functioning as a liaison between the state board of higher education and the institutions of higher education participating in the student financial assistance program.
2. a. The student financial assistance advisory board consists of:
 - (1) Three financial aid officers;
 - (2) A chief financial officer;
 - (3) A high school counselor; and
 - (4) A student enrolled at an institution of higher education in this state.
- b. All members must be appointed by the state board of higher education.
- c. All members other than the student must be employed by an educational institution in this state.
- d. No more than one member may be employed by the same educational institution as another member.
3. The state board of higher education shall determine the terms of the student financial assistance advisory board members and establish any necessary rules of operation and procedure.
4. Each member of the student financial assistance advisory board is entitled to reimbursement for expenses, as provided by law for state officers, if the member is attending meetings or performing duties directed by the advisory board.

15-62.4-05. Student financial assistance program - Gifts and grants - Acceptance.

The state board of higher education may receive, administer, and expend moneys from public and private sources for the purposes of this chapter.

SECTION 18. Chapter 15-62.5 of the North Dakota Century Code is created and enacted as follows:

15-62.5-01. Scholars program.

The state board of higher education shall administer the scholars program for the purpose of providing a merit-based scholarship to an individual who:

1. a. Graduated from a high school in this state;
- b. Graduated from a high school in a bordering state, pursuant to chapter 15.1-29;
- c. Graduated from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
- d. Completed a program of home education supervised in accordance with chapter 15.1-23;

2. On the ACT, achieved composite scores that ranked the individual at or above the ninety-fifth percentile among those who took the ACT prior to July first in the calendar year preceding the individual's enrollment;
3.
 - a. Is enrolled at an accredited institution of higher education in this state that offers a program of instruction equal to at least two academic years;
 - b. Because of a medically certifiable disability is enrolled at an accredited institution of higher education outside of this state that offers the individual special services or facilities not available in this state, provided the institution offers a program of instruction equal to at least two academic years; and
4. Is pursuing a course of study determined by the board to be full-time.

15-62.5-02. Scholars program - Criteria and procedures.

The state board of higher education shall adopt:

1. Criteria governing the application process;
2. Criteria governing the selection process, within the requirements of section 15-62.5-03; and
3. Procedures for providing fiscal control, fund accounting, and reports.

15-62.5-03. Scholars program - Ranking and selection of recipients.

1. The state board of higher education shall rank scholars program applicants by their ACT composite scores.
2. If two or more applicants have the same composite scores, they must be ranked by the numeric sum of their four scale scores on the ACT.
3. If two or more applicants have the same composite scores and the same numeric sum of the four scale scores, they must be ranked by the numeric sum of their English and mathematics scores.
4. The state board of higher education may establish additional criteria to rank applicants who have the same numeric sum of their English and mathematics scores.
5. Scholarships must be offered to applicants in descending order according to this ranking until available funds have been expended or until the pool of applicants has been exhausted.

15-62.5-04. Scholars program - Scholarship amounts - Stipends.

1.
 - a. Each semester, the state board of higher education shall provide to an eligible student a scholarship in an amount not exceeding the tuition charged at the institution in which the student is enrolled, provided the amount may not exceed the highest undergraduate semester tuition charged at an institution of higher education under the control of the state board of higher education.

- b. Each quarter the state board of higher education shall provide to an eligible student a scholarship in an amount not exceeding the tuition charged per quarter at the institution in which the student is enrolled, provided the amount may not exceed two-thirds of the highest undergraduate semester tuition charged at an institution of higher education under the control of the state board of higher education.
- c. For purposes of this subsection, the rates are calculated using a traditional fall and spring academic year.
2. The scholarships provided for under this section are conditioned on the student maintaining a 3.5 cumulative grade point average, based on a 4.0 grading system.
3. Any student eligible for a scholarship under this section is also eligible for a stipend in an amount not exceeding two thousand dollars annually. The state board of higher education may distribute the stipend on a semester or a quarter basis.
4. a. A student is not entitled to receive scholarships under this chapter for more than the equivalent of:
 - (1) Eight semesters of full-time enrollment; or
 - (2) Twelve quarters of full-time enrollment.
- b. Notwithstanding subdivision a, a student is not entitled to receive a scholarship under this chapter after the student obtains a baccalaureate degree.
5. The state board of higher education shall forward scholarships and stipends payable under this chapter directly to the institution in which the student is enrolled.

15-62.5-05. Use of scholarships and stipends - Refund policy.

Scholarships and stipends awarded under this chapter may be applied to defray tuition charges, fees, room and board charges, and the cost of books and supplies, and for any other expenses incidental to attending an institution of higher education. If an individual discontinues attendance before the completion of any semester or quarter for which a scholarship or stipend has been received, the individual is subject to the refund or repayment policy of the institution at which the individual was enrolled.

⁵ **SECTION 19.** A new subsection to a new section to chapter 54-10, as created in section 5 of Senate Bill No. 2004, as approved by the sixty-fourth legislative assembly, is created and enacted as follows:

4. This section does not prohibit the state board of higher education from employing internal audit staff or contracting for internal audit services.

⁵ Section 54-10-30 was created by section 5 of Senate Bill No. 2004, chapter 38.

⁶ **SECTION 20. AMENDMENT.** Section 54-12-08 of the North Dakota Century Code is amended and reenacted as follows:

54-12-08. Assistant and special assistant attorneys general - Appointment - Revocation - Compensation.

1. After consultation with the head of the state department or institution or with the state board, commission, committee, or agency affected, the attorney general may appoint assistant or special assistant attorneys general to represent the state board, commission, committee, or agency. A state officer, head of any state department, whether elected or appointed, or state department, board, commission, committee, or agency may not employ legal counsel, and no person may act as legal counsel in any matter, action, or proceeding in which the state or any state department, board, commission, committee, or agency is interested or is a party, except upon written appointment by the attorney general. Workforce safety and insurance, the department of transportation, the state tax commissioner, the public service commission, the insurance commissioner, ~~the board of higher education~~, and the securities commissioner may employ attorneys to represent them. These entities shall pay the salaries and expenses of the attorneys they employ within the limits of legislative appropriations. The attorneys that represent these entities must be special assistant attorneys general appointed by the attorney general pursuant to this section. Absent good cause, the attorney general shall appoint as special assistant attorneys general licensed attorneys selected by these entities. The attorney general may revoke the appointment only for good cause or upon the request of the entity. Good cause means an inadequate level of experience, competence, or ethical standards.
2. The powers conferred upon special assistant attorneys general are the same as are exercised by the regular assistant attorneys general, unless the powers are limited specifically by the terms of the appointment. Except as otherwise provided by this section, an appointment is revocable at the pleasure of the attorney general. The appointment may be made with or without compensation, and when compensation is allowed by the attorney general for services performed, the compensation must be paid out of the funds appropriated therefor.
3. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of the department of human services, state department of health, and the state hospital.
4. An assistant or special assistant attorney general appointed to represent the state board of higher education or an institution under the control of the state board of higher education may access and examine any record under the control of the state board of higher education. For purposes of reviewing records under the Family Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal privacy law, the assistant or special

⁶ Section 54-12-08 was also amended by section 10 of Senate Bill No. 2003, chapter 37.

assistant attorney general is considered a state educational official authorized to access student records.

SECTION 21. AMENDMENT. Section 54-44.1-04 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-04. Budget estimates of budget units filed with the office of the budget - Deadline.

The head of each budget unit, not later than July fifteenth of each year next preceding the session of the legislative assembly, shall submit to the office of the budget, estimates of financial requirements of the person's budget unit for the next two fiscal years, on the forms and in the manner prescribed by the office of the budget, with such explanatory data as is required by the office of the budget and such additional data as the head of the budget unit wishes to submit. The estimates of financial requirements for budget units under the control of the state board of higher education must be made using the same forms, supporting information, and documentation as other budget units. Any request for a new full-time or part-time permanent position included in a budget unit's estimate of its financial requirements for the next two fiscal years must include documentation justifying the need for the position. The documentation must describe the circumstances resulting in the need for the position and identify the number of hours the position will be involved in specific types of activities and the anticipated outcomes of the activities. The estimates so submitted must bear the approval of the board or commission of each budget unit for which a board or commission is constituted. The director of the budget may extend the filing date for any budget unit if the director finds there is some circumstance that makes it advantageous to authorize the extension. If a budget unit has not submitted its estimate of financial requirements by the required date or within a period of extension set by the director of the budget, the director of the budget shall prepare the budget unit's estimate of financial requirements except the estimate may not exceed ninety percent of the budget unit's previous biennial appropriation. The director of the budget or a subordinate officer as the director shall designate shall examine the estimates and shall afford to the heads of budget units reasonable opportunity for explanation in regard thereto and, when requested, shall grant to the heads of budget units a hearing thereon which must be open to the public.

SECTION 22. AMENDMENT. Subsection 4 of section 54-44.1-06 of the North Dakota Century Code is amended and reenacted as follows:

4. Detailed comparative statements of expenditures and requests for appropriations by funds, budget units and classification of expenditures, showing the expenditures for the previous biennium, the first fiscal year of the present biennium, the budget of the current biennium, and the governor's recommendation for appropriations for each budget unit for the next biennium, all distributed according to the prescribed classification of expenditures. Following the lists of actual and proposed expenditures of each budget unit there must be a brief explanation of the functions of the unit and comments on its policies and plans and on any considerable differences among the amounts recommended, with any descriptive, quantitative, comparative, and other data as to work done, unit costs, and like information as may be considered necessary or desirable. For capital outlay expenditures involving construction projects to be completed in two or more fiscal years, there must be shown the total estimated cost of each such project and the amount thereof recommended to be appropriated and expended in each ensuing fiscal year until completion of the project. Capital outlay needs may be projected for at least two years beyond the period covered by the budget. The detailed

comparative statements of budget units under the control of the state board of higher education must include the same information presented for other budget units.

SECTION 23. AMENDMENT. Section 54-44.1-11 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-11. (Effective through July 31, 20152017) Office of management and budget to cancel unexpended appropriations - When they may continue.

Except as otherwise provided by law, the office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. Unexpended appropriations for the North Dakota university system are not subject to this section and the North Dakota university system shall report on the amounts and uses of funds carried over from one biennium to the next to subsequent appropriations committees of the legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

(Effective after July 31, 20152017) Office of management and budget to cancel unexpended appropriations - When they may continue. The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two

years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

SECTION 24. REPEAL. Chapter 15-62.2 of the North Dakota Century Code is repealed.

SECTION 25. SYSTEMWIDE FUNDING POOLS - TRANSFER AUTHORITY - LEGISLATIVE MANAGEMENT REPORT. The following line items contained in subdivision 1 of section 1 of this Act include funding that may be transferred in full or in part as provided in this section for the period beginning with the effective date of this Act and ending June 30, 2017, by the state board of higher education to the institutions and entities under its control as follows:

1. The deferred maintenance funding pool line item includes funding that must be used for eligible projects to address deferred maintenance at institutions identified in this subsection. To be eligible to receive funding under this subsection, a project must be identified in campus master plan and space utilization studies and be approved by the board. The maximum amount that may be transferred to each institution from the funding pool is as follows:
 - a. \$3,500,000 to North Dakota state university;
 - b. \$3,500,000 to the university of North Dakota;
 - c. \$700,000 to Bismarck state college;
 - d. \$500,000 to Mayville state university; and
 - e. \$500,000 to lake region state college.
2. The education incentive programs line item includes funding that may be allocated to education incentive programs based on program eligibility criteria and the reduction or elimination of specific programs as determined by the board.
3. The campus security funding pool line item includes funding that must be used to address security needs at institutions based on campus risk and security assessments.

4. The internal audit funding pool line item includes funding that must be used for systemwide and campus internal audit purposes.

The state board of higher education shall provide reports to the legislative management during the 2015-16 interim regarding distributions from the deferred maintenance, campus security, and internal audit funding pools.

SECTION 26. CAMPUS CAPITAL PROJECTS - PROJECT MANAGEMENT.

During the biennium beginning July 1, 2015, and ending June 30, 2017, each capital project authorized by the state board of higher education must have adequate project management oversight by either an institution official or a representative of an external entity. An institution may seek assistance from the university system office for project management oversight of a capital project.

SECTION 27. NORTH DAKOTA STATE UNIVERSITY - MINARD HALL - REAUTHORIZATION - BUDGET SECTION REPORT.

In addition to the funds appropriated in section 1 of this Act, North Dakota state university may use unspent state funding from the \$5,000,000 appropriation received during the biennium beginning July 1, 2007, and ending June 30, 2009, and unspent state funding from the \$13,000,000 appropriation received during the biennium beginning July 1, 2009, and ending June 30, 2011, and special funds derived from insurance litigation settlement and other local institutional funds, to a total of \$23,474,300 for the Minard hall project, for the biennium beginning July 1, 2015, and ending June 30, 2017. North Dakota state university shall report to the budget section regarding the status of the Minard hall project and may request increased spending authorization from the budget section for the project.

SECTION 28. MINOT STATE UNIVERSITY - FOOTBALL STADIUM PRESS BOX - REAUTHORIZATION.

Minot state university may use up to \$4,000,000 in private funds from the city of Minot and \$1,000,000 in local institutional funds for the completion of the football stadium press box during the period beginning with the effective date of this Act, and ending June 30, 2017.

SECTION 29. STUDENT LOAN TRUST FUND.

Subdivision 1 of section 1 of this Act includes the sum of \$3,504,744, or so much of the sum as may be necessary, from the student loan trust fund, of which \$465,307 is for the professional student exchange program, \$500,000 is for grants to tribally-controlled community colleges, \$2,000,000 is for campus leadership transition costs at Dickinson state university, and \$539,437 is for connectND campus solution positions, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 30. UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH SCIENCES OPERATIONS.

The operations line item in subdivision 5 of section 1 of this Act includes a funding allocation from the higher education per student credit-hour funding formula attributable to inflation during the biennium beginning July 1, 2015, and ending June 30, 2017. A minimum of twenty-five percent of the allocation must be transferred by the state board of higher education to the university of North Dakota school of medicine and health sciences.

SECTION 31. FEDERAL, PRIVATE, AND OTHER FUNDS - APPROPRIATION.

All funds, in addition to those appropriated in section 1 of this Act, from federal, private, and other sources for competitive grants or other funds that the legislative assembly has not indicated the intent to reject, including tuition revenue, received by the state board of higher education and the institutions and entities under the control of the state board of higher education, are appropriated to the board and those institutions and entities, for the biennium beginning July 1, 2015, and ending June 30,

2017. All additional funds received under the North Dakota-Minnesota reciprocity agreement during the biennium beginning July 1, 2015, and ending June 30, 2017, are appropriated to the state board of higher education for reimbursement to institutions under the control of the board.

SECTION 32. TRANSFER AUTHORITY. If, during the biennium beginning July 1, 2015, and ending June 30, 2017, the state board of higher education determines that funds allocated to operations in section 1 of this Act are needed for capital assets, the board may transfer funds from operations to capital assets. The board shall report any transfer of funds under this section to the office of management and budget.

SECTION 33. EXEMPTION - USE OF 2013-15 BIENNIUM APPROPRIATIONS - CONTINGENT APPROPRIATION REDUCTION. Of the \$5,000,000 appropriated from the general fund in the performance funding pool line item in section 1 of chapter 34 of the 2013 Session Laws, \$1,000,000 is not subject to section 54-44.1-11 and must be canceled by the office of management and budget on the effective date of this section. Pursuant to section 54-44.1-11, the sum of \$4,000,000 appropriated in the performance funding pool line item of subdivision 1 of section 1 of chapter 34 of the 2013 Session Laws may be continued into the biennium beginning July 1, 2015, and ending June 30, 2017. Of the unexpended appropriation, the state board of higher education shall transfer \$1,500,000 to Williston state college, \$1,500,000 to Dickinson state university, \$500,000 to Minot state university, and \$500,000 to Dakota college at Bottineau for deferred maintenance and extraordinary campus needs. The board shall transfer a prorated amount if sufficient funding is not available to provide for full transfers. Excluding the transfers authorized in this section, the office of management and budget shall reduce the general fund appropriation authority included in the system governance line item contained in subdivision 1 of section 1 of this Act in an amount equal to any appropriation used from the performance funding pool line item contained in section 1 of chapter 34 of the 2013 Session Laws.

SECTION 34. EXEMPTION. The sum of \$750,000 from the general fund is appropriated in the capital assets line item in subdivision 5 of section 1 of chapter 34 of the 2013 Session Laws for the university of North Dakota school of medicine and health sciences Bismarck family practice center skywalk project. Any remaining unexpended appropriation authority for the project is not subject to section 54-44.1-11 and the office of management and budget shall cancel the remaining unexpended appropriation authority on the effective date of this section.

SECTION 35. EXEMPTION - THEODORE ROOSEVELT CENTER PROJECT - APPROPRIATION CANCELLATION. Section 3 of chapter 34 of the 2013 Session Laws includes the sum of \$6,000,000 from the general fund appropriated to Dickinson state university for the Theodore Roosevelt center project. Section 4 of chapter 49 of the 2013 Session Laws includes the sum of \$6,000,000 from the general fund appropriated to Dickinson state university for the Theodore Roosevelt center project. Notwithstanding section 54-44.1-11, the office of management and budget shall cancel these appropriations on July 1, 2016, unless Dickinson state university certifies to the office of management and budget that a site has been selected for the Theodore Roosevelt center, construction plans have been developed for the project, and construction on the center will commence prior to January 1, 2017.

SECTION 36. FULL-TIME EQUIVALENT POSITION ADJUSTMENTS. Notwithstanding any other provisions of law, the state board of higher education may adjust full-time equivalent positions as needed, subject to the availability of funds, for institutions and entities under its control during the biennium beginning July 1, 2015, and ending June 30, 2017. The North Dakota university system shall report any

adjustments to the office of management and budget before the submission of the 2017-19 biennium budget request.

SECTION 37. BOND ISSUANCE AUTHORIZATION - PURPOSES. The state board of higher education, in accordance with chapter 15-55, may arrange for the funding of projects authorized in this section, declared to be in the public interest, through the issuance of self-liquidating, tax-exempt evidences of indebtedness under chapter 15-55, beginning with the effective date of this section and ending June 30, 2017. Evidences of indebtedness issued pursuant to this section are not a general obligation of the state of North Dakota. Any unexpended balance resulting from the proceeds of the evidences of indebtedness must be placed in a sinking fund to be used for the retirement of indebtedness. The evidences of indebtedness may be issued and the proceeds are appropriated in section 1 of this Act for the following capital projects:

Dakota college at Bottineau - dormitory renovations	\$2,900,000
North Dakota state university - aquatic center	<u>10,000,000</u>
Total special funds	\$12,900,000

SECTION 38. USE OF EXTRAORDINARY REPAIRS FUNDING - MATCHING FUNDS - LEGISLATIVE MANAGEMENT REPORT. The capital assets line items in subdivisions 2 through 12 of section 1 of this Act include funding for institution extraordinary repairs. An institution shall provide two dollars of matching funds from operations or other sources for each one dollar of extraordinary repairs funding used for a project. An institution may not use a transfer from the deferred maintenance funding pool to provide matching funds under this section. This section does not apply to funding provided for repairs and maintenance of the North Dakota museum of art facility. During the 2015-16 interim, the state board of higher education shall provide a report to the legislative management regarding the use of extraordinary repairs funding and related matching funds.

SECTION 39. TUITION RATE INCREASE LIMITATIONS - BUDGET SECTION APPROVAL.

1. Notwithstanding any other provision of law, the state board of higher education may not increase tuition rates for students attending institutions of higher education under its control during the 2015-16 academic year by more than two and one-half percent as compared to the tuition rate in effect during the 2015 spring semester unless the board receives prior budget section approval.
2. Notwithstanding any other provision of law, the state board of higher education may not increase tuition rates for students attending institutions of higher education under its control during the 2016-17 academic year by more than two and one-half percent as compared to the tuition rate in effect during the 2016 spring semester unless the board receives prior budget section approval.
3. For purposes of this section, an institution must calculate a tuition rate increase based on the tuition rate paid by an average full-time student. Any adjustments to a tuition rate resulting from a change in an institution's method of charging tuition, including the addition of fees to tuition rates or charging tuition based on a per-credit rate, must be included in tuition rate calculations under this section.

4. This section does not apply to tuition rates determined under tuition reciprocity agreements entered into by the state board of higher education with other states or state education compacts.
5. This section does not apply to tuition rates charged for programs offered through the university of North Dakota school of medicine and health sciences.

SECTION 40. LEGISLATIVE MANAGEMENT REPORT - DICKINSON STATE UNIVERSITY. Before July 1, 2016, the state board of higher education shall provide a report to the legislative management regarding the operations of Dickinson state university. The report must detail the financial condition of the institution and board directives and plans to improve the financial stability of the institution.

SECTION 41. LEGISLATIVE INTENT - ATTORNEY SALARIES. It is the intent of the sixty-fourth legislative assembly that all assistant attorneys general employed in the office of the attorney general, including attorneys assigned to higher education issues, be provided salary and benefits in accordance with uniform salary and benefits schedules established by the attorney general.

SECTION 42. STATE BOARD OF HIGHER EDUCATION DATA INCONSISTENCIES - REPORT TO THE SIXTY-FIFTH LEGISLATIVE ASSEMBLY. During the biennium beginning July 1, 2015, and ending June 30, 2017, the state board of higher education shall evaluate the following data inconsistency issues at institutions and entities under its control and develop policies and procedures to correct the inconsistencies:

1. Lack of integration of personal and demographic information among computer systems;
2. Lack of use of standard chart of accounts for financial reporting and standard department budget table deduction and tax override flags;
3. Absence of standard business processes for recording mandatory fees and for changing payroll funding source information;
4. Inconsistent methods and procedures at institutions for recording high school completions, identifying student cohorts for reporting purposes, and classifying agency funds;
5. Inconsistent practices and policies at institutions for awarding tuition waivers, admitting students, using purchasing card, charging tuition and fees, and accruing of faculty sick leave;
6. Inconsistent coding and naming for bad debt expense and journal entries;
7. Use of shadow accounting systems for reporting purposes; and
8. Inconsistent definitions for a distance education student, a resident student for tuition purposes, and a full-time student for federal tax purposes.

The state board of higher education shall provide a report to the appropriations committees of the sixty-fifth legislative assembly regarding the status of the inconsistencies, including policies and procedures implemented to correct the inconsistencies.

SECTION 43. HIGHER EDUCATION INSTITUTION PERMANENT FUNDS - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The state board of higher education shall provide a report to the appropriations committees of the sixty-fifth

legislative assembly regarding the use of funds received by institutions under its control from permanent fund income established for the benefit of the institutions in section 1 of article IX of the Constitution of North Dakota.

SECTION 44. EXTRAORDINARY CAMPUS NEEDS FUNDING - REPORT TO THE SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The operations line item in subdivision 4 of section 1 of this Act includes the sum of \$2,500,000 for extraordinary campus needs at Williston state college. Williston state college shall provide a report to the appropriations committees of the sixty-fifth legislative assembly regarding the use of this funding and the need to continue the funding in to the biennium beginning July 1, 2017, and ending June 30, 2019.

SECTION 45. LEGISLATIVE MANAGEMENT STUDY - HIGHER EDUCATION COURSE DELIVERY METHODS. During the 2015-16 interim, the legislative management shall consider studying the delivery methods of higher education courses offered by institutions under the control of the state board of higher education. The study, if conducted, must include a review of current methods of distance education offered by institutions, options to improve delivery methods, revenue generated by each type of delivery method, and how course delivery methods may affect future campus infrastructure needs. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 46. LEGISLATIVE MANAGEMENT STUDY - INSTITUTION MISSIONS. During the 2015-16 interim, the legislative management shall consider studying the missions of all two-year institutions and the missions of any other institutions under the control of the state board of higher education, as determined by the legislative management, including the feasibility and desirability of the institutions offering only workforce and career and technical education programs. The study must review the current missions of the institutions, current and projected course and program enrollments, projected workforce needs, including how the institutions can serve the needs, and options to increase operating efficiencies. The legislative management shall report its findings, together with any legislation necessary to implement the findings, to the sixty-fifth legislative assembly.

SECTION 47. LEGISLATIVE MANAGEMENT STUDY - INSTITUTION ADMINISTRATION COSTS. During the 2015-16 interim, the legislative management shall consider studying administrative costs at institutions under the control of the state board of higher education. The study, if conducted, must review the number of administrator positions at each institution, the number of new administrator positions added at each institution during the previous five academic years, the total salaries and benefits associated with the administrator positions, the average salaries and benefits for administrator positions at each institution for each of the previous five fiscal years, the percentage of overall institution operating costs attributable to administration, and options to provide future increased legislative appropriations to institutions specifically for instructional purposes. The legislative management shall report its findings, together with any legislation necessary to implement the findings, to the sixty-fifth legislative assembly.

SECTION 48. EMERGENCY. Sections 9, 25, 28, 33, 34, and 37 and the capital assets, campus security pool, and deferred maintenance pool line items in section 1 of this Act are declared to be an emergency measure.

Approved May 14, 2015
Filed May 14, 2015

* Section 7 of House Bill No. 1003 was vetoed, see chapter 486.

CHAPTER 4

HOUSE BILL NO. 1004

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state department of health; to amend and reenact section 43-29.1-03 of the North Dakota Century Code, relating to selection criteria for the veterinarian loan repayment program; to provide a statement of legislative intent; and to provide for legislative management studies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state department of health for the purpose of defraying the expenses of the state department of health, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$54,757,510	\$7,877,277	\$62,634,787
Accrued leave payments	2,223,289	(2,223,289)	0
Operating expenses	37,305,014	6,961,674	44,266,688
Capital assets	2,224,288	1,494,944	3,719,232
Grants	57,510,729	451,031	57,961,760
Tobacco prevention	5,544,251	1,365,926	6,910,177
WIC food payments	<u>24,659,861</u>	<u>(4,459,861)</u>	<u>20,200,000</u>
Total all funds	\$184,224,942	\$11,467,702	\$195,692,644
Less estimated income	<u>139,303,434</u>	4,867,530	<u>144,170,964</u>
Total general fund	\$44,921,508	\$6,600,172	\$51,521,680
Full-time equivalent positions	354.00	11.00	365.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Federal fiscal stimulus	\$155,000	\$0
EPA lawsuit contingency	500,000	0
Funding to contract for autopsies	480,000	0
Food and lodging licensing management system	110,000	0
Forensic examiner x-ray equipment	0	44,000
WIC system upgrade	0	1,712,110
Environmental equipment	0	<u>780,000</u>
Total all funds	\$1,245,000	\$2,536,110
Less estimated income	<u>265,000</u>	<u>2,200,110</u>
Total general fund	\$980,000	\$336,000

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The state department of health shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. ENVIRONMENT AND RANGELAND PROTECTION FUND. The estimated income line item included in section 1 of this Act includes \$250,000, or so much of the sum as may be necessary, to be made available to the state department of health from the environment and rangeland protection fund, for the biennium beginning July 1, 2015, and ending June 30, 2017. This amount includes \$50,000 for a grant to the North Dakota stockmen's association environmental services program.

SECTION 4. AMENDMENT. Section 43-29.1-03 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-03. Veterinarian selection criteria - Eligibility for loan repayment.

1. In establishing the criteria regarding eligibility for loan repayment funds under this chapter, the state health council shall consider the applicant's:
 - a. Training in food animal veterinary medicine, ability, willingness to engage in food animal veterinary medicine, and the extent to which such services are needed in a selected community;
 - b. Commitment to serve in a community that is in need of a veterinarian;
 - c. Compatibility with a selected community;
 - d. Date of availability for service to the selected community; and
 - e. Competence and professional conduct.
2. An applicant selected to receive loan repayment funds under this chapter ~~must~~:
 - a. ~~Have~~Must have graduated from an accredited college of veterinary medicine; ~~and~~
 - b. ~~Be~~Must be licensed to practice veterinary medicine in this state; ~~and~~
 - c. Must be employed full-time in the private practice of veterinary medicine.
3. A selected applicant shall contract to provide full-time veterinary medicine services for two, three, or four years in one or more selected communities.

SECTION 5. LEGISLATIVE INTENT - GRANTS TO LOCAL PUBLIC HEALTH UNITS. It is the intent of the sixty-fourth legislative assembly that, of the funds provided for grants to local public health units in the grants line item in section 1 of this Act, \$250,000 from the general fund be made available for grants to local public health units serving non-oil-producing counties in the state during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 6. LEGISLATIVE INTENT - RURAL EMERGENCY MEDICAL SERVICES GRANT DISTRIBUTION. It is the intent of the sixty-fourth legislative assembly that, of the sum of \$7,500,000 provided for rural emergency medical services grants in the grants line item in section 1 of this Act, at least eighty-five

percent be distributed to emergency medical services providers that do not receive an oil impact grant during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - UNIVERSITY OF NORTH DAKOTA FORENSIC PATHOLOGY CENTER. During the 2015-16 interim, the legislative management shall consider studying the feasibility and desirability of the university of North Dakota acquiring the building that houses the university of North Dakota forensic pathology center. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 8. LEGISLATIVE MANAGEMENT STUDY - WASTE MANAGEMENT. During the 2015-16 interim, the legislative management shall consider studying onsite sewage disposal in the state, including areas of the state lacking environmental programs to address onsite sewage disposal, lack of uniform standards for disposal, regulation authority, and the impact of onsite sewage disposal and waste management on industry and the public. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 30, 2015
Filed April 30, 2015

CHAPTER 5

HOUSE BILL NO. 1005

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the Indian affairs commission; to create and enact a new section to chapter 54-36 of the North Dakota Century Code, relating to the creation of an North Dakota American Indian business development office within the Indian affairs commission; and to repeal section 54-60-14 of the North Dakota Century Code, relating to the North Dakota American Indian business development office.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the Indian affairs commission for the purpose of defraying the expenses of the Indian affairs commission, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$852,869	\$80,170	\$933,039
Accrued leave payments	8,421	(8,421)	0
Operating expenses	<u>166,268</u>	<u>117,938</u>	<u>284,206</u>
Total general fund	\$1,027,558	\$189,687	\$1,217,245
Full-time equivalent positions	5.00	0.00	5.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act.

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Information technology hardware	\$0	\$9,775
Total general fund	\$0	\$9,775

The 2015-17 one-time funding amounts are not part of the entity's base budget for the 2017-19 biennium. The Indian affairs commission shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. A new section to chapter 54-36 of the North Dakota Century Code is created and enacted as follows:

North Dakota American Indian business development office.

A North Dakota American Indian business development office is established within the commission to assist North Dakota American Indian tribal and individual economic development representatives, businesses, and entrepreneurs with access to state and federal programs designed to assist these business interests. The commission

shall cooperate with the department of commerce in the administration of the office. The office shall provide services to assist in the formation of partnerships between American Indian and non-American Indian businesses. The commission may contract with a third party for the provision of services for the office. If the commission contracts with a third party under this section, all data and databases collected and created by the third party in performing services for the office are the property of the commission and the third party.

SECTION 4. REPEAL. Section 54-60-14 of the North Dakota Century Code is repealed.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 6

HOUSE BILL NO. 1006

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the North Dakota aeronautics commission; and to create and enact a new section to chapter 2-05 of the North Dakota Century Code, relating to earnings of the aeronautics commission special fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the North Dakota aeronautics commission for the purpose of defraying the expenses of the North Dakota aeronautics commission, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	\$1,135,606	\$312,031	\$1,447,637
Accrued leave payments	10,772	(10,772)	0
Operating expenses	1,977,049	81,051	2,058,100
Capital assets	390,000	(90,000)	300,000
Grants	9,500,000	(2,000,000)	7,500,000
Total all funds	\$13,013,427	(\$1,707,690)	\$11,305,737
Less estimated income	12,463,427	(2,157,690)	10,305,737
Total general fund	\$550,000	\$450,000	\$1,000,000
Full-time equivalent positions	6.00	1.00	7.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Grants to airports	\$6,000,000	\$0
Total general fund	\$6,000,000	\$0

SECTION 3. A new section to chapter 2-05 of the North Dakota Century Code is created and enacted as follows:

Interest - Aeronautics special fund.

All money derived from the investment of the aeronautics commission special fund or any portion of the fund, including aircraft excise tax funds collected and received under chapter 57-40.5, must be credited to the aeronautics commission special fund.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 7

HOUSE BILL NO. 1007

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the veterans' home; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the veterans' home for the purpose of defraying the expenses of the veterans' home, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$15,874,867	\$1,630,113	\$17,504,980
Accrued leave payments	458,196	(458,196)	0
Operating expenses	5,408,850	(97,850)	5,311,000
Capital assets	501,040	395,003	896,043
Total all funds	\$22,242,953	\$1,469,070	\$23,712,023
Less estimated income	15,081,100	(66,802)	15,014,298
Total general fund	\$7,161,853	\$1,535,872	\$8,697,725
Full-time equivalent positions	120.72	0.00	120.72

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Demolition of old veterans' home	\$1,121,000	\$0
Shop addition	788,200	126,800
Irrigation system	0	83,000
Equipment	0	326,360
Total all funds	\$1,909,200	\$536,160
Less estimated income	1,348,700	405,330
Total general fund	\$560,500	\$130,830

The 2015-17 one-time funding amounts are not a part of the agency's base budget for the 2017-19 biennium. The veterans' home shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. EXEMPTION - VETERANS' HOME CONSTRUCTION PROJECT FUNDING. The unexpended amount remaining from the appropriation for the veterans' home construction project in chapter 53 of the 2009 Session Laws which

was continued into the 2011-13 biennium and the 2013-15 biennium under section 54-44.1-11 is not subject to the provisions of section 54-44.1-11 at the end of the 2013-15 biennium and may be continued into the 2015-17 biennium for paying expenses of the veterans' home construction project.

SECTION 4. FUNDING TRANSFER - EXCEPTION - AUTHORIZATION.

Notwithstanding section 54-16-04, the veterans' home may transfer up to \$132,500 from the operating expenses line item to the capital assets line item, for the biennium beginning July 1, 2013, and ending June 30, 2015. The veterans' home shall notify the office of management and budget of any transfer made pursuant to this section.

SECTION 5. SHOP ADDITION PROJECT.

The veterans' home may use up to \$788,200 from the Melvin Norgard memorial fund, litigation proceeds or other funds for the cost of construction of a shop addition for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 6. EMERGENCY.

Sections 4 and 5 of this Act are declared to be an emergency measure.

Approved April 24, 2015

Filed April 24, 2015

CHAPTER 8

HOUSE BILL NO. 1008

(Appropriations Committee)
 (At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of financial institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from other income, to the department of financial institutions for the purpose of defraying the expenses of the department of financial institutions, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$5,874,989	\$862,201	\$6,737,190
Accrued leave payments	120,783	(120,783)	0
Operating expenses	1,428,445	146,807	1,575,252
Contingency	<u>156,000</u>	<u>(79,000)</u>	<u>77,000</u>
Total special funds	\$7,580,217	\$809,225	\$8,389,442
Full-time equivalent positions	29.00	1.00	30.00

Approved April 23, 2015
 Filed April 23, 2015

CHAPTER 9

HOUSE BILL NO. 1009

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state fair association; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the state fair association for the purpose of defraying the expenses of the state fair association, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Capital assets	\$0	\$500,000	\$500,000
Premiums	546,000	24,000	570,000
Total general fund	\$546,000	\$524,000	\$1,070,000

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Repair flood damage	\$2,750,000	\$0
Asphalt overlay project	0	500,000
Total general fund	\$2,750,000	\$500,000

The 2015-17 one-time funding amounts are not part of the entity's base budget for the 2017-19 biennium. The state fair association shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - MAINTENANCE AND REPAIR OF STATE PROPERTY. During the 2015-16 interim, the legislative management shall consider studying the maintenance and repair of state property and the source of funds to be used for maintenance and repair costs. The study must review current processes being used by state agencies to identify and address maintenance and repairs of state property and the appropriateness of the source of funds being used for these maintenance and repair projects. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 4. EMERGENCY. The capital assets line item in section 1 of this Act is declared to be an emergency measure.

Approved April 28, 2015

Filed April 28, 2015

CHAPTER 10**HOUSE BILL NO. 1010**

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the council on the arts; and to provide a report to the appropriations committees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the council on the arts for the purpose of defraying the expenses of the council on the arts, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$790,756	\$95,541	\$886,297
Accrued leave payments	7,933	(7,933)	0
Operating expenses	338,023	38,563	376,586
Grants	<u>2,102,307</u>	<u>125,000</u>	<u>2,227,307</u>
Total all funds	\$3,239,019	\$251,171	\$3,490,190
Less estimated income	<u>1,744,917</u>	<u>550</u>	<u>1,745,467</u>
Total general fund	\$1,494,102	\$250,621	\$1,744,723
Full-time equivalent positions	5.00	0.00	5.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Update cultural guide	<u>\$10,000</u>	<u>\$0</u>
Total general fund	\$10,000	\$0

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The council on the arts shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

Approved April 29, 2015

Filed April 30, 2015

CHAPTER 11

HOUSE BILL NO. 1011

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the highway patrol; to provide for a transfer; to provide for legislative intent; and to provide for expense payments to highway patrol officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the highway patrol for the purpose of defraying the expenses of the highway patrol, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Administration	\$3,466,113	\$264,288	\$3,730,401
Field operations	48,596,777	7,311,926	55,908,703
Law enforcement training academy	1,682,043	(1,602,043)	80,000
Accrued leave payments	<u>1,110,651</u>	<u>(1,110,651)</u>	<u>0</u>
Total all funds	\$54,855,584	\$4,863,520	\$59,719,104
Less estimated income	<u>12,594,542</u>	467,999	13,062,541
Total general fund	\$42,261,042	\$4,395,521	\$46,656,563
Full-time equivalent positions	213.00	2.00	215.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Mobile radio equipment	\$0	\$626,000
Outdoor range upgrade	0	80,000
Skid car training system	0	66,000
New trooper startup costs	0	85,000
Emergency vehicle operations course and weapons training range	5,000,000	0
Emergency lighting equipment	672,000	0
Taser equipment	202,000	0
Trailer scale systems	150,000	0
Extraordinary repairs	<u>121,000</u>	<u>0</u>
Total all funds	\$6,145,000	\$857,000
Total special fund	<u>798,000</u>	<u>107,050</u>
Total general fund	\$5,347,000	\$749,950

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The highway patrol shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. SPECIAL FUNDS TRANSFER. The less estimated income line item in section 1 of this Act includes the sum of \$6,687,330, or so much of the sum as may be necessary, from the state highway tax distribution fund which may be transferred at the direction of the superintendent of the highway patrol for the purpose of defraying the expenses of the highway patrol during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. PAYMENTS TO HIGHWAY PATROL OFFICERS. Each patrol officer of the highway patrol is entitled to receive from funds appropriated in section 1 of this Act an amount not to exceed \$200 per month for the biennium beginning July 1, 2015, and ending June 30, 2017. The payments are in lieu of reimbursement for meals and other expenses, except lodging, while in travel status within the state of North Dakota or while at their respective home stations. The amounts must be paid at the time and in the same manner as salaries are paid to members of the highway patrol and may be paid without the presentation of receipts or other memorandums.

SECTION 5. LEGISLATIVE INTENT - RADIO COMMUNICATIONS. It is the intent of the sixty-fourth legislative assembly that the information technology department be responsible for the oversight of the installation of any radio communications equipment by an executive branch state agency. It is further the intent of the sixty-fourth legislative assembly that the information technology department develop a process to implement the recommendations of the North Dakota statewide radio system assessment and evolution study as presented to the statewide interoperability executive committee.

Approved April 29, 2015
Filed April 30, 2015

CHAPTER 12

HOUSE BILL NO. 1012

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide appropriations for defraying the expenses of the department of transportation; to provide an appropriation to the state treasurer for allocations to townships in non-oil-producing counties; to provide for transfers; to amend and reenact section 39-02-03 of the North Dakota Century Code, relating to department of transportation motor vehicle branch offices; to provide for legislative management studies; to provide for a department of transportation study; to provide for a report to the legislative management; to provide for a report to the legislative council; to provide exemptions; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of transportation for the purpose of defraying the expenses of the department of transportation, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$187,477,585	\$20,300,693	\$207,778,278
Accrued leave payments	7,280,897	(7,280,897)	0
Operating expenses	376,721,715	19,101,036	395,822,751
Capital assets	727,911,207	379,785,753	1,107,696,960
Grants	<u>79,788,030</u>	<u>(16,870,000)</u>	<u>62,918,030</u>
Total all funds	\$1,379,179,434	\$395,036,585	\$1,774,216,019
Less estimated income	<u>1,379,179,434</u>	<u>394,976,585</u>	<u>1,774,156,019</u>
Total general fund	\$0	\$60,000	\$60,000
Full-time equivalent positions	1,079.50	1.00	1,080.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
General fund transfer to highway fund	\$541,600,000	\$0
Enhanced state highway investments	1,161,600,000	503,115,558
TIGER III federal railroad program	10,000,000	0
General license plate issue	6,820,000	0
Contingent general fund transfer to public transportation fund	1,100,000	0
Airplane replacement	4,500,000	0
Transportation distribution to oil-producing counties	160,000,000	0
Transportation distribution to non-oil-producing counties	120,000,000	0

Recreational road access	0	2,000,000
Vehicle registration and titling system replacement	0	2,500,000
Truck size and weight harmonization study	0	60,000
Total all funds	\$2,005,620,000	\$507,675,558
Total special funds	<u>541,600,000</u>	<u>507,615,558</u>
Total general fund	\$1,464,020,000	\$60,000

The 2015-17 one-time funding amounts are not part of the entity's base budget for the 2017-19 biennium. The department of transportation shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. LINE ITEM TRANSFERS. The director of the department of transportation may transfer between the salaries and wages, operating, capital assets, and grants line items in section 1 of this Act when it is cost-effective for construction and maintenance of highways. The department of transportation shall notify the office of management and budget of any transfers made under this section.

SECTION 4. APPROPRIATION - TRANSFER - GENERAL FUND TO HIGHWAY FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$503,115,558, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the highway fund during the biennium beginning July 1, 2015, and ending June 30, 2017. The office of management and budget shall transfer the funds provided under this section to the state highway fund at the request of the director of the department of transportation. This appropriation is a one-time funding item.

SECTION 5. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - MOTOR COACH REIMBURSEMENT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of reimbursing costs incurred from motor coach operations, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

SECTION 6. APPROPRIATION - TRANSFER - GENERAL FUND TO SPECIAL ROAD FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,000,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the special road fund during the biennium beginning July 1, 2015, and ending June 30, 2017. The office of management and budget shall transfer the funds provided under this section to the special road fund at the request of the director of the department of transportation. This appropriation is a one-time funding item.

SECTION 7. APPROPRIATION - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$7,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of one-time funding for the department of transportation's short line railroad program, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 8. APPROPRIATION - STATE TREASURER. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$8,000,000, or so much of the sum as may be necessary, to the state treasurer for allocation to counties for allocation to or for the benefit of organized and

unorganized townships in non-oil-producing counties, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section must be distributed in February 2016. The state treasurer shall distribute the funds provided under this section to counties and the county treasurer shall allocate the funds to or for the benefit of townships in non-oil-producing counties through a one-time distribution of \$5,000 to each organized township and a one-time distribution of \$5,000 for each unorganized township to the county in which the unorganized township is located. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this section for township roads or other infrastructure needs in those townships. A township is not eligible for an allocation of funds under this section if the township does not maintain any township roads. For the purposes of this section, a "non-oil-producing county" means a county that has received an allocation of funding under section 57-51-15 of less than \$5,000,000 in the state fiscal year ending June 30, 2014. The funding provided in this section is considered a one-time funding item.

SECTION 9. DEPARTMENT OF TRANSPORTATION - TRUCK SIZE AND WEIGHT HARMONIZATION. The operating expenses line item in section 1 of this Act, includes the sum of \$60,000 from the general fund, for the department of transportation to collaborate with the upper great plains transportation institute to study the impacts in this state of harmonizing truck size and weight regulations with states in the western states transportation alliance regarding standard commercial truck envelope limits of 129,000 pounds gross vehicle combination weight or 100 foot cargo carrying length and potential implications, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 10. LEGISLATIVE MANAGEMENT STUDY - TRUCK SIZE AND WEIGHT HARMONIZATION. During the 2015-16 interim, the legislative management shall study the truck size and weight provisions under chapter 39-12 relating to size, width, and height restrictions, in order to ensure the state of North Dakota may harmonize its truck size and weight regulations with the regulations of the states in the western states transportation alliance, and shall utilize the findings of the collaborative study of the department of transportation and the upper great plains transportation institute to determine appropriate changes to state law. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 11. APPROPRIATION - CONTINGENT TRANSFERS - GENERAL FUND TO PUBLIC TRANSPORTATION FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the public transportation fund pursuant to this section during the biennium beginning July 1, 2015, and ending June 30, 2017. The office of management and budget shall transfer the sum of \$100,000 on July 1, 2015, if deposits in the public transportation fund from the highway tax distribution fund are \$5,200,000 or less during the period beginning July 1, 2014, and ending June 30, 2015. The office of management and budget shall transfer the sum of \$100,000 on July 1, 2016, if deposits in the public transportation fund from the highway tax distribution fund are \$5,200,000 or less during the period beginning July 1, 2015, and ending June 30, 2016.

SECTION 12. DEPARTMENT OF TRANSPORTATION STUDY - REPORT TO LEGISLATIVE MANAGEMENT. The department of transportation shall study state funding distributions and allocations to public transportation providers. The study must include a review of distributions and allocations, including contingent funding

provided, a review of distribution and allocation formulas, and the public transportation providers use of the funds received from the distributions, allocations, and contingent funding, including uses for operating costs and capital asset purchases. The department of transportation shall report to the legislative management regarding the results of its study by June 30, 2016.

SECTION 13. EXEMPTION - HIGHWAY-RAIL GRADE CROSSING SAFETY PROJECTS FUND. The amount appropriated to the department of transportation from the highway-rail grade crossing safety projects fund, as contained in section 4 of chapter 43 of the 2013 Session Laws, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the department highway-rail grade crossing safety projects during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 14. ENHANCED STATE HIGHWAY INVESTMENTS - CARRYOVER AUTHORITY. Section 54-44.1-11 does not apply to funding of \$503,115,558 in the capital assets line item relating to enhanced state highway investments in section 1 of this Act. Any funds not spent by June 30, 2017, must be continued into the biennium beginning July 1, 2017, and ending June 30, 2019, and may be expended only for enhanced state highway investments.

SECTION 15. EXEMPTION - STATE DISASTER RELIEF FUND - ROAD GRADE RAISING GRANTS. The amount appropriated to the department of transportation from the state disaster relief fund for road grade raising grants, as contained in section 14 of chapter 579 of the 2011 Session Laws, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the department to provide road grade raising grants during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 16. PAYBACK AND REALLOCATION OF FEDERAL AID. Notwithstanding any other provisions of law, the department of transportation may repay the United States department of transportation for previous related expenditures out of current biennium appropriations so that the department may re-obligate the federal aid to other federal aid projects.

SECTION 17. AMENDMENT. Section 39-02-03 of the North Dakota Century Code is amended and reenacted as follows:

39-02-03. Powers and duties of director and department.

The director, ~~subject to the approval of the governor,~~ may adopt and enforce such administrative rules and designate such agencies and establish such branch offices as may be necessary to carry out the laws applicable to the director's office and department. The director shall provide suitable forms for applications, registration cards, license number plates, and all other forms requisite for the operation of the director's office and department, and shall prepay all transportation charges thereon. Branch office contracts entered under this section may extend five years and may be renewed in accordance with this section. At least one year before the end of each branch office contract term, the department shall consider entering contracts with new branch office vendors. Notwithstanding any other provision of law, the director may enter direct negotiations and contract with qualified vendors to provide branch office services. The director may provide for a maximum fee schedule for the various services provided by the branch offices, not to exceed ten dollars for each service provided. Any branch office may establish a different fee schedule if the schedule does not contain a fee that exceeds a maximum fee established by the director and is approved by the director. All branch office managers must be bonded. The

department may lease or provide office space or other costs as necessary to independent motor vehicle branch managers. All rents collected under this section must be deposited in the state highway fund. The department and the officers thereof shall enforce the provisions of all laws pertaining to the director and the department.

SECTION 18. RAIL SAFETY - REPORT TO LEGISLATIVE MANAGEMENT. The department of transportation shall report to a committee designated by the legislative management, regarding the department's updated North Dakota state rail plan and the director of the department of transportation shall post the department's updated North Dakota state rail plan report on the department's public website and provide an electronic copy to the legislative council for placement on the legislative branch public website for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 19. LEGISLATIVE MANAGEMENT STUDY - SHORT LINE RAILROAD INFRASTRUCTURE. During the 2015-16 interim, the legislative management shall consider studying short line railroad expansion, spurs, switches, or other infrastructure enhancements and the effect of short line railroads on reducing commercial traffic on the state highway system. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 20. LEGISLATIVE MANAGEMENT STUDY - HIGH-EFFICIENCY VEHICLES. During the 2015-16 interim, the legislative management shall consider studying the potential effect high-efficiency vehicles may have on the revenue generated from motor vehicle registration fees, special fuels taxes, special fuels excise taxes, and gasoline and gasohol taxes. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 21. APPLICATION. Section 17 of this Act applies to applicable contracts, regardless of whether entered before or after the effective date of this Act.

Approved April 29, 2015
Filed April 30, 2015

CHAPTER 13

HOUSE BILL NO. 1013

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the commissioner of university and school lands; to provide for transfers; to provide for distributions from permanent funds; to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to the exempt records for the value of property paid to the state abandoned property office; to amend and reenact section 57-62-05 of the North Dakota Century Code, relating to the timing of grant recommendations; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from the state lands maintenance fund and the oil and gas impact grant fund in the state treasury, to the commissioner of university and school lands for the purpose of defraying the expenses of the commissioner of university and school lands, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$5,157,015	\$966,501	\$6,123,516
Accrued leave payments	108,541	(108,541)	0
Operating expenses	1,925,863	93,774	2,019,637
Contingencies	200,000	(100,000)	100,000
Energy infrastructure and impact office	<u>700,826</u>	<u>(826)</u>	<u>700,000</u>
Total all funds	\$8,092,245	\$850,908	\$8,943,153
Less estimated income	<u>8,092,245</u>	<u>850,908</u>	<u>8,943,153</u>
Total general fund	\$0	\$0	\$0
Full-time equivalent positions	31.00	2.00	33.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Capital assets	\$65,550	\$0
Private lands study	50,000	0
Oil and gas impact grant fund distributions	239,299,174	0
Total all funds	\$239,414,724	\$0
Less estimated income	<u>239,414,724</u>	<u>0</u>
Total general fund	\$0	\$0

SECTION 3. APPROPRIATION LINE ITEM TRANSFERS. Upon approval of the board of university and school lands, the commissioner of university and school lands may transfer between the various line items in section 1 of this Act, including transfers

from the contingencies line item to all other line items. The commissioner shall notify the office of management and budget of each transfer made pursuant to this section.

SECTION 4. DISTRIBUTIONS TO STATE INSTITUTIONS. Pursuant to article IX of the Constitution of North Dakota, the board of university and school lands shall distribute during the biennium beginning July 1, 2015, and ending June 30, 2017, the following amounts, from the permanent funds managed for the benefit of the following entities:

Common schools	\$206,134,000
North Dakota state university	3,368,000
University of North Dakota	2,742,000
Youth correctional center	1,372,000
School for the deaf	1,180,000
State college of science	1,066,000
State hospital	1,078,000
Veterans' home	434,000
Valley City state university	570,000
North Dakota vision services - school for the blind	534,000
Mayville state university	382,000
Dakota college at Bottineau	78,000
Dickinson state university	78,000
Minot state university	78,000
Total	\$219,094,000

SECTION 5. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Value of property paid or delivered to the administrator of the state abandoned property office - Exempt record.

A record of the value of property paid or delivered to the administrator of the state abandoned property office under section 47-30.1-17 is an exempt record.

SECTION 6. AMENDMENT. Section 57-62-05 of the North Dakota Century Code is amended and reenacted as follows:

57-62-05. Powers and duties of energy infrastructure and impact office director.

The energy infrastructure and impact office director shall:

1. Develop a plan for the assistance, through financial grants for services and facilities, of counties, cities, school districts, and other political subdivisions in coal development and oil and gas development impact areas.
2. Establish procedures and provide proper forms to political subdivisions for use in making application for funds for impact assistance as provided in this chapter.
3. Make grants disbursements to counties, cities, school districts, and other taxing districts for grants awarded by the board of university and school lands pursuant to chapter 15-01, as provided in this chapter and within the appropriations made for such purposes. In determining the amount of impact grants for which political subdivisions are eligible, consideration must be given to the amount of revenue to which such political subdivisions will be entitled

from taxes upon the real property of coal and oil and gas development plants and from other tax or fund distribution formulas provided by law.

4. Receive and review applications for impact assistance pursuant to this chapter.
5. Make recommendations, ~~not less than once each calendar quarter~~, to the board of university and school lands on grants to counties, cities, school districts, and other political subdivisions in oil and gas development impact areas based on identified needs, and other sources of revenue available to the political subdivision.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - FEDERAL LEGISLATION REGARDING OAHE DAM. During the 2015-16 interim, the legislative management shall consider studying progress on the passage of federal legislation to return excess lands to the operation of the Oahe Dam in Emmons and Morton Counties, and to the state of North Dakota pursuant to section 1 of House Bill No. 1456, as approved by the sixty-fourth legislative assembly. The legislative management shall seek the input and assistance of representatives of Morton and Emmons Counties, as well as the army corp of engineers, in advancing the study and developing recommendations to achieve the passage of federal legislation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 8. EMERGENCY. Section 5 of this Act is declared to be an emergency measure.

Approved April 29, 2015
Filed April 30, 2015

CHAPTER 14

HOUSE BILL NO. 1014

(Appropriations Committee)
 (At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state industrial commission and the agencies under the management of the industrial commission; to provide a continuing appropriation; to provide a contingent appropriation; to authorize transfers; to create and enact a new section to chapter 6-09 of the North Dakota Century Code, relating to a North Dakota financial center; to amend and reenact sections 54-17-40, 54-17-41, 54-17.5-02, and 57-38-01.32 of the North Dakota Century Code, section 22 of chapter 579 of the 2011 Session Laws, and section 9 of House Bill No. 1358, as approved by the sixty-fourth legislative assembly, relating to the housing incentive fund credits, the lignite research council, the use of the flex PACE program, and a transfer from the abandoned oil and gas well plugging and site reclamation fund; to provide exemptions; to provide legislative intent; to provide for transfers; to provide for contingent transfers; to provide for a report to the legislative council; to provide for reports to legislative management and appropriations committees; to provide a contingent effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state industrial commission and agencies under its control for the purpose of defraying the expenses of the state industrial commission and agencies under its control, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

Subdivision 1.

INDUSTRIAL COMMISSION

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$17,873,876	\$5,041,695	\$22,915,571
Accrued leave payments	347,696	(347,696)	0
Operating expenses	4,775,576	4,187,144	8,962,720
Capital assets	0	13,666,822	13,666,822
Grants	19,500,000	(14,500,000)	5,000,000
Grants - bond payments	19,809,969	(4,769,140)	15,040,829
Total all funds	\$62,307,117	\$3,278,825	\$65,585,942
Less estimated income	40,973,792	(10,354,023)	30,619,769
Total general fund	\$21,333,325	\$13,632,848	\$34,966,173
Full-time equivalent positions	98.75	23.00	121.75

Subdivision 2.

BANK OF NORTH DAKOTA - OPERATIONS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Bank of North Dakota operations	\$51,523,916	\$7,018,385	\$58,542,301
Accrued leave payments	881,231	(881,231)	0
Capital assets	745,000	17,000,000	17,745,000
Total special funds	\$53,150,147	\$23,137,154	\$76,287,301
Full-time equivalent positions	179.50	2.00	181.50

Subdivision 3.

MILL AND ELEVATOR ASSOCIATION

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$29,141,750	\$7,137,148	\$36,278,898
Accrued leave payments	575,807	(575,807)	0
Operating expenses	21,796,000	5,531,000	27,327,000
Contingencies	400,000	100,000	500,000
Agriculture promotion	210,000	0	210,000
Total from mill and elevator fund	\$52,123,557	\$12,192,341	\$64,315,898
Full-time equivalent positions	135.00	12.00	147.00

Subdivision 4.

HOUSING FINANCE AGENCY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$7,434,877	\$310,157	\$7,745,034
Accrued leave payments	147,806	(147,806)	0
Operating expenses	3,791,758	(47,483)	3,744,275
Grants	29,533,050	(3,602,270)	25,930,780
Housing finance agency contingencies	100,000	0	100,000
Total special funds	\$41,007,491	(\$3,487,402)	\$37,520,089
Full-time equivalent positions	46.00	0.00	46.00

Subdivision 5.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$21,333,325	\$13,632,848	\$34,966,173
Grand total special funds	187,254,987	31,488,070	218,743,057
Grand total all funds	\$208,588,312	\$45,120,918	\$253,709,230

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the grand total appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Oil-bearing rock study	\$80,000	\$0
Possible litigation	1,000,000	2,500,000
Core library - architect services	25,000	0
Temperature profiles study	50,000	0
Wide-bed plotter	5,800	0
Lignite research council grants	0	5,000,000
All-terrain vehicles	0	41,500
Aerial photography	0	104,143
Contract analysis	0	125,000
Digital conversion	0	100,000
Migration to RBDMS.net	0	250,000
Financial center project	0	17,000,000
Core library expansion project	0	13,625,322
Medical loan program	50,000,000	0
Housing incentive fund	15,400,000	0
Flood housing grants	<u>1,500,000</u>	<u>0</u>
Total all funds	\$68,060,800	\$38,745,965
Total special fund	<u>51,500,000</u>	<u>30,625,322</u>
Total general fund	\$16,560,800	\$8,120,643

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The industrial commission shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. LEGISLATIVE INTENT - BOND PAYMENTS. The amount of \$15,040,829 included in subdivision 1 of section 1 of this Act in the grants - bond payments line item must be paid from the following funding sources during the biennium beginning July 1, 2015, and ending June 30, 2017:

North Dakota university system	\$8,368,836
North Dakota university system - energy conservation projects	491,161
Department of corrections and rehabilitation	1,279,524
Department of corrections and rehabilitation - energy conservation projects	16,206
State department of health	637,940
Job service North Dakota	427,131
Office of management and budget	664,952
Office of attorney general	765,483
State historical society	1,391,668
Parks and recreation department	73,592
Research and extension service	571,126
Veterans' home	<u>353,210</u>
Total	\$15,040,829

SECTION 4. APPROPRIATION. In addition to the amount appropriated to the housing finance agency in subdivision 4 of section 1 of this Act, there is appropriated any additional income or unanticipated income from federal or other funds which may become available to the agency for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 5. APPROPRIATION - EMERGENCY COMMISSION APPROVAL. In addition to the amount appropriated to the state industrial commission in subdivision 1 of section 1 of this Act, there is appropriated, with the approval of the emergency commission, funds that may become available to the commission from bonds

authorized by law to be issued by the state industrial commission for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 6. TRANSFER. The sum of \$930,000, or so much of the sum as may be necessary, included in the special funds appropriation line item in subdivision 1 of section 1 of this Act, may be transferred from the entities within the control of the state industrial commission or entities directed to make payments to the industrial commission fund for administrative services rendered by the commission. Transfers shall be made during the biennium beginning July 1, 2015, and ending June 30, 2017, upon order of the commission. Transfers from the student loan trust must be made to the extent permitted by sections 54-17-24 and 54-17-25.

SECTION 7. TRANSFER - BANK OF NORTH DAKOTA - HOUSING INCENTIVE FUND. The Bank of North Dakota shall transfer the sum of \$5,000,000 from the Bank's current earnings and undivided profits to the housing incentive fund for the period beginning with the effective date of this Act, and ending June 30, 2017.

SECTION 8. CONTINGENT TRANSFER - BANK OF NORTH DAKOTA - HOUSING INCENTIVE FUND. The Bank of North Dakota shall transfer the sum of \$5,000,000 from the Bank's current earnings and undivided profits to the housing incentive fund for the period beginning July 1, 2015, and ending June 30, 2017, if the Bank's net income, reported in accordance with financial accounting standards board accounting standards, for the calendar year 2015 exceeds \$130,000,000. The funding provided in this section may be used only for housing incentive fund awards in cities with a population of fewer than 12,500 according to the last official decennial federal census.

SECTION 9. TRANSFER - BANK OF NORTH DAKOTA - PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION. The Bank of North Dakota shall transfer the sum of \$28,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the partnership in assisting community expansion fund during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 10. TRANSFER - BANK OF NORTH DAKOTA - AGRICULTURE PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION. The Bank of North Dakota shall transfer the sum of \$3,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the agriculture partnership in assisting community expansion fund during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 11. TRANSFER - BANK OF NORTH DAKOTA - BIOFUELS PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION. The Bank of North Dakota shall transfer the sum of \$2,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the biofuels partnership in assisting community expansion fund during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 12. TRANSFER - BANK OF NORTH DAKOTA - BEGINNING FARMER REVOLVING LOAN FUND. The Bank of North Dakota shall transfer the sum of \$7,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the beginning farmer revolving loan fund during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 13. BANK OF NORTH DAKOTA - MEDICAL PARTNERSHIP IN ASSISTING COMMUNITY EXPANSION PROGRAM. The Bank of North Dakota shall develop a medical partnership in assisting community expansion program to assist in

the financing of critical access hospital medical infrastructure projects, for the period beginning with the effective date of this Act, and ending June 30, 2017. The Bank shall adopt policies and procedures to implement this program. Notwithstanding section 6-09.14-03, the Bank may originate loans under this program or participate with a lead financial institution. Eligible projects that receive funding for an interest rate buydown under this program are not subject to the community commitment requirement in section 6-09.14-03, the maximum interest rate buydown limitation in subsection 4 of section 6-09.14-04, or the state grantor recipient reporting requirement in section 54-60.1-05.

SECTION 14. LIGNITE RESEARCH, DEVELOPMENT, AND MARKETING PROGRAM - LIGNITE MARKETING FEASIBILITY STUDY. The amount of \$4,500,000 from the lignite research fund, or so much of the amount as may be necessary, may be used for the purpose of contracting for an independent, nonmatching lignite marketing feasibility study or studies that determine those focused priority areas where near-term, market-driven projects, activities, or processes will generate matching private industry investment and have the most potential of preserving existing lignite production and industry jobs or that will lead to increased development of lignite and its products and create new lignite industry jobs and economic growth for the general welfare of this state. Moneys appropriated under this section also may be used for the purpose of contracting for nonmatching studies and activities in support of the lignite vision 21 program; for litigation that may be necessary to protect and promote the continued development of lignite resources; for nonmatching externality studies and activities in externality proceedings; or other marketing, environmental, or transmission activities that assist with marketing of lignite-based electricity and lignite-based byproducts. Moneys not needed for the purposes stated in this section are available to the commission for funding projects, processes, or activities under the lignite research, development, and marketing program.

SECTION 15. CONTINGENT APPROPRIATION - INDUSTRIAL COMMISSION FUNDING. The amount of \$556,260 from the general fund and five full-time equivalent positions included in subdivision 1 of section 1 of this Act may be spent only in accordance with provisions of this section if the monthly average drilling rig count exceeds one hundred forty drilling rigs. The industrial commission shall notify the office of management and budget and the legislative council each time one or more full-time equivalent positions is authorized to be hired. For purposes of this section, the "monthly average drilling rig count" means the number, rounded to the nearest whole number, calculated by dividing the sum of the daily drilling rig counts for a calendar month by the number of days in the month. Of the \$556,260 and the five full-time equivalent positions in this section, the industrial commission may spend funding and hire full-time equivalent positions, as follows:

1. \$166,878, of which \$126,072 is from the salaries and wages line item and \$40,806 is from the operating expenses line item, and one full-time equivalent position if the monthly average drilling rig count exceeds one hundred forty drilling rigs.
2. In addition to the funding and full-time equivalent positions authorized in subsection 1, \$139,065, of which \$105,060 is from the salaries and wages line item and \$34,005 is from the operating expenses line item, and one full-time equivalent position if the monthly average drilling rig count exceeds one hundred fifty-five drilling rigs.
3. In addition to the funding and full-time equivalent positions authorized in subsections 1 and 2, \$111,252, of which \$84,048 is from the salaries and

wages line item and \$27,204 is from the operating expenses line item, and one full-time equivalent position if the monthly average drilling rig count exceeds one hundred seventy drilling rigs.

4. In addition to the funding and full-time equivalent positions authorized in subsections 1 through 3, \$83,439, of which \$63,036 is from the salaries and wages line item and \$20,403 is from the operating expenses line item, and one full-time equivalent position if the monthly average drilling rig count exceeds one hundred eighty-five drilling rigs.
5. In addition to the funding and full-time equivalent positions authorized in subsections 1 through 4, \$55,626, of which \$42,024 is from the salaries and wages line item and \$13,602 is from the operating expenses line item, and one full-time equivalent position if the monthly average drilling rig count exceeds two hundred drilling rigs.

SECTION 16. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

North Dakota financial center - Lease rates - Payments in lieu of taxes.

The North Dakota financial center is a building that is owned by the Bank of North Dakota and is adjacent to the building in which the Bank of North Dakota is housed. The Bank of North Dakota shall lease the space in the North Dakota financial center to other state agencies based on market rate lease prices. The Bank of North Dakota shall make payments in lieu of property taxes in the manner and according to the conditions and procedures that would apply if the building were privately owned.

SECTION 17. AMENDMENT. Section 54-17-40 of the North Dakota Century Code is amended and reenacted as follows:

54-17-40. (Effective through June 30, 2015~~2017~~) Housing incentive fund - Continuing appropriation - Report to budget section.

1. The housing incentive fund is created as a special revolving fund at the Bank of North Dakota. The housing finance agency may direct disbursements from the fund and a continuing appropriation from the fund is provided for that purpose.
2. After a public hearing, the housing finance agency shall create an annual allocation plan for the distribution of the fund. At least twenty-five percent of the fund must be used to assist developing communities to address an unmet housing need or alleviate a housing shortage. The agency may collect a reasonable administrative fee from the fund, project developers, applicants, or grant recipients. The origination fee assessed to grant recipients may not exceed five percent of the project award.

The annual allocation plan must give first priority through its scoring and ranking process to housing for essential service workers. For purposes of this subsection, "essential service workers" means individuals employed by a city, county, school district, medical or long-term care facility, the state of North Dakota, or others as determined by the housing finance agency who fulfill an essential public service.

The second priority in the annual allocation plan must be to provide housing for individuals and families of low or moderate income. For purposes

of this second priority, eligible income limits are determined as a percentage of median family income as published in the most recent federal register notice. Under this second priority, the annual allocation plan must give preference to projects that benefit households with the lowest income and to projects that have rent restrictions at or below department of housing and urban development published federal fair market rents or department of housing and urban development section 8 payment standards.

The housing finance agency shall maintain a register reflecting the number of housing units owned or master leased by cities, counties, school districts, or other employers of essential service workers. This register must also reflect those entities that are providing rent subsidies for their essential workers. The housing finance agency shall report quarterly to the budget section of the legislative management on the progress being made to reduce the overall number of units owned, master leased, or subsidized by these entities. This report must include a listing of projects approved and number of units within those projects that provide housing for essential service workers.

3. The housing finance agency shall adopt guidelines for the fund so as to address unmet housing needs in this state. Assistance from the fund may be used solely for:
 - a. New construction, rehabilitation, or acquisition of a multifamily housing project;
 - b. Gap assistance, matching funds, and accessibility improvements;
 - c. Assistance that does not exceed the amount necessary to qualify for a loan using underwriting standards acceptable for secondary market financing or to make the project feasible; and
 - d. Rental assistance, emergency assistance, or targeted supportive services designated to prevent homelessness.
4. Eligible recipients include units of local, state, and tribal government; local and tribal housing authorities; community action agencies; regional planning councils; and nonprofit organizations and for-profit developers of multifamily housing. Individuals may not receive direct assistance from the fund.
5. Except for subdivision d of subsection 3, assistance is subject to repayment or recapture under the guidelines adopted by the housing finance agency. Any assistance that is repaid or recaptured must be deposited in the fund and is appropriated on a continuing basis for the purposes of this section.

SECTION 18. AMENDMENT. Section 54-17-41 of the North Dakota Century Code is amended and reenacted as follows:

54-17-41. (Effective through June 30, 20152017) Report.

Upon request, the housing finance agency shall report to the industrial commission on the activities of the housing incentive fund.

SECTION 19. AMENDMENT. Section 54-17.5-02 of the North Dakota Century Code is amended and reenacted as follows:

54-17.5-02. Lignite research council - Compensation - Appointment of members.

The industrial commission shall consult with the lignite research council established by executive order in matters of policy affecting the administration of the lignite research fund. Section 44-03-04 does not apply to members of the council appointed by the governor.

SECTION 20. AMENDMENT. Section 57-38-01.32 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.32. (Effective for the first two taxable years beginning after December 31, 20122014) Housing incentive fund tax credit.

1. A taxpayer is entitled to a credit as determined under this section against state income tax liability under section 57-38-30 or 57-38-30.3 for contributing to the housing incentive fund under section 54-17-40. The amount of the credit is equal to the amount contributed to the fund during the taxable year.
2. North Dakota taxable income must be increased by the amount of the contribution upon which the credit under this section is computed but only to the extent the contribution reduced federal taxable income.
3. The contribution amount used to calculate the credit under this section may not be used to calculate any other state income tax deduction or credit allowed by law.
4. If the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the excess may be carried forward to each of the ten succeeding taxable years.
5. The aggregate amount of tax credits allowed to all eligible contributors is limited to ~~twenty~~thirty million dollars.
6. Within thirty days after the date on which a taxpayer makes a contribution to the housing incentive fund, the housing finance agency shall file with each contributing taxpayer, and a copy with the tax commissioner, completed forms that show as to each contribution to the fund by that taxpayer the following:
 - a. The name, address, and social security number or federal employer identification number of the taxpayer that made the contribution.
 - b. The dollar amount paid for the contribution by the taxpayer.
 - c. The date the payment was received by the fund.
7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income tax return in the manner prescribed by the tax commissioner and file with the return a copy of the form issued by the housing finance agency under subsection 6.

8. Notwithstanding the time limitations contained in section 57-38-38, this section does not prohibit the tax commissioner from conducting an examination of the credit claimed and assessing additional tax due under section 57-38-38.
9. A passthrough entity making a contribution to the housing incentive fund under this section is considered to be the taxpayer for purposes of this section, and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

SECTION 21. AMENDMENT. Section 22 of chapter 579 of the 2011 Session Laws is amended and reenacted as follows:

SECTION 22. FLEX PACE PROGRAM USE. The Bank of North Dakota shall utilize the flex partnership in assisting community expansion program to assist in financing of affordable multifamily housing units for individuals in areas of North Dakota affected by oil and gas development, for the period beginning with the effective date of this Act and ending June 30, 2019.

SECTION 22. AMENDMENT. Section 9 of House Bill No. 1358, as approved by the sixty-fourth legislative assembly, is amended and reenacted as follows:

SECTION 9. APPROPRIATION TRANSFER - ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND TO THE OIL AND GAS RESEARCH FUND - INDUSTRIAL COMMISSION. ~~Notwithstanding section 38-08-04.5, there is appropriated out of any moneys in the abandoned oil and gas well plugging and site reclamation fund in the state treasury, not otherwise appropriated, the office of management and budget shall transfer the sum of \$500,000, or so much of the sum as may be necessary, to the industrial commission from the abandoned oil and gas well plugging and site reclamation fund to the oil and gas research fund, for the biennium beginning July 1, 2015, and ending June 30, 2017. The office of management and budget shall transfer the funds provided under this section at the request of the industrial commission. The industrial commission shall use the funding provided under this section for the purpose of conducting a pilot program involving the oil and gas research council in conjunction with research facilities in this state to determine the best techniques for remediating salt and any other contamination from the soil surrounding waste pits reclaimed by trenching between 1951 and 1984 in the north central portion of this state, for the biennium beginning July 1, 2015, and ending June 30, 2017. The industrial commission may not require a research facility to provide matching funds to participate in the program authorized under this section.~~

SECTION 23. HOUSING FINANCE AGENCY - FLOOD-IMPACTED HOUSING ASSISTANCE - EXEMPTION. The amount appropriated for flood-impacted housing assistance in section 4 of chapter 16 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds are available during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 24. INDUSTRIAL COMMISSION - POSSIBLE FEDERAL AGENCY LITIGATION - EXEMPTION. The amount appropriated for possible federal agency litigation in subdivision 1 of section 1 of chapter 45 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds are available during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 25. INDUSTRIAL COMMISSION - CORE LIBRARY EXPANSION PROJECT - EXEMPTION - LEGISLATIVE MANAGEMENT REPORT - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND. The capital assets line item in subdivision 1 of section 1 of this Act includes \$13,625,322 from the strategic investment and improvements fund for the purpose of expanding the core library. The funding appropriated for this purpose is not subject to section 54-44.1-11 and any unexpended funds are available during the biennium beginning July 1, 2017, and ending June 30, 2019. The industrial commission shall report to the legislative management and to the appropriations committees of the sixty-fifth legislative assembly on the use of the funding provided for the core library project, including the amounts spent to date and the amounts anticipated to be continued into the 2017-19 biennium, and on the progress of the project.

SECTION 26. CONTINGENT FUNDING - BANK OF NORTH DAKOTA - NORTH DAKOTA FINANCIAL CENTER - EXEMPTION - LEGISLATIVE MANAGEMENT REPORT. The capital assets line item in subdivision 2 of section 1 of this Act includes \$17,000,000 from the assets of the Bank of North Dakota for the purpose of constructing a North Dakota financial center on a site adjacent to the existing building in which the Bank is located. The Bank may spend the funding only if the Bank's net income, reported in accordance with financial accounting standards board accounting standards, for calendar year 2015 exceeds \$125,000,000. The funding appropriated for this purpose is not subject to section 54-44.1-11 and any unexpended funds are available during the biennium beginning July 1, 2017, and ending June 30, 2019. The Bank of North Dakota shall report to the legislative management and to the appropriations committees of the sixty-fifth legislative assembly on the use of the funding provided for the North Dakota financial center, including the amounts spent to date and the amounts anticipated to be continued into the 2017-19 biennium, and on the progress of the project.

SECTION 27. CONTINGENT EFFECTIVE DATE. Section 16 of this Act is effective only if the Bank of North Dakota's net income, reported in accordance with financial accounting standards board accounting standards, for calendar year 2015 exceeds \$125,000,000.

SECTION 28. EMERGENCY. The amount of \$13,625,322 from the strategic investment and improvements fund in the capital assets line item in subdivision 1 of section 1 of this Act for the core library expansion project and sections 7 and 13 of this Act are declared to be an emergency measure.

Approved May 12, 2015
Filed May 13, 2015

CHAPTER 15

HOUSE BILL NO. 1015

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of corrections and rehabilitation; to provide an appropriation to the legislative council; to provide for a legislative management study; and to provide legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of corrections and rehabilitation for the purpose of defraying the expenses of the department of corrections and rehabilitation, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Adult services	\$175,467,210	\$46,766,631	\$222,233,841
Youth services	28,604,526	2,911,581	31,516,107
Accrued leave payments	<u>4,639,529</u>	<u>(4,639,529)</u>	<u>0</u>
Total all funds	\$208,711,265	\$45,038,683	\$253,749,948
Less estimated income	<u>30,936,922</u>	<u>7,425,784</u>	<u>38,362,706</u>
Total general fund	\$177,774,343	\$37,612,899	\$215,387,242
Full-time equivalent positions	814.29	22.00	836.29

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Security camera upgrade	\$0	\$202,500
Equipment	552,900	244,400
License plate issue	4,900,000	4,900,000
Capital projects	349,950	0
Information technology upgrades	652,900	616,144
Missouri River correctional center study	200,000	0
DOCSTARS maintenance	0	150,000
Extraordinary repairs	<u>1,683,296</u>	<u>1,425,267</u>
Total all funds	\$8,339,046	\$7,538,311
Less estimated income	<u>5,198,000</u>	<u>4,900,000</u>
Total general fund	\$3,141,046	\$2,638,311

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The department of corrections and rehabilitation shall report to

the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. APPROPRIATION - LEGISLATIVE COUNCIL. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the legislative council for the purpose of obtaining consulting services to assist with a legislative management study of incarceration issues, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - INCARCERATION ISSUES. During the 2015-16 interim, the legislative management shall study pretrial services, sentencing alternatives, treatment options, and other related issues. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly. To conduct the study, legislative management shall create an incarceration issues committee consisting of:

1. Two members of the house appropriations committee;
2. Two members of the senate appropriations committee;
3. One member of the house judiciary committee;
4. One member of the senate judiciary committee; and
5. Other members serving in a nonvoting advisory capacity include:
 - a. Two district court judges appointed by the chief justice of the supreme court;
 - b. The chief justice of the state supreme court, or a designee of the chief justice;
 - c. One local law enforcement official appointed by the governor from a city with a population greater than 10,000, based on the most recent decennial census;
 - d. One local law enforcement official appointed by the governor from a city with a population less than 10,000, based on the most recent decennial census;
 - e. One state's attorney appointed by the attorney general from a county with a population of 10,000 or more, based on the most recent decennial census;
 - f. One state's attorney appointed by the attorney general from a county with a population of less than 10,000, based on the most recent decennial census;
 - g. The attorney general, or a designee of the attorney general;
 - h. The director of the department of corrections and rehabilitation; and
 - i. One member appointed by the director of the department of corrections and rehabilitation.

Legislative management shall select the chairman and vice chairman of the committee. The committee shall meet quarterly, at the times and places as determined by the chairman. The legislative council shall provide staff services for the committee.

SECTION 5. LEGISLATIVE INTENT - CONTRACT HOUSING AND PROGRAMMING. It is the intent of the sixty-fourth legislative assembly that the department of corrections and rehabilitation give priority for the use of funding appropriated for contract housing and programming to contract with in-state local and regional facilities for the placement of overflow inmates for the biennium beginning July 1, 2015, and ending June 30, 2017.

Approved April 28, 2015
Filed April 28, 2015

CHAPTER 16

HOUSE BILL NO. 1016

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of job service North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to job service North Dakota for the purpose of defraying the expenses of job service North Dakota, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$36,224,278	\$3,435,960	\$39,660,238
Accrued leave payments	1,479,868	(1,479,868)	0
Operating expenses	18,687,700	(5,175,043)	13,512,657
Capital assets	20,000	0	20,000
Grants	8,850,497	(3,446,171)	5,404,326
Workforce 20/20	1,541,924	37,912	1,579,836
Reed Act - Unemployment insurance computer modernization	<u>12,407,000</u>	<u>0</u>	<u>12,407,000</u>
Total all funds	\$79,211,267	(\$6,627,210)	\$72,584,057
Less estimated income	<u>77,301,032</u>	<u>(6,833,166)</u>	<u>70,467,866</u>
Total general fund	\$1,910,235	\$205,956	\$2,116,191
Full-time equivalent positions	250.76	(13.00)	237.76

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Federal stimulus funds	\$496,496	\$0
Oil and gas employment study	120,000	80,000
Virtual OneStop application	0	<u>9,500</u>
Total all funds	\$616,496	\$89,500
Total special funds	496,496	0
Total general fund	\$120,000	\$89,500

The 2015-17 one-time funding amounts are not part of the entity's base budget for the 2017-19 biennium. Job service North Dakota shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. APPROPRIATION - REED ACT FUNDS - UNEMPLOYMENT INSURANCE COMPUTER MODERNIZATION. The special appropriation of \$12,407,000 in section 1 of this Act is from federal Reed Act funds made available to the state by the federal Reed Act distributions made in federal fiscal years 1957, 1958, 1999, and 2002, pursuant to section 903 of the Social Security Act. This sum, or so much of the sum as may be necessary, is for the purpose of developing a modernized unemployment insurance computer system, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. APPROPRIATION. All federal funds received by job service North Dakota in excess of those funds appropriated in section 1 of this Act are appropriated for the biennium beginning July 1, 2015, and ending June 30, 2017.

Approved April 27, 2015
Filed April 27, 2015

CHAPTER 17

HOUSE BILL NO. 1017

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the office of administrative hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from income, to the office of administrative hearings for the purpose of defraying the expenses of the office of administrative hearings, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,059,175	\$136,109	\$1,195,284
Accrued leave payments	10,698	(10,698)	0
Operating expenses	<u>1,749,023</u>	<u>3,744</u>	<u>1,752,767</u>
Total special funds	\$2,818,896	\$129,155	\$2,948,051
Full-time equivalent positions	5.00	0.00	5.00

Approved April 16, 2015

Filed April 16, 2015

CHAPTER 18

HOUSE BILL NO. 1018

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of commerce; to provide exemptions; to provide for transfers; to amend and reenact section 54-60-17 of the North Dakota Century Code, relating to workforce development; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of commerce for the purpose of defraying the expenses of the department of commerce, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	\$12,361,114	\$810,693	\$13,171,807
Accrued leave payments	243,767	(243,767)	0
Operating expenses	15,635,749	3,036,541	18,672,290
Capital assets	10,000	(10,000)	0
Grants	56,622,950	8,364,121	64,987,071
Discretionary funds	928,082	0	928,082
Workforce enhancement fund	0	1,000,000	1,000,000
Economic development initiatives	186,846	(186,846)	0
Flood impact grants/loans	0	12,859,869	12,859,869
Agricultural products utilization commission	3,240,494	78,117	3,318,611
Research North Dakota	0	4,500,000	4,500,000
North Dakota trade office	2,613,400	0	2,613,400
Entrepreneurship grants and vouchers	0	3,250,000	3,250,000
Partner programs	<u>2,022,044</u>	<u>200,000</u>	<u>2,222,044</u>
Total all funds	\$93,864,446	\$33,658,728	\$127,523,174
Less estimated income	51,707,386	22,812,087	74,519,473
Total general fund	\$42,157,060	\$10,846,641	\$53,003,701
Full-time equivalent positions	69.25	0.15	69.40

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Workforce enhancement fund	\$2,000,000	\$1,000,000
Flood impact grants/loans	18,358,866	12,859,869
Research North Dakota	12,000,000	4,500,000

Unmanned aircraft system	5,000,000	2,718,620
Base retention grants	1,500,000	1,500,000
Tourism large infrastructure grants	750,000	750,000
Visual North Dakota	250,000	0
Innovation grants	300,000	0
Federal fiscal stimulus	796,770	0
Enhanced use lease grant	2,500,000	7,500,000
Child care facility grants	0	2,250,000
Homeless shelter grants	0	1,500,000
Rural health services grant	0	0
Tribal community college grants	0	3,000,000
Nursing home grants	2,000,000	0
Value-added renewable energy study	500,000	0
Workforce recruitment campaign	0	300,000
Tourism midwest markets	0	1,000,000
Entrepreneurship grants and vouchers	0	1,750,000
Tourism international	0	247,836
Educators and industry externships	0	50,000
Total all funds	\$45,955,636	\$40,926,325
Less estimated income	23,655,636	21,359,869
Total general fund	\$22,300,000	\$19,566,456

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The department of commerce shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. BASE RETENTION GRANT PROGRAM. The grants line item in section 1 of this Act includes the sum of \$1,500,000 from the general fund for a base retention grant program to be developed by the department of commerce, for the biennium beginning July 1, 2015, and ending June 30, 2017. The grant program must award direct grants and not cost reimbursement grants. The department may award grants of up to \$500,000 to each community with an air force base or air national guard facilities.

SECTION 4. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - ENHANCED USE LEASE GRANT PROGRAM. The grants line item in section 1 of this Act includes the sum of \$7,500,000 from the strategic investment and improvements fund for an enhanced use lease grant program to be developed by the department of commerce, for the biennium beginning July 1, 2015, and ending June 30, 2017. Grants are available for constructing infrastructure required for an enhanced use lease private sector business development project located on or adjacent to the Grand Forks air force base. The department may award up to \$3,100,000, or additional amounts as necessary, for taxi-way reconnection and alert pad refurbishment after an agreement is reached for the first private sector single-tenant or multitenant building on the property. Remaining funds may also be awarded either after an agreement is reached for a second private sector single-tenant or multitenant building on the property or after an agreement is reached with any data intensive tenant for data connectivity and redundancy infrastructure requirements or for data services, such as analysis, modeling, or storage, to be provided to tenants or prospective tenants. The department of commerce shall establish accountability requirements for grants awarded under this section.

SECTION 5. CHILD CARE FACILITY GRANT PROGRAM. The grants line item in section 1 of this Act includes the sum of \$2,250,000 from the general fund for a child care facility grant program to be developed by the department of commerce, for

the biennium beginning July 1, 2015, and ending June 30, 2017. The department shall establish guidelines to qualify for a grant under this section which must include a matching requirement one dollar of matching funds for every three dollars of grant funds and a maximum grant amount of \$187,500.

SECTION 6. ENTREPRENEURSHIP GRANTS AND VOUCHER PROGRAM - EXEMPTION. Section 1 of this Act includes the sum of \$3,250,000, of which \$3,100,000 is from the general fund and \$150,000 from special funds, for an entrepreneurship grants and voucher program to be developed and administered by the department of commerce, for the biennium beginning July 1, 2015, and ending June 30, 2017. The department shall establish guidelines to provide grants to entrepreneurial centers certified by the department. The department shall provide a \$300,000 grant to a nonprofit organization entrepreneurial center assisting individuals with business ideas located in the city where the state capitol is located and provide a \$300,000 grant to each of the two entrepreneurial centers associated with a research university located in a city with a population of at least 50,000 according to the most recent decennial census. The department also shall establish guidelines to award vouchers to entrepreneurs to procure business development assistance from certified entrepreneurial centers or to provide grants to entrepreneurs working with an entrepreneurial center. The amount appropriated for entrepreneurship grants in section 1 of this Act is not subject to section 54-44.1-11 and any unexpended funds from this line item are available during the biennium beginning July 1, 2017, and ending June 30, 2019.

SECTION 7. UNMANNED AIRCRAFT SYSTEMS PROGRAM. The grants line item in section 1 of this Act includes the sum of \$2,718,620 from the general fund for operations of the unmanned aircraft systems test site. Of the amount appropriated, \$1,200,000 may only be used as matching funds to incentivize private sector business development related to the test site. Matching funds provided under this section are not a business incentive under chapter 54-60.1.

SECTION 8. TRIBAL COLLEGE GRANTS. The grants line item in section 1 of this Act includes the sum of \$3,000,000 for tribal college grants, \$2,000,000 of which is from the general fund and \$1,000,000 is from the student loan trust fund, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 9. DEPARTMENT OF COMMERCE GRANT - ART AND GALLERY ASSOCIATION. Of the funds appropriated in the discretionary funds line item in section 1 of this Act, the department shall use \$150,000 from the general fund to provide a grant to an arts and gallery association located in the city where the state capitol is located.

SECTION 10. APPROPRIATION - ADJUTANT GENERAL. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the adjutant general for the purpose of coordinating and conducting joint training, involving the department of emergency services, federal health and human services' disaster mortuary operational response team, and other state and local emergency personnel, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 11. DAKOTA DAY TRIPS PUBLICATION. The department of commerce shall use up to \$15,000 of the funding appropriated in the operating expenses line item in section 1 of this Act for expenses relating to the printing of the Dakota day trips publication.

SECTION 12. TRADE OFFICE - MATCHING FUND REQUIREMENT. The total North Dakota trade office special line item and the general fund appropriation in section 1 of this Act include \$2,613,400 of funding relating to the North Dakota trade office. The department of commerce may spend seventy percent of this amount without requiring any matching funds from the trade office. Any additional amounts may be spent only to the extent that the North Dakota trade office provides one dollar of matching funds from private or other public sources for each one dollar provided by the department for the biennium beginning July 1, 2015, and ending June 30, 2017. Matching funds may include money spent by businesses or organizations to pay salaries to export assistants, provide training to export assistants, or buy computer equipment as part of the North Dakota trade office's export assistance program.

SECTION 13. TRANSFER - WORKFORCE ENHANCEMENT FUND. The office of management and budget shall transfer the amount appropriated in the workforce enhancement fund line item in section 1 of this Act to the workforce enhancement fund for the purpose of implementing and administering sections 54-60-21 and 54-60-22, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 14. TRANSFER - INTERNSHIP FUND. The office of management and budget shall transfer \$1,550,000 of the amount appropriated in the operating expenses line item in section 1 of this Act to the internship fund for the purpose of administering the operation intern program, for the period beginning with the effective date of this Act and ending June 30, 2017.

SECTION 15. TRANSFER - RESEARCH NORTH DAKOTA FUND. The office of management and budget shall transfer the amount appropriated in the research North Dakota line item in section 1 of this Act to the research North Dakota fund for the purpose of implementing and administering the research North Dakota grant program, for the biennium beginning July 1, 2015, and ending June 30, 2017. The department of commerce shall make available \$1,000,000 of the funds transferred to the research North Dakota fund for research North Dakota for grants to conduct research on and commercialization for the prevention of, treatment of, or cure for viral diseases, cancer, and other pathogens, for the period beginning July 1, 2015, and ending December 31, 2016. If the grants are not awarded by December 31, 2016, the funds must be made available for other authorized purposes of research North Dakota.

SECTION 16. TRANSFER - CENTERS OF EXCELLENCE FUND. After the close of the biennium ending June 30, 2015, the office of management and budget shall transfer any unobligated funds remaining in the centers of excellence fund to the research North Dakota fund.

SECTION 17. EXEMPTION. The amount appropriated for the agricultural products utilization commission in section 1 of chapter 49 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this line item for grants are available for grants during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 18. EXEMPTION. The amount appropriated for the discretionary funds line item in section 1 of chapter 49 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this line item are available during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 19. EXEMPTION. The amount appropriated for the technology-based entrepreneurship grant program contained in the grants line item in section 1 of chapter 49 of the 2013 Session Laws is not subject to section 54-44.1-11 and any

unexpended funds from this line item are available during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 20. EXEMPTION. The amount appropriated for the child care facility grants in section 14 of chapter 45 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this line item are available during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 21. EXEMPTION. The amount appropriated for the unmanned aircraft systems program in section 1 of chapter 49 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this line item are available during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 22. EXEMPTION. The amount appropriated for the tribal college grants in section 6 of chapter 437 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this line item are available during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 23. EXEMPTION. Any amount continued pursuant to section 27 of chapter 49 of the 2013 Session Laws, relating to the antiballistic missile site acquisition grant and base realignment grant, that is unexpended as of June 30, 2015, up to \$600,000, is not subject to section 54-44.1-11 and is available during the biennium beginning July 1, 2015, and ending June 30, 2017. The department of commerce may use funds only for the purpose awarding a grant to assist in the acquisition and development of the antiballistic missile site at the Stanley R. Mickelson safeguard complex in Nekoma.

SECTION 24. AMENDMENT. Section 54-60-17 of the North Dakota Century Code is amended and reenacted as follows:

54-60-17. Division of workforce development - Internships, apprenticeships, and work experience opportunities.

The division of workforce development shall administer a program to increase use of internships, apprenticeships, and work experience opportunities for higher education students and, high school students enrolled in grade eleven or twelve, and educators. The primary focus of this program must be higher education internships in target industries. This program shall provide services to employers, communities, and business organizations to increase internship, apprenticeship, and work experience opportunities. The department shall maintain records of the number of internship, apprenticeship, and work experience opportunities subsidized within each funding recipient.

SECTION 25. LEGISLATIVE MANAGEMENT STUDY - CIVILIAN GROUND CENTER FOR PROCESSING FIRST RESPONDER DATA. During the 2015-16 interim, the legislative management shall consider studying issues related to the state's development of a civilian ground center. The issues include: deployable pilots, sensor operators, and aircraft; a central location for processing first responder data, including high definition, high-spectral, infrared, and thermal imagery, as well as electronic signals through cell phones and internet service, generated from the deployment of unmanned aircraft and unmanned systems by first responders during federal, state, and local government responses to emergencies, natural disasters, emergency preparedness, and law enforcement activities; training services; data management, data analysis, data interpretation and information routing approximating a real-time basis; and a repository of data and best practices for first responders at federal, state, and local levels. The legislative management shall report its findings

and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 29, 2015

Filed April 30, 2015

CHAPTER 19

HOUSE BILL NO. 1019

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state board for career and technical education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state board for career and technical education for the purpose of defraying the expenses of the state board for career and technical education, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,669,943	\$433,561	\$5,103,504
Accrued leave payments	96,477	(96,477)	0
Operating expenses	1,253,339	0	1,253,339
Grants	31,063,698	1,479,564	32,543,262
Grants - postsecondary	847,452	(140,000)	707,452
Adult farm management	749,802	(50,000)	699,802
Workforce training	<u>3,000,000</u>	<u>0</u>	<u>3,000,000</u>
Total all funds	\$41,680,711	\$1,626,648	\$43,307,359
Less estimated income	<u>10,287,795</u>	<u>(589,908)</u>	<u>9,697,887</u>
Total general fund appropriation	\$31,392,916	\$2,216,556	\$33,609,472
Full-time equivalent positions	27.00	(0.50)	26.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Workforce training	<u>\$1,000,000</u>	<u>\$0</u>
Total general fund	\$1,000,000	\$0

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The state board for career and technical education shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

Approved April 24, 2015
Filed April 24, 2015

CHAPTER 20

HOUSE BILL NO. 1020

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the extension service, northern crops institute, upper great plains transportation institute, main research center, branch research centers, and agronomy seed farm; to amend and reenact sections 4-05.1-05, 4-08-10, 57-39.5-02, and 57-43.1-03.1 of the North Dakota Century Code, relating to North Dakota state university main research center full-time equivalent positions, North Dakota state university extension service full-time equivalent positions, the transfer of revenue from the farm machinery gross receipts tax, and fuel tax refunds; to authorize the Langdon research extension center to purchase certain land in Cavalier County; to provide for a report to the legislative assembly, the budget section, and the appropriations committees; to provide for transfers; to provide for a legislative management study; to provide for exemptions; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, the main research center, branch research centers, and agronomy seed farm for the purpose of defraying the expenses of the North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, the main research center, branch research centers, and agronomy seed farm, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

Subdivision 1.

NORTH DAKOTA STATE UNIVERSITY EXTENSION SERVICE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Extension service	\$48,867,985	\$5,534,111	\$54,402,096
Soil conservation committee	1,137,800	75,000	1,212,800
Accrued leave payments	<u>1,716,289</u>	<u>(1,716,289)</u>	<u>0</u>
Total all funds	\$51,722,074	\$3,892,822	\$55,614,896
Less estimated income	<u>23,897,809</u>	<u>1,928,899</u>	<u>25,826,708</u>
Total general fund	\$27,824,265	\$1,963,923	\$29,788,188
Full-time equivalent positions	258.26	5.65	263.91

Subdivision 2.

NORTHERN CROPS INSTITUTE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Northern crops institute	\$3,719,827	\$130,066	\$3,849,893
Accrued leave payments	42,195	(42,195)	0
Total all funds	\$3,762,022	\$87,871	\$3,849,893
Less estimated income	1,797,161	(49,426)	1,747,735
Total general fund	\$1,964,861	\$137,297	\$2,102,158
Full-time equivalent positions	12.00	0.00	12.00

Subdivision 3.

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Upper great plains transportation institute	\$25,038,160	(\$2,015,404)	\$23,022,756
Accrued leave payments	241,627	(241,627)	0
Total all funds	\$25,279,787	(\$2,257,031)	\$23,022,756
Less estimated income	22,452,963	(4,277,306)	18,175,657
Total general fund	\$2,826,824	\$2,020,275	\$4,847,099
Full-time equivalent positions	53.75	1.23	54.98

Subdivision 4.

MAIN RESEARCH CENTER

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Main research center	\$102,691,843	\$34,474,294	\$137,166,137
Accrued leave payments	2,561,394	(2,561,394)	0
Total all funds	\$105,253,237	\$31,912,900	\$137,166,137
Less estimated income	53,053,716	25,044,809	78,098,525
Total general fund	\$52,199,521	\$6,868,091	\$59,067,612
Full-time equivalent positions	351.49	2.36	353.85

Subdivision 5.

RESEARCH CENTERS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Dickinson research center	\$6,116,621	\$1,241,540	\$7,358,161
Central grasslands research center	3,229,867	452,700	3,682,567
Hettinger research center	4,661,729	589,459	5,251,188
Langdon research center	2,832,495	344,621	3,177,116
North central research center	4,582,677	604,264	5,186,941
Williston research center	3,766,986	1,707,104	5,474,090
Carrington research center	7,892,494	1,693,020	9,585,514
Accrued leave payments	503,916	(503,916)	0
Total all funds	\$33,586,785	\$6,128,792	\$39,715,577
Less estimated income	16,001,083	3,816,047	19,817,130

Total general fund	\$17,585,702	\$2,312,745	\$19,898,447
Full-time equivalent positions	107.04	6.90	113.94

Subdivision 6.

AGRONOMY SEED FARM

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Agronomy seed farm	\$1,466,018	\$54,989	\$1,521,007
Accrued leave payments	5,741	(5,741)	0
Total special funds	\$1,471,759	\$49,248	\$1,521,007
Full-time equivalent positions	3.00	0.00	3.00

Subdivision 7.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$102,401,173	\$13,477,331	\$115,878,504
Grand total special funds	118,674,491	26,687,271	145,361,762
Grand total all funds	\$221,075,664	\$40,164,602	\$261,240,266

SECTION 2. ONE TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Agronomy laboratories	\$5,925,000	\$150,000
Extension 4-H camp renovation	1,900,000	0
Feed mill equipment	100,000	0
Video conference equipment	110,000	0
Upper great plains transportation institute state match for federal funds	1,250,000	0
Diagnostic equipment	400,000	0
Upper great plains transportation institute road study	0	750,000
Junior master gardener program	25,000	12,500
Rural leadership project	0	150,000
Dust issues technical support	0	100,000
Seed cleaning plants	0	4,500,000
Veterinary diagnostics laboratory	0	18,000,000
Flooded lands study	82,000	72,500
Total all funds	\$9,792,000	\$23,735,000
Total other funds	950,000	21,150,000
Total general fund	\$8,842,000	\$2,585,000

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The main research center shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. ADDITIONAL INCOME - APPROPRIATION. In addition to the amount included in the grand total special funds appropriation line item in section 1 of this Act, any other income, including funds from federal acts, private grants, gifts, and

donations, or from other sources received by the North Dakota state university extension service, the northern crops institute, the upper great plains transportation institute, the main research center, branch research centers, and agronomy seed farm, except as otherwise provided by law, is appropriated for the purpose designated in this Act, grant, gift, or donation, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. ACQUISITION OF LAND AUTHORIZED. The state of North Dakota, by and through the state board of agricultural research and education, may acquire certain real property in Cavalier County to be used for the purposes of the Langdon research extension center on the terms and for a price as approved by the board, but not to exceed \$350,000 nor the appraised value of the property. The board may purchase the northeast $\frac{1}{4}$ of section 19 of township 161 north, range 59 west.

SECTION 5. APPROPRIATION - LANGDON RESEARCH EXTENSION CENTER. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$175,000, and from special funds, the sum of \$175,000, or so much of the sum as may be necessary, to the Langdon research extension center for the purpose of purchasing the real property described in section 4 of this Act, for the period beginning with the effective date of this section, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

SECTION 6. MAIN RESEARCH CENTER - VETERINARY DIAGNOSTICS LABORATORY - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND. The main research center line item in subdivision 4 of section 1 of this Act includes \$18,000,000 from the strategic investment and improvements fund for the veterinary diagnostics laboratory project.

SECTION 7. AMENDMENT. Section 4-05.1-05 of the North Dakota Century Code is amended and reenacted as follows:

4-05.1-05. North Dakota state university main research center position adjustments - Budget section report.

The North Dakota state university main research center must be located on the campus of North Dakota state university of agriculture and applied science. The center is the administrative location of the agricultural experiment station. The center shall conduct research and coordinate all research activities of the agricultural experiment station. The research must have, as a purpose, the development and dissemination of technology important to the production and utilization of food, feed, fiber, and fuel from crop and livestock enterprises. The research must provide for an enhancement of the quality of life, sustainability of production, and protection of the environment. Subject to the availability of funds, the station director may adjust or increase full-time equivalent positions in order to carry out activities to accomplish the mission of the agricultural experiment station. All full or partial positions must be separate from North Dakota state university. Annually, the station director shall report to the office of management and budget and to the budget section any adjustments or increases made pursuant to this section. The center may conduct baseline research, including production and processing in conjunction with the research and extension centers of the state, regarding industrial hemp and other alternative industrial use crops. The center may collect feral hemp seed stock and develop appropriate adapted strains of industrial hemp which contain less than three-tenths of one percent tetrahydrocannabinol in the dried flowering tops. The agriculture commissioner shall monitor the collection of feral hemp seed stock and industrial hemp strain development and shall certify appropriate stocks for licensed commercial cultivation.

SECTION 8. AMENDMENT. Section 4-08-10 of the North Dakota Century Code is amended and reenacted as follows:

4-08-10. Extension agent to submit monthly account of expenditures - Position adjustments - Budget section report.

The extension agent shall submit monthly an accurate itemized account of all expenditures incurred by the agent in the regular conduct of duties to the North Dakota state university extension service for examination and audit. When charges are made by an extension agent for money expended in the performance of official duties, all items of one dollar or more expended and charged for must be covered by a subvoucher or receipt that must be signed by the person to whom the money was paid. The subvoucher or receipt must show at what place, on what date, and for what the money expended was paid. The extension agent shall forward the subvouchers or receipts with the bill, claim, account, or demand against the county. When charges are made for transportation expenses, they may not exceed the amounts provided by section 11-10-15, and must be in itemized form showing the mileage traveled, the days when and how traveled, and the purpose thereof, verified by affidavit. The account must be transmitted and recommended for payment by the North Dakota state university extension service which shall audit the same and which may approve or disallow any expense item therein. The state board of agricultural research and education and the president of North Dakota state university shall control and administer the North Dakota state university extension service subject to the supervision of the state board of higher education. Funds appropriated to the North Dakota state university extension service may not be commingled with funds appropriated to North Dakota state university. An appropriation request to defray expenses of the North Dakota state university extension service must be separate from an appropriation request to defray expenses of North Dakota state university. Subject to the availability of funds, the director of the North Dakota state university extension service may adjust or increase full-time equivalent positions in order to carry out activities to accomplish the mission of the extension service. All full- or part-time positions must be separate from North Dakota state university. Annually, the director of the North Dakota state university extension service shall report to the office of management and budget and to the budget section any adjustments or increases made pursuant to this section.

SECTION 9. AMENDMENT. Section 57-39.5-02 of the North Dakota Century Code is amended and reenacted as follows:

57-39.5-02. Imposition - Transfer of funds - Exemptions.

There is imposed a tax of three percent upon the gross receipts of retailers from all sales at retail, including the leasing or renting, of farm machinery or irrigation equipment used exclusively for agricultural purposes. After July first of each year, five hundred thousand dollars of taxes collected under this chapter must be transferred to the state treasurer who shall deposit the moneys in the agricultural research fund. Gross receipts from sales at retail of farm machinery or irrigation equipment are exempted from the tax imposed by this chapter when the sale, lease, or rental is made to a purchaser or lessor who is entitled to a sales and use tax exemption under subsection 6 or 12 of section 57-39.2-04 on otherwise taxable sales at retail. There are specifically exempted from the tax imposed by this chapter the gross receipts from the sale, lease, or rental of used farm machinery, farm machinery repair parts, used irrigation equipment, or irrigation equipment repair parts used exclusively for agricultural purposes. For purposes of this section, "used" means:

1. Tax under this chapter or chapter 57-39.2 or 57-40.2 has been paid on a previous sale;
2. Tax under section 57-39.5-06 has been paid under a previous lease;
3. Originally purchased outside this state and previously owned by a farmer; or
4. Has been under rental for three years or more.

SECTION 10. AMENDMENT. Section 57-43.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03.1. Refund of tax for fuel used for agricultural purposes -- Reductions.

Any consumer who buys or uses any motor vehicle fuel for an agricultural purpose on which the motor vehicle fuel tax has been paid may file a claim with the commissioner for a refund under this chapter. ~~The amount of the tax refund under this section must be reduced by seven cents per gallon [3.79 liters] except for those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users. The amount per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural research fund.~~

SECTION 11. DICKINSON RESEARCH EXTENSION CENTER - MINERAL RIGHTS INCOME. The Dickinson research extension center may spend up to \$755,000 of revenues received during the 2015-17 biennium from mineral royalties, leases, or easements for ongoing operational expenses. Any revenues received in excess of \$755,000 may be spent only for one-time expenditures for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 12. WILLISTON RESEARCH EXTENSION CENTER - MINERAL RIGHTS INCOME - REPORT. The Williston research extension center shall report to the sixty-fifth legislative assembly on amounts received and spent from mineral royalties, leases, or easements in the biennium beginning July 1, 2013, and ending June 30, 2015, and the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 13. MAIN RESEARCH CENTER - NORTH DAKOTA STATE UNIVERSITY EXTENSION SERVICE - FTE POSITIONS - REPORT. The main research center and the North Dakota state university extension service shall report to the appropriations committees of the sixty-fifth legislative assembly on full-time equivalent positions added pursuant to sections 4-05.1-05 and 4-08-10 of the North Dakota Century Code and section 15 of this Act, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 14. TRANSFER AUTHORITY. Upon approval of the state board of agricultural research and education and appropriate branch research center directors, the director of the main research center may transfer appropriation authority within subdivisions 1, 2, 4, and 5 of section 1 of this Act. Any amounts transferred must be reported to the director of the office of management and budget.

SECTION 15. FULL-TIME EQUIVALENT POSITION ADJUSTMENTS. The board of higher education may adjust or increase full-time equivalent positions as needed for the entities in section 1 of this Act. All full-time or part-time positions must be separate from North Dakota state university. Annually, the board shall report to the office of management and budget and to the budget section any adjustments made pursuant to this section.

SECTION 16. MAIN RESEARCH CENTER - FLOODED LANDS STUDY - BUDGET SECTION REPORT. The main research center shall report to the budget section of the legislative management regarding the status of the flooded lands study and spending related to the study, during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 17. LEGISLATIVE MANAGEMENT STUDY - UPPER GREAT PLAINS TRANSPORTATION INSTITUTE UNDER DEPARTMENT OF TRANSPORTATION. During the 2015-16 interim, the legislative management shall consider studying the feasibility of placing the upper great plains transportation institute under the administrative authority of the department of transportation. If conducted, the study must identify potential efficiencies, potential issues, and current services or benefits provided to the upper great plains transportation institute by North Dakota state university. The legislative management shall report its findings and recommendations, along with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 18. UNEXPENDED GENERAL FUND - EXCESS INCOME - EXEMPTION. Any unexpended general fund appropriation authority to and any excess income received by entities listed in section 1 of this Act are not subject to the provisions of section 54-44.1-11, and any unexpended funds from these appropriations or revenues are available and may be expended by those entities, during the biennium beginning July 1, 2017, and ending June 30, 2019.

SECTION 19. EXEMPTION. The amounts appropriated for the agronomy laboratories contained in subdivision 4 of section 1 of chapter 51 of the 2013 Session Laws, are not subject to the provisions of section 54-44.1-11, and any unexpended funds from these appropriations or related revenues are available and may be expended during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 20. EXEMPTION. The amounts appropriated for the Extension 4-H camp contained in subdivision 1 of section 1 of chapter 51 of the 2013 Session Laws are not subject to the provision of section 54-44.1-11, and any unexpended funds from these appropriations or related revenues are available and may be expended during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 21. EMERGENCY. The appropriation for capital projects of \$22,650,000 in subdivision 4 of section 1 and sections 4 and 5 of this Act are declared to be an emergency measure.

Approved May 13, 2015
Filed May 14, 2015

CHAPTER 21

HOUSE BILL NO. 1021

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the information technology department; to provide appropriations to certain agencies for desktop support services; to provide a legislative report; to provide a statement of legislative intent; to provide for transfers; to create and enact a new section to chapter 54-59 of the North Dakota Century Code, relating to centralized desktop support services; and to amend and reenact the new section to chapter 54-59 of the North Dakota Century Code as created by section 8 of Senate Bill No. 2326, as approved by the sixty-fourth legislative assembly, relating to the mandatory disclosure of information to the information technology department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the information technology department for the purpose of defraying the expenses of the information technology department, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	\$51,553,251	\$6,559,964	\$58,113,215
Accrued leave payments	2,626,084	(2,626,084)	0
Operating expenses	64,734,643	6,262,534	70,997,177
Capital assets	12,500,600	(3,650,600)	8,850,000
Center for distance education	5,868,391	3,378,214	9,246,605
Statewide longitudinal data system	1,870,754	4,879,907	6,750,661
Educational technology council	1,614,609	1,091,338	2,705,947
EduTech	8,052,094	1,247,897	9,299,991
K-12 wide area network	4,928,177	75,271	5,003,448
Geographic information system	1,245,294	26,044	1,271,338
Health information technology office	4,750,723	1,129,921	5,880,644
Criminal justice information sharing	3,069,361	(3,069,361)	0
Federal stimulus funds	<u>6,800,000</u>	<u>(6,800,000)</u>	<u>0</u>
Total all funds	\$169,613,981	\$8,505,045	\$178,119,026
Less estimated income	<u>149,674,553</u>	<u>2,038,486</u>	<u>151,713,039</u>
Total general fund	\$19,939,428	\$6,466,559	\$26,405,987
Full-time equivalent positions	340.30	10.00	350.30

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET- REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Criminal justice information sharing projects	\$800,000	0
Educational technology council grants	200,000	1,050,000
Archiving study	100,000	0
Health data study	0	500,000
Statewide longitudinal data system	0	1,250,000
Geographic information system projects	<u>215,000</u>	<u>0</u>
Total all funds	\$1,315,000	\$2,800,000
Less estimated income	<u>0</u>	<u>500,000</u>
Total general fund	\$1,315,000	\$2,300,000

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The information technology department shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. HEALTH DATA STUDY - REPORT TO INFORMATION TECHNOLOGY COMMITTEE. The health information technology office line item includes the sum of \$500,000, from special funds, federal funds, or other funds, for the purpose of hiring a consultant to provide a health data study, for the biennium beginning July 1, 2015, and ending June 30, 2017. Before July 1, 2016, the information technology department shall report the findings of the consultant to the information technology committee.

SECTION 4. TRANSFERS. Notwithstanding section 54-16-04, the director of the office of management and budget shall make transfers of funds between line items in section 1 of this Act for the information technology department as may be requested by the chief information officer as determined necessary for the development and implementation of information technology projects.

SECTION 5. LEGISLATIVE INTENT - RADIO COMMUNICATIONS. It is the intent of the sixty-fourth legislative assembly that the information technology department be responsible for the oversight of the installation of any statewide radio communications equipment by an executive branch state agency in the most cost-effective manner. It is further the intent of the sixty-fourth legislative assembly that the information technology department develop a process to implement the recommendations of the North Dakota statewide radio system assessment and evolution study as presented to the statewide interoperability executive committee.

⁷ **SECTION 6. AMENDMENT.** The new section to chapter 54-59 of the North Dakota Century Code as created by section 8 of Senate Bill No. 2326, as approved by the sixty-fourth legislative assembly, is amended and reenacted as follows:

State agencies - Mandatory provision of information - Confidentiality.

1. The information technology department may request from any state agency:
 - a. All information required by 20 U.S.C. 9871(e)(2)(D); and
 - b. Any other educational information the statewide longitudinal data system committee determines is required for a longitudinal data system to comply with state or federal law; and

⁷ Section 54-59-39 was created by section 8 of Senate Bill No. 2326, chapter 141.

- c. Unemployment insurance wage data from job service North Dakota for education and workforce development program evaluations, except that job service North Dakota may not disclose any data identifying an individual.
2. Subject to applicable restrictions on the use and disclosure of confidential information required to comply with federal and state privacy laws, any state agency receiving a request for information under subsection 1 shall provide the information at the time and in the manner required by the information technology department.

SECTION 7. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Required use of centralized desktop support services.

1. The following state agencies shall obtain centralized desktop support services from the information technology department:
 - a. Office of administrative hearings.
 - b. Office of the governor.
 - c. Commission on legal counsel for indigents.
 - d. Public employees retirement system.
 - e. North Dakota university system office.
 - f. Department of career and technical education.
 - g. Department of financial institutions.
 - h. Department of veterans' affairs.
 - i. Aeronautics commission.
 - j. Tobacco prevention and control executive committee.
 - k. Council on the arts.
 - l. Agriculture commissioner.
 - m. Department of labor and human rights.
 - n. Indian affairs commission.
 - o. Protection and advocacy project.
 - p. Secretary of state.
 - q. State treasurer.
 - r. State auditor.
 - s. Securities department.

2. The office of management and budget, after receiving advice from the information technology department, shall establish policies and guidelines for the delivery of desktop support services, including the transition from existing systems to functional consolidation, with consideration given to the creation of efficiencies, cost-savings, and improved quality of service. For purposes of this section "desktop support services" means technical assistance and device management relating to the use of personal computers and peripheral devices.

SECTION 8. APPROPRIATION - DESKTOP SUPPORT. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds and other income to the agencies named for the purpose of defraying the expenses of desktop support services provided by the information technology department, for the biennium beginning July 1, 2015, and ending June 30, 2017.

<u>Agency</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Office of administrative hearings	\$0	\$17,600	\$17,600
Office of the governor	97,760	0	97,760
Commission on legal counsel for indigents	214,855	0	214,855
Public employees retirement system	0	152,950	152,950
North Dakota university system office	175,350	0	175,350
Department of career and technical education	210,590	0	210,590
Department of financial institutions	0	66,325	66,325
Department of veterans' affairs	34,635	0	34,635
Aeronautics commission	0	17,090	17,090
Total	\$733,190	\$253,965	\$987,155

SECTION 9. ONE-TIME FUNDING. The following amounts reflect the 2015-17 one-time funding items included in the appropriations in section 8 of this Act:

<u>Agency - One-Time Funding Description</u>	<u>General Fund</u>	<u>Other Funds</u>
Office of administrative hearings	\$0	\$14,040
Office of the governor	45,200	0
Commission on legal counsel for indigents	122,275	0
Public employees retirement system	0	77,370
North Dakota university system office	81,750	0
Department of career and technical education	106,750	0
Department of financial institutions	0	66,325
Department of veterans' affairs	26,895	0
Aeronautics commission	0	14,810
Total	\$382,870	\$172,545

Approved April 29, 2015
 Filed April 30, 2015

CHAPTER 22

HOUSE BILL NO. 1022

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the commission on legal counsel for indigents; to amend and reenact subsection 6 of section 54-61-01 of the North Dakota Century Code, relating to the commission on legal counsel for indigents; and to provide for a report to the sixty-fifth legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the commission on legal counsel for indigents for the purpose of defraying the expenses of the commission on legal counsel for indigents, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Commission on legal counsel for indigents	\$14,304,404	\$5,891,758	\$20,196,162
Accrued leave payments	<u>116,872</u>	<u>(116,872)</u>	<u>0</u>
Total all funds	\$14,421,276	\$5,774,886	\$20,196,162
Less special funds	<u>2,497,866</u>	<u>(390,952)</u>	<u>2,106,914</u>
Total general fund	\$11,923,410	\$6,165,838	\$18,089,248
Full-time equivalent positions	33.00	7.00	40.00

SECTION 2. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - CONTRACT SERVICE FEES. The commission on legal counsel for indigents line item in section 1 of this Act, includes the sum of \$200,000 from the strategic investment and improvements fund for contract service fees. The funding provided is considered a one-time funding item.

SECTION 3. AMENDMENT. Subsection 6 of section 54-61-01 of the North Dakota Century Code is amended and reenacted as follows:

6. A member of the commission is entitled to reimbursement for travel and expenses as provided by law for other state officers. If not otherwise employed by the state of North Dakota, a member is entitled to receive per diem compensation of sixty-two dollars and fifty cents for each day devoted to attending meetings or performing other duties relating to the official business of the commission. A member of the commission who is a member of the legislative assembly is entitled to receive per diem compensation at the rate as provided under section 54-35-10 for each day devoted to attending meetings or performing other duties relating to the official business of the commission. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the commission who is a member of the legislative assembly.

SECTION 4. ELIGIBILITY FOR SERVICES - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The commission on legal counsel for indigents shall report to the sixty-fifth legislative assembly regarding the effectiveness of limits and procedures used to ensure that defense services are provided only to indigent clients.

Approved April 29, 2015

Filed April 30, 2015

CHAPTER 23**HOUSE BILL NO. 1023**

(Appropriations Committee)
 (At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the North Dakota racing commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the North Dakota racing commission for the purpose of defraying the expenses of the North Dakota racing commission, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Racing commission	\$551,862	\$21,872	\$573,734
Accrued leave payments	3,789	(3,789)	0
Total all funds	\$555,651	\$18,083	\$573,734
Less estimated income	166,407	(7,677)	158,730
Total general fund	\$389,244	\$25,760	\$415,004
Full-time equivalent positions	2.00	0.00	2.00

Approved April 16, 2015

Filed April 16, 2015

CHAPTER 24**HOUSE BILL NO. 1024**

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the comprehensive tobacco control advisory committee; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the tobacco prevention and control trust fund, not otherwise appropriated, to the comprehensive tobacco control advisory committee for the purpose of defraying the expenses of the committee, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Comprehensive tobacco control	\$15,807,437	\$740,602	\$16,548,039
Accrued leave	<u>8,391</u>	<u>(8,391)</u>	<u>0</u>
Total special funds	\$15,815,828	\$732,211	\$16,548,039
Full-time equivalent positions	8.00	0.00	8.00

SECTION 2. REPORT TO THE LEGISLATIVE MANAGEMENT - TOBACCO PREVENTION AND CONTROL GRANT TO THE STATE DEPARTMENT OF HEALTH. The comprehensive tobacco control advisory committee and the state department of health shall report to the legislative management by September 1, 2016, regarding grant expenditures, the granting process, and reporting requirements of the \$500,000 grant, included in the funding appropriated in section 1 of this Act, to be provided to the state department of health during the biennium beginning July 1, 2015, and ending June 30, 2017.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 25

HOUSE BILL NO. 1025

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of veterans' affairs; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of veterans' affairs for the purpose of defraying the expenses of the department of veterans' affairs, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Veterans' affairs	\$1,410,580	\$365,298	\$1,775,878
Contingent service dogs	0	25,000	25,000
Transport vans	0	15,000	15,000
Accrued leave payments	10,123	(10,123)	0
Total all funds	\$1,420,703	\$395,175	\$1,815,878
Less estimated income	0	288,018	288,018
Total general fund	\$1,420,703	\$107,157	\$1,527,860
Full-time equivalent positions	8.00	1.00	9.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Website	\$15,000	\$0
Vans	30,000	0
Service dogs	0	25,000
Contingent service dogs	0	25,000
General fund transfer	250,000	0
Total general fund	\$295,000	\$50,000

SECTION 3. EXEMPTION. The amount appropriated for veteran service dog training in section 1 of chapter 60 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this line item for grants are available for grants during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. CONTINGENT FUNDING - SERVICE DOGS. Funding provided in the contingent service dogs line item in section 1 of this Act includes \$25,000 from the general fund for service dogs to assist North Dakota veterans with posttraumatic stress disorder. The department of veterans' affairs may spend these funds subject to:

1. The dogs having completed service dog training;
2. Eligible veterans having been approved to receive the service dogs; and
3. Budget section approval.

Approved April 28, 2015

Filed April 28, 2015

CHAPTER 26

HOUSE BILL NO. 1046

(Legislative Management)
(Human Services Committee)

AN ACT to provide an appropriation to the department of human services for costs relating to expanded traumatic brain injury programming; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - EXPANDED BRAIN INJURY SERVICES - REPORTS TO THE LEGISLATIVE MANAGEMENT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$375,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing life skill services, including an evidence-based return-to-work model, provided for individuals with a traumatic brain injury, for the biennium beginning July 1, 2015, and ending June 30, 2017. The department of human services shall report to the legislative management on the use of the funds under this section by July 1, 2016.

SECTION 2. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - TRAUMATIC BRAIN INJURY REGIONAL RESOURCE COORDINATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the department of human services for the purpose of coordinating services for individuals with traumatic brain injury in each human service region, for the biennium beginning July 1, 2015, and ending June 30, 2017. The department may contract for the provision of services under this section.

Approved April 27, 2015
Filed April 27, 2015

CHAPTER 27

HOUSE BILL NO. 1139

(Appropriations Committee)
(At the request of the State Board of Higher Education)

AN ACT to authorize the issuance of revenue bonds for improvements to Woods Hall on the Dickinson state university campus and for acquiring properties for student housing near the campus; to provide an appropriation for defraying the expenses of improvements to Woods Hall and for acquiring properties for student housing near the campus; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BOND ISSUANCE - AUTHORIZATION. The state board of higher education, in accordance with chapter 15-55, may arrange for the funding of the projects authorized in this section, declared to be in the public interest, through the issuance of self-liquidating, tax-exempt evidences of indebtedness under chapter 15-55, beginning with the effective date of this Act and ending June 30, 2017. Evidences of indebtedness issued pursuant to this section are not a general obligation of the state of North Dakota. Any unexpended balance resulting from the proceeds of the evidences of indebtedness must be placed in a sinking fund to be used for the retirement of indebtedness. The evidences of indebtedness may be issued and the proceeds are appropriated in section 2 of this Act for the following capital projects:

Dickinson state university - Woods Hall	\$6,100,000
Dickinson state university - Acquisition of Miller Apartments, Altringer Apartments, and Bosch Apartments for student housing	<u>3,500,000</u>
Total	\$9,600,000

SECTION 2. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from federal funds, bond proceeds, and other income, to Dickinson state university under the supervision of the state board of higher education for the purpose of defraying the expenses of improvements to Woods Hall and to purchase student housing properties beginning with the effective date of this Act and ending June 30, 2017, as follows:

Capital assets	<u>\$11,500,000</u>
Total special funds	\$11,500,000

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 29, 2015
Filed April 30, 2015

CHAPTER 28

HOUSE BILL NO. 1201

(Representatives Beadle, Nathe, Oversen, Sanford)
(Senators Flakoll, Larsen)

AN ACT to provide an appropriation for commendatory grants to eligible higher education faculty members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - COMMENDATORY GRANTS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,800, or so much of the sum as may be necessary, to the state board of higher education for the purpose of providing commendatory grants to eligible faculty members, for the biennium beginning July 1, 2015, and ending June 30, 2017.

1. The state board of higher education shall call for applications and nominations in order to recognize and commend faculty members at institutions of higher education under the control of the state board. The recognition and commendation must be based on the innovative use of technology in the delivery of instruction, as determined by the state board.
2. Each year during the month of June, the state board of higher education shall select the recipients and provide:
 - a. One grant in the amount of \$500 to a full-time faculty member at the University of North Dakota;
 - b. One grant in the amount of \$500 to a full-time faculty member at North Dakota State University;
 - c. One grant in the amount of \$500 to a full-time faculty member at Dickinson State University, Mayville State University, Minot State University, or Valley City State University; and
 - d. One grant in the amount of \$500 to a full-time faculty member at Bismarck State College, Dakota College at Bottineau, Lake Region State College, North Dakota State College of Science, or Williston State College.
3. Each year, the state board of higher education may utilize up to \$400 of the amount appropriated to provide recipients with plaques commemorating their recognition.
4. If matching grants become available, the state board of higher education may increase the number of grants in each category set forth in subsection 2.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 29

HOUSE BILL NO. 1282

(Representatives Kempenich, Fehr, Hofstad, Holman, M. Nelson, Paur)
(Senators J. Lee, Mathern, Murphy, Robinson, Wardner, Warner)

AN ACT to provide an appropriation to the department of commerce to address health care workforce needs in rural areas of the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of providing matching funds to an organization assisting in the recruitment, distribution, supply, quality, and efficiency of personnel providing health services in rural areas of the state, for the biennium beginning July 1, 2015, and ending June 30, 2017. The department of commerce may spend the funds appropriated in this section only for the purposes authorized in this section and only to the extent the organization has secured matching funds from nonstate sources on a dollar-for-dollar basis.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 30

HOUSE BILL NO. 1285

(Representatives J. Nelson, Monson, Sanford, Schneider, Streytle)
(Senators Bekkedahl, Oehlke, Robinson)

AN ACT to provide an appropriation to the department of commerce to provide grants to organizations that provide domestic violence shelters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - DOMESTIC VIOLENCE SHELTER GRANTS.

There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$650,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of providing grants to domestic violence sexual assault organizations as defined in section 14-07.1-01 for constructing, renovating, or purchasing facilities to provide shelter to victims of domestic violence for the biennium beginning July 1, 2015, and ending June 30, 2017. The department of commerce shall provide a grant of up to \$400,000 to a qualifying organization serving a community in a non-oil-producing county with a population exceeding 10,000 based on the most recent decennial census. The department shall require three dollars of nonstate funds for each one dollar of the grant funds awarded up to \$400,000. The department shall provide a grant of up to \$250,000 to a qualifying organization serving a community in a non-oil-producing county with a population of 10,000 or fewer based on the most recent decennial census. The department shall require one dollar of nonstate funds for each one dollar of the grant funds awarded of up to \$250,000.

Approved April 15, 2015

Filed April 15, 2015

CHAPTER 31**HOUSE BILL NO. 1364**

(Representative Pollert)
(Senator Carlisle)

AN ACT to provide an appropriation to the department of veterans' affairs; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - DEPARTMENT OF VETERANS' AFFAIRS - 2013-15 BIENNIUM. There is appropriated from special funds derived from federal funds and other income, the sum of \$380,000, or so much of the sum as may be necessary, to the department of veterans' affairs for the purpose of providing transportation services to veterans or for purchasing vehicles for the provision of transportation-related services to veterans, for the period beginning with the effective date of this Act and ending June 30, 2015.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 32

HOUSE BILL NO. 1372

(Representatives Trottier, Amerman, Boe, Fehr, D. Johnson, Kiefert, Paur)
(Senators Campbell, Marcellais, Miller)

AN ACT to provide an appropriation for the identification of and provision of services to veterans exposed to agent orange.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the department of veterans' affairs for the purpose of providing grants to assist in the identification of and the provision of services to North Dakota veterans who had been exposed to agent orange during the Vietnam conflict, for the biennium beginning July 1, 2015, and ending June 30, 2017.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 33**HOUSE BILL NO. 1393**

(Representatives Meier, Delmore, Dosch, Hawken, Hunskor, Monson, Schatz,
Schreiber Beck)
(Senators Heckaman, Poolman, Schaible)

AN ACT to provide an appropriation for a science, technology, engineering, and mathematics advancement initiative.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000, or so much of the sum as may be necessary, to the department of career and technical education for the purpose of providing a science, technology, engineering, and mathematics advancement initiative, for the biennium beginning July 1, 2015, and ending June 30, 2017.

Approved April 15, 2015

Filed April 15, 2015

CHAPTER 34

HOUSE BILL NO. 1410

(Representatives Hawken, P. Anderson, Delmore, Maragos, Meier)
(Senators Davison, Oehlke)

AN ACT to provide an appropriation for head start programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,900, or so much of the sum as may be necessary, to the department of human services for the purpose of providing grants to head start programs in this state, for the biennium beginning July 1, 2015, and ending June 30, 2017.

1. The head start state collaboration administrator shall award grants under this section based on an application and criteria that include:
 - a. The number of low-income or at-risk children and families that a program can serve;
 - b. A program's design, service area, and accessibility to eligible children and families;
 - c. A program's coordination and interaction with licensed child care programs and public and nonpublic schools; and
 - d. Proposals for innovative ways of addressing identified needs of eligible children and families.
2. The department shall monitor and provide oversight of all grant recipients.
3. This appropriation does not create eligibility entitlements.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 35

SENATE BILL NO. 2001

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the office of the governor; to amend and reenact sections 54-07-04 and 54-08-03 of the North Dakota Century Code, relating to the salaries of the governor and lieutenant governor; and to provide for a legislative management report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the office of the governor for the purpose of defraying the expenses of the office of the governor, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$3,540,985	\$320,564	\$3,861,549
Accrued leave payments	67,722	(67,722)	0
Operating expenses	404,366	0	404,366
Contingencies	10,000	0	10,000
Transition in	0	15,000	15,000
Transition out	0	50,000	50,000
Roughrider awards	<u>10,800</u>	<u>0</u>	<u>10,800</u>
Total general fund	\$4,033,873	\$317,842	\$4,351,715
Full-time equivalent positions	18.00	0.00	18.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Governor's transition lines	\$0	\$65,000
Total general fund	\$0	\$65,000

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The office of the governor shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. APPROPRIATION - GOVERNOR'S OFFICE - LEGISLATIVE MANAGEMENT REPORT. In addition to the amounts appropriated to the governor's office in section 1 of this Act, there is appropriated to the governor's office, any additional income from federal or other funds which may become available to the governor's office, for the biennium beginning July 1, 2015, and ending June 30, 2017.

Any funds received under this section must be used for the specific purpose intended for the funds or transferred to the appropriate state agency or institution. Upon the receipt of funds under this section, the governor's office shall provide a report to the legislative management regarding the source, amount, and purpose of the funds received.

SECTION 4. AMENDMENT. Section 54-07-04 of the North Dakota Century Code is amended and reenacted as follows:

54-07-04. Salary of governor.

The annual salary of the governor is ~~one hundred twenty-one thousand six hundred eighty-one dollars through June 30, 2014, and one hundred twenty-five thousand three hundred thirty-one~~one hundred twenty-nine thousand ninety-one dollars through June 30, 2016, and one hundred thirty-two thousand nine hundred sixty-four dollars thereafter.

SECTION 5. AMENDMENT. Section 54-08-03 of the North Dakota Century Code is amended and reenacted as follows:

54-08-03. Salary of lieutenant governor.

The annual salary of the lieutenant governor is ~~ninety-four thousand four hundred sixty-two dollars through June 30, 2014, and ninety-seven thousand two hundred ninety-six~~one hundred thousand two hundred fifteen dollars through June 30, 2016, and one hundred three thousand two hundred twenty-one dollars thereafter.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 36

SENATE BILL NO. 2002

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the office of the secretary of state and public printing; to provide exemptions; to amend and reenact section 54-09-05 of the North Dakota Century Code, relating to the salary of the secretary of state; to provide for legislative management studies; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the secretary of state for the purpose of defraying the expenses of the secretary of state and public printing, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

Subdivision 1.

SECRETARY OF STATE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$3,753,869	\$1,149,645	\$4,903,514
Accrued leave payments	82,831	(82,831)	0
Operating expenses	2,579,597	3,153,698	5,733,295
Petition review	8,000	0	8,000
Election reform	<u>5,143,115</u>	<u>(2,439,580)</u>	<u>2,703,535</u>
Total all funds	\$11,567,412	\$1,780,932	\$13,348,344
Less estimated income	<u>5,844,417</u>	<u>(2,260,881)</u>	<u>3,583,536</u>
Total general fund	\$5,722,995	\$4,041,813	\$9,764,808
Full-time equivalent positions	28.00	6.00	34.00

Subdivision 2.

SECRETARY OF STATE - PUBLIC PRINTING

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Public printing	<u>\$320,500</u>	<u>\$0</u>	<u>\$320,500</u>
Total general fund	\$320,500	\$0	\$320,500

Subdivision 3.

BILL TOTAL

	Base Level	Adjustments or Enhancements	Appropriation
Grand total general fund	\$6,043,495	\$4,041,813	\$10,085,308
Grand total special funds	<u>5,844,417</u>	<u>(2,260,881)</u>	<u>3,583,536</u>
Grand total all funds	\$11,887,912	\$1,780,932	\$13,668,844

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET- REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation of section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Funding for three new full-time equivalent positions	\$283,754	\$0
Overtime funding	225,600	0
Multipurpose copier	10,000	0
Information technology hosting charges	84,000	0
Technology project	0	3,050,000
Total general fund	\$603,354	\$3,050,000

The 2015-17 one-time funding amounts are not part of the entity's base budget for the 2017-19 biennium. The secretary of state shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. EXEMPTION - GENERAL SERVICES OPERATING FUND. Any unexpended and unobligated balance remaining in the secretary of state's general services operating fund on June 30, 2015, is not subject to the provisions of section 54-09-08, and any unexpended funds are available and may be expended by the secretary of state, during the biennium beginning July 1, 2015, and ending June 30, 2017, for the database and processing platform migration project.

SECTION 4. EXEMPTION. The amounts appropriated to the secretary of state in subdivision 2 of section 1 of Senate Bill No. 2023, as approved by the sixty-fourth legislative assembly, are not subject to the provisions of section 54-44.1-11. Any unexpended funds from these appropriations are available for completing the central indexing computer project and the business process modeling services contract during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 5. AMENDMENT. Section 54-09-05 of the North Dakota Century Code is amended and reenacted as follows:

54-09-05. Salary of secretary of state.

The annual salary of the secretary of state is ~~ninety-six thousand seven hundred ninety-four dollars through June 30, 2014, and ninety-nine thousand six hundred ninety-eightone hundred two thousand six hundred eighty-nine dollars through June 30, 2016, and one hundred five thousand seven hundred seventy dollars thereafter.~~

SECTION 6. LEGISLATIVE MANAGEMENT STUDY - USE OF SOFTWARE BY SECRETARY OF STATE. During the 2015-16 interim, the legislative management shall consider studying the feasibility and desirability of the secretary of state's office

utilizing software which would allow employees of the office to monitor and report billable hours in order to improve efficiency and productivity within the secretary of state's office. The legislative management shall report its findings and recommendations, along with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - CONSOLIDATION OF ELECTIONS. During the 2015-16 interim, the legislative management shall consider studying the feasibility and desirability of consolidating all political subdivision and school district elections with the statewide primary election and the holding of all special elections on other specified dates during any year. If the legislative management conducts the study, the legislative management shall seek input and participation from the secretary of state; representatives of cities, counties, school districts, and other political subdivisions; and representatives of political parties. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 8. EMERGENCY. Section 4 of this Act is declared to be an emergency measure.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 37

SENATE BILL NO. 2003

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the attorney general; to provide exemptions; to create and enact a new section to chapter 27-05 and two new sections to chapter 54-12 of the North Dakota Century Code, relating to the responsibility for expert witness expenses, attorney general opinions, and the criminal justice data information sharing system; to amend and reenact sections 53-12.1-09, 54-12-08, 54-12-11, and 54-27-25 of the North Dakota Century Code, relating to the salary of the attorney general, assistant and special assistant attorneys general, the lottery operating fund, and the tobacco settlement trust fund; to repeal section 54-59-21 of the North Dakota Century Code, relating to the criminal justice data information sharing system; to provide a report to the budget section; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the attorney general for the purpose of defraying the expenses of the attorney general, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$34,806,462	\$8,709,679	\$43,516,141
Accrued leave payments	1,057,247	(1,057,247)	0
Operating expenses	26,994,056	(1,002,737)	25,991,319
Capital assets	2,165,077	506,110	2,671,187
Grants	2,373,947	(611,288)	1,762,659
Criminal justice information sharing	0	5,401,701	5,401,701
Law enforcement	0	3,887,386	3,887,386
Litigation fees	50,000	0	50,000
Abortion litigation fees	400,000	0	400,000
Medical examinations	660,000	0	660,000
North Dakota lottery	4,133,821	1,148,957	5,282,778
Arrest and return of fugitives	10,000	0	10,000
Gaming commission	<u>7,368</u>	<u>122</u>	<u>7,490</u>
Total all funds	\$72,657,978	\$16,982,683	\$89,640,661
Less estimated income	<u>35,382,450</u>	<u>518,335</u>	<u>35,900,785</u>
Total general fund	\$37,275,528	\$16,464,348	\$53,739,876
Full-time equivalent positions	212.50	36.50	249.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the

2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
BCI vehicles	\$198,000	\$132,000
BCI surveillance vehicles	0	200,000
Criminal justice information sharing	0	1,250,000
Target equity criminal investigators	0	1,276,301
Target equity gaming audit staff	0	270,000
Computerized business projects FTE	<u>178,100</u>	<u>0</u>
Total all funds	\$376,100	\$3,128,301
Total special funds	0	653,333
Total general fund	\$376,100	\$2,474,968

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The attorney general shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. TARGETED MARKET EQUITY FUNDING - LIMITATIONS - SALARY SAVINGS - REPORT TO BUDGET SECTION. Of the funds appropriated in the salaries and wages line item in section 1 of this Act, \$270,000 is one-time funding from the attorney general refund fund for providing targeted market equity to gaming audit staff and \$1,276,301 is one-time targeted market equity funding for criminal investigators, including \$250,000 provided from carryover funds due to the exemption in section 5 of this Act, and up to \$1,026,301 from the general fund. The attorney general may spend the general fund amount under this section only to the extent that salary savings resulting from vacant positions and employee turnover are not sufficient to provide the \$1,026,301 authorized for targeted market equity from the general fund. The attorney general shall report to the office of management and budget and the office of management and budget must report to budget section in September 2015 and September 2016 regarding the amount of salary savings used to reduce funding needed from the general fund and to report on the number and duration of vacant full-time equivalent positions.

SECTION 4. ATTORNEY GENERAL REFUND TRANSFER TO THE GENERAL FUND - EXEMPTION. Notwithstanding section 54-12-18, the attorney general may retain the balance in the attorney general refund fund that would otherwise be transferred to the general fund on June 30, 2015.

SECTION 5. EXEMPTION - GRANTS TO LAW ENFORCEMENT AGENCIES. The amount appropriated to the attorney general from the strategic investment and improvements fund for awarding grants to law enforcement agencies, for crime-related needs of the attorney general's office, and for development of a uniform law enforcement and custody manual, as contained in section 11 of chapter 471 of the 2013 Session Laws, is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available to the attorney general to award grants to law enforcement agencies, for crime-related needs of the attorney general's office, and for development of a uniform law enforcement and custody manual during the biennium beginning July 1, 2015, and ending June 30, 2017.

***SECTION 6.** A new section to chapter 27-05 of the North Dakota Century Code is created and enacted as follows:

State crime laboratory expert witness travel costs responsibility of district court - Exception.

In any case before the district court involving an offense other than a class AA felony in which a staff member from the state crime laboratory is subpoenaed to testify as an expert witness, the district court shall pay the mileage and travel expenses incurred by the expert witness as provided under sections 44-04-04 and 54-06-09. If the district court permits the expert witness to testify via the state's interactive video network service or other interactive computer service, the district court is not responsible for any costs related to the testimony of a subpoenaed state crime laboratory expert witness.

SECTION 7. AMENDMENT. Section 53-12.1-09 of the North Dakota Century Code is amended and reenacted as follows:

53-12.1-09. Operating fund - Continuing appropriation - Authorization of disbursements - Report - Net proceeds.

There is established within the state treasury the lottery operating fund into which must be deposited all revenue from the sale of tickets, interest received on money in the fund, and all other fees and moneys collected, less a prize on a lottery promotion, prize on a winning ticket paid by a retailer, and a retailer's commission. Except for moneys in the lottery operating fund appropriated by the legislative assembly for administrative and operating costs of the lottery under section 53-12.1-10, all other money in the fund is continuously appropriated for the purposes specified in this section. During each regular session, the attorney general shall present a report to the appropriations committee of each house of the legislative assembly on the actual and estimated operating revenue and expenditures for the current biennium and projected operating revenue and expenditures for the subsequent biennium authorized by this section. A payment of a prize or expense or transfer of net proceeds by the lottery may be made only against the fund or money collected from a retailer on the sale of a ticket. A disbursement from the fund must be for the following purposes:

1. Payment of a prize as the director deems appropriate to the owner of a valid, winning ticket;
2. Notwithstanding section 53-12.1-10, payment of a marketing expense that is directly offset by cosponsorship funds collected;
3. Payment of a gaming system or related service expense, retailer record and credit check fees, game group dues, and retailer commissions; and
4. Transfer of net proceeds:
 - a. ~~Fifty~~**Eighty** thousand dollars must be transferred to the state treasurer each quarter for deposit in the compulsive gambling prevention and treatment fund;
 - b. An amount for the lottery's share of a game's prize reserve pool must be transferred to the multistate lottery association;

- c. Starting July 1, 2007, one hundred five thousand six hundred twenty-five dollars must be transferred to the state treasurer each quarter for deposit in the attorney general multijurisdictional drug task force grant fund; and
- d. The balance of the net proceeds, less holdback of any reserve funds the director may need for continuing operations, must be transferred to the state treasurer on at least an annual basis for deposit in the state general fund.

***SECTION 8.** A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Attorney general opinions - Notification of receipt of request - Delivery.

Within thirty days of receipt of a request for a written opinion under section 54-12-01 or 44-04-21.1, the attorney general shall notify the individual who requested the opinion that the request has been received and that a written opinion will be delivered to the requester within one hundred eighty days of the receipt of the request or that the attorney general has determined that a written opinion will not be provided to the requester. If the attorney general determines that an opinion will not be written in response to the request, the attorney general shall inform the requester of the basis for that determination.

SECTION 9. A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Criminal justice data information sharing system.

1. The attorney general shall maintain a criminal justice data information sharing system within the bureau of criminal investigation for the exchange of criminal justice data information by judicial, law enforcement, and emergency services agencies, and the department of transportation. Only an authorized individual employed by a criminal justice agency as defined in section 12-60-16.1, the department of transportation, a state court, or the department of emergency services or any other individual approved by the attorney general may access the system. To be eligible for access to the criminal justice data information sharing system, an individual shall undergo a criminal history background check, including a fingerprint check.
2. The criminal justice data information sharing system may be accessed only in accordance with rules adopted under this section. Any law enforcement record in the possession of the attorney general through the criminal justice data information sharing system is an exempt record. Criminal justice data information about an offense committed by a child if the offense has not been transferred under section 27-20-34 to another court having jurisdiction of the offense and information about a child victim or witness is confidential.
3. The attorney general shall provide staff to maintain the criminal justice data information system and provide administrative support for the advisory board.
4. A criminal justice information advisory board must be appointed, consisting of:
 - a. The chief justice of the supreme court or the chief justice's designee.
 - b. The director of the department of emergency services or the director's designee.

- c. The director of the department of corrections and rehabilitation or the director's designee.
 - d. The superintendent of the state highway patrol or the superintendent's designee.
 - e. The chief of the bureau of criminal investigation, who is the chairman of the advisory board.
 - f. The chief information officer of the state or the chief information officer's designee.
 - g. The director of the department of transportation or the director's designee.
 - h. A representative of a city police department, appointed by the attorney general from a list of two or more nominees from the North Dakota chiefs of police association.
 - i. A representative of a county sheriff's office, appointed by the attorney general from a list of two or more nominees from the North Dakota sheriffs and deputies association.
 - j. A state's attorney, appointed by the attorney general from a list of two or more nominees from the North Dakota state's attorney's association.
 - k. A city government representative, appointed by the attorney general from a list of two or more nominees from the league of cities.
 - l. A county government representative, appointed by the attorney general from a list of two or more nominees from the association of counties.
5. Advisory board members who are not permanent full-time state employees are entitled to compensation of seventy-five dollars per day and mileage and expenses as provided by law for state employees. With the exception of the chief of the bureau of criminal investigation, advisory board members appointed under this section serve staggered three year terms.
6. The attorney general, after consultation with the advisory board, shall adopt rules to establish eligibility for access to the criminal justice data information sharing system; to implement the collection, storage, and sharing of criminal justice information and the systems necessary to perform those functions; and to address the operation of the advisory board.

⁸ **SECTION 10. AMENDMENT.** Section 54-12-08 of the North Dakota Century Code is amended and reenacted as follows:

54-12-08. Assistant and special assistant attorneys general - Appointment - Revocation - Compensation.

1. After consultation with the head of the state department or institution or with the state board, commission, committee, or agency affected, the attorney general may appoint assistant or special assistant attorneys general to represent the state board, commission, committee, or agency. A state officer,

⁸ Section 54-12-08 was also amended by section 20 of House Bill No. 1003, chapter 3.

head of any state department, whether elected or appointed, or state department, board, commission, committee, or agency may not employ legal counsel, and no person may act as legal counsel in any matter, action, or proceeding in which the state or any state department, board, commission, committee, or agency is interested or is a party, except upon written appointment by the attorney general. Workforce safety and insurance, the department of transportation, the state tax commissioner, the public service commission, the insurance commissioner, ~~the board of higher education,~~ and the securities commissioner may employ attorneys to represent them. These entities shall pay the salaries and expenses of the attorneys they employ within the limits of legislative appropriations. The attorneys that represent these entities must be special assistant attorneys general appointed by the attorney general pursuant to this section. Absent good cause, the attorney general shall appoint as special assistant attorneys general licensed attorneys selected by these entities. The attorney general may revoke the appointment only for good cause or upon the request of the entity. Good cause means an inadequate level of experience, competence, or ethical standards.

2. The powers conferred upon special assistant attorneys general are the same as are exercised by the regular assistant attorneys general, unless the powers are limited specifically by the terms of the appointment. Except as otherwise provided by this section, an appointment is revocable at the pleasure of the attorney general. The appointment may be made with or without compensation, and when compensation is allowed by the attorney general for services performed, the compensation must be paid out of the funds appropriated therefor.
3. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of the department of human services, state department of health, and the state hospital.
4. Any assistant and special assistant attorney general, appointed to represent the state board of higher education or an institution under the control of the state board of higher education may access and examine any record under the control of the state board of higher education. For purposes of reviewing records under the Family Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal privacy law, the assistant and special assistant attorneys general must be considered a state educational official authorized to access student records for legal purposes.

SECTION 11. AMENDMENT. Section 54-12-11 of the North Dakota Century Code is amended and reenacted as follows:

54-12-11. Salary of attorney general.

The annual salary of the attorney general is one hundred ~~forty three~~forty-two thousand ~~six~~four hundred ~~eighty five~~thirty-six dollars through June 30, ~~2014~~2016, and one hundred ~~forty seven~~fifty-seven thousand ~~nine hundred ninety six~~nine dollars thereafter.

SECTION 12. AMENDMENT. Section 54-27-25 of the North Dakota Century Code is amended and reenacted as follows:

54-27-25. Tobacco settlement trust fund - Interest on fund - Uses.

1. There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under subsection IX(c)(1) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Except as provided in subsection 2, moneys received by the state under subsection IX(c)(1) must be deposited in the fund. Interest earned on the fund must be credited to the fund and deposited in the fund. The principal and interest of the fund may be appropriated to the attorney general for the purpose of enforcing the master settlement agreement and any disputes with the agreement. All remaining principal and interest of the fund must be allocated as follows:
 - a. Transfers to a community health trust fund to be administered by the state department of health. The state department of health may use funds as appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state. Transfers under this subsection must equal ten percent of total annual transfers from the tobacco settlement trust fund of which a minimum of eighty percent must be used for tobacco prevention and control.
 - b. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal forty-five percent of total annual transfers from the tobacco settlement trust fund.
 - c. Transfers to the water development trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal forty-five percent of the total annual transfers from the tobacco settlement trust fund.
2. There is created in the state treasury a tobacco prevention and control trust fund. The fund consists of the tobacco settlement dollars obtained by the state under section IX(c)(2) of the agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Interest earned on the fund must be credited to the fund and deposited in the fund. Moneys received into the fund are to be administered by the executive committee for the purpose of creating and implementing the comprehensive plan. If in any biennium, the tobacco prevention and control trust fund does not have adequate dollars to fund a comprehensive plan, the treasurer shall transfer money from the water development trust fund to the tobacco prevention and control trust fund in an amount equal to the amount determined necessary by the executive committee to fund a comprehensive plan.
3. Transfers to the funds under this section must be made within thirty days of receipt by the state.

SECTION 13. CAMPUS ASSESSMENTS - REPORT TO BUDGET SECTION.

The attorney general shall report to the budget section by September 30, 2016, regarding any fees charged to a campus in excess of the campus assessments listed below for legal fees charged by the attorney general.

Bismarck state college	\$38,377
Lake region state college	17,796
Williston state college	12,530
University of North Dakota	0
North Dakota state university	0
North Dakota state college of science	39,346
Dickinson state university	17,615
Mayville state university	16,949
Minot state university	39,709
Valley City state university	17,494
Dakota college at Bottineau	11,804
Total	\$211,620

SECTION 14. LEGISLATIVE MANAGEMENT STUDY - MEDICAID FRAUD

UNIT. During the 2015-16 interim, the legislative management shall consider studying the feasibility and desirability of establishing a medicaid fraud unit in the state. The study must include a review of the requirements for and the estimated costs and benefits of developing a medicaid fraud unit as well as any statutory requirements and changes necessary for the realization of the full benefit of a medicaid fraud unit. As part of the study, the legislative management shall seek input from the medical community, the department of human services, and any other relevant professions. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 15. REPEAL. Section 54-59-21 of the North Dakota Century Code is repealed.

SECTION 16. EMERGENCY. Section 4 and subsection 4 of section 10 of this Act are declared to be an emergency measure.

Approved May 13, 2015
 Filed May 14, 2015*

* Sections 6 and 8 of Senate Bill No. 2003 were vetoed, see chapter 487.

CHAPTER 38

SENATE BILL NO. 2004

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state auditor; to create and enact a new section to chapter 54-10 of the North Dakota Century Code, relating to a higher education audit division of the state auditor's office; and to amend and reenact sections 54-10-01 and 54-10-10 of the North Dakota Century Code, relating to the powers and duties of the state auditor and the salary of the state auditor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state auditor for the purpose of defraying the expenses of the state auditor, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$10,113,137	\$2,209,055	\$12,322,192
Accrued leave payments	201,157	(201,157)	0
Operating expenses	901,113	294,397	1,195,510
Information technology consultants	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total all funds	\$11,465,407	\$2,302,295	\$13,767,702
Less estimated income	<u>3,036,918</u>	<u>268,952</u>	<u>3,305,870</u>
Total general fund	\$8,428,489	\$2,033,343	\$10,461,832
Full-time equivalent positions	53.80	6.00	59.80

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Vault renovation	\$45,000	\$0
Total general fund	\$45,000	\$0

SECTION 3. AMENDMENT. Section 54-10-01 of the North Dakota Century Code is amended and reenacted as follows:

54-10-01. Powers and duties of state auditor.

The state auditor shall:

1. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of the state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.

2. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state and perform or provide for the audits and reviews of state agencies. Except for the annual audit of the North Dakota lottery required by section 53-12.1-03, the state auditor shall audit or review each state agency once every two years. The state auditor shall determine the contents of the audits and reviews of state agencies. The state auditor may conduct any work required by the federal government. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for any agency that receives and expends both general fund and nongeneral fund moneys. Audits and reviews may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.
3. Be vested with the authority to determine whether to audit the international peace garden at the request of the board of directors of the international peace garden.
4. Perform or provide for performance audits of state agencies, or the agencies' blended component units or discreetly presented component units, as determined necessary by the state auditor or the legislative audit and fiscal review committee. A performance audit must be done in accordance with generally accepted auditing standards applicable to performance audits. The state auditor may not hire a consultant to assist with conducting a performance audit of a state agency without the prior approval of the legislative audit and fiscal review committee. The state auditor shall notify an agency of the need for a consultant before requesting approval by the legislative audit and fiscal review committee. The agency that is audited shall pay for the cost of any consultant approved.
5. For the audits and reviews the state auditor is authorized to perform or provide for under this section, the audit or review may be provided for by contract with a private certified or licensed public accountant or other qualified professional. If the state auditor determines that the audit or review will be done pursuant to contract, the state auditor, except for occupational or professional boards, shall execute the contract, and any executive branch agency, including higher education institutions, shall pay the fees of the contractor.
6. Be responsible for the above functions and report thereon to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
7. Perform all other duties as prescribed by law.

SECTION 4. AMENDMENT. Section 54-10-10 of the North Dakota Century Code is amended and reenacted as follows:

54-10-10. Salary of state auditor.

The annual salary of the state auditor is ~~ninety-six thousand seven hundred ninety-four dollars through June 30, 2014, and ninety-nine thousand six hundred ninety-eight~~ one hundred two thousand six hundred eighty-nine dollars through June 30, 2016, and one hundred five thousand seven hundred seventy dollars thereafter.

⁹ **SECTION 5.** A new section to chapter 54-10 of the North Dakota Century Code is created and enacted as follows:

State board of higher education audits - Higher education audit division.

1. The state auditor shall establish a higher education audit division and employ a division audit manager to perform all audit related functions of the state board of higher education, including the examination and evaluation of the adequacy and effectiveness of the board's governance, risk management, internal controls, performance of constitutionally and statutorily required duties, and other areas as determined by the state auditor. The audit manager shall conduct audits, as determined appropriate by the state auditor, of each institution under the supervision and control of the state board of higher education. The audit manager may consult with the state board of higher education, or a committee designated by the board, regarding audit plans, results of audit activities, and any other appropriate issue. The state auditor shall determine the audit scope and related audit areas of any audit conducted by the audit manager. This section does not require the state auditor to perform any duties that would compromise the auditor's independence under government auditing standards.
2. The audit manager may access and examine any record under the control of the state board of higher education. For purposes of reviewing records under the Family Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal privacy law, the audit manager must be considered a state educational official authorized to access student records for audit purposes.
3. The state auditor may hire employees necessary to carry out the duties and responsibilities of this section. The state auditor may hire consultants to assist with any duties required under this section subject to approval by the legislative audit and fiscal review committee. The state board of higher education shall pay for the cost of any consultant approved under this section.

Approved April 13, 2015
Filed April 13, 2015

⁹ Section 54-10-30 was also created by section 19 of House Bill No. 1003, chapter 3.

CHAPTER 39**SENATE BILL NO. 2005**

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state treasurer; and to amend and reenact sections 54-11-13 and 57-20-07.2 of the North Dakota Century Code, relating to the salary of the state treasurer and state-paid property tax relief credit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state treasurer for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,396,437	\$105,205	\$1,501,642
Accrued leave payments	13,038	(13,038)	0
Operating expenses	135,356	175,357	310,713
Coal severance payments	252,800	(7,800)	245,000
Property tax relief credits	0	250,000,000	250,000,000
Total general fund	\$1,797,631	\$250,259,724	\$252,057,355
Full-time equivalent positions	8.00	0.00	8.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
IT developmental costs	\$377,591	\$0
Property tax relief	200,000,000	250,000,000
Township road distributions	8,760,000	0
Township distribution correction	385,000	0
Information technology costs	13,247	73,699
Nonoil transportation funding	<u>100,000,000</u>	<u>0</u>
Total general fund	\$309,535,838	\$250,073,699

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The state treasurer shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. PROPERTY TAX RELIEF CREDITS. The \$250,000,000 appropriated in the property tax relief credits line item of section 1 of this Act, or so

much of the sum as may be necessary, must be used for the purpose of state-paid property tax relief credits under section 57-20-07.2, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. AMENDMENT. Section 54-11-13 of the North Dakota Century Code is amended and reenacted as follows:

54-11-13. Salary of state treasurer.

The annual salary of the state treasurer is ~~ninety-one~~ninety-six thousand ~~four~~nine hundred ~~six~~seventy-two dollars through June 30, ~~2014~~2016, and ~~ninety-four~~ninety-nine thousand ~~one~~eight hundred ~~forty-eight~~eighty-one dollars thereafter.

¹⁰ **SECTION 5. AMENDMENT.** Section 57-20-07.2 of the North Dakota Century Code is amended and reenacted as follows:

57-20-07.2. (Effective for the first two taxable years beginning after December 31, ~~2014~~2014) State-paid property tax relief credit.

1. The owner of taxable property is entitled to a credit against property taxes levied against the total amount of property or mobile home taxes in dollars levied against the taxable value of the property. The credit is equal to twelve percent of property or mobile home taxes levied in dollars against that property.
2. The owner, operator, or lessee of railroad property assessed by the state board of equalization under chapter 57-05 or public utility operative property assessed by the state board of equalization under chapter 57-06 is entitled to a credit against property taxes levied within each county against that property in the amount provided in subsection 1 against property taxes levied in dollars against that property in that county.
3. The owner, operator, or lessee of operative property of an air carrier transportation company assessed and taxed under chapter 57-32 is entitled to a credit in the amount provided in subsection 1 against property taxes in dollars levied against that property. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the air transportation fund. The credit for each air transportation company must be allocated to each city or municipal airport authority where that company makes regularly scheduled landings, in the same manner as the tax collected from that company is allocated.
4. The tax commissioner shall estimate the amount necessary to provide each county advance payment of seventy-five percent of the amount the county and the taxing districts in the county will ultimately receive for a taxable year under this section and certify the estimated amounts to the state treasurer by March fifteenth for transfer by April first to the county treasurer and distribution to the county and taxing districts in the county as provided in subsection 5.
5. The tax commissioner shall determine the total amount of credits under this section for each county from the abstract of the tax list filed by the county

¹⁰ Section 57-20-07.2 was also amended by section 9 of House Bill No. 1059, chapter 433.

auditor under section 57-20-04, as audited and corrected by the tax commissioner. The tax commissioner shall certify to the state treasurer for payment, by June first following receipt of the abstract of the tax list, the amount determined for each county under this subsection. No penalty or interest applies to any state payment under this section, regardless of when the payment is made. The tax commissioner shall reduce the June certification of payments to reflect the April estimated payments previously made to counties under subsection 4.

6. Upon receipt of the payment from the state treasurer under subsections 4 and 5, the county treasurer shall apportion and distribute it to the county and the taxing districts in the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.
7. After payments to counties under subsection 5 have been made, the tax commissioner shall certify to the state treasurer as necessary any supplemental amounts payable to counties or the air transportation fund or any amounts that must be returned by counties or returned from the air transportation fund for deposit in the state general fund to correct any errors in payments or reflect any abatement or compromise of taxes, court-ordered tax reduction or increase, or levy of taxes against omitted property. The county auditor shall provide any supplemental information requested by the tax commissioner after submission of the abstract of the tax list. The county treasurer shall apply to the tax commissioner for any supplemental payments to which the county treasurer believes the county is entitled.
8. Notwithstanding any other provision of law, for any property other than mobile homes, the property tax credit under this section does not apply to any property subject to payments or taxes that are stated by law to be in lieu of personal or real property taxes.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 40

SENATE BILL NO. 2006

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the office of the tax commissioner and for payment of state reimbursement under the homestead tax credit and disabled veterans credit; to amend and reenact section 57-01-04 of the North Dakota Century Code, relating to the tax commissioner's salary; to provide for a transfer; and to provide an exemption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the tax commissioner for the purpose of defraying the expenses of the tax commissioner and paying the state reimbursement under the homestead tax credit and disabled veterans credit, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$20,138,488	\$2,849,226	\$22,987,714
Accrued leave payments	624,818	(624,818)	0
Operating expenses	7,721,834	483,370	8,205,204
Capital assets	16,000	8,000	24,000
Homestead tax credit	20,000,000	0	20,000,000
Disabled veterans' credit	<u>7,678,000</u>	<u>0</u>	<u>7,678,000</u>
Total all funds	\$56,179,140	\$2,715,778	\$58,894,918
Less estimated income	<u>125,000</u>	<u>0</u>	<u>125,000</u>
Total general fund	\$56,054,140	\$2,715,778	\$58,769,918
Full-time equivalent positions	134.00	2.00	136.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
TAP project	\$1,000,000	\$0
Scanners	<u>0</u>	<u>8,000</u>
Total general fund	\$1,000,000	\$8,000

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The tax commissioner shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. TRANSFER. There is transferred to the general fund in the state treasury, out of motor vehicle fuel tax revenue collected pursuant to section 57-43.1-02, the sum of \$2,030,496 for the purpose of reimbursing the general fund for expenses incurred in the collection of the motor vehicle fuels and special fuels taxes and the administration of these taxes, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. EXEMPTION. The amount appropriated for the capital assets line item in section 1 of chapter 6 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this line item are available during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 5. AMENDMENT. Section 57-01-04 of the North Dakota Century Code is amended and reenacted as follows:

57-01-04. Salary.

The annual salary of the state tax commissioner is ~~one hundred five thousand fifty dollars through June 30, 2014, and one hundred eight thousand two hundred two~~one hundred eleven thousand four hundred forty-eight dollars through June 30, 2016, and one hundred fourteen thousand seven hundred ninety-one dollars thereafter.

Approved April 28, 2015

Filed April 28, 2015

CHAPTER 41

SENATE BILL NO. 2007

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of labor and human rights; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of labor and human rights for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,922,048	\$544,492	\$2,466,540
Accrued leave payments	39,609	(39,609)	0
Operating expenses	<u>323,694</u>	<u>159,359</u>	<u>483,053</u>
Total all funds	\$2,285,351	\$664,242	\$2,949,593
Less estimated income	<u>437,926</u>	<u>(94)</u>	<u>437,832</u>
Total general fund	\$1,847,425	\$664,336	\$2,511,761
Full-time equivalent positions	13.00	2.00	15.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Overtime	\$0	\$20,000
Paperless system	<u>0</u>	<u>56,135</u>
Total general fund	\$0	\$76,135

The 2015-17 one-time funding amounts are not part of the entity's base budget for the 2017-19 biennium. The department of labor and human rights shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. EMERGENCY. Funding of \$10,000 for extraordinary repairs in the operating expenses line item in section 1 of this Act is declared to be an emergency measure.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 42

SENATE BILL NO. 2008

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the public service commission; to provide for a railroad safety pilot program; to provide for a railroad training program; to amend and reenact sections 49-01-05 and 57-43.2-19 of the North Dakota Century Code, relating to the salary of public service commissioners and the special fuels excise taxes distribution of funds; to provide a statement of legislative intent; to authorize a transfer; to provide an effective date; to provide for retroactive application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the public service commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$8,506,704	\$1,183,771	\$9,690,475
Accrued leave payments	168,278	(168,278)	0
Operating expenses	1,895,562	80,000	1,975,562
Capital assets	60,665	(34,265)	26,400
Grants	20,000	0	20,000
Abandoned mined lands contractual	8,000,000	0	8,000,000
Rail rate complaint case	900,000	0	900,000
Reclamation and grain licensing litigation	150,000	(150,000)	0
Railroad safety program	0	523,345	523,345
Specialized legal services	0	900,000	900,000
Weights and measures temp employee	0	200,000	200,000
Total all funds	\$19,701,209	\$2,534,573	\$22,235,782
Less estimated income	<u>13,033,549</u>	<u>1,267,026</u>	<u>14,300,575</u>
Total general fund	\$6,667,660	\$1,267,547	\$7,935,207
Full-time equivalent positions	44.00	2.00	46.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Specialized legal services	\$750,000	\$750,000
Hydraulic soil probe	28,000	0
Total all funds	\$778,000	\$750,000

Total special funds	353,920	336,000
Total general fund	\$424,080	\$414,000

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The public service commission shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. RAILROAD SAFETY PILOT PROGRAM - RAIL SAFETY FUND - LEGISLATIVE INTENT. The railroad safety program line item in section 1 of this Act includes \$523,345 from the rail safety fund, of which \$253,345 relates to salaries and wages, \$70,000 relates to operating expenses, and \$200,000 relates to a railroad safety pilot program temporary employee for the public service commission to establish and operate a state railroad safety pilot program for the biennium beginning July 1, 2015, and ending June 30, 2017. It is the intent of the sixty-fourth legislative assembly that the railroad safety pilot program continue through the 2017-19 biennium.

SECTION 4.

Railroad training program.

All railroads shall make training available to all fire departments having jurisdiction along routes traversed by unit oil trains. Training must be made available by June 30, 2016, with refresher training made available at least every three years thereafter. Training must address the general hazards of oil and hazardous substances, techniques to assess hazards to the environment and to the safety of responders and the public, factors an incident commander must consider in determining whether to attempt to suppress a fire or to evacuate the public and emergency responders from the area, and other strategies for initial response by local emergency responders. Training must include suggested protocol or practices for local responders to safely accomplish these tasks.

SECTION 5. AMENDMENT. Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners.

The annual salary of a commissioner is ~~ninety-nine thousand four hundred thirty-five dollars through June 30, 2014, and one hundred two thousand four hundred eighteen-one hundred five thousand four hundred ninety-one dollars through June 30, 2016, and one hundred eight thousand six hundred fifty-six~~ dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state.

SECTION 6. TRANSFER AND REPAYMENT - BEGINNING FARMER REVOLVING LOAN FUND. The Bank of North Dakota shall transfer from the beginning farmer revolving loan fund to the public service commission the sum of \$900,000, or so much of the sum as may be necessary, included in the estimated income line item in section 1 of this Act to pay for costs associated with a rail rate complaint case. Transfers must be made during the biennium beginning July 1, 2015, and ending June 30, 2017, upon order of the commission. If any amounts are spent pursuant to this section, the public service commission shall reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case.

SECTION 7. AMENDMENT. Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-19. (Effective through June 30, 2015) Transfer, deposit, and distribution of funds.

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to two hundred fifty thousand dollars per year must be transferred to the state treasurer who shall deposit the moneys in the highway-rail grade crossing safety projects fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

(Effective after June 30 July 1, 2015, through June 30, 2019) Transfer, deposit, and distribution of funds. All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to two hundred seventy-five thousand dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

(Effective after June 30, 2019) Transfer, deposit, and distribution of funds. All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

SECTION 8. EFFECTIVE DATE. Section 7 of this Act is effective for special fuels excise taxes collected after June 30, 2015.

SECTION 9. RETROACTIVE APPLICATION. The specialized legal services line item in section 1 of this Act is retroactive in application.

SECTION 10. EMERGENCY. The specialized legal services line item in section 1 of this Act is declared to be an emergency measure.

Approved April 29, 2015
Filed April 30, 2015

CHAPTER 43

SENATE BILL NO. 2009

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the agriculture commissioner; to amend and reenact section 4-01-21 of the North Dakota Century Code, relating to the salary of the agriculture commissioner; to provide for transfers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the agriculture commissioner for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$10,861,195	\$1,986,006	\$12,847,201
Operating expenses	5,885,262	991,807	6,877,069
Capital assets	12,000	(4,000)	8,000
Grants	4,675,828	5,964,946	10,640,774
State board of animal health	2,109,828	(1,076,163)	1,033,665
Wildlife services	1,417,400	0	1,417,400
Crop harmonization board	75,000	0	75,000
Accrued leave payments	<u>237,295</u>	<u>(237,295)</u>	<u>0</u>
Total all funds	\$25,273,808	\$7,625,301	\$32,899,109
Less estimated income	<u>15,754,591</u>	<u>5,563,462</u>	<u>21,318,053</u>
Total general fund	\$9,519,217	\$2,061,839	\$11,581,056
Full-time equivalent positions	77.00	0.00	77.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
National genomics center	\$0	\$800,000
Information technology analysis	0	150,222
Department website redesign	<u>0</u>	<u>100,000</u>
Total general fund	\$0	\$1,050,222

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The agriculture commissioner shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND - MINOR USE PESTICIDE FUND. The agriculture commissioner shall transfer

\$325,000 from the environment and rangeland protection fund to the minor use pesticide fund during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION FUND. The estimated income line item in section 1 of this Act includes the sum of \$6,403,714, or so much of the sum as may be necessary, from the environment and rangeland protection fund for the purpose of defraying the expenses of various department of agriculture programs, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 5. ESTIMATED INCOME - GAME AND FISH FUND. The estimated income line item in section 1 of this Act includes the sum of \$499,585, or so much of the sum as may be necessary, from the game and fish department operating fund for the purpose of defraying the expenses of various department of agriculture programs, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 6. ESTIMATED INCOME - STATE WATER COMMISSION - TRANSFER. The estimated income line item in section 1 of this Act includes the sum of \$250,000 which the state water commission shall transfer to the agriculture commissioner for the wildlife services program, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 7. WATERBANK PROGRAM - MATCHING FUNDS. The salaries and wages line item in section 1 of this Act includes \$50,000 from the general fund for matching funds for the North Dakota outdoor heritage fund grant provided for the waterbank program.

SECTION 8. AMENDMENT. Section 4-01-21 of the North Dakota Century Code is amended and reenacted as follows:

4-01-21. Salary of agriculture commissioner.

The annual salary of the agriculture commissioner is ~~ninety-nine thousand four hundred thirty-five dollars through June 30, 2014, and one hundred two thousand four hundred eighteen~~one hundred five thousand four hundred ninety-one dollars through June 30, 2016, and one hundred eight thousand six hundred fifty-six dollars thereafter.

SECTION 9. EMERGENCY. The sum of \$100,000 of federal funds included in the state board of animal health line item in section 1 of this Act is declared to be an emergency measure.

Approved April 24, 2015
Filed April 24, 2015

CHAPTER 44

SENATE BILL NO. 2010

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the insurance commissioner; to provide an appropriation for the distribution of funds from the insurance tax distribution fund; and to amend and reenact sections 26.1-01-09, 26.1-26.6-01, 26.1-26.6-04, 26.1-26.6-05, and subsection 4 of section 26.1-44-03.1 of the North Dakota Century Code, relating to the commissioner's salary, bail bond agents, and surplus lines insurance filings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from federal funds and other income, to the insurance commissioner for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$8,019,514	\$923,583	\$8,943,097
Accrued leave payments	163,182	(163,182)	0
Operating expenses	2,858,008	(345,966)	2,512,042
Capital assets	0	90,000	90,000
Total special funds	\$11,040,704	\$504,435	\$11,545,139
Full-time equivalent positions	49.50	0.00	49.50

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the insurance tax distribution fund in the state treasury, not otherwise appropriated, the sum of \$16,701,207 or so much of the sum as may be necessary, to the insurance commissioner for the purpose of providing payments, in accordance with provisions of section 18-04-05, to North Dakota fire departments in the amount of \$15,681,207, and payments to the North Dakota firefighter's association in the amount of \$1,020,000, of which, \$130,000 is one-time funds, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. BONDING FUND. Section 1 of this Act includes \$50,813 from the state bonding fund to pay bonding fund administrative expenses for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. FIRE AND TORNADO FUND. Section 1 of this Act includes \$1,660,748 from the state fire and tornado fund to pay fire and tornado fund administrative expenses, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 5. UNSATISFIED JUDGMENT FUND. Section 1 of this Act includes \$29,062 from the state unsatisfied judgment fund to pay unsatisfied judgment fund administrative expenses for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 6. PETROLEUM RELEASE COMPENSATION FUND. Section 1 of this Act includes \$116,881 from the petroleum release compensation fund to pay petroleum release compensation fund administrative expenses for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 7. AMENDMENT. Section 26.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

26.1-01-09. Salary of commissioner.

The annual salary of the commissioner is ~~ninety-six thousand seven hundred ninety-four dollars through June 30, 2014, and ninety-nine thousand six hundred ninety-eight~~ one hundred two thousand six hundred eighty-nine dollars through June 30, 2016, and one hundred five thousand seven hundred seventy dollars thereafter.

SECTION 8. AMENDMENT. Section 26.1-26.6-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26.6-01. Definition.

As used in this chapter, unless the context otherwise requires, "bail bond agent" means any person ~~who~~that has been licensed by the commissioner and appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with the judicial proceedings and charges and receives money for the services.

SECTION 9. AMENDMENT. Section 26.1-26.6-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26.6-04. Qualification~~Appointment~~ and license as bail bond agent - Pledge of property as security - Penalty.

A person may not act in the capacity of a bail bond agent or perform any of the functions, duties, or powers prescribed for a bail bond agent under this chapter unless that person is ~~qualified~~appointed and licensed as provided in this chapter. However, this section does not prohibit any individual from pledging real or other property as security for a bail bond in judicial proceedings if the individual does not receive, or is not promised, money or other things of value therefor. Violation of this section is a class ~~BA~~ misdemeanor.

SECTION 10. AMENDMENT. Section 26.1-26.6-05 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26.6-05. Violations - Penalties.

1. The commissioner may suspend, revoke, or refuse to continue, issue, or renew any license issued under this chapter if, after notice to the licensee and hearing, the commissioner finds as to the licensee any of the following conditions:
 - a. Recommending any particular attorney at law to handle the case in which the bail bond agent has caused a bond to be issued under this chapter.
 - b. Forging the name of another to a bond or application for bond.

- c. Soliciting business in or about any place for prisoners or persons confined, arraigned, or in custody.
 - d. Paying a fee or rebate, or giving or promising anything of value to a jailer, trustee, police officer or officer of the law, or any other person who has power to arrest or hold in custody or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or entreatment thereof, or to secure, delay, or other advantage. This subdivision does not apply to a jailer, police officer, or officer of the law who is not on duty and who assists in the apprehension of a defendant.
 - e. Paying a fee or rebating or giving anything of value to an attorney in bail bond matters, except in defense of any action on a bond.
 - f. Accepting anything of value from a principal other than a premium. Provided, the bail bond agent may accept collateral security or other indemnity from the principal which must be returned immediately upon final termination of liability on the bond. Such collateral security or other indemnity required by the bail bond agent must be reasonable in relation to the amount of the bond.
 - g. Willfully failing to return collateral security to the principal when the principal is entitled to the security.
 - h. Knowingly employing a person whose insurance producer license has been revoked, suspended, or denied in this or any other state.
 - i. Knowingly or intentionally executing a bail bond without collecting in full a premium for the bond, at the premium rate as filed with and approved by the commissioner.
 - j. Failing to pay any forfeiture as directed by a court and as required by this chapter.
2. For purposes of subdivisions f and g of subsection 1, a bail bond agent shall monitor the status of bonds written by the bail bond agent to make timely return of the collateral security to the principal. It is not a defense to administrative action under this section that the bail bond agent did not know liability on the bond had been terminated or that the principal was entitled to return of the security.
 3. A bail bond agent or bail bond agency may not advertise as or hold itself out to be a surety company.
 - 3-4. A bail bond agent may not sign nor countersign any blank in any bond, nor give up power of attorney to or otherwise authorize, anyone to countersign the bail bond agent's name to bonds.
 - 4-5. When a bail bond agent accepts collateral, the bail bond agent shall give a written receipt for the collateral and this receipt must contain a full description of the collateral received in the terms of redemption. The bail bond agent shall keep copies of all receipts of the bonds to be placed in business to be available to the commissioner for the commissioner's review.

~~5-6.~~ The provisions and penalties under this section are in addition to those provided under chapter 26.1-26.

¹¹ **SECTION 11. AMENDMENT.** Subsection 4 of section 26.1-44-03.1 of the North Dakota Century Code is amended and reenacted as follows:

4. At the time of filing the ~~verified report~~annual tax statement as set forth in section 26.1-44-06.1, each surplus lines producer shall pay the premium tax due for the policies written during the period covered by the ~~report~~annual tax statement.

Approved April 27, 2015

Filed April 27, 2015

¹¹ Section 26.1-44-03.1 was also amended by section 2 of House Bill No. 1146, chapter 224.

CHAPTER 45

SENATE BILL NO. 2011

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the securities department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the securities department for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,673,763	\$127,516	\$1,801,279
Operating expenses	559,242	46,805	606,047
Total all funds	\$2,233,005	\$174,321	\$2,407,326
Less estimated income	170,000	0	170,000
Total general fund	\$2,063,005	\$174,321	\$2,237,326
Full-time equivalent positions	9.00	0.00	9.00

SECTION 2. ONE-TIME FUNDING. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Information technology equipment upgrades	\$25,850	\$0
Retirement leave payouts	38,927	0
Total general fund	\$64,777	\$0

Approved April 22, 2015

Filed April 22, 2015

CHAPTER 46

SENATE BILL NO. 2012

(Appropriations Committee)
(At the request of the Governor)

AN ACT providing an appropriation for defraying the expenses of the department of human services; to authorize the department of human services to convey land in Walsh County; to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to a behavioral health services quarterly report; to amend and reenact sections 6-09-47, 50-06-16, 50-06-32.1, and 50-06-37 of the North Dakota Century Code, relating to the medical facility infrastructure loan fund, rulemaking authority, the expiration date on the autism spectrum disorder voucher program pilot project, and the assessment used for the developmental disabilities system reimbursement project; to repeal section 3 of chapter 84 of the 2013 Session Laws, relating to the medical facility infrastructure fund balance transfer; to provide for exemptions; to provide a limitation relating to the program of all inclusive care for the elderly; to provide payments to counties out of enhanced federal payment; to provide advance payments to select enrolled providers; to provide statements of legislative intent; to provide reports to the legislative management; to provide for legislative management studies; to provide effective dates; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of human services for the purpose of defraying the expenses of its various divisions, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

Subdivision 1.

MANAGEMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$23,949,306	\$4,087,271	\$28,036,577
Operating expenses	67,749,348	27,453,384	95,202,732
Capital assets	<u>12,000</u>	<u>14,000</u>	<u>26,000</u>
Total all funds	\$91,710,654	\$31,554,655	\$123,265,309
Less estimated income	<u>53,608,032</u>	<u>17,496,006</u>	<u>71,104,038</u>
Total general fund	\$38,102,622	\$14,058,649	\$52,161,271

Subdivision 2.

PROGRAM AND POLICY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$52,422,982	\$5,738,890	\$58,161,872

Operating expenses	107,894,413	1,239,478	109,133,891
Capital assets	0	10,000	10,000
Grants	458,913,620	7,862,181	466,775,801
Grants - medical assistance	<u>1,910,060,462</u>	<u>503,804,141</u>	<u>2,413,864,603</u>
Total all funds	\$2,529,291,477	\$518,654,690	\$3,047,946,167
Less estimated income	<u>1,587,974,557</u>	<u>407,053,419</u>	<u>1,995,027,976</u>
Total general fund	\$941,316,920	\$111,601,271	\$1,052,918,191

Subdivision 3.

FIELD SERVICES

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Human service centers	\$182,433,538	\$16,237,697	\$198,671,235
Institutions	<u>130,697,211</u>	<u>15,029,659</u>	<u>145,726,870</u>
Total all funds	\$313,130,749	\$31,267,356	\$344,398,105
Less estimated income	<u>126,067,783</u>	<u>6,709,018</u>	<u>132,776,801</u>
Total general fund	\$187,062,966	\$24,558,338	\$211,621,304

Subdivision 4.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$1,166,482,508	\$150,218,258	\$1,316,700,766
Grand total special funds	<u>1,767,650,372</u>	<u>431,258,443</u>	<u>2,198,908,815</u>
Grand total all funds	\$2,934,132,880	\$581,476,701	\$3,515,609,581
Full-time equivalent positions	2,201.08	10.00	2,211.08

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-fourth legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Mainframe migration	\$810,000	\$0
Building demolition - life skills and transition center	220,000	0
State hospital capital projects	864,714	0
Grants	925,000	0
Critical access hospital grants	9,600,000	0
Electronic health records	2,500,000	0
Early childhood services grants	400,000	0
Developmental disabilities equipment	0	10,000
Heating plant repairs and upgrades - State hospital	0	1,156,000
Heating plant repairs and upgrades - Life skills and transition center	0	75,000
Window replacement - Life skills and transition center	0	44,000
Equipment over \$5,000 - State hospital	0	275,000
Equipment over \$5,000 - Life skills and transition center	0	200,000
Extraordinary repairs - State hospital	0	1,000,000
Extraordinary repairs - Life skills and transition center	0	<u>1,250,000</u>
Total all funds	\$15,319,714	\$4,010,000
Less estimated income	<u>10,686,093</u>	<u>10,000</u>
Total general fund	\$4,633,621	\$4,000,000

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The department of human services shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION. Notwithstanding section 54-16-04, the department of human services may transfer appropriation authority between line items within each subdivision of section 1 of this Act and between subdivisions within section 1 of this Act for the biennium beginning July 1, 2015, and ending June 30, 2017. The department shall notify the office of management and budget and the legislative council of any transfer made pursuant to this section. The department shall report to the budget section after June 30, 2016, any transfers made in excess of \$50,000 and to the appropriations committees of the sixty-fifth legislative assembly regarding any transfers made pursuant to this section.

SECTION 4. EXEMPTION. The amount appropriated for the replacement of the medicaid management information system and related projects in chapter 50 of the 2007 Session Laws and chapter 38 of the 2011 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from these appropriations approved under section 54-44.1-11 for continuation into the 2009-11 biennium and then the 2011-13 biennium and then the 2013-15 biennium are available for the completion of the medicaid management information system and related projects during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 5. EXEMPTION. The amount appropriated for the modification of the department's eligibility systems in chapter 578 of the 2011 Special Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved under section 54-44.1-11 for continuation into the 2013-15 biennium are available for the completion of the modification of the eligibility systems project during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 6. CONVEYANCE OF LAND AUTHORIZED. The state of North Dakota by and through the department of human services may convey real property associated with the life skills and transition center in Grafton. The department may convey the Prairieview building and the real property on which the building is located on the terms and conditions determined appropriate by the department and the attorney general. Section 54-01-05.2 and 54-01-05.5 do not apply to this conveyance.

SECTION 7. EXEMPTION - LEISURE, RECREATIONAL, AND EDUCATIONAL PROGRAMS. The grants line item in subdivision 2 of section 1 of this Act includes \$150,000 for providing grants for services to provide leisure, recreational, and educational programs for individuals with intellectual or developmental disabilities in the northeast and southeast human service regions. The requirements of chapter 54-44.4 do not apply to the selection of a grantee, the grant award, or payments made under this section. The department of human services' oversight for these services is limited to receiving information only relating to annual attendance numbers and the expenditure of appropriated funds for these services.

SECTION 8. DEPARTMENT OF HUMAN SERVICES - PROGRAM OF ALL INCLUSIVE CARE FOR THE ELDERLY - LIMITATION. The department of human services may not expand the program of all inclusive care for the elderly during the biennium beginning July 1, 2015, and ending June 30, 2017, into a community that is not operating a program site on August 1, 2015.

SECTION 9. ADVANCE PAYMENTS - ADJUSTMENTS - EXEMPTION. The department of human services may provide advance payments to select enrolled

providers related to the implementation of the new Medicaid management information system for the period beginning with the effective date of this Act, and ending June 30, 2015. The department may spend funds appropriated from the general fund in its grants - medical assistance line item in subdivision 2 of section 1 of this Act for making these advance payments if sufficient funding from the general fund is not available from the department's 2013-15 biennium appropriation. The department shall adjust 2015-17 biennium payments to the enrolled providers to recoup the advance payments. The amount appropriated from special funds in the grants - medical assistance line item in subdivision 2 of section 1 of chapter 12 of the 2013 Session Laws is not subject to section 54-44.1-11, and any unspent funds relating to the federal funds share of any advance payments may be continued and used for paying the federal share of medical assistance payments for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 10. AMENDMENT. Section 6-09-47 of the North Dakota Century Code is amended and reenacted as follows:

6-09-47. (Effective through July 31, 2017) Medical facility infrastructure loan program fund - Continuing appropriation - Audit and costs of administration.

1. The Bank of North Dakota shall administer a loan program to provide loans to medical facilities to conduct construction that improves the health care infrastructure in the state or improves access to existing nonprofit health care providers in the state. The construction project may include land purchases and may include purchase, lease, erection, or improvement of any structure or facility to the extent the governing board of the health care facility has the authority to authorize such activity.
2. In order to be eligible under this loan program, the applicant must be the governing board of the health care facility which shall submit an application to the Bank. The application must:
 - a. Detail the proposed construction project, which must be a project of at least one million dollars and which is expected to be utilized for at least thirty years;
 - b. Demonstrate the need and long-term viability of the construction project; and
 - c. Include financial information as the Bank may determine appropriate to determine eligibility, such as whether there are alternative financing methods.
3. The governor shall establish a task force to review loan applications under this section and to make recommendations to the Bank on the loan applications. The task force must include representation of medical providers and medical facilities from the oil-producing counties in the state. The task force shall work with the Bank to establish criteria for eligibility for a loan under the program. The criteria established by the task force and the Bank must give priority to applicants that are located in oil-producing counties.
4. A loan provided under this section:
 - a. May not exceed the lesser of fifteen million dollars or seventy-five percent of the actual cost of the project;

- b. Must have an interest rate equal to one percent; and
 - c. Must provide a repayment schedule of no longer than twenty-five years.
5. A recipient of a loan under this section shall complete the financed construction project within twenty-four months of approval of the loan. Failure to comply with this subsection may result in forfeiture of the entire loan received under this section.
 6. The medical facility infrastructure fund is a special fund in the state treasury. This fund is a revolving fund. All moneys intransferred into the medical facility infrastructure fund, interest on moneys in the fund, and collections of principal and interest on loans from the fund are appropriated to the Bank on a continuing basis for the purpose of providing loans under this section.
 7. Funds in the medical facility infrastructure fund may be used for loans as provided under this section and to pay the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the medical facility infrastructure fund maintained under this section.
 8. The medical facility infrastructure fund must be audited in accordance with section 6-09-29. The cost of the audit and any other actual costs incurred by the Bank on behalf of the fund must be paid from the fund.
 9. The Bank shall deposit loan repayment funds in the medical facility infrastructure fund. ~~After deduction of fees and costs as provided in this section, the Bank shall make an annual transfer of repayment funds deposited in the medical facility infrastructure fund to the state treasurer for deposit in the strategic investment and improvements fund.~~

~~(Effective August 1, 2017, through July 31, 2043) Medical facility infrastructure loan program – Continuing appropriation – Audit and costs of administration.~~

1. ~~The Bank of North Dakota shall service loans made under the medical facility infrastructure loan program. The repayment schedule of these loans may not exceed twenty-five years.~~
2. ~~Funds in the medical facility infrastructure fund may be used for loans as provided under this section and to pay the costs of administration of the fund. Annually, the Bank may deduct a service fee for administering the medical facility infrastructure fund maintained under this section.~~
3. ~~The medical facility infrastructure fund must be audited in accordance with section 6-09-29. The cost of the audit and any other actual costs incurred by the Bank on behalf of the fund must be paid from the fund.~~
4. ~~The Bank shall deposit loan repayment funds in the medical facility infrastructure fund. After deduction of fees and costs as provided in this section, the Bank shall make an annual transfer of repayment funds deposited in the medical facility infrastructure fund to the state treasurer for deposit in the strategic investment and improvements fund.~~

SECTION 11. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Behavioral health services quarterly report.

The department of human services shall publish a quarterly report of all behavioral health services provided by or supported by the department. The report must include each type of behavioral health service, the number of clients served for each service, and the amount of state and federal funds budgeted and spent for each service. Data must be identified for behavioral health services by human service region and by mental health services provided to children, mental health services provided to adults, and substance abuse services.

SECTION 12. AMENDMENT. Section 50-06-16 of the North Dakota Century Code is amended and reenacted as follows:

50-06-16. Rulemaking authority.

The department may adopt rules necessary to carry out the responsibilities of the department in conformity with any statute administered or enforced by the department. All rules adopted must be published in the North Dakota Administrative Code. Rules adopted by agencies prior to January 1, 1982, which relate to functions or agencies covered by this chapter remain in effect until such time as they are specifically amended or repealed. The department is not required to adopt rules to establish the process for the administration of funds appropriated to the department in an appropriation identified by the legislative assembly as a one-time funding item.

SECTION 13. AMENDMENT. Section 50-06-32.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-32.1. ~~(Effective through June 30, 2015)~~ Autism spectrum disorder voucher program pilot project - Legislative management report - Appeal.

1. The department of human services shall establish a voucher program pilot project beginning July 1, 2014, to assist in funding equipment and general educational needs related to autism spectrum disorder for individuals below two hundred percent of the federal poverty level from age three to under age eighteen who have been diagnosed with autism spectrum disorder. The program may include funding for assistive technology; video modeling videos or equipment; language-generating devices; training and educational material for parents; parenting education; sensory equipment; tutors; safety equipment; travel tools; self-care equipment; timers; visual representation systems; respite care; specialized daycare; language comprehension equipment; and registration and related expenses for workshops and training to improve independent living skills, employment opportunities, and other executive or social skills.
2. The department shall adopt rules addressing management of this voucher program pilot project and establishing the eligibility requirements and exclusions for this voucher program pilot project. The program may not provide a voucher for early intensive behavioral intervention, including applied behavioral analysis, intensive early interventional behavioral therapy, intensive behavioral intervention, the Lovaas method, the Denver model, LEAP (learning experiences - an alternative program for preschoolers and parents), TEACCH (treatment and education of autistic and related communication handicapped children), pivotal response training, or discrete trial training.
3. A decision on a voucher application which is issued by the department under this section may be appealed as provided under chapter 28-32.

4. The department of human services shall report to the legislative management regarding the autism spectrum disorder program pilot project.

SECTION 14. AMENDMENT. Section 50-06-37 of the North Dakota Century Code is amended and reenacted as follows:

50-06-37. Developmental disabilities system reimbursement project.

The department of human services, in conjunction with developmental disabilities service providers, shall develop a prospective or related payment system with an independent rate model utilizing the support intensity scale.

1. The department shall establish a steering committee consisting of representatives from all interested providers and department representatives. The steering committee shall guide the development of the new payment system including assisting a consultant to conceptualize, develop, design, implement, and evaluate a new payment system.
2. The department shall contract with a consultant by September 1, 2011, to develop, in collaboration with the steering committee, the payment system and the resource allocation model tying funding to support intensity scale assessed needs of clients aged sixteen and older and to a state-approved assessment that assesses needs of clients younger than sixteen years of age.
3. After the prospective or related payment system rates are developed, the new rates must be tested on a sampling of clients and providers, the sample to be determined by the steering committee, allowing sufficient time to capture provider cost, client-realized need, and service provision data. The consultant shall provide the appropriate sampling number to sufficiently test the rates, types of services, and needs of clients with the intent to include as many providers as fiscally feasible.
4. The department shall contract with a team of support intensity scale assessors by September 1, 2011. The team shall begin assessing immediately the identified client pilot group identified by the consultant contracted in subsection 2.
5. Once testing is complete, the data must be analyzed by the consultant and the consultant shall make any needed rate adjustments, resource allocation modifications, or process assumptions.
6. Beginning in June 2012, the department and the steering committee shall report development activities and status information to an interim legislative committee.
7. Implementation of any system developed under this chapter may not occur before the implementation of the department's new medicaid management information system.

SECTION 15. LEGISLATIVE INTENT - DEVELOPMENTAL DISABILITIES CASE MANAGEMENT. It is the intent of the sixty-fourth legislative assembly that the department of human services provide case management services for individuals with a developmental disability within the ratio provided pursuant to North Dakota Administrative Code for the biennium beginning July 1, 2015, and ending June 30, 2017. If case management services for individuals with a developmental disability exceed the ratio requirement provided in the North Dakota Administrative Code, the

department may hire temporary staff or the department may propose a change to North Dakota Administrative Code to meet the ratio requirement.

SECTION 16. ROBINSON RECOVERY CENTER FUNDING. Notwithstanding the designation of funding for the Robinson recovery center in the appropriation for the department of human services in section 1 of this Act, the department may reprocure the contract for methamphetamine treatment services if the current contractor is unable to provide the full capacity of services anticipated under the current contract for the biennium beginning July 1, 2015, and ending June 30, 2017. Funding otherwise designated for the Robinson recovery center may be used to support the costs of the reprocured contract.

SECTION 17. PAYMENTS TO THE COUNTY FOR LOCAL EXPENSES OF ADMINISTRATION OF THE MEDICAID PROGRAM. Within the limits of legislative appropriation, the department may reimburse counties for part of the local expenses of administration for determining eligibility for services under chapter 50-24.1, an amount that represents all or part of an increase in payments from the federal government to the department for administration of the medicaid program.

SECTION 18. APPROPRIATION. Special funds derived from federal funds and other income, are appropriated to the department of human services for the purpose of reimbursing counties under section 17 of this Act for part of the local expenses of administration of the medicaid program under chapters 50-01.2 and 50-24.1, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 19. GRANTS - EXEMPTION - REPORTS TO LEGISLATIVE MANAGEMENT. The grants line item in subdivision 2 of section 1 of this Act includes \$75,000 from the general fund for a grant to a statewide family-controlled parent-to-parent support organization with at least fifty percent of its board of directors consisting of members whose primary daily responsibilities include caring for a child with a mental health disorder, for the biennium beginning July 1, 2015, and ending June 30, 2017. Funds awarded must be used for providing services to children with emotional, behavioral, or mental health needs. The organization receiving a grant under this section shall provide a report to the legislative management during the 2015-16 interim on the use of grant funds. The requirements of chapter 54-44.4 do not apply to the selection of a grantee, the grant award, or payments made under this section.

SECTION 20. GRANTS - EXEMPTION - REPORTS TO LEGISLATIVE MANAGEMENT. The grants line item in subdivision 2 of section 1 of this Act includes \$75,000 from the general fund for a grant to a statewide family-to-family health information and education organization which provides parent-to-parent support for families and is located in a county with a population of less than 6,000 based on the 2010 decennial census, for the biennium beginning July 1, 2015, and ending June 30, 2017. Funds awarded must be used for family-related information and education services. The organization receiving a grant under this section shall provide a report to the legislative management during the 2015-16 interim on the use of grant funds. The requirements of chapter 54-44.4 do not apply to the selection of a grantee, the grant award, or payments made under this section.

SECTION 21. APPROPRIATION - 2013-15 BIENNIUM. There is appropriated out of special funds derived from federal funds, not otherwise appropriated, the sum of \$87,000,000, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying medical assistance grant costs, for the period beginning with the effective date of this Act and ending June 30, 2015.

SECTION 22. LEGISLATIVE MANAGEMENT STUDY - MENTAL HEALTH HOTLINE SERVICES. During the 2015-16 interim, the legislative management shall

consider studying the various telephone contact numbers supported by state appropriations to access information regarding services and programs available and determine if multiple numbers are necessary to respond appropriately to the residents of the state. The legislative management shall report its findings and recommendations, along with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 23. REPORT TO LEGISLATIVE MANAGEMENT - ADULT PROTECTIVE SERVICES PROGRAM. During the 2015-16 interim, the department of human services shall report to the legislative management regarding the adult protective services program, including the effectiveness of the program, information on services and outcomes, and funding by human service region and in total.

SECTION 24. LEGISLATIVE MANAGEMENT STUDY - AUTISM SERVICES. During the 2015-16 interim, the legislative management shall consider studying services for children with autism. The study must include a review of services currently provided by the department of human services, the superintendent of public instruction, and other state and local agencies, and an evaluation of the effectiveness of the continuum of care, transition between programs, and outcomes. The study must also identify current funding for these programs and projected funding needs in future bienniums by funding source. The legislative management shall report its findings and recommendations, along with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 25. LEGISLATIVE MANAGEMENT STUDY - LIFE SKILLS AND TRANSITION CENTER. During the 2015-16 interim, the legislative management shall consider studying the use of the structures and property of the life skills and transition center to determine the best and most efficient use of the properties. If conducted, the study must review the potential to transfer clients from the life skills and transition center to under-utilized facilities on the state hospital campus or to a community-based setting. The study must also review potential alternative uses of structures on the life skills and transition center campus. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 26. BEHAVIORAL HEALTH SERVICES - LEGISLATIVE MANAGEMENT REPORTS. During the 2015-16 interim, the department of human services shall present its quarterly behavioral health services reports to the legislative management.

SECTION 27. REPEAL. Section 3 of chapter 84 of the 2013 Session Laws is repealed.

SECTION 28. EFFECTIVE DATE. Section 11 of this Act becomes effective on January 1, 2016.

SECTION 29. EFFECTIVE DATE. Sections 17 and 18 of this Act become effective on the effective date of the centers for medicare and medicaid services' certification that the department's eligibility system has met the seven conditions and standards for the receipt of enhanced match.

SECTION 30. EMERGENCY. The medical assistance-grants line item in subdivision 2 of section 1 and sections 9 and 21 of this Act are declared to be an emergency measure.

Approved May 12, 2015
Filed May 13, 2015

CHAPTER 47

SENATE BILL NO. 2013

(Appropriations Committee)
 (At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the department of public instruction, the state library, the school for the deaf, and the North Dakota vision services - school for the blind; to create and enact a new section to chapter 54-24 of the North Dakota Century Code, relating to the state library operating fund; to amend and reenact sections 15.1-02-02, 15.1-07-33, 24-02-03.3, and 39-01-03 of the North Dakota Century Code, relating to the salary of the superintendent of public instruction, PowerSchool, and the management and use of motor vehicles owned by the state; to provide an exemption; to provide a statement of legislative intent; and to provide for legislative management studies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the department of public instruction, the school for the deaf, North Dakota vision services - school for the blind, and the state library for the purpose of defraying the expenses of those agencies, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

Subdivision 1.

DEPARTMENT OF PUBLIC INSTRUCTION

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$15,940,953	\$2,339,053	\$18,280,006
Accrued leave payments	322,068	(322,068)	0
Operating expenses	29,430,802	1,397,390	30,828,192
Integrated formula payments	1,752,100,000	164,540,000	1,916,640,000
Grants - special education contracts	16,500,000	800,000	17,300,000
Grants - transportation	53,500,000	3,500,000	57,000,000
Grants - other grants	272,996,261	(4,379,034)	268,617,227
PowerSchool	0	6,000,000	6,000,000
Rapid enrollment grants	13,600,000	1,200,000	14,800,000
Transportation efficiency	30,000	0	30,000
National board certification	<u>120,000</u>	<u>0</u>	<u>120,000</u>
Total all funds	\$2,154,540,084	\$175,075,341	\$2,329,615,425
Less estimated income	436,996,759	71,635,714	508,632,473
Total general fund	\$1,717,543,325	\$103,439,627	\$1,820,982,952
Full-time equivalent positions	99.75	0.00	99.75

Subdivision 2.

STATE LIBRARY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$3,780,053	\$401,127	\$4,181,180
Accrued leave payments	75,354	(75,354)	0
Operating expenses	1,895,726	0	1,895,726
Grants	<u>2,519,000</u>	<u>616,500</u>	<u>3,135,500</u>
Total all funds	\$8,270,133	\$942,273	\$9,212,406
Less estimated income	<u>2,394,145</u>	<u>44,606</u>	<u>2,438,751</u>
Total general fund	\$5,875,988	\$897,667	\$6,773,655
Full-time equivalent positions	29.75	0.00	29.75

Subdivision 3.

SCHOOL FOR THE DEAF

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,932,905	\$781,425	\$7,714,330
Accrued leave payments	134,846	(134,846)	0
Operating expenses	1,908,794	139,502	2,048,296
Capital assets	191,762	675,412	867,174
Grants	<u>200,000</u>	<u>0</u>	<u>200,000</u>
Total all funds	\$9,368,307	\$1,461,493	\$10,829,800
Less estimated income	<u>1,568,928</u>	<u>120,282</u>	<u>1,689,210</u>
Total general fund	\$7,799,379	\$1,341,211	\$9,140,590
Full-time equivalent positions	44.61	1.00	45.61

Subdivision 4.

NORTH DAKOTA VISION SERVICES - SCHOOL FOR THE BLIND

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,415,180	\$344,969	\$4,760,149
Accrued leave payments	87,463	(87,463)	0
Operating expenses	707,006	157,700	864,706
Capital assets	<u>35,364</u>	<u>46,590</u>	<u>81,954</u>
Total all funds	\$5,245,013	\$461,796	\$5,706,809
Less estimated income	<u>743,427</u>	<u>(118,102)</u>	<u>625,325</u>
Total general fund	\$4,501,586	\$579,898	\$5,081,484
Full-time equivalent positions	30.00	0.00	30.00

Subdivision 5.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$1,735,720,278	\$106,258,403	\$1,841,978,681
Grand total special funds	<u>441,703,259</u>	<u>71,682,500</u>	<u>513,385,759</u>
Grand total all funds	\$2,177,423,537	\$177,940,903	\$2,355,364,440

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Department of public instruction		
Funding pool for initiatives	\$2,750,000	\$0
Information technology staffing analysis	100,000	0
Early childhood care and education study	200,000	0
Governing North Dakota textbook	20,000	0
Safety grants	3,000,000	0
Civics education grant	0	200,000
Cardiopulmonary resuscitation training grants	0	450,000
Free or reduced meals information technology	0	30,000
Rapid enrollment grants	0	<u>14,800,000</u>
Total department of public instruction - general fund	\$6,070,000	\$15,480,000
State library		
Library repair grants	\$0	<u>\$250,000</u>
Total state library- general fund	\$0	\$250,000
School for the deaf		
Extraordinary repairs	<u>\$1,002,259</u>	<u>\$600,000</u>
Total school for the deaf - estimated income	\$1,002,259	\$600,000
North Dakota vision services - school for the blind		
Equipment	\$20,200	\$21,000
Elevator installation	241,500	0
Window replacements	189,000	0
Extraordinary repairs	90,136	0
Remodel of west wing	2,762,000	0
Special assessments payoff	0	19,000
Server and access points	0	<u>16,000</u>
Total school for the blind - all funds	\$3,302,836	\$56,000
Total school for the blind - estimated income	<u>110,329</u>	<u>56,000</u>
Total school for the blind - general fund	\$3,192,507	\$0
Grand total - all funds	\$10,375,095	\$16,386,000
Grand total - estimated income	<u>1,112,588</u>	<u>656,000</u>
Grand total - general fund	\$9,262,507	\$15,730,000

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The department of public instruction, state library, school for the deaf, and North Dakota vision services - school for the blind shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. APPROPRIATION - TUITION APPORTIONMENT. The sum of \$219,134,000, included in the integrated formula payments line item in subdivision 1 of section 1 of this Act, is from the state tuition fund in the state treasury. Any additional amount in the state tuition fund that becomes available for distribution to public schools is appropriated to the department of public instruction for that purpose for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. INTEGRATED FORMULA PAYMENTS AND SPECIAL EDUCATION CONTRACTS EXPENDITURE AUTHORITY. The superintendent of public instruction may expend funds included in the integrated formula payments and grants - special education contracts line items in subdivision 1 of section 1 of this Act in payment of

grants for educational services that were due in the 2013-15 biennium but which were not filed, claimed, or properly supported by the education provider until after June 30, 2015.

SECTION 5. GIFTED AND TALENTED PROGRAM - MEDICAID MATCHING FUNDING - DISTRIBUTION.

1. The sum of \$800,000, included in the integrated formula payments line item in subdivision 1 of section 1 of this Act, must be distributed to reimburse school districts or special education units for gifted and talented programs upon the submission of an application that is approved in accordance with guidelines adopted by the superintendent of public instruction. The superintendent of public instruction shall encourage cooperative efforts for gifted and talented programs among school districts and special education units.
2. State school aid payments for special education must be reduced by the amount of matching funds required to be paid by school districts or special education units for students participating in the medicaid program. Special education funds equal to the amount of the matching funds required to be paid by the school district or special education unit must be paid by the superintendent of public instruction to the department of human services on behalf of the school district or unit.

SECTION 6. REGIONAL EDUCATION ASSOCIATIONS - GRANTS. During the 2015-17 biennium, the superintendent of public instruction shall expend up to \$800,000 from the integrated formula payments line item in subdivision 1 of section 1 of this Act for the purpose of providing an annual grant to each eligible regional education association in order to assist each association with the cost of compensating a coordinator.

1. In order to receive a grant under this section, each regional education association must:
 - a. Enter a contract with an individual to serve as a coordinator, on a full-time or a part-time basis, for a duration of at least twelve months; and
 - b. Provide from other revenue sources at least thirty percent of the total compensation payable to the coordinator.
2. The maximum grant payable to a regional education association under this section during each year of the biennium is the lesser of \$50,000 or seventy percent of the total compensation payable to the coordinator.

SECTION 7. TRANSPORTATION GRANTS - DISTRIBUTION.

1. During each year of the 2015-17 biennium, the superintendent of public instruction shall calculate the payment to which each school district is entitled based on the state transportation formula as it existed on June 30, 2001, except that the superintendent shall provide reimbursement at the rate of:
 - a. One dollar and eighteen cents per mile for school buses having a capacity of ten or more passengers;
 - b. Fifty-five cents per mile for vehicles having a capacity of nine or fewer passengers;

- c. Fifty-four cents per mile, provided:
 - (1) The student being transported is a student with a disability, as defined in chapter 15.1-32;
 - (2) The student's individualized education program plan requires that the student attend a public or a nonpublic school located outside the student's school district of residence;
 - (3) The student is transported by an adult member of the student's family;
 - (4) The student is transported in a vehicle furnished by the student's parents;
 - (5) The student's transportation is paid for by the student's parents; and
 - (6) The reimbursement does not exceed two round trips daily between the student's home and school.
 - d. Fifty-four cents per mile, one way, provided:
 - (1) The student being transported resides more than two miles from the public school that the student attends;
 - (2) The student is transported by an adult member of the student's family;
 - (3) The student is transported in a vehicle furnished by the student's parents; and
 - (4) The student's transportation is paid for by the student's parents.
 - e. Thirty-two cents per student for each one-way trip.
- 2. The superintendent of public instruction shall use the latest available student enrollment count in each school district in applying the provisions of subsection 1.
 - 3. If any moneys provided for transportation payments in the grants - transportation line item in subdivision 1 of section 1 of this Act, remain after application of the formula provided for in this section, the superintendent of public instruction shall prorate the remaining amounts according to the percentage of the total transportation formula amount to which each school district is entitled.
 - 4. This section does not authorize the reimbursement of any costs incurred in providing transportation for student attendance at extracurricular activities or events.

SECTION 8. RAPID ENROLLMENT GRANTS - DISTRIBUTION. The sum of \$14,800,000, or so much of the sum as may be necessary, included in the rapid enrollment grants line item in subdivision 1 of section 1 of this Act is provided for grants to any school district that can demonstrate qualifying rapid enrollment growth, for the biennium beginning July 1, 2015, and ending June 30, 2017. The superintendent of public instruction shall award grants to eligible districts meeting the following criteria:

1. A district is eligible to receive a grant under this section if the number of students reflected in the district's September tenth enrollment report exceeds the number of students in the prior year September tenth enrollment report as follows:
 - a. For Tier 1 funding, the increase must be at least four percent or one hundred fifty students and must be at least twenty students; or
 - b. For Tier 2 funding, the increase must be at least two percent or seventy-five students and must be at least ten students.
2. The superintendent of public instruction shall calculate the amount to which an eligible district is entitled as follows:
 - a. Determine the actual percentage increase in the number of students and subtract two from the percentage calculated;
 - b. Determine the number of students represented by the difference determined in subdivision a of this section;
 - c. Multiply the number of students determined in subdivision b of this section by:
 - (1) \$4,000 for Tier 1 funding; or
 - (2) \$2,000 for Tier 2 funding.
3. If the amount of the appropriation provided for in this Act is insufficient to meet the obligations of this section, the superintendent of public instruction shall prorate the payment based on the percentage of the total amount to which each school district is entitled.
4. The superintendent of public instruction may not expend more than \$7,400,000 in grants under this section during the first year of the biennium.
5. Any district that is precluded from receiving state aid under section 15.1-27-35.3 is not eligible to receive a grant under this section.

SECTION 9. CONTINUING EDUCATION GRANTS - FUNDING - DISTRIBUTION. The sum of \$150,000, or so much of the sum as may be necessary, included in the grants - other grants line item in subdivision 1 of section 1 of this Act is provided for continuing education grants, for the biennium beginning July 1, 2015, and ending June 30, 2017.

1. The superintendent of public instruction shall award grants in amounts up to \$1,200 to eligible recipients in chronological order, based on the date of an individual's application. An eligible recipient must:
 - a. (1) Be licensed to teach by the education standards and practices board;
 - (2) Have taught in this state during each of the last three school years; and
 - (3) Be enrolled at an institution of higher education in this state in either a master of education program in educational leadership or a program leading to a specialist diploma in educational leadership;

- b. Be pursuing the requirements for a certificate in career development facilitation; or
 - c. Be pursuing a school counselor credential.
2. If any of the amount appropriated for this purpose remains after the superintendent of public instruction has awarded grants to all eligible recipients, the superintendent shall distribute that amount as an additional per student payment on a prorated basis, according to the latest available average daily membership of each school district.

SECTION 10. CARDIOPULMONARY RESUSCITATION TRAINING GRANTS - FUNDING - DISTRIBUTION. During the 2015-17 biennium, the superintendent of public instruction shall expend up to \$450,000 from the grants - other grants line item in subdivision 1 of section 1 of this Act for the purpose of providing cardiopulmonary resuscitation training grants for training made available to students at both the high school and middle school levels as provided below.

1. A school district may be eligible for reimbursement under this section if the school district utilizes one class period in a required course of the district's choosing, for the purpose of providing instruction in cardiopulmonary resuscitation to as many students as possible. A nonpublic school may be eligible for reimbursement under this section if the nonpublic school utilizes one class period in a required course of the school's choosing, for the purpose of providing instruction in cardiopulmonary resuscitation to as many students as possible. The training must:
 - a. Conform to the most recent national evidence-based American heart association guidelines for cardiopulmonary resuscitation and emergency cardiovascular care;
 - b. Be conducted according to guidelines established by the American heart association, the American red cross, or some other nationally recognized nonprofit organization;
 - c. Include the practice of chest compressions;
 - d. Include instruction in the use of an automated external defibrillator; and
 - e. Use course curriculum which allows for demonstration of competency in performing cardiopulmonary resuscitation and associated skills, including automated external defibrillator and first aid, gained through psychomotor skills practice based on current national guidelines.
2.
 - a. Upon completion of the training, each school district and nonpublic school may submit to the superintendent of public instruction documentation verifying the training and any expenses incurred in providing the training.
 - b. For purposes of this section, "reimbursable expenses" include costs for instructors, training staff as instructors, instructional materials, and training manikins.
 - c. A school district's reimbursement may not exceed the equivalent of \$15 multiplied by the number of district students undergoing the training during the first year of the biennium and \$15 multiplied by the number of district students undergoing the training during the second year of the

biennium, based on the number of hours and level of certification offered. A nonpublic school's reimbursement may not exceed the equivalent of \$15 multiplied by the number of the school's students undergoing the training during the first year of the biennium and \$15 multiplied by the number of the school's students undergoing the training during the second year of the biennium, based on the number of hours and level of certification offered.

3. School districts and nonpublic schools may combine with other school districts and nonpublic schools to provide the training or direct that a regional education association provide or facilitate the training.
4. The superintendent of public instruction shall provide the reimbursements to school districts and nonpublic schools in accordance with the order in which completed requests are received.

SECTION 11. INDIRECT COST ALLOCATION. Notwithstanding section 54-44.1-15, the department of public instruction may deposit indirect cost recoveries in its operating account.

SECTION 12. EXEMPTION - SAFETY GRANTS. The amount appropriated for school district safety grants in section 1 of chapter 59 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds are available for school district safety grants during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 13. STATE AID TO PUBLIC LIBRARIES. The line item entitled grants in subdivision 2 of section 1 of this Act includes \$2,133,000 for aid to public libraries, of which no more than one-half is to be expended during the fiscal year ending June 30, 2016.

SECTION 14. OTHER GRANTS - REPORTING. The superintendent of public instruction shall continue reporting on the cost per participant and the outcomes of other grants and report to the sixty-fifth legislative assembly regarding participation, cost, and outcomes of these grants.

SECTION 15. FEES DEPOSITED IN NORTH DAKOTA VISION SERVICES - SCHOOL FOR THE BLIND OPERATING FUND. Any moneys included in the estimated income line item in subdivision 4 of section 1 of this Act, collected for subscription fees or braille fees, must be deposited in the North Dakota vision services - school for the blind operating fund in the state treasury and may be spent subject to appropriation by the legislative assembly.

SECTION 16. SCHOOL FOR THE DEAF - HIGHER EDUCATION INTERPRETER GRANT PROGRAM. The grants line item contained in subdivision 3 of section 1 of this Act is for the purpose of providing grants to assist institutions under the control of the state board of higher education with the cost of interpreters and real-time captioning for students who are deaf or hard of hearing, for the biennium beginning July 1, 2015, and ending June 30, 2017. Moneys appropriated for this program are not subject to section 54-44.1-11. Funds shall be distributed pursuant to the provisions of this section:

1. The school for the deaf shall develop a formula to determine the grant amount for which an institution is eligible. The formula must be based on a uniform hourly reimbursement.

2. To obtain a grant under this section, an institution shall submit to the school for the deaf, at the time and in the manner directed by the school, invoices showing the amount expended for interpreters and real-time captioning for students who are deaf or hard of hearing.
3. The school for the deaf may not distribute more than fifty percent of the amount appropriated during the first year of the biennium.
4. If any grant moneys remain undistributed at the end of the biennium, the school for the deaf shall provide additional prorated grants to institutions that incurred, during the biennium, hourly expenses in excess of the formula reimbursement level.
5. At the request of an institution under the control of the state board of higher education, the school for the deaf shall consult with the institution and provide advice regarding the provision of services most appropriate to meet a student's needs.

SECTION 17. AMENDMENT. Section 15.1-02-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-02. Salary.

The annual salary of the superintendent of public instruction is ~~one hundred ten thousand one hundred ninety-two dollars through June 30, 2014, and one hundred thirteen thousand four hundred ninety-eight~~ one hundred sixteen thousand nine hundred three dollars through June 30, 2016, and one hundred twenty thousand four hundred ten dollars thereafter.

SECTION 18. AMENDMENT. Section 15.1-07-33 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-33. Student information system - ~~Statewide coordination - Financial support - Exemption.~~

1. Notwithstanding any other technology requirements imposed by the superintendent of public instruction, the information technology department, or the North Dakota educational technology council, each school district shall acquire PowerSchool through the information technology department and use it as its principal student information system.
2. ~~The superintendent of public instruction shall forward that portion of a school district's state aid which is payable by the superintendent under subdivision n of subsection 1 of section 15.1-27-03.1 directly to the information technology department to reimburse the department for the cost of the school district's acquisition, implementation, or utilization of PowerSchool and any related technology support services. The superintendent shall forward the amount payable under this subsection at the same time and in the same manner as provided for other state aid payments under section 15.1-27-01.~~
3. ~~If the portion of a school district's state aid forwarded to the information technology department under subsection 2 exceeds the cost incurred by the information technology department in providing for the school district's acquisition, implementation, or utilization of PowerSchool and any related technology support services, the information technology department shall~~

~~return the excess moneys to the superintendent of public instruction for redistribution to the school district as per student payments.~~

- 4- The superintendent of public instruction may exempt a school district from having to acquire and utilize PowerSchool if the school district demonstrates that, in accordance with requirements of the bureau of Indian education, the district has acquired and is utilizing a student information system that is determined to be comparable by the superintendent.

SECTION 19. AMENDMENT. Section 24-02-03.3 of the North Dakota Century Code is amended and reenacted as follows:

24-02-03.3. Central management system for all state-owned licensed motor vehicles.

1. The director shall establish within the department a central vehicle management system to regulate the operation, maintenance, and management of all motor vehicles owned or leased by the state subject to registration under chapters 39-04 and 39-05. Upon the request of a state agency and an agreement between the agency and director for the use of the motor vehicle-related equipment, the director may purchase or lease motor vehicle-related equipment and include that equipment within the system. The director shall provide a uniform method of documenting the use and cost of operation of motor vehicles and motor vehicle-related equipment in the system. The director shall advise the director of the office of management and budget as to the need to acquire or dispose of system motor vehicles. The specifications for highway patrol vehicles to be acquired may be set by the highway patrol superintendent. Every state agency, institution, department, board, bureau, and commission unless exempted by the director must use the system. At the request of the director of the North Dakota agricultural experiment station, certain vehicles used in farming operations at the agronomy seed farm and branch research centers shall be exempt from the requirements of this section. However, an agency, institution, department, board, bureau, or commission may authorize the use of an employee's personal motor vehicle pursuant to subsection 4 of section 54-06-09.
2. The director may enter into an agreement with a state employee who has a disability requiring a specially-equipped vehicle to pay a mileage rate greater than the rate established in section 54-06-09 for the employee's use of the employee's specially-equipped motor vehicle while conducting state business. The rate must be based on the rate provided in section 54-06-09, increased by the actual cost per mile caused by the special equipment, and may not exceed the cost associated with the special equipment expressed as the new value plus the depreciated fair market value in eight years divided by two, divided by twenty thousand miles.
3. Each entity required to use the system shall submit records of the operation of each vehicle as directed by the director.
4. The director may enter an agreement for the use of the motor vehicle-related equipment with the North Dakota art museum established in section 54-02-11.

SECTION 20. AMENDMENT. Section 39-01-03 of the North Dakota Century Code is amended and reenacted as follows:

39-01-03. Motor vehicle owned by the state, North Dakota art museum, or an international peace garden not to be used for private use or in political activities.

~~No person~~A person, officer, or employee of the state or of any department, board, bureau, commission, institution, industry, or other agency of the state, or person, officer, or employee of the North Dakota art museum, or of any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world, may not use or drive any motor vehicle belonging to the state or to any department, board, bureau, commission, institution, industry, or other agency of the state, or person, officer, or employee of the North Dakota art museum, or of any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world, for private use, or while engaged in any political activity.

SECTION 21. A new section to chapter 54-24 of the North Dakota Century Code is created and enacted as follows:

State library operating fund.

The state library's operating fund is a special fund in the state treasury. All moneys received for book replacement, cataloging services, and other miscellaneous library services must be deposited in this fund. Moneys in the fund are to be used pursuant to legislative appropriation for provision of services under this chapter.

SECTION 22. LEGISLATIVE INTENT - REGIONAL EDUCATION ASSOCIATIONS AND THE NORTH DAKOTA TEACHER CENTER NETWORK. It is the intent of the sixty-fourth legislative assembly that, during the 2015-17 biennium, the North Dakota teacher center network merge with regional education associations and that the mergers be complete by July 1, 2017.

SECTION 23. LEGISLATIVE MANAGEMENT STUDY - SCHOOL DISTRICT TRANSPORTATION. During the 2015-16 interim, the legislative management shall consider studying school district transportation and state reimbursement for transportation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 24. LEGISLATIVE MANAGEMENT STUDY - TEACHER PREPARATION AND RETENTION. During the 2015-16 interim, the legislative management shall consider studying teacher preparation and retention, including reasons new teachers leave the profession, federal requirements for teacher preparation programs, and possible enhancements to teacher preparation programs and other programs designed to improve retention of new teachers. As part of the study the superintendent of public instruction shall prepare exit interview forms to be completed by school districts when a teacher separates employment. The superintendent of public instruction shall compile the information from the exit interviews and provide a report to the legislative management. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 25. LEGISLATIVE MANAGEMENT STUDY - EDUCATIONAL SERVICE PROVIDERS. During the 2015-16 interim, the legislative management shall consider studying the effectiveness and efficiency of educational service providers, including regional education associations, the education standards and practices board, EduTech, the center for distance education, the North Dakota STEM network, and the teacher center network. The study shall examine organizational, structural, administrative, and supervisory options for strengthening the role and function of the named entities and ensuring the optimal provision of services to students, teachers, schools, and school districts throughout the state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved May 12, 2015

Filed May 13, 2015

CHAPTER 48

SENATE BILL NO. 2014

(Appropriations Committee)
 (At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the committee on protection and advocacy.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the committee on protection and advocacy for the purpose of defraying the expenses of the committee on protection and advocacy, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Protection and advocacy operations	\$5,671,584	\$795,380	\$6,466,964
Accrued leave payments	93,590	(93,590)	0
Total all funds	\$5,765,174	\$701,790	\$6,466,964
Less estimated income	<u>3,233,612</u>	<u>199,241</u>	<u>3,432,853</u>
Total general fund	\$2,531,562	\$502,549	\$3,034,111
Full-time equivalent positions	27.50	0.00	27.50

Approved May 12, 2015
 Filed May 13, 2015

CHAPTER 49

SENATE BILL NO. 2015

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget; to provide an appropriation to the department of transportation; to provide an appropriation to the state auditor; to provide an appropriation to the legislative assembly; to provide an appropriation to the legislative council; to provide an appropriation to the judicial branch; to provide contingent appropriations to the state board of higher education, department of transportation, and superintendent of public instruction; to create and enact a new section to chapter 44-04 and a new section to chapter 54-52.6 of the North Dakota Century Code, relating to open records requests submitted by members of the legislative assembly and the legislative council and the defined benefit retirement plan; to amend and reenact subdivision c of subsection 1 of section 15-10-17, section 48-08-04, subsections 3 and 4 of section 54-52-17, section 55-01-02.1, subsection 3 of section 57-38-01.7 as amended in section 1 of of House Bill No. 1462, as approved by the sixty-fourth legislative assembly, subdivision b of subsection 3 of section 57-51.1-03 as amended in section 5 of House Bill No. 1476, as approved by the sixty-fourth legislative assembly, and subsection 2 of section 61-16.1-09, of the North Dakota Century Code, and sections 1 and 2 of Senate Bill No. 2019, as approved by the sixty-fourth legislative assembly, relating to North Dakota university system personnel, the use of legislative meeting rooms, the defined benefit retirement plan, operation of the heritage center building, income tax credits for charitable contributions to private education institutions, eminent domain and water resource boards, and an appropriation to the parks and recreation department; to repeal section 54-44-06 of the North Dakota Century Code and section 5 of House Bill No. 1003, as approved by the sixty-fourth legislative assembly, relating to duties of the office of management and budget as to the school fund and contingent appropriations for higher education capital projects; to provide an exemption; to provide for various transfers and contingent transfers; to provide statements of legislative intent; to provide for legislative management studies and reports; to provide for budget section reports; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the office of management and budget for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$19,803,315	\$224,939	\$20,028,254
Accrued leave payments	570,412	(570,412)	0

Operating expenses	14,356,788	(150,003)	14,206,785
Emergency commission contingency fund	700,000	0	700,000
Capital assets	2,251,065	1,738,944	3,990,009
Grants	430,000	125,000	555,000
Guardianship grants	828,600	500,000	1,328,600
Prairie public broadcasting	1,337,138	362,862	1,700,000
State student internship program	200,000	50,000	250,000
Health insurance pool - temporary employees	0	5,000,000	5,000,000
Total all funds	\$40,477,318	\$7,281,330	\$47,758,648
Less estimated income	<u>8,730,630</u>	<u>2,689,760</u>	<u>11,420,390</u>
Total general fund	\$31,746,688	\$4,591,570	\$36,338,258
Full-time equivalent positions	130.50	(8.00)	122.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

One-Time Funding Description	2013-15	2015-17
Capitol complex parking lot repairs	\$4,000,000	\$0
Health insurance pool	2,000,000	0
Exterior restoration of legislative and j-wing	1,500,000	0
Repair and cleaning capitol and j-wing	1,200,000	0
Capitol south entrance	1,000,000	0
Prairie public broadcasting	600,000	0
North Dakota 125th anniversary coordinator	190,000	0
Energy impact funding	8,500,000	0
Transfer to property tax relief	315,210,000	0
Information technology hardware relocation study	200,000	0
Student internship	0	50,000
Facility projects	0	205,000
Signage on the capitol grounds	0	1,400,000
West parking lot repair	0	50,000
ACA health insurance	0	5,000,000
Facility management projects	0	1,825,009
Legislative wing electrical-related repairs	0	310,000
Total all funds	\$334,400,000	\$8,840,009
Less estimated income	<u>5,500,000</u>	<u>4,210,000</u>
Total general fund	\$328,900,000	\$4,630,009

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The office of management and budget shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. APPROPRIATION - TRANSFER - TAX RELIEF FUND TO GENERAL FUND. There is appropriated out of any moneys in the tax relief fund in the state treasury, not otherwise appropriated, the sum of \$657,000,000, or so much of the sum as may be necessary, which the director of the office of management and budget shall transfer to the general fund during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - TARGETED MARKET EQUITY POOL - LEGISLATIVE MANAGEMENT REPORT.

There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,750,000, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$740,000, or so much of the sum as may be necessary, to the office of management and budget for a state agency targeted market equity salary funding pool to provide compensation adjustments for state employees in accordance with the provisions of this section. The market equity increases must be prioritized based on a statewide plan prepared by the office of management and budget within the funding available in the pool. The plan must address occupational market disparities, economic growth areas, recruitment and retention challenges, and external pay inequities for employees who are critical to the mission of the agency. The plan must give priority to employees whose salary is in the first or second quartile of their assigned salary range and employees whose salary is below the average classified state employee salary level.

One-half of the market equity pool funding is available for market equity adjustments in July 2015, to be paid in August 2015, and any remaining funding in the pool is available for market equity adjustments in July 2016, to be paid in August 2016. The market equity adjustments must be provided after any general compensation increase authorized by the sixty-fourth legislative assembly for these respective months and are independent of the general compensation increases. Employees whose documented performance levels do not meet standards are not eligible for the market equity increases. Notwithstanding any other provision of law, the office of management and budget shall transfer appropriation authority from the targeted market equity salary pool line item included in section 1 of this Act to eligible agencies for approved market equity salary adjustments. The office of management and budget shall provide a report to the legislative management regarding its statewide plan and any appropriation authority transferred from the pool.

Employees in the following agencies are eligible to receive a targeted market equity salary adjustment under this section:

1. Adjutant general;
2. Veterans' home;
3. State department of health;
4. Department of human services; and
5. Protection and advocacy project.

SECTION 5. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - STATE AGENCY ENERGY DEVELOPMENT IMPACT FUNDING POOL - TRANSFER AUTHORITY - EMERGENCY COMMISSION APPROVAL - LEGISLATIVE MANAGEMENT REPORT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,400,000, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$5,565,000, or so much of the sum as may be necessary, to the office of management and budget for a state agency energy development impact funding pool, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funds provided under this section are considered a one-time funding item and may not be continued into the biennium beginning July 1, 2017, and ending June 30, 2019.

A state agency may submit an application to the office of management and budget for a transfer of appropriation authority from the state agency energy development impact funding pool for employee housing rental assistance and temporary salary increases for employees affected by energy development. As part of the application, an agency must document how the agency will discontinue energy impact adjustments for employees at the end of the biennium. The office of management and budget, subject to emergency commission approval, shall transfer appropriation authority from the state agency energy development impact funding pool to eligible agencies for approved applications.

The office of management and budget shall provide a report to the legislative management regarding distributions from the energy development impact funding pool. Each agency receiving a distribution from the energy impact funding pool must provide a report to the legislative management regarding its plan to discontinue energy impact adjustments for employees at the end of the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 6. GENERAL FUND APPROPRIATION AND TRANSFER - HIGHWAY FUND APPROPRIATION - DEPARTMENT OF TRANSPORTATION.

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$18,000,000, which the director of the office of management and budget shall transfer to the highway fund during the biennium beginning July 1, 2015, and ending June 30, 2017.
2. There is appropriated out of any moneys in the highway fund in the state treasury, not otherwise appropriated, the sum of \$18,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of state highway investments, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 7. CONTINGENT GENERAL FUND TRANSFER AND HIGHWAY FUND APPROPRIATION - DEPARTMENT OF TRANSPORTATION.

1. Subject to the provisions of this section, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$20,000,000, which the director of the office of management and budget shall transfer to the highway fund, during the biennium beginning July 1, 2015, and ending June 30, 2017. If a transfer of funds occurs under this subsection, there is appropriated out of any moneys in the highway fund in the state treasury, not otherwise appropriated, the sum of \$20,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of enhanced state highway investments, for the biennium beginning July 1, 2015, and ending June 30, 2017.
2.
 - a. The transfer and appropriation in subsection 1 of this section is available only if the director of the office of management and budget determines actual general fund revenues for the period beginning February 1, 2015, and ending June 30, 2015, exceed the legislative estimates made at the close of the 2015 legislative session for general fund revenues during the same period by at least \$20,000,000.
 - b. For purposes of this subsection, "estimated general fund revenues" excludes transfers to the general fund from the strategic investment and improvements fund, property tax relief fund, the lottery, the mill and elevator, and gas tax administration.

SECTION 8. CONTINGENT GENERAL FUND AND STRATEGIC INVESTMENT AND IMPROVEMENTS FUND APPROPRIATIONS AND TRANSFERS - STATE BOARD OF HIGHER EDUCATION - DEPARTMENT OF TRANSPORTATION - BUDGET SECTION APPROVAL - BUDGET SECTION REPORT.

1. Subject to the provisions of this section, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$25,850,000, or so much of the sum as may be necessary, to the state board of higher education for the Valley City state university fine arts building project, including the demolition of two existing buildings, for the biennium beginning July 1, 2015, and ending June 30, 2017.
2. Subject to the provisions of this section, the director of the office of management and budget shall transfer the sum of \$25,850,000 from the strategic investment and improvements fund to the highway fund during the biennium beginning July 1, 2015, and ending June 30, 2017. If a transfer of funds occurs under this subsection, there is appropriated out of any moneys in the highway fund in the state treasury, not otherwise appropriated, the sum of \$25,850,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of enhanced state highway investments, for the biennium beginning July 1, 2015, and ending June 30, 2017.
3. Subject to the provisions of this section, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$46,000,000, or so much of the sum as may be necessary, to the state board of higher education for the North Dakota state university Dunbar Hall project, for the biennium beginning July 1, 2015, and ending June 30, 2017.
4. Subject to the provisions of this section, the director of the office of management and budget shall transfer the sum of \$46,000,000 from the general fund to the highway fund during the biennium beginning July 1, 2015, and ending June 30, 2017. If a transfer of funds occurs under this subsection, there is appropriated out of any moneys in the highway fund in the state treasury, not otherwise appropriated, the sum of \$46,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of enhanced state highway investments, for the biennium beginning July 1, 2015, and ending June 30, 2017.
5. a. The appropriations and transfers in subsections 1 and 2 of this section are available only if the director of the office of management and budget determines actual general fund revenues for the period beginning July 1, 2015, and ending December 31, 2015, exceed the legislative estimates made at the close of the 2015 legislative session for general fund revenues during the same period by at least \$126,000,000, or if the director of the office of management and budget determines actual general fund revenues for the period beginning July 1, 2015, and ending June 30, 2016, exceed the legislative estimates made at the close of the 2015 legislative session for general fund revenues during the same period by at least \$126,000,000. If the appropriations and transfers under this subdivision become available, the state board of higher education shall provide a report to the budget section regarding the status of the Valley City state university fine arts building project.

- b. The appropriations and transfers in subsections 3 and 4 of this section are available, subject to budget section approval, only if the director of the office of management and budget determines actual general fund revenues for the period beginning July 1, 2015, and ending December 31, 2016, exceed the legislative estimates made at the close of the 2015 legislative session for general fund revenues during the same period by at least \$250,000,000. Additionally, the appropriation in subsection 3 is available only if the state board of higher education certifies to the budget section that the Dunbar Hall project conforms to the university system master plan and space utilization study and the board receives budget section approval to proceed with the project. The board may not seek approval from the budget section to proceed with the project until the state auditor's office performance audit of the university system space utilization study is completed.
- c. For purposes of this subsection, "estimated general fund revenues" excludes the unobligated general fund balance on July 1, 2015, and transfers to the general fund from the strategic investment and improvements fund, tax relief fund, the lottery, the mill and elevator, and gas tax administration.

SECTION 9. APPROPRIATION - STATE AUDITOR. There is appropriated out of special funds derived from other income from fees charged to the North Dakota university system, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the state auditor for the purpose of conducting information technology security audits of the eleven institutions in the North Dakota university system, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 10. APPROPRIATION - LEGISLATIVE ASSEMBLY - MEETING ROOMS - REPORTS TO LEGISLATIVE PROCEDURE AND ARRANGEMENTS COMMITTEE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$160,000 or so much of the sum as may be necessary, to the legislative assembly for the purpose of purchasing and installing audio and visual equipment, tables, chairs, and other furnishings in legislative meeting rooms within the facility space expansion authorized under House Bill No. 1002, as approved by the sixty-fourth legislative assembly, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding appropriated in this section is considered a one-time funding item.

The state court administrator shall provide periodic reports to the legislative procedure and arrangements committee during the 2015-16 interim regarding the status of the facility space expansion authorized under House Bill No. 1002, as approved by the sixty-fourth legislative assembly.

SECTION 11. APPROPRIATION - LEGISLATIVE COUNCIL - CONSULTANTS FOR INTERIM STUDY. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$400,000, or so much of the sum as may be necessary, to the legislative council for the purpose of contracting with consultants to study oil and gas tax incentives and oil and gas recovery techniques, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

SECTION 12. APPROPRIATION - JUDICIAL WING REMODELING PROJECT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$65,693, or so much of the sum as may be

necessary, to the judicial branch for the purpose of defraying the additional costs of the remodeling project in the judicial wing, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

SECTION 13. CONTINGENT APPROPRIATION - DEPARTMENT OF PUBLIC INSTRUCTION - TRANSPORTATION GRANTS. If any funding appropriated to the superintendent of public instruction for integrated formula payments to school districts remains after the superintendent complies with all statutory payment obligations imposed for the biennium beginning July 1, 2015, and ending June 30, 2017, the superintendent shall provide up to \$3,000,000 of the funds remaining for additional transportation grants. The superintendent shall prorate the available funding according to the percentage of the total transportation formula amount to which each school district is entitled.

SECTION 14. ESTIMATED INCOME - CAPITOL BUILDING FUND. The estimated income line item in section 1 of this Act includes \$1,710,000 from the capitol building fund, of which \$1,400,000 is for capitol building entrance and signage projects and \$310,000 is for legislative wing electrical and ceiling repairs.

SECTION 15. COMMUNITY SERVICE SUPERVISION GRANTS - FUNDING ALLOCATIONS - ADDITIONAL INCOME APPROPRIATION. The grants line item in section 1 of this Act includes the sum of \$500,000 from the general fund for the purpose of providing community service supervision grants. The director of the office of management and budget shall distribute the grant funds on or before August first during each year of the biennium beginning July 1, 2015, and ending June 30, 2017, to North Dakota community corrections association regions as follows:

Barnes County	\$12,121
Bismarck (urban)	27,057
Bismarck (rural)	14,223
Devils Lake	14,329
Dickinson	16,911
Fargo	32,169
Grand Forks	26,404
Jamestown	18,511
Minot	21,592
Richland County	13,241
Rugby	15,543
Sargent County	10,781
Wells County	10,919
Williston	<u>16,199</u>
Total	\$250,000

Any moneys in the community service supervision fund are appropriated to the office of management and budget for distribution to community corrections association regions on or before August first of each year during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 16. EXEMPTION. The amount appropriated for the fiscal management division, as contained in section 1 of chapter 15 of the 2013 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation are available for continued development and operating costs of the accounting, management, and payroll systems, during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 17. INTENT. Within the authority included in section 1 of this Act are the following grants and special items:

Boys and girls clubwork	\$53,000
State memberships and related expenses	\$611,000
Unemployment insurance	\$1,500,000
Capitol grounds planning commission	\$25,000

SECTION 18. STATE STUDENT INTERNSHIP PROGRAM. The human resources division of the office of management and budget may transfer to each eligible agency appropriated general fund spending authority from the state student internship program line item contained in section 1 of this Act.

SECTION 19. OFFICE OF MANAGEMENT AND BUDGET - TEMPORARY EMPLOYEE HEALTH INSURANCE POOL. The office of management and budget may transfer to each eligible agency appropriation authority from the health insurance pool - temporary employees line item contained in section 1 of this Act. Transfers may be made for the purpose of providing temporary employee health insurance adjustments for state employees, including institutions of higher education, determined to be full time based on guidelines developed by the office of management and budget in accordance with the shared responsibility provisions of the Affordable Care Act for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 20. FUNDING TRANSFERS - EXCEPTION - AUTHORIZATION. Notwithstanding section 54-16-04, agencies may transfer appropriation authority between line items, as it relates to compensation increases authorized in section 21 of this Act, for the biennium beginning July 1, 2015, and ending June 30, 2017. The agencies shall notify the office of management and budget of any transfer made pursuant to this section.

SECTION 21. STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES. It is the intent of the sixty-fourth legislative assembly that 2015-17 biennium compensation adjustments for classified state employees for each year of the biennium are to be a performance component in a range of two to four percent based on documented performance. Increases for classified state employees are not to be the same percentage increase for each employee. The increases for the first year of the biennium are to be given beginning with the month of July 2015, to be paid in August 2015, and for the second year of the biennium are to be given beginning with the month of July 2016, to be paid in August 2016.

Probationary employees are not entitled to the performance increases. However, probationary employees may be given all or a portion of the increases effective in July, paid in August, or upon completion of probation, at the discretion of the appointing authority.

The office of management and budget shall develop guidelines for use by state agencies for providing compensation adjustments for regular classified employees. The guidelines must follow section 54-44.3-01.2, compensation philosophy statement.

Compensation adjustments for regular nonclassified state employees, excluding employees under the control of the state board of higher education, are to be in a range of two to four percent based on market and documented performance and are not to be the same percentage increase for each employee.

Employees whose overall documented performance level does not meet standards are not eligible for any salary increase.

SECTION 22. ONE-TIME FUNDING - ASSISTIVE TECHNOLOGY SERVICES.

The funding appropriated to the department of human services in Senate Bill No. 2289 as approved by the sixty-fourth legislative assembly, relating to assistive technology services is considered one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 23. STUDENT LOAN TRUST FUND - STATE DEPARTMENT OF HEALTH - DENTAL LOAN REPAYMENT PROGRAM.

The estimated income line item of section 1 of House Bill No. 1004, as approved by the sixty-fourth legislative assembly, includes the sum of \$360,000, or so much of the sum as may be necessary, from the student loan trust fund for the dental loan repayment program administered by the state department of health for the biennium beginning July 1, 2015, and ending June 30, 2017.

***SECTION 24. AMENDMENT.** Subdivision c of subsection 1 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

- c. Appoint and remove all university system office personnel, fix their salaries within the limits of legislative appropriations, fix their terms of office, and prescribe their duties. The board shall adopt a policy that provides that each vice chancellor in the university system office is considered to have resigned the individual's position as a vice chancellor upon the appointment of a commissioner of higher education.

SECTION 25. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Requests for records by members of the legislative assembly and the legislative council.

Notwithstanding section 44-04-18.6, any record of the legislative council relating to a request for public records made by the legislative council on behalf of a member of the legislative assembly is a public record. The legislative council shall maintain a written or digital record of any request for public records made on behalf of a member of the legislative assembly which identifies the member of the legislative assembly who made the request.

SECTION 26. AMENDMENT. Section 48-08-04 of the North Dakota Century Code is amended and reenacted as follows:

48-08-04. Use of legislative assembly rooms and halls.

During the interim between legislative sessions, the committee rooms, halls, passageways, and other space in the capitol used by the legislative assembly, including the pioneer room and three additional meeting rooms comprising approximately four thousand square feet in the judicial wing of the capitol, may not be used without authorization of the legislative council.

¹² **SECTION 27. AMENDMENT.** Subsection 3 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

3. Retirement dates are defined as follows:

¹² Section 54-52-17 was also amended by section 6 of House Bill No. 1062, chapter 259, section 28 of Senate Bill No. 2015, chapter 49, and section 4 of Senate Bill No. 2102, chapter 424.

- a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
 - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
 - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- b. Normal retirement date for members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, is:
 - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
 - (2) When the member has a combined total of years of service credit and years of age equal to ninety and the member attains a minimum age of sixty and has not received a retirement benefit under this chapter.
- b-c. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment as a national guard security officer or firefighter.
- e-d. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
 - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment as a peace officer or correctional officer; or
 - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e-e. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
 - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment as a peace officer; or
 - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e-f. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or

has severed the member's employment after reaching the normal retirement date.

f-g. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.

g-h. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:

- (1) Became disabled during the period of eligible employment; and
- (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

¹³ **SECTION 28. AMENDMENT.** Subsection 4 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

4. The board shall calculate retirement benefits as follows:
 - a. Normal retirement benefits for all retirees, except supreme and district court judges, reaching normal retirement date equal an annual amount,

¹³ Section 54-52-17 was also amended by section 6 of House Bill No. 1062, chapter 259, section 27 of Senate Bill No. 2015, chapter 49, and section 4 of Senate Bill No. 2102, chapter 424.

payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:

- (1) Service benefit equals two percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
- b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
- (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
 - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
- d. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning prior to the normal retirement date, which is the earlier of age sixty-five or the age at which current service plus age equals eighty-five. Except for a national guard security officer or firefighter, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.
- e. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

SECTION 29. A new section to chapter 54-52.6 of the North Dakota Century Code is created and enacted as follows:

Changes to election.

1. In this section the term "participating member" is limited in application to a participating member who elected to participate in the defined contribution retirement plan established under this chapter as an active employee of a participating employer, is an actively participating member of the defined contribution plan as of the effective date of this Act, and is an active employee with a participating employer on the date an election is made under this section. The term does not include a participant who is not actively employed with a participating employer on the date of transfer of the funds under this section, has taken a distribution from the defined contribution plan, is retired, is no longer actively employed with a participating employer, or who is a member who has a qualified domestic relations order or other court order on the member's account.
2. Notwithstanding any other provision of law, the board shall provide an opportunity for each participating member to elect in writing to terminate membership in the defined contribution retirement plan under this chapter and to elect to become a participating member in the public employees retirement system under chapter 54-52.
3. The board shall establish a three-calendar-month election period beginning not later than February 1, 2016. A participating member who does not make a written election or who does not file the election with the North Dakota public employees retirement system office during the period specified in this section continues to be a member of the defined contribution plan. A participating member who makes and files a written election with the North Dakota public employees retirement system office under this section ceases to be a member of the defined contribution plan upon receipt by the public employees retirement system of the accumulated fund balance of the member's defined contribution plan under this chapter and waives all rights to that employee's accumulated fund balance under the defined contribution plan. If the executive director of the North Dakota public employees retirement system determines a participating member was not adequately notified of the option to make an election under this section, the executive director may provide that participating member a reasonable time, not to exceed three months, within which to make that election.
4. The public employees retirement system shall credit the transferring employee with the service credit and salary history reflected on the public employees retirement system's electronic database.
5. The board shall determine the method by which a participating member may make a written election under this section. If the participating member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the executive director of the North Dakota public employees retirement system may waive this spousal signature requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
6. For a participating member who elects to terminate membership in the defined contribution plan under this section, the board shall transfer that member's accumulated fund balance, less any rollovers from other plans made into the

defined contribution plan, to the public employees retirement system under chapter 54-52. If funds are transferred from the defined contribution plan to the defined benefit plan under an election made under this section, the board shall record this transfer to the defined benefit plan as employee and employer contributions in the same manner as transferred by the defined contribution provider. If a participating member has a separate account attributable to rollover contributions to the defined contribution plan pursuant to section 54-52.6-09.1, the participating member shall make an election to receive a distribution of the entire amount held in the rollover account at the time of transfer.

7. A participating member who elects a transfer under this section is entitled to vested employer contribution amounts under section 54-52-11.1 prospectively from the date of transfer. A participating member who elects a transfer under this section must be assessed and required to pay monthly to the defined benefit plan an additional employee contribution of an additional two percent of the monthly salary or wages paid to the member.

SECTION 30. AMENDMENT. Section 55-01-02.1 of the North Dakota Century Code is amended and reenacted as follows:

55-01-02.1. Society to have jurisdiction over heritage center.

The society has jurisdiction over the administration and operations of the North Dakota heritage center building. The director of the office of management and budget is responsible for maintenance of the heritage center building. The society shall maintain the collections displayed and stored at the heritage center and shall provide, or arrange, for the security of those collections. The society shall establish a policy that authorizes the consumption of alcoholic beverages, including distilled spirits as defined in section 5-01-01, at the heritage center during an event that is open only to invited guests and if the alcoholic beverages are dispensed by a qualified alcoholic beverage licensee.

¹⁴ **SECTION 31. AMENDMENT.** Subsection 3 of section 57-38-01.7 of the North Dakota Century Code as amended by section 1 of House Bill No. 1462, as approved by the sixty-fourth legislative assembly, is amended and reenacted as follows:

3. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of primary education, located within the state. The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the taxpayer's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.

SECTION 32. Subdivision b of subsection 3 of section 57-51.1-03 of the North Dakota Century Code as amended in section 5 of House Bill No. 1476, as approved by the sixty-fourth legislative assembly, is amended and reenacted as follows:

¹⁴ Section 57-38-01.7 was also amended by section 1 of House Bill No. 1462, chapter 448.

- b. ~~The incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins. Incremental production from a tertiary recovery project that uses carbon dioxide in afrom a horizontal well drilled and completed outsidewithin the Bakken and Three Forks formations, and ten miles [16.10 kilometers] or more outside an established field in which the industrial commission has defined the pool to include the Bakken or Three Forks formation and which has been certified as a qualified project by the industrial commission is not exempt from July 1, 2015, through June 30, 2017, and is thereafter exempt from any taxes imposed under this chapter for a period of five years from July 1, 2017, or the date the incremental production begins, whichever is later.~~

***SECTION 33. AMENDMENT.** Subsection 2 of section 61-16.1-09 of the North Dakota Century Code is amended and reenacted as follows:

2. Exercise the power of eminent domain in the manner provided by title 32 for the purpose of acquiring and securing any rights, titles, interests, estates, or easements necessary or proper to carry out the duties imposed by this chapter, ~~and particularly to.~~ A water resource board may acquire the necessary rights in land for the construction of dams, flood control projects, and other water conservation, distribution, and supply works of any nature and to permit the flooding of lands, and to. In addition, a water resource board may secure the right of access to suchthese dams and other devices and the right of public access to any impounded waters impounded thereby. Provided, however, that when if the interest sought to be acquired is a right of way for anya project authorized in this chapter for which federal or state funds have been appropriated or state funds have been appropriated by the legislative assembly for a specific project, the districtboard, after making a written offer to purchase the right of way and depositing the amount of the offer with the clerk of the district court of the county wherein the right of way is located, may thereupon take immediate possession of the right of way, as authorized by section 16 of article I of the Constitution of North Dakota. Within thirty days after notice has been given in writing to the landowner by the clerk of the district court that a deposit has been made for the taking of a right of way as authorized in this subsection, the owner of the property taken may appeal to the district court by serving a notice of appeal upon the acquiring agency, and the matter must be tried at the next regular or special term of court with a jury unless a jury be waived, in the manner prescribed for trials under chapter 32-15.

SECTION 34. Section 1 of Senate Bill No. 2019, as approved by the sixty-fifth legislative assembly, is amended and reenacted as follows:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the parks and recreation department for the purpose of defraying the expenses of the parks and recreation department, for providing funding to the Lewis and Clark interpretive center, and for providing a grant to the International Peace Garden, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

Subdivision 1.

PARKS AND RECREATION DEPARTMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Administration	\$2,573,593	\$598,129	\$3,171,722
Accrued leave payments	181,577	(181,577)	0
Park operations and maintenance	15,045,525	20,128,406	35,173,931
Recreation	5,585,875	2,021,544	7,607,419
<u>Total all funds</u>	<u>\$23,386,570</u>	<u>\$22,566,502</u>	<u>\$45,953,072</u>
Less estimated income	10,505,431	4,357,404	14,862,835
<u>Total general fund</u>	<u>\$12,881,139</u>	<u>\$18,209,098</u>	<u>\$31,090,237</u>
Recreation	5,585,875	1,711,245	7,297,120
<u>Total all funds</u>	<u>\$23,386,570</u>	<u>\$22,256,203</u>	<u>\$45,642,773</u>
<u>Less estimated income</u>	<u>10,505,431</u>	<u>4,357,404</u>	<u>14,862,835</u>
<u>Total general fund</u>	<u>\$12,881,139</u>	<u>\$17,898,799</u>	<u>\$30,779,938</u>
Full-time equivalent positions	55.00	11.00	66.00

Subdivision 2.

INTERNATIONAL PEACE GARDEN

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
International Peace Garden	\$973,699	\$535,297	\$1,508,996
<u>Total general fund</u>	<u>\$973,699</u>	<u>\$535,297</u>	<u>\$1,508,996</u>

Subdivision 3.

LEWIS AND CLARK INTERPRETIVE CENTER

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Lewis and Clark interpretive center	\$0	\$1,005,279	\$1,005,279
<u>Total general fund</u>	<u>\$0</u>	<u>\$1,005,279</u>	<u>\$1,005,279</u>

Subdivision 4.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$13,854,838	\$19,749,674	\$33,604,512
Grand total special funds	10,505,431	4,357,404	14,862,835
Grand total all funds	\$24,360,269	\$24,107,078	\$48,467,347
<u>Grand total general fund</u>	<u>\$13,854,838</u>	<u>\$19,439,375</u>	<u>\$33,294,213</u>
<u>Grand total special funds</u>	<u>10,505,431</u>	<u>4,357,404</u>	<u>14,862,835</u>
<u>Grand total all funds</u>	<u>\$24,360,269</u>	<u>\$23,796,779</u>	<u>\$48,157,048</u>

SECTION 35. Section 2 of Senate Bill No. 2019, as approved by the sixty-fifth legislative assembly, is amended and reenacted as follows:

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third

legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Parks enhancements	\$3,897,800	\$14,750,000
Parks equipment	350,000	600,000
Lewis and Clark interpretive center grant	1,350,000	0
Parks strategic plans	100,000	0
Community grant program	500,000	500,000
International Peace Garden capital projects	1,250,000	335,297
Trail lease renewals	0	200,000
Web application for snowmobile registration	0	340,299
Statewide comprehensive outdoor recreation plan	0	90,000
Repairs at Lewis and Clark interpretive center	0	75,000
50th anniversary	0	25,000
Retirement leave payouts	0	100,000
International Peace Garden demolition project	0	200,000
<u>Total all funds</u>	<u>\$7,447,800</u>	<u>\$17,185,596</u>
Less estimated income	1,270,300	345,000
<u>Total general fund</u>	<u>\$6,177,500</u>	<u>\$16,840,596</u>
<u>Total all funds</u>	<u>\$7,447,800</u>	<u>\$16,875,297</u>
<u>Less estimated income</u>	<u>1,270,300</u>	<u>345,000</u>
<u>Total general fund</u>	<u>\$6,177,500</u>	<u>\$16,530,297</u>

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The parks and recreation department shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 36. REPEAL. Section 54-44-06 of the North Dakota Century Code is repealed.

SECTION 37. REPEAL. Section 5 of House Bill No. 1003, as approved by the sixty-fourth legislative assembly, is repealed.

SECTION 38. LEGISLATIVE INTENT - STATE BOARD OF HIGHER EDUCATION - SEVERANCE PAY. Notwithstanding any policy adopted by the board, the state board of higher education or an institution under its control may not approve or provide severance pay to any employee whose employment is terminated as a result of the transfer of positions from the state board of higher education to the attorney general as provided in House Bill No. 1003 as approved by the sixty-fourth legislative assembly.

SECTION 39. LEGISLATIVE INTENT - OIL AND GAS IMPACT GRANTS TO AIRPORTS. It is the intent of the sixty-fourth legislative assembly that of the funding designated for grants to airports impacted by oil and gas development included in subsection 1 of section 5 of House Bill No. 1176, as approved by the sixty-fourth legislative assembly, a grant award of at least \$39,000,000 be awarded to the airport in the hub city as defined under section 57-51-01 that received the highest total allocation under subsection 1 of section 57-51-15 for the period beginning September 1, 2013, and ending August 31, 2014, and a grant award of at least \$5,800,000 be awarded to the airport in the hub city as defined under section 57-51-01 that received the second highest total allocation under subsection 1 of section 57-51-15 for the period beginning September 1, 2013, and ending August 31, 2014. It is also the intent of the sixty-fourth legislative assembly that the grant awards designated under this section must be awarded without a local matching requirement.

SECTION 40. LEGISLATIVE MANAGEMENT STUDY - BUDGET SECTION FUNCTIONS. During the 2015-16 interim, the legislative management shall study the functions of the budget section. The study must review the duties and studies assigned to the budget section and the ability of the budget section to authorize financial decisions, including full-time equivalent positions, university system building projects, and project scope changes. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 41. LEGISLATIVE MANAGEMENT STUDY - TRANSPORTATION FUNDING DISTRIBUTIONS TO POLITICAL SUBDIVISIONS. During the 2015-16 interim, the legislative management shall consider studying special transportation funding distributions to political subdivisions. The study must review distribution methods including the feasibility and desirability of using upper great plains transportation institute needs studies, county major collector miles, or a combination of both, if there are future special transportation funding distributions to political subdivision, and must review options to ensure counties are reporting information consistently. The legislative management shall consider methods to ensure that road projects in each county are properly coordinated with state road projects and projects in adjacent counties. The study must also review the use of special transportation funding in comparison to the legislative assembly's intent. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 42. LEGISLATIVE MANAGEMENT STUDY - ENHANCED OIL AND GAS RECOVERY. During the 2015-16 interim, the legislative management shall study the current scientific and economic information regarding oil and gas recovery and enhanced recovery techniques, including the use of carbon dioxide, the timeline for implementing the techniques, and the estimated future annual economic impact, to evaluate existing and alternative tax incentives and recommend tax incentives that under current and foreseeable conditions, and within different oil formations, would best serve the interests of the state, political subdivisions, and fossil fuel energy production industries. The legislative management shall report its recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 43. EFFECTIVE DATE. Section 31 of this Act is effective for taxable years beginning after December 31, 2014, and section 32 of this Act is effective for taxable events occurring after December 31, 2015, and for a tertiary recovery project the exemption of five years applies only for a project from which incremental production begins after December 31, 2015.

SECTION 44. EMERGENCY. Funding of \$1,550,000 in the operating expenses line item in section 1 and section 15 of House Bill No. 1018, as approved by the sixty-fourth legislative assembly; section 1 of House Bill No. 1255, as approved by the sixty-fourth legislative assembly; and section 30 of this Act are declared to be an emergency measure.

Approved May 13, 2015
Filed May 15, 2015

* Sections 24 and 33 of Senate Bill No. 2015 were vetoed, see chapter 488.

CHAPTER 50

SENATE BILL NO. 2016

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the office of the adjutant general; to provide an appropriation to the information technology department; to provide for transfers; to provide exemptions; to provide a statement of legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the office of the adjutant general for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017 as follows:

Subdivision 1.

NATIONAL GUARD

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,063,904	\$636,876	\$6,700,780
Operating expenses	4,112,891	210,000	4,322,891
Capital assets	200,632	187,414	388,046
Grants	509,514	500,000	1,009,514
Civil air patrol	287,451	24,322	311,773
Tuition, recruiting, and retention	2,517,500	0	2,517,500
Air guard contract	11,483,158	(3,428,604)	8,054,554
Army guard contract	59,192,835	750,414	59,943,249
Veterans' cemetery	647,005	164,481	811,486
Reintegration program	1,491,980	411,763	1,903,743
Accrued leave payments	812,098	(812,098)	0
Total all funds	\$87,318,968	(\$1,355,432)	\$85,963,536
Less estimated income	<u>70,164,642</u>	<u>(3,230,290)</u>	<u>66,934,352</u>
Total general fund	\$17,154,326	\$1,874,858	\$19,029,184

Subdivision 2.

DEPARTMENT OF EMERGENCY SERVICES

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$10,553,021	\$1,816,888	\$12,369,909
Operating expenses	8,364,488	2,882,981	11,247,469
Capital assets	682,000	58,000	740,000
Grants	19,373,247	500,000	19,873,247
Disaster costs	147,718,567	(39,553,083)	108,165,484

Radio communications	0	626,000	626,000
Accrued leave payments	<u>283,895</u>	<u>(283,895)</u>	<u>0</u>
Total all funds	\$186,975,218	(\$33,953,109)	\$153,022,109
Less estimated income	<u>177,679,955</u>	<u>(38,461,780)</u>	<u>139,218,175</u>
Total general fund	\$9,295,263	\$4,508,671	\$13,803,934

Subdivision 3.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$26,449,589	\$7,883,529	\$34,333,118
Grand total special funds	<u>247,844,597</u>	<u>(39,692,070)</u>	<u>208,152,527</u>
Grand total all funds	\$274,294,186	(\$31,808,541)	\$242,485,645
Full-time equivalent positions	246.00	(12.00)	234.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
State radio tower package	\$1,175,000	0
Statewide seamless base map	1,150,000	0
State radio communications center	1,201,240	0
Computer-aided dispatch upgrade	340,000	0
Voice incident recorder	150,000	0
State radio suppression project	210,000	0
Disaster coordination contract	1,500,000	200,000
Veterans' bonus program	600,000	500,000
Veterans' book	50,000	0
Veterans' tuition assistance	375,000	0
Next generation 911	0	386,000
Microsoft SQL enterprise for CAD	0	90,000
Message switch test server	0	70,000
Radio tower redundancy	0	80,000
Disaster recovery assistance contract	0	1,000,000
Emergency response supplies	0	550,000
Veterans' cemetery land purchase	0	139,000
Firefighter stipends	0	500,000
Firefighter training	0	<u>1,200,000</u>
Total all funds	\$6,751,240	\$4,715,000
Less estimated income	<u>2,000,000</u>	<u>1,769,500</u>
Total general fund	\$4,751,240	\$2,945,500

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The adjutant general shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. APPROPRIATION - STATE DISASTER RELIEF FUND.

Notwithstanding section 37-17.1-27, there is appropriated out of any moneys in the state disaster relief fund in the state treasury, not otherwise appropriated, the sum of \$2,000,000, or so much of the sum as may be necessary, to the adjutant general for

the purpose of providing for repair and replacement of infrastructure and for removal of debris and other health hazards in recreation service districts that are experiencing chronic flooding, for the period beginning with the effective date of this Act, and ending June 30, 2017. The adjutant general shall consult with the environmental division of the state department of health regarding the process of environmental cleanup.

SECTION 4. APPROPRIATION - INFORMATION TECHNOLOGY DEPARTMENT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,500,000, or so much of the sum as may be necessary, to the information technology department for the purpose of planning and coordinating the implementation of the statewide radio interoperability network as provided in section 6 of this Act, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

SECTION 5. STATEWIDE RADIO INTEROPERABILITY NETWORK - LEGISLATIVE INTENT - REPORT TO THE SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The information technology department, under the direction of the statewide interoperability executive committee, shall determine the feasibility and desirability of implementing a statewide radio interoperability network. The department shall consult with representatives of political subdivisions and private entities affected by the implementation of the network to determine participation in the project. If the department determines it is feasible and desirable to proceed with the project, the department shall enter into agreements, including joint powers agreements, with affected entities to delineate the roles and responsibilities of each entity to implement the project. The agreements must detail estimated future project costs to be paid by each entity.

The information technology department shall report to the appropriations committees of the sixty-fifth legislative assembly regarding the department's evaluation of the project, participation by affected entities, and recommendations for proceeding with the project or discontinuing future participation. It is the intent of the sixty-fourth legislative assembly that future legislative appropriations be provided for the state's share of the core project if the information technology department determines it is feasible and desirable to proceed with the project.

SECTION 6. STATE RADIO POSITIONS - REALIGNMENT. The salaries and wages line item in subdivision 2 of section 1 of this Act includes \$192,621 from the general fund to realign state radio dispatch positions within the employee classification system.

SECTION 7. INSURANCE TAX DISTRIBUTION FUND - FIRE DEPARTMENT PAYMENTS - FIREFIGHTER TRAINING STIPENDS. Notwithstanding chapter 18-04, the insurance commissioner, as requested by the director of the department of emergency services, shall provide up to \$500,000 of funding appropriated from the insurance tax distribution fund in section 2 of Senate Bill No. 2010 as approved by the sixty-fourth legislative assembly, to the department of emergency services for the purpose of providing stipends to firefighters participating in approved training activities, for the biennium beginning July 1, 2015, and ending June 30, 2017. Any funds not used pursuant to this section by June 30, 2017, must be retained in the insurance tax distribution fund for disbursement to fire districts during the 2017-19 biennium.

SECTION 8. VETERANS' CEMETERY MAINTENANCE FUND - APPROPRIATION. In addition to the amount appropriated to the adjutant general in

the veterans' cemetery line item in subdivision 1 of section 1 of this Act, there is appropriated any additional funds which are received and deposited in the veterans' cemetery maintenance fund pursuant to sections 37-03-14 and 39-04-10.10 for the operation of the North Dakota veterans' cemetery for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 9. MAINTENANCE AND REPAIRS - TRANSFERS. The adjutant general may transfer to the operating expenses and capital assets line items contained in section 1 of this Act up to the sum of \$500,000 from the various other line items contained in section 1 of this Act, as determined necessary by the adjutant general to provide for the maintenance and repair of state-owned armories in this state during the biennium beginning July 1, 2015, and ending June 30, 2017. Any amounts transferred pursuant to this section must be reported to the director of the office of management and budget.

SECTION 10. FUNDING TRANSFERS - STATE EMPLOYEE COMPENSATION ADJUSTMENTS - EXCEPTION. Notwithstanding section 54-16-04, the adjutant general may transfer appropriation authority between line items within each subdivision of section 1 of this Act and between subdivisions within section 1 of this Act, as it relates to state employee compensation increases authorized by the sixty-fourth legislative assembly, for the biennium beginning July 1, 2015, and ending June 30, 2017. The adjutant general shall notify the office of management and budget of any transfer made under this section.

SECTION 11. EXEMPTION. The amount appropriated in the radio communications line for statewide seamless base map, state radio tower package, computer-aided dispatch upgrade, and the voice incident recorder, in subdivision 2 of section 1 of chapter 16 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds are available for completing these projects during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 12. EXEMPTION. The amount appropriated in the operating expenses line for the computer-aided dispatch upgrade and the disaster coordination contract in subdivision 2 of section 1 of chapter 16 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds are available for these purposes during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 13. EXEMPTION. The amount appropriated in the operating expenses line for the writing, publishing, and distribution of a record of all North Dakota veterans, including a record of all North Dakotans killed in action and missing in action since statehood, subdivision 1 of section 1 of chapter 16 of the 2013 Session Laws is not subject to 54-44.1-11 and any unexpended funds are available for the collecting of information on North Dakotans who served in a theatre or area of armed conflict since the Vietnam conflict during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 14. EXEMPTION. The amount appropriated in the tuition, recruiting, and retention line item in subdivision 1 of section 1 of chapter 16 of the 2013 Session Laws is not subject to section 54-44.1-11, and any unexpended funds from this appropriation may be used to provide tuition assistance, recruiting and retention incentives to eligible members of the North Dakota national guard during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 15. EXEMPTION. The amount appropriated in the tuition, recruiting, and retention line item in section 3 of chapter 16 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this appropriation may

be used to provide tuition assistance to eligible members of the North Dakota national guard, during the biennium beginning July 1, 2015, and ending June 30, 2017, contingent upon the adjutant general certifying to the office of management and budget that the national guard has received a new assignment in association with the Grand Forks air force base.

SECTION 16. EXEMPTION. Any amounts carried over pursuant to section 9 of chapter 16 of the 2013 Session Laws that is unexpended as of June 30, 2015 is not subject to section 54-44.1-11 and is available for payment of adjusted compensation to veterans. Any unexpended funds from this appropriation must be transferred to the veterans' cemetery trust fund during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 17. EXEMPTION. Any amounts carried over in the radio communications line for the state radio tower package pursuant to section 10 of chapter 16 of the 2013 Session Laws that is unexpended as of June 30, 2015, is not subject to section 54-44.1-11. Any unexpended funds are available for state radio tower package costs during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 18. EXEMPTION. Any amounts carried over in the disaster costs line for flood relief or disaster mitigation projects in incorporated cities, and grants to political subdivisions for amounts required to match federal dollars on road grade raising projects and federal emergency relief funding pursuant to section 11 of chapter 16 of the 2013 Session Laws that is unexpended as of June 30, 2015, is not subject to section 54-44.1-11. Any unexpended funds from this appropriation are available for these purposes during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 19. EXEMPTION. Any amounts carried over in the disaster costs line for grants to cities and counties for flood-impacted housing rehabilitation pursuant to section 12 of chapter 16 of the 2013 Session Laws that is unexpended as of June 30, 2015, is not subject to section 54-44.1-11. Any unexpended funds from this appropriation are available for these purposes during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 20. EMERGENCY. Funding of \$500,000 from the general fund in the grants line item in subdivision 1 of section 1 of this Act, relating to the veterans' bonus program, funding of \$386,000 from the general fund in the radio communications line item in subdivision 2 of section 1 of this Act, relating to next generation 911, funding of \$209,280 from the general fund in the operating line item in subdivision 2 of section 1 of this Act, relating to next generation 911 maintenance, funding of \$382,000 from the general fund in the operating line item in subdivision 2 of section 1 of this Act relating to statewide base map maintenance, and funding of \$2,000,000 from the state disaster relief fund in section 3 of this Act relating to repair and replacement of infrastructure and removal of debris and other health hazards, are declared to be an emergency measure.

Approved May 13, 2015
Filed May 14, 2015

CHAPTER 51

SENATE BILL NO. 2017

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the game and fish department; to create and enact a new section to chapter 20.1-08 of the North Dakota Century Code, relating to a gubernatorial proclamation concerning the hunting of elk; to provide for a legislative management study; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the game and fish fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the game and fish department for the purpose of defraying the expenses of the game and fish department, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$25,899,606	\$3,770,636	\$29,670,242
Operating expenses	12,956,728	712,216	13,668,944
Capital assets	3,885,061	1,612,935	5,497,996
Grants	7,122,500	211,912	7,334,412
Land habitat and deer depredation	12,707,403	4,215,278	16,922,681
Noxious weed control	650,000	50,000	700,000
Missouri River enforcement	275,939	6,601	282,540
Grants, gifts, and donations	800,000	27,519	827,519
Nongame wildlife conservation	120,000	0	120,000
Lonetree reservoir	1,935,636	(112,631)	1,823,005
Wildlife services	384,400	0	384,400
Accrued leave payments	<u>816,366</u>	<u>(816,366)</u>	<u>0</u>
Total special funds	\$67,553,639	\$9,678,100	\$77,231,739
Full-time equivalent positions	158.00	5.00	163.00

SECTION 2. GRANTS, GIFTS, AND DONATIONS LINE. The grants, gifts, and donations line item in section 1 of this Act includes up to \$400,000 received by the game and fish department for surface damage, easements, or reclamation on department owned or managed properties as a result of mineral exploration and extraction activities.

SECTION 3. A new section to chapter 20.1-08 of the North Dakota Century Code is created and enacted as follows:

Governor's proclamation concerning the hunting of elk - Annie's house at Bottineau winter park raffle.

The governor may by proclamation provide for a season to hunt elk in a manner, number, places, and times as the governor prescribes. Licenses to hunt elk must be

issued by lottery, except as provided under subsection 7 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to Annie's house at Bottineau winter park a license to hunt elk in a manner, places, and times as the governor prescribes. Annie's house at Bottineau winter park shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and all remaining net proceeds must be used to support the operations of Annie's house at Bottineau winter park. Annie's house at Bottineau winter park shall submit reports concerning the raffle as the director requires. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to receive a license under this section.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - LICENSES FOR FUNDRAISING. During the 2015-16 interim, the legislative management shall consider studying game and fish department licenses provided to entities for the purpose of fundraising. The study must include a review of the present law in this and other states and the feasibility and desirability of allowing the game and fish department to issue these licenses using procedures and within limits established by the legislative assembly. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 5. EXPIRATION DATE. Section 3 of this Act is effective through June 30, 2017, and after that date is ineffective.

Approved April 27, 2015
Filed April 27, 2015

CHAPTER 52

SENATE BILL NO. 2018

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state historical society; to provide a statement of legislative intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the state historical society for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$11,367,710	\$2,670,279	\$14,037,989
Accrued leave payments	211,332	(211,332)	0
Operating expenses	2,666,016	2,003,649	4,669,665
Capital assets	1,699,725	2,750,569	4,450,294
Grants	1,000,000	(100,000)	900,000
Cultural heritage grants	504,500	0	504,500
Exhibits	0	300,000	300,000
Yellowstone-Missouri-Fort Union	<u>4,492</u>	<u>0</u>	<u>4,492</u>
Total all funds	\$17,453,775	\$7,413,165	\$24,866,940
Less estimated income	<u>3,221,964</u>	<u>302,937</u>	<u>3,524,901</u>
Total general fund	\$14,231,811	\$7,110,228	\$21,342,039
Full-time equivalent positions	68.00	10.00	78.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the Sixty-third Legislative Assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
North Dakota studies eighth grade curriculum	\$150,000	\$0
Historic sites exhibits	50,000	0
Project pool	950,000	0
State's 125th celebration planning	100,000	0
Technology costs	0	100,650
Fort Totten and Stutsman repairs	0	1,025,000
Electronic records project	0	264,000
Dakota the dinosaur	0	1,500,000
Traveling and historic sites exhibits	0	300,000
Promotion funding for historical events	0	200,000
Whitestone hill native memorial	<u>0</u>	<u>75,000</u>
Total all funds	\$1,250,000	\$3,464,650

Less estimated income	0	<u>225,000</u>
Total general fund	\$1,250,000	\$3,239,650

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The state historical society shall report to the appropriations committees of the Sixty-fifth Legislative Assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. REVOLVING FUND - APPROPRIATION. All fees collected by the state historical society and deposited in the revolving fund established pursuant to section 55-03-04 are appropriated to the state historical society for the purposes provided in chapter 55-03, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. GIFTS, GRANTS, AND BEQUESTS - APPROPRIATION. All gifts, grants, devises, bequests, donations, and assignments received by the state historical society and deposited with the state treasurer pursuant to section 55-01-04 are appropriated to the state historical society for the purposes provided in section 55-01-04, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 5. APPROPRIATION - STATE DISASTER RELIEF FUND - DOUBLE DITCH HISTORIC SITE REPAIRS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$250,000, and from the state disaster relief fund in the state treasury, the sum of \$2,000,000, or so much of the sum as may be necessary, to the state historical society for double ditch historic site repairs, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 6. CONTINGENT LOAN AUTHORIZATION - APPROPRIATION - DOUBLE DITCH HISTORIC SITE REPAIRS. The state historical society may obtain a loan from the Bank of North Dakota in an amount not to exceed \$1,250,000, the sum of which is appropriated to the state historical society for the purpose of defraying the expenses of repairs to the Double Ditch historic site, for the biennium beginning July 1, 2015, and ending June 30, 2017. The loan authorization and appropriation in this section is contingent on the state historical society being unable to obtain assistance to contract with the adjutant general for the double ditch historic site repairs.

SECTION 7. LEGISLATIVE INTENT - DOUBLE DITCH HISTORIC SITE REPAIRS. If the state historical society is unable to complete the double ditch historic site repair project within the funding appropriated and raised for the project, it is the intent of the legislative assembly that the state historical society seek assistance from or contract with the adjutant general for the project. It is further the intent of the legislative assembly, that if necessary, the state historical society may request additional funds for the project from the sixty-fifth legislative assembly.

SECTION 8. WHITESTONE HILL NATIVE MEMORIAL - MATCHING FUNDS. Of the funds appropriated in the capital assets line item in section 1 of this Act, \$25,000 from the general fund and \$50,000 from other funds is for the Whitestone hill native memorial.

SECTION 9. EMERGENCY. The capital assets line item in section 1 of this Act which includes \$825,000, from the general fund for various capital projects, and section 5, are declared to be an emergency measure.

Approved April 29, 2015
Filed April 30, 2015

CHAPTER 53

SENATE BILL NO. 2019

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the parks and recreation department; to provide a 2013-15 appropriation; to provide a grant to the International Peace Garden; to provide funding for the Lewis and Clark interpretive center; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the parks and recreation department for the purpose of defraying the expenses of the parks and recreation department, for providing funding to the Lewis and Clark interpretive center, and for providing a grant to the International Peace Garden, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

Subdivision 1.

PARKS AND RECREATION DEPARTMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Administration	\$2,573,593	\$598,129	\$3,171,722
Accrued leave payments	181,577	(181,577)	0
Park operations and maintenance	15,045,525	20,128,406	35,173,931
Recreation	<u>5,585,875</u>	<u>2,021,544</u>	<u>7,607,419</u>
Total all funds	\$23,386,570	\$22,566,502	\$45,953,072
Less estimated income	<u>10,505,431</u>	<u>4,357,404</u>	<u>14,862,835</u>
Total general fund	\$12,881,139	\$18,209,098	\$31,090,237
Full-time equivalent positions	55.00	11.00	66.00

Subdivision 2.

INTERNATIONAL PEACE GARDEN

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
International Peace Garden	\$973,699	\$535,297	\$1,508,996
Total general fund	\$973,699	\$535,297	\$1,508,996

Subdivision 3.

LEWIS AND CLARK INTERPRETIVE CENTER

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Lewis and Clark interpretive center	\$0	\$1,005,279	\$1,005,279
Total general fund	\$0	\$1,005,279	\$1,005,279

Subdivision 4.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$13,854,838	\$19,749,674	\$33,604,512
Grand total special funds	<u>10,505,431</u>	<u>4,357,404</u>	<u>14,862,835</u>
Grand total all funds	\$24,360,269	\$24,107,078	\$48,467,347

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Parks enhancements	\$3,897,800	\$14,750,000
Parks equipment	350,000	600,000
Lewis and Clark interpretive center grant	1,350,000	0
Parks strategic plans	100,000	0
Community grant program	500,000	500,000
International Peace Garden capital projects	1,250,000	335,297
Trail lease renewals	0	200,000
Web application for snowmobile registration	0	310,299
Statewide comprehensive outdoor recreation plan	0	90,000
Repairs at Lewis and Clark interpretive center	0	75,000
50th anniversary	0	25,000
Retirement leave payouts	0	100,000
International Peace Garden demolition project	0	<u>200,000</u>
Total all funds	\$7,447,800	\$17,185,596
Less estimated income	<u>1,270,300</u>	<u>345,000</u>
Total general fund	\$6,177,500	\$16,840,596

The 2015-17 one-time funding amounts are not a part of the entity's base budget for the 2017-19 biennium. The parks and recreation department shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. GAME AND FISH OPERATING FUND - TRANSFER - BOAT RAMP OPERATION AND MAINTENANCE. The sum of \$122,000, or so much of the sum as may be necessary, included in the park operations and maintenance line item in subdivision 1 of section 1 of this Act, is from the game and fish operating fund, or federal or other funds available to the game and fish department, and must be transferred to the parks and recreation department for maintenance, operating, and extraordinary repairs expenses relating to boat ramps at state parks for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. DEFERRED MAINTENANCE AND ONE-TIME EQUIPMENT. The sum of \$535,297 in subdivision 2 of section 1 of this Act is allocated for certain deferred maintenance, one-time equipment purchases, and one-time costs for the peace tower demolition project for the International Peace Garden. The parks and recreation department shall assist with specification review for the deferred maintenance projects, the one-time equipment purchases, and the one-time costs of the peace tower demolition project before releasing the funds to the International Peace Garden.

SECTION 5. LEWIS AND CLARK INTERPRETIVE CENTER. The sum of \$455,000 from subdivision 3 of section 1 of this Act must be allocated for use at the Lewis and Clark interpretive center. Of this amount \$380,000 may be used only for building and maintenance costs and \$75,000 for one-time exterior building painting and staining costs. The total funds in this section must remain with the parks and recreation department and be released, on a reimbursement basis, based upon expenses agreed to between the Lewis and Clark interpretive center and the parks and recreation department.

SECTION 6. 2013-15 BIENNIUM APPROPRIATION - LEWIS AND CLARK INTERPRETIVE CENTER OPERATING COSTS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$125,000, or so much of the sum as may be necessary, to the parks and recreation department for the purpose of defraying operating costs of the Lewis and Clark interpretive center, for the period beginning with the effective date of this Act, and ending June 30, 2015.

SECTION 7. STATE PARK ENHANCEMENTS. The park operations and maintenance line item in subdivision 1 of section 1 of this Act includes one-time funding of \$14,750,000 for state park enhancements. Of this amount, \$3,000,000 is for the Lewis and Clark interpretive center, of which \$2,050,000 is for the transfer of the center and certain assets from the Lewis and Clark foundation, and \$950,000 is for operating costs of the Lewis and Clark interpretive center; and \$11,750,000 is for state park enhancements as determined necessary by the director of the parks and recreation department, including consideration for the repair, removal, or replacement of a timber bridge at the Roughrider Bridge trail, for the biennium beginning July 1, 2015, and ending June 30, 2017. The director of the parks and recreation department shall use funding from the \$11,750,000 to match federal funds of up to \$222,000 for the purchase of property adjacent to the north boundary of Fort Abraham Lincoln state park.

SECTION 8. EXEMPTION. Up to \$500,000 of community grants funding from the general fund included in the recreation line item contained in section 30 of chapter 15 of the 2013 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation may be expended during the biennium beginning July 1, 2015, and ending June 30, 2017, for the purposes provided in section 55-08-14.1.

SECTION 9. EXEMPTION. The sum of \$1,250,000 appropriated in the international peace garden line for repair of the peace tower at the International Peace Garden, in subdivision 2 of section 30 of chapter 15 of the 2013 Session Laws is not subject to section 54-44.1-11 and any unexpended funds are available for completing the project during the biennium beginning July 1, 2015, and ending June 30, 2017. Funding available for use by the International Peace Garden in this section will be subject to the International Peace Garden raising dollar for dollar matching funds from nonstate of North Dakota sources consistent with the 2013 North Dakota legislative language. The parks and recreation department shall review and

accept engineering proposals and specifications before committing additional funds to the project and shall assist with bidding and construction of any work associated with this section.

SECTION 10. EXEMPTION. Up to \$200,000 of Pembina gorge area project funding from the general fund included in the natural resources line item contained in section 30 of chapter 15 of the 2013 Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation may be expended during the biennium beginning July 1, 2015, and ending June 30, 2017, for renting property in the Pembina gorge area for the purpose of providing office space for employees or individuals responsible for monitoring or patrolling the trail systems in the area, developing a plan for continued monitoring and patrolling of the trail systems, and to determine the feasibility of establishing an interpretive center.

SECTION 11. EMERGENCY. Funding of \$14,750,000 from the general fund in the park operations and maintenance line item in subdivision 1 of section 1 of this Act, relating to the enhancements at the state parks, and section 6 of this Act are declared to be an emergency measure.

Approved April 29, 2015
Filed April 30, 2015

CHAPTER 54

SENATE BILL NO. 2020

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the state water commission; to provide exemptions; to create and enact three new sections to chapter 61-02 of the North Dakota Century Code, relating to a Bank of North Dakota line of credit, to the state water commission cost-share policy, and to North Dakota outdoor heritage fund grants and cost-share; to amend and reenact section 54-35-02.7 of the North Dakota Century Code, relating to the water topics overview committee; to provide legislative intent; to designate funding; to provide contingent allocations; to provide for a report to the legislative assembly; to provide for legislative management reports; to provide for a legislative management study; to provide for a state water commission study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from federal funds and other income, to the state water commission for the purpose of defraying the expenses of the state water commission, for the period beginning with the effective date of this Act, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Accrued leave payments	\$325,774	(\$325,774)	\$0
Administrative and support services	4,716,665	818,953	5,535,618
Water and atmospheric resources	<u>822,365,166</u>	<u>297,035,052</u>	<u>1,119,400,218</u>
Total all funds	\$827,407,605	\$297,528,231	\$1,124,935,836
Full-time equivalent positions	90.00	7.00	97.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Excavator	\$243,200	\$0
Southwest water pipeline project	21,000,000	0
Grants for water	10,350,000	0
Office space renovation	<u>45,000</u>	<u>0</u>
Total all funds	\$31,638,200	\$0
Total special funds	<u>31,638,200</u>	<u>0</u>
Total general fund	\$0	\$0

SECTION 3. SOVEREIGN LANDS ENFORCEMENT GRANT. The administrative and support services line item in section 1 of this Act includes \$135,000 from the resources trust fund which the state water commission shall provide as a grant to the

game and fish department for law enforcement activities on sovereign lands in the state, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 4. SOVEREIGN LANDS RECREATION USE GRANT. The water and atmospheric resources line item in section 1 of this Act includes \$1,000,000 from the resources trust fund which the state water commission shall provide as a grant to the parks and recreation department for developing recreation opportunities on sovereign lands in the state, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 5. ADDITIONAL INCOME - APPROPRIATION - BUDGET SECTION APPROVAL. In addition to the amounts included in the estimated income line item in section 1 of this Act, any additional amounts in the resources trust fund and water development trust fund which become available are appropriated, subject to budget section approval, to the state water commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 6. GRANTS - WATER-RELATED PROJECTS - CARRYOVER AUTHORITY. Section 54-44.1-11 does not apply to funding for grants or water-related projects included in the water and atmospheric resources line item in section 1 of this Act. However, this exclusion is only in effect for two years after June 30, 2017. Any unexpended funds appropriated from the resources trust fund after that period has expired must be transferred to the resources trust fund and any unexpended funds appropriated from the water development trust fund after that period has expired must be transferred to the water development trust fund.

SECTION 7. BANK OF NORTH DAKOTA LOAN - BOND PAYMENTS. The state water commission shall obtain a loan from the Bank of North Dakota in an amount that may not exceed \$56,000,000 for the purpose of paying off or defeasing outstanding bond issues, for the period beginning with the effective date of this Act, and ending June 30, 2017.

SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$69,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2015, and ending June 30, 2017. Any funds not spent by June 30, 2017, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects, including levees and dikes. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings. No more than ten percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County joint water resource district must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state.

SECTION 9. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-fourth legislative assembly that the state provide one-half of the local cost-share of Fargo flood control projects, including constructing a federally authorized Fargo flood control project, and that total Fargo flood control project funding to be provided by the state not exceed \$570,000,000. It is the intent of the sixty-fourth legislative assembly that \$120,000,000 of the \$570,000,000, be used for Fargo interior flood control projects and that any funds spent for Fargo interior flood control projects after July 1, 2017, require 50 percent matching funds from the Fargo flood authority. It is the intent of the sixty-fourth legislative assembly that the

\$266,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next four bienniums, beginning July 1, 2017. It is the intent of the sixty-fourth legislative assembly that funding for the Fargo flood control project will end June 30, 2021, if a federal appropriation for project construction has not been provided by June 30, 2021.

SECTION 10. FARGO INTERIOR FLOOD CONTROL - FUNDING REQUIREMENTS. The city of Fargo shall apply for flood protection funding, but the state water commission may not deny an application unless the funds are not intended to be used in accordance with provisions of this section. The city of Fargo may use the funds for costs directly associated with completion of interior flood protection projects within its city limits, including engineering and legal fees, right-of-way acquisition costs, land purchases, home buyouts, and construction costs. No more than ten percent of these funds may be used for engineering and legal fees. Funds may not be used for general operations or administrative costs. Any funds designated by the sixty-fourth legislative assembly for Fargo interior flood control projects may be expended only for Fargo interior flood control projects, including levees and dikes until a federal appropriation is provided for project construction for the Fargo flood control project at which time it may be used for a federally authorized Fargo flood control project.

SECTION 11. APPROPRIATION - FARGO INTERIOR FLOOD CONTROL - STATE DISASTER RELIEF FUND - FUNDING REQUIREMENTS. There is appropriated out of any moneys in the state disaster relief fund in the state treasury, the sum of \$30,000,000, or so much of the sum as may be necessary, for the purpose of providing funding for flood protection projects within city limits of Fargo, for the period beginning with the effective date of this Act, and ending June 30, 2017. The city of Fargo shall apply for flood protection funding, but the state water commission may not deny an application unless the funds are not intended to be used in accordance with provisions of this section. The city of Fargo may use the funds for costs directly associated with completion of interior flood protection projects within its city limits, including engineering and legal fees, right-of-way acquisition costs, land purchases, home buyouts, and construction costs. No more than ten percent of these funds may be used for engineering and legal fees. Funds may not be used for general operations or administrative costs. Any funds designated by the sixty-fourth legislative assembly for Fargo interior flood control projects may be expended only for Fargo interior flood control projects, including levees and dikes until a federal appropriation is provided for project construction for the Fargo flood control project at which time it may be used for a federally authorized Fargo flood control project.

SECTION 12. FARGO INTERIOR FLOOD CONTROL PROJECT FUNDING - EXEMPTION. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$30,000,000 is for Fargo interior flood control projects, for the period beginning with the effective date of this Act, and ending June 30, 2017. Any funds not spent by June 30, 2017, are not subject to section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo interior flood control projects. The city of Fargo shall apply for flood protection funding, but the state water commission may not deny an application unless the funds are not intended to be used in accordance with provisions of this section. The city of Fargo may use the funds for costs directly associated with completion of interior flood protection projects within its city limits, including engineering and legal fees, right-of-way acquisition costs, land purchases, home buyouts, and construction costs. Funds may not be used for general operations or administrative costs. Any funds designated by the sixty-fourth legislative assembly for Fargo interior flood control projects may be expended only for Fargo interior flood control projects, including levees and dikes until a federal appropriation is provided for project construction for

the Fargo flood control project at which time it may be used for a federally authorized Fargo flood control project.

SECTION 13. LEGISLATIVE INTENT - GRAND FORKS WATER TREATMENT PLANT PROJECT FUNDING. It is the intent of the sixty-fourth legislative assembly that the state provide grants for one-half of the cost to construct the Grand Forks water treatment plant project and provide a \$30,000,000 grant for the project during the 2015-17 biennium and a \$30,000,000 grant for the project during the 2017-19 biennium.

SECTION 14. RED RIVER VALLEY WATER SUPPLY PROJECT FUNDING - REPORT TO WATER TOPICS OVERVIEW COMMITTEE. The 2013-15 unobligated funding of \$7,359,000 designated by the state water commission for the Red River valley water supply project in the water and atmospheric resources line item in section 1 of this Act and an additional \$5,000,000 in the water and atmospheric resources line item in section 1 of this Act is designated for a grant to the Garrison diversion conservancy district to plan and design the Red River valley water supply project for the biennium beginning July 1, 2015, and ending June 30, 2017. The state water commission shall transfer funds upon request of the Garrison diversion conservancy district. The Garrison diversion conservancy district shall report on a regular basis to the legislative management's water topics overview committee to review its progress in planning and designing the Red River valley water supply project.

SECTION 15. APPROPRIATION - MISSOURI RIVER CORRECTIONAL CENTER LEVEE - FOX ISLAND LEVEE - STATE DISASTER RELIEF FUND. There is appropriated out of any moneys in the state disaster relief fund in the state treasury, the sum of \$4,000,000, or so much of the sum as may be necessary, to the state water commission, for the purpose of providing funding for levee projects for the biennium beginning July 1, 2015, and ending June 30, 2017. Of the funds the state water commission shall make available \$1,200,000 for a levee for the Missouri River correctional center, and \$2,800,000, for a levee for Lincoln township's Fox Island area.

SECTION 16. FUNDING DESIGNATION - REIMBURSEMENTS FOR 2013-15 BIENNIUM RURAL AND MUNICIPAL WATER SYSTEMS AFFECTED BY LOCAL COST-SHARE CHANGE. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, the state water commission shall make available \$11,000,000 from funds available from the line of credit for reimbursing rural and municipal water systems affected by local cost-share changes during the 2013-15 biennium. Rural and municipal water systems must be reimbursed up to an amount, which makes the state share 65 percent in lieu of the 75 percent that was approved by the state water commission.

SECTION 17. STATE WATER COMMISSION PROJECT FUNDING DESIGNATIONS. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act from funds available in the resources trust fund, water development trust fund, and the line of credit available from the Bank of North Dakota, \$414,000,000 is designated as follows:

1. \$113,000,000 for flood control projects;
2. \$61,000,000 for general water projects:
 - a. \$50,000,000 is available for providing grants; and

- b. \$11,000,000 from the infrastructure revolving loan fund is available for providing loans;
3. \$130,000,000 for rural water projects;
4. \$85,000,000 for municipal water projects; and
5. \$25,000,000 for providing loans from the infrastructure revolving loan fund for rural and municipal water projects.

SECTION 18. FUNDING DESIGNATIONS - TRANSFERS - BUDGET SECTION APPROVAL. The funding designated for the items in section 17 of this Act, is designated for the specific purposes identified; however, the state water commission may transfer funding among these items, upon notification to the water topics overview committee and subject to budget section approval.

SECTION 19. CONTINGENT ALLOCATION - WATER AND ATMOSPHERIC RESOURCES - CENTRAL DAKOTA WATER SUPPLY STUDY. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$70,000,000, is designated as follows, contingent on the state water commission entering into a written agreement that a fertilizer or chemical processing facility will be constructed in Stutsman County:

1. \$10,000,000 for a grant and \$40,000,000 for a loan for a water reuse facility; and
2. \$20,000,000 for the central Dakota water supply project.

The state water commission shall conduct a study on the feasibility and desirability of the central Dakota water supply project for the biennium beginning July 1, 2015, and ending June 30, 2017. The study must include a financial analysis as well as a detailed business plan for the project, including projected operational costs and projected water supply needs for the area to be served.

SECTION 20. STUTSMAN COUNTY WATER REUSE FACILITY - EXEMPTION. For purposes of a project for a water reuse facility, the Stutsman rural water district is granted an exemption from the aggregate total outstanding limit of \$50,000,000 of revenue bonds under section 61-35-15 and is instead limited to an aggregate total outstanding limit of \$100,000,000 of revenue bonds for purposes of section 61-35-15.

SECTION 21. STUTSMAN COUNTY WATER REUSE FACILITY PROJECT - USER BONDING. Any agreement entered into by the state water commission relating to the Stutsman County water reuse facility project must include requirements that the users of the water reuse facility have entered into contracts, which may include use contracts or credit support arrangements, with the Stutsman rural water district pursuant to which the expected revenues from these contracts over the term of the contracts are sufficient to repay the total balance of the loans or revenue bonds authorized by the sixty-fourth legislative assembly for the Stutsman County water reuse facility.

SECTION 22. LEGISLATIVE MANAGEMENT STUDY - WATER SUPPLY FOR CENTRAL AND EASTERN NORTH DAKOTA. During the 2015-16 interim, the legislative management shall study options available for providing a sustainable water supply to central and eastern North Dakota. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 23. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY PROJECT. It is the intent of the sixty-fourth legislative assembly that the state, beginning on July 1, 2017, and extending over the next four bienniums, provide \$150,000,000 per biennium of state funds to implement the selected alternative for the Red River valley water supply project.

SECTION 24. WESTERN AREA WATER SUPPLY AUTHORITY MEMBER ENTITIES - DEBT. A western area water supply authority member entity may incur debt as authorized by law, except that an entity may not use any income from industrial water sales relating to oil and gas exploration or production to repay any debt or as collateral to secure debt beginning January 1, 2015. Previous debt accrued by the western area water supply may be serviced by the western area water supply revenues from industrial water sales.

SECTION 25. STATE WATER COMMISSION PRIORITY PROJECTS LIST - REPORTS TO THE WATER TOPICS OVERVIEW COMMITTEE. The state water commission shall report to the legislative management's water topics overview committee every six months during the 2015-16 interim regarding any changes made to the state water commission priority projects list presented to the sixty-fourth legislative assembly for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 26. FARGO FLOOD CONTROL - REPORTS TO THE WATER TOPICS OVERVIEW COMMITTEE. During the 2015-16 interim, the F-M area diversion authority board shall report to the legislative management's water topics overview committee biannually regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and the project budget. The MNDak upstream coalition shall report to the legislative management's water topics overview committee biannually regarding an update on the impacts of the Fargo flood control project and mitigation efforts, alternatives, and costs.

SECTION 27. INDEPENDENT WATER PROVIDERS AND WESTERN AREA WATER SUPPLY AUTHORITY - REPORT TO THE WATER TOPICS OVERVIEW COMMITTEE. During the 2015-16 interim, the independent water providers and the western area water supply authority shall report to the legislative management's water topics overview committee on a regular basis and collaborate with the committee and the state water commission to monitor water usage, rates, engineering contract procedures, and market share. The water topics overview committee shall report to the legislative management with recommendations to ensure western area water supply authority's ability to maintain its payment schedule of the state's loan.

SECTION 28. REPORT TO LEGISLATIVE ASSEMBLY - SOUTHWEST PIPELINE PROJECT. The state water commission and the southwest water authority shall continue the process of reviewing capital repayment and revenues being returned to the resources trust fund; payments necessary to meet obligations of existing bonds and other loans; ownership of land and associated facilities; existing construction documents; liabilities; contracts with cities, bulk users, companies, and other users; and other items; and shall report to the sixty-fifth legislative assembly on the actions necessary for the transfer of ownership and responsibility of the southwest pipeline project from the state water commission to the southwest water authority.

SECTION 29. STATE WATER COMMISSION STUDY OF FARGO DIVERSION PROJECT. The state water commission shall contract with North Dakota state university to expand the scope of the current agricultural impacts study of the F-M area diversion project at a cost that may not exceed \$80,000. The expanded study is

contingent upon hydraulic modeling performed by the diversion authority and supplied to the state water commission and North Dakota state university research team. The hydraulic modeling performed by the diversion authority is eligible for cost share by the state water commission. The expanded study must be completed by September 1, 2016, and must focus on:

1. The area determined by hydrology modeling to be affected by project conditions in excess of six inches, and outside the area recognized by the army corps of engineers for which mitigation is required upstream of the proposed dam, which is consistent with current floodplain designation by the federal emergency management agency for the studied flood event.
2. The impacts on agricultural production income due to operation of the diversion project.

SECTION 30. BONDING AUTHORITY - BUDGET SECTION APPROVAL. The state water commission shall request budget section approval prior to issuing any revenue bonds during the biennium beginning July 1, 2015 and ending June 30, 2017.

¹⁵ **SECTION 31. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.7. Water topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water topics. The committee shall work collaboratively with the state water commission to develop and review policies and update as necessary to further define the state role in major flood control projects. The committee shall prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities, and the committee may seek input from stakeholders within the state regarding water project priorities. The committee shall report on the committee's project prioritization process, provide updates on allocated program expenditures, and report on the fund balances of projects, grants, and contracts. The committee also shall study policies regarding the development and financing of municipal projects, including water treatment plants; pipelines, including pipeline expansion, public and industrial use of water, cost analysis of future project development, and ongoing maintenance cost of current and future projects; and technology, including the use of technology for permitting and electronic metering. ~~During the 2013-14 interim, the committee shall review water supply routes and alternatives for the Red River valley water supply project.~~ The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.

SECTION 32. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

¹⁵ Section 54-35-02.7 was also amended by section 1 of House Bill No. 1061, chapter 384.

Bank of North Dakota - Line of credit.

The Bank of North Dakota shall extend a line of credit not to exceed two hundred million dollars at a rate that may not exceed one and three-quarters percent to the state water commission. The state water commission shall repay the line of credit from funds available in the resources trust fund, water development trust fund, or other funds, as appropriated by the legislative assembly. The state water commission may access the line of credit, as necessary, to provide funding as authorized by the legislative assembly for water supply projects in suspense, water supply projects identified in section 19 of this Act and water supply projects approved before June 30, 2017, and flood control projects that have approval for funding before June 30, 2017.

SECTION 33. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

State water commission cost-share policy.

The state water commission shall adopt a cost-share policy for the financing of water projects. The policy:

1. Must provide a water supply project is eligible for grants up to seventy-five percent of the total eligible project costs.
2. May not determine program eligibility of water supply projects based on a population growth factor. However, a population growth factor may be used in prioritizing projects for that purpose.
3. Must consider all project costs potentially eligible for reimbursement, except the commission may exclude operations expense and regular maintenance. The commission shall require a water project sponsor to maintain a capital improvement fund from the rates charged customers for future extraordinary maintenance projects as condition of funding an extraordinary maintenance project.
4. May not determine program eligibility of water supply projects based on affordability. However, affordability may be used in prioritizing projects for that purpose.

SECTION 34. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

North Dakota outdoor heritage fund grants - Effect on local cost-share.

For projects involving the repair of an existing flood control or recreation structure, the state water commission may not deduct North Dakota outdoor heritage fund moneys provided from the cost of the project before determining the local cost-share. The state water commission shall include those provided moneys as part of the local cost-share, however, the local entity may not receive funding in excess of the total project cost.

SECTION 35. EMERGENCY. Sections 1, 7, 12, and 17 of this Act are declared to be an emergency measure.

Approved May 12, 2015
Filed May 13, 2015

CHAPTER 55

SENATE BILL NO. 2021

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of workforce safety and insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated from special funds derived from the workforce safety and insurance fund in the state treasury, not otherwise appropriated, to workforce safety and insurance, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Workforce safety and insurance operations	\$60,909,457	\$7,955,713	\$68,865,170
Accrued leave payments	1,662,965	(1,662,965)	0
Litigation contingency	<u>750,000</u>	<u>(750,000)</u>	<u>0</u>
Total special funds	\$63,322,422	\$5,542,748	\$68,865,170
Full-time equivalent positions	250.14	10.00	260.14

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 56

SENATE BILL NO. 2022

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of various state retirement and investment agencies; to provide various transfers; to create and enact section 54-52.1-05.1 of the North Dakota Century Code, relating to the terms of public employees retirement system contracts for uniform group health insurance benefits coverage; to amend and reenact subsection 17 of section 54-52-01 and sections 54-52-03 and 54-52.1-05 of the North Dakota Century Code, relating to the public employees retirement system board and disclosure of information by uniform group health insurance benefits coverage carriers; and to limit the use of health insurance program reserves.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys from special funds derived from income, to the retirement and investment agencies listed in this section for the purpose of defraying their expenses, for the biennium beginning July 1, 2015, and ending June 30, 2017, as follows:

Subdivision 1.

RETIREMENT AND INVESTMENT OFFICE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$3,772,504	\$568,047	\$4,340,551
Accrued leave payments	71,541	(71,541)	0
Operating expenses	973,324	17,550	990,874
Contingencies	<u>82,000</u>	<u>0</u>	<u>82,000</u>
Total special funds	\$4,899,369	\$514,056	\$5,413,425
Full-time equivalent positions	19.00	0.00	19.00

Subdivision 2.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$5,016,339	\$1,399,021	\$6,415,360
Accrued leave payments	103,217	(103,217)	0
Operating expenses	2,280,894	397,169	2,678,063
Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total special funds	\$7,650,450	\$1,692,973	\$9,343,423
Full-time equivalent positions	33.00	1.50	34.50

Subdivision 3.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total special funds	\$12,549,819	\$2,207,029	\$14,756,848
Full-time equivalent positions	52.00	1.50	53.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-third legislative assembly for the 2013-15 biennium and the 2015-17 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2013-15</u>	<u>2015-17</u>
Public employees retirement system - temporary salaries	\$0	\$100,000
Total special funds	\$0	\$100,000

The 2015-17 one-time funding amounts are not part of the entity's base budget for the 2017-19 biennium. The public employees retirement system shall report to the appropriations committees of the sixty-fifth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. APPROPRIATION LINE ITEM TRANSFERS. Upon approval of the respective boards, the retirement and investment office and the public employees retirement system may transfer from their respective contingencies line items in subdivisions 1 and 2 of section 1 of this Act to all other line items. The agencies shall notify the office of management and budget of each transfer made pursuant to this section.

SECTION 4. AMENDMENT. Subsection 17 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

17. "Retirement board" or "board" means the ~~seven persons designated by this chapter as the governing authority for the retirement system created under section 54-52-03.~~

SECTION 5. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52-03. Governing authority.

A state agency is hereby created to constitute the governing authority of the system to consist of a board of ~~seven persons~~nine individuals known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. ~~No~~An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.

1. Two members of the legislative assembly must be appointed by the chairman of the legislative management to serve on the board.
 - a. If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.

- b. If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.
2. One member of the board must be appointed by the governor to serve a term of five years. The appointee must be a North Dakota citizen who is not a state or political subdivision employee and who by experience is familiar with money management. The citizen member is chairman of the board.
- 2-3. One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.
- 3-4. The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.
- 4-5. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
- 5-6. One board member must be elected by and from among those persons~~individuals~~ who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the persons~~individuals~~ eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.
- 6-7. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
- 7-8. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and ~~four~~five of the ~~seven~~nine board members constitute a quorum. ~~Four~~Five votes are necessary for resolution or action by the board at any meeting.

SECTION 6. AMENDMENT. Section 54-52.1-05 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-05. Provisions of contract - Term of contract.

1. Each uniform group insurance contract entered ~~into~~ by the board must be consistent with the provisions of this chapter, must be signed for the state of North Dakota by the chairman of the board, and must include the following:
4. a. As many optional coverages as deemed feasible and advantageous by the board.

2. b. A detailed statement of benefits offered, including maximum limitations and exclusions, and such other provisions as the board may deem necessary or desirable.
2. The initial term or the renewal term of a fully insured uniform group insurance contract for hospital benefits coverage, medical benefits coverage, or prescription drug coverage may not exceed two years.
 - a. The board may renew a contract subject to this subsection without soliciting a bid under section 54-52.1-04 if the board determines the carrier's performance under the existing contract meets the board's expectations and the proposed premium renewal amount does not exceed the board's expectations.
 - b. In making a determination under this subsection, the board shall:
 - (1) Use the services of a consultant to concurrently and independently prepare a renewal estimate the board shall consider in determining the reasonableness of the proposed premium renewal amount.
 - (2) Review the carrier's performance measures, including payment accuracy, claim processing time, member service center metrics, wellness or other special program participation levels, and any other measures the board determines relevant to making the determination and shall consider these measures in determining the board's satisfaction with the carrier's performance.
 - (3) Consider any additional information the board determines relevant to making the determination.
 - c. If the board determines the carrier's performance under the existing contract does not meet the board's expectations or the proposed premium renewal amount exceeds the board's expectations and the board determines to solicit a bid under section 54-52.1-04, the board shall specify its reasons for the determination to solicit a bid.

SECTION 7. Section 54-52.1-05.1 of the North Dakota Century Code is created and enacted as follows:

54-52.1-05.1. Health insurance benefits coverage - Insured and provider data disclosure.

Except as necessary for treatment, payment, or health care operations, a carrier providing health insurance benefits coverage under this chapter may not disclose identifiable or unidentifiable insured or provider data or information to a related or unrelated health care delivery entity. The board may establish exceptions to the disclosure limitations under this section for the limited purpose of addressing public interest and benefit activities or for the limited purpose of addressing research, public health, or health care operations. An exception established by the board under this section may not be more permissive than allowed under state and federal privacy laws.

SECTION 8. HEALTH INSURANCE RESERVE FUNDS - LIMITATIONS. Notwithstanding any other provision of law, during the 2015-17 biennium, the public employees retirement system board may not spend any moneys in the fund created under section 54-52.1-06 or from any other source for the purpose of reducing any

increase in uniform group insurance premium amounts beyond the rates used by the sixty-fourth legislative assembly for developing 2015-17 state agency budgets.

Approved June 16, 2015

Filed June 16, 2015

CHAPTER 57**SENATE BILL NO. 2023**

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of various state departments and institutions; to provide for a transfer; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sums as hereinafter provided or so much of the sums as may be necessary, and from special funds derived from the disaster relief fund in the state treasury. These sums increase the general fund and special fund authority enacted by the sixty-third legislative assembly to the stated departments and institutions of the state of North Dakota for the purpose of defraying their expenses, for the period beginning January 1, 2015, and ending June 30, 2015, as follows:

Subdivision 1.

ATTORNEY GENERAL

Operating expenses	<u>\$50,000</u>
Total general fund	<u>\$50,000</u>

Subdivision 2.

SECRETARY OF STATE

Operating expenses	<u>\$950,000</u>
Business process modeling services	<u>400,000</u>
Total general fund	<u>\$1,350,000</u>

Subdivision 3.

COMMISSION ON LEGAL COUNSEL FOR INDIGENTS

Commission on legal counsel for indigents	<u>\$700,000</u>
Total general fund	<u>\$700,000</u>

Subdivision 4.

MINOT STATE UNIVERSITY

2010 and 2011 flood expenditures	<u>\$1,800,579</u>
Total general fund	<u>\$1,800,579</u>

Subdivision 5.

WILLISTON STATE COLLEGE

Capital assets	<u>\$50,000</u>
Total general fund	\$50,000

Subdivision 6.

VALLEY STATE UNIVERSITY

Capital assets	<u>\$3,152,000</u>
Total all funds	\$3,152,000
Total special funds	<u>3,000,000</u>
Total general fund	\$152,000

Subdivision 7.

DEPARTMENT OF HEALTH

Operating expenses	<u>\$720,900</u>
Total general fund	\$720,900

Subdivision 8.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Adult services	<u>\$1,135,547</u>
Total general fund	\$1,135,547

Subdivision 9.

ADJUTANT GENERAL

Operating expenses	<u>\$5,000,000</u>
Total special funds	\$5,000,000

BILL TOTAL

Grand total general fund	\$5,959,026
Grand total special funds	<u>8,000,000</u>
Grand total all funds	\$13,959,026

SECTION 2. ADJUTANT GENERAL - VALLEY STATE UNIVERSITY - STATE DISASTER RELIEF FUND. The operating expenses line item in subdivision 9 of section 1 of this Act includes \$5,000,000 from the state disaster relief fund. The capital assets line item in subdivision 6 of section 1 of this Act includes \$3,000,000 from the state disaster relief fund.

SECTION 3. EXEMPTION - TRANSFER - EMERGENCY COMMISSION CONTINGENCY FUND TO COMMISSION ON LEGAL COUNSEL FOR INDIGENTS. Notwithstanding the provisions of section 54-16-04 and 54-16-09, which require emergency commission and budget section approval, the office of management and budget shall transfer spending authority of \$200,000 from the state contingencies appropriation in the emergency commission contingency fund line item in section 1 of chapter 15 of the 2013 Session Laws to the commission on legal counsel for indigents for the period beginning with the effective date of this Act and ending June 30, 2015.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 28, 2015
Filed April 28, 2015

CHAPTER 58

SENATE BILL NO. 2103

(Senators Armstrong, Rust, Poolman)
(Representatives Louser, Schatz, Thoreson)

AN ACT to provide an appropriation to the state treasurer for allocations to counties, cities, and townships; to provide appropriations to the department of transportation for distributions to counties and for state highway projects; to provide for a transfer; to provide for a report to the budget section; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - STATE TREASURER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$298,000,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of distributions and allocations, as soon as possible, to counties, cities, and townships, for the period beginning with the effective date of this Act, and ending June 30, 2015.

1. The state treasurer shall distribute \$100,000,000 to incorporated cities in oil-producing counties based on the population of each incorporated city according to the last official decennial federal census. The distribution to each eligible incorporated city must be proportional to the incorporated city's population relative to the combined total population of all the eligible incorporated cities within the qualifying county. The distribution must exclude incorporated cities with a population of fewer than fifty and hub cities as defined under section 57-51-01. The distribution must be based on allocations under subsection 2 of section 57-51-15 for formula allocation year 2014 as follows:
 - a. \$3,600,000 among the eligible incorporated cities, excluding incorporated cities with a population of more than one thousand, in the county that received the highest total allocation;
 - b. \$21,400,000 among the eligible incorporated cities in the county that received the second highest total allocation;
 - c. \$21,400,000 among the eligible incorporated cities in the county that received the third highest total allocation;
 - d. \$14,300,000 among the eligible incorporated cities in the county that received the fourth highest total allocation;
 - e. \$9,300,000 among the eligible incorporated cities in the county that received the fifth highest total allocation;
 - f. \$8,600,000 among the eligible incorporated cities in the county that received the sixth highest total allocation;

- g. \$8,600,000 among the eligible incorporated cities in the county that received the seventh highest total allocation;
 - h. \$7,100,000 among the eligible incorporated cities in the county that received the eighth highest total allocation;
 - i. \$700,000 among the eligible incorporated cities in the county that received the ninth highest total allocation; and
 - j. \$5,000,000 among the eligible incorporated cities in the county that received the tenth highest total allocation.
2. The state treasurer shall distribute \$16,000,000 to non-oil-producing counties for the benefit of the organized and unorganized townships within each non-oil-producing county. The distribution to each non-oil-producing county must provide for an allocation of \$10,000 to each organized and unorganized township within the county. The amount allocated to organized townships under this subsection must be paid by the county treasurer to each organized township. The amount allocated to unorganized townships under this subsection must be credited by the county treasurer to a special fund for unorganized township roads. The distributions under this subsection must be used for the maintenance and improvement of township paved and unpaved roads and bridges. For purposes of this subsection, a "non-oil-producing county" means a county that received no allocation of funding or a total allocation under subsection 2 of section 57-51-15 of less than \$5,000,000 for formula allocation year 2014.
3. a. The state treasurer shall distribute \$10,000,000 to eligible incorporated cities in eligible counties based on the population of each eligible incorporated city according to the last official decennial federal census. The distribution to each eligible incorporated city in an eligible county must be proportional to each eligible incorporated city's population relative to the combined total population for all the eligible incorporated cities under this subsection. The distributions must exclude the following:
- (1) Incorporated cities with a population of fewer than fifty and hub cities as defined under section 57-51-01.
 - (2) Incorporated cities in a county that received the thirteenth highest amount of allocations under subsection 2 of section 57-51-15 for formula allocation year 2014 with populations as follows:
 - (a) Fewer than seventy;
 - (b) Between eighty-five and one hundred eighty-five; or
 - (c) Between five hundred and six hundred.
 - (3) Incorporated cities in a county that received the fifth highest total payments under section 57-39.2-26.1 for distributions in state fiscal year 2014 with populations as follows:
 - (a) Fewer than three hundred; or
 - (b) More than nine hundred.

- b. For purposes of this subsection, an "eligible county" means:
- (1) A county that received an allocation under subsection 2 of section 57-51-15 of more than \$100,000 but less than \$5,000,000 for formula allocation year 2014;
 - (2) A county that received an allocation under subsection 2 of section 57-51-15 of less than \$50,000 for formula allocation year 2014;
 - (3) A county that received the fifth highest total payments under section 57-39.2-26.1 for distributions in state fiscal year 2014;
 - (4) A county that received the thirty-seventh highest total payments under section 57-39.2-26.1 for distributions in state fiscal year 2014; or
 - (5) A county that received the forty-third highest total payments under section 57-39.2-26.1 for distributions in state fiscal year 2014.
4. The state treasurer shall distribute \$172,000,000 to the hub cities as defined under section 57-51-01 based on allocations under subsection 1 of section 57-51-15 for formula allocation year 2014 and to other eligible cities as follows:
- a. \$64,000,000 to the hub city that received the highest total allocation;
 - b. \$44,000,000 to the hub city that received the second highest total allocation;
 - c. \$32,000,000 to the hub city that received the third highest total allocation; and
 - d. \$32,000,000 to incorporated cities with a population of more than one thousand in the county that received the highest total allocation under subsection 2 of section 57-51-15 for formula allocation year 2014.
5. a. For purposes of this section, "formula allocation year 2014" means allocations to counties under subsection 2 of section 57-51-15 for the period beginning September 1, 2013, and ending August 31, 2014.
- b. For purposes of this section, "distributions in state fiscal year 2014" means payments to counties under section 57-39.2-26.1 for the period beginning August 1, 2013, and ending July 31, 2014.
- c. The funding provided to counties, cities, and townships in this section must be excluded from the calculation of oil and gas gross production tax allocations under chapter 57-51. The funding provided in this section is considered a one-time funding item.

SECTION 2. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - EXEMPTION - REPORT TO BUDGET SECTION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$352,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of distributions to counties for road

and bridge infrastructure needs, for the period beginning with the effective date of this Act, and ending June 30, 2017.

1. The department of transportation shall distribute \$240,000,000 to oil-producing counties based on the most recent data compiled by the upper great plains transportation institute regarding North Dakota's county, township, and tribal road and bridge infrastructure needs. The distribution to each oil-producing county must be proportional to each oil-producing county's total estimated road and bridge investment needs for the years 2015 to 2034, identified by the upper great plains transportation institute relative to the combined total estimated road and bridge investment needs for the years 2015 to 2034, identified by the upper great plains transportation institute of all the eligible oil-producing counties under this subsection. Each county's total estimated road and bridge investment needs include unpaved and paved road and bridge needs. For purposes of this section, "oil-producing counties" means the ten counties that received the highest total allocations under subsection 2 of section 57-51-15 for the period beginning September 1, 2013, and ending August 31, 2014.
2. The department of transportation shall distribute \$112,000,000 to non-oil-producing counties based on county major collector roadway miles, as defined by the department of transportation. The distribution to each non-oil-producing county must be proportional to each non-oil-producing county's total county major collector roadway miles relative to the combined total of county major collector roadway miles of all the eligible non-oil-producing counties under this subsection. For purposes of this section, "non-oil-producing counties" means the forty-three counties that received no allocation of funding or a total allocation under subsection 2 of section 57-51-15 of less than \$5,000,000 for the period beginning September 1, 2013, and ending August 31, 2014.
3. a. Each county requesting funding under this section for county road and bridge projects shall submit the request in accordance with criteria developed by the department of transportation. For oil-producing counties, the request must include a proposed plan for funding projects that rehabilitate or reconstruct paved and unpaved roads and bridges within the county which are needed to support oil and gas production and distribution in the state. For non-oil-producing counties, the request must include a proposed plan for funding projects that rehabilitate or reconstruct paved and unpaved roads and bridges within the county which are needed to support economic activity in the state. The plan must meet the following criteria:
 - (1) Roadways and bridges must provide continuity and connectivity to efficiently integrate and improve major paved and unpaved corridors within the county and across county borders.
 - (2) Projects must be consistent with the upper great plains transportation institute's estimated road and bridge investment needs for the years 2015 to 2034 and other planning studies.
 - (3) Upon completion of a major roadway construction or reconstruction project, the roadway segment must be posted at a legal load limit of 105,500 pounds [47853.995 kilograms].

- (4) Design speed on the roadway must be at least 55 miles per hour [88.51 kilometers per hour], unless the department of transportation provides an exemption.
 - (5) Projects must comply with the American association of state highway transportation officials pavement design procedures and standards developed by the department of transportation in conjunction with the local jurisdiction.
 - (6) Bridges must be designed to meet an HL 93 loading.
- b. The department of transportation, in consultation with the county, may approve the plan or approve the plan with amendments. Upon approval of the plan, the department of transportation shall transfer to the county the approved funding for engineering and plan development costs. Upon execution of a construction contract by the county, the department of transportation shall transfer to the county the approved funding for county and township rehabilitation and reconstruction projects. Counties shall report to the department of transportation upon awarding of each contract and upon completion of each project in a manner prescribed by the department.
 - c. Funding provided under this section may be used for construction, engineering, and plan development costs, but may not be used for routine maintenance. Funding provided under this section may be applied to engineering, design, and construction costs incurred on related projects as of January 1, 2015. Section 54-44.1-11 does not apply to funding under this section. Any funds not spent by June 30, 2017, must be continued into the biennium beginning July 1, 2017, and ending June 30, 2019, and may be expended only for the purposes authorized by this section. The funding provided in this section is considered a one-time funding item.
4. The department of transportation shall report to the budget section and to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding, including the amounts distributed to each county, the amounts spent to date, and the amounts anticipated to be continued into the 2017-19 biennium.

SECTION 3. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO HIGHWAY FUND. The director of the office of management and budget shall transfer the sum of \$450,000,000 from the strategic investment and improvements fund to the highway fund during the period beginning with the effective date of this Act, and ending June 30, 2015. Of the \$450,000,000, the office of management and budget shall transfer \$200,000,000 within one month of the effective date of this Act and shall transfer \$250,000,000 at the end of the 2013-15 biennium.

SECTION 4. APPROPRIATION - DEPARTMENT OF TRANSPORTATION. There is appropriated out of any moneys in the highway fund in the state treasury, not otherwise appropriated, the sum of \$450,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of construction and maintenance of state transportation infrastructure, for the period beginning with the effective date of this Act, and ending June 30, 2017. The funding provided in this section may be applied to engineering, design, and construction costs incurred on related projects as of January 1, 2015. The funding provided in this section is considered a one-time funding item.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 24, 2015
Filed February 24, 2015

CHAPTER 59**SENATE BILL NO. 2177**

(Senator Holmberg)
(Representative Pollert)

AN ACT to provide for an appropriation to defray the expenses of the department of human services for the modification of the department's eligibility systems; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$14,012,167, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$46,860,102, or so much of the sum as may be necessary, to the department of human services for the purpose of defraying the expenses of the modernization of the department's eligibility systems, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 2. EXEMPTION. The amount appropriated for the modification of the department's eligibility systems in chapter 578 of the 2011 Special Session Laws is not subject to the provisions of section 54-44.1-11. Any unexpended funds from this appropriation approved under section 54-44.1-11 for continuation into the 2013-15 biennium are available for the completion of the modification of the eligibility systems project during the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. CHANGE IN FEDERAL FUNDING. The department of human services shall inform all vendors affiliated with the project modernizing the department's eligibility systems that if federal funding is reduced or eliminated, the department will be required to request additional state funding to complete the project and if additional state funding is not received, the project would be discontinued.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 26, 2015
Filed February 26, 2015

CHAPTER 60

SENATE BILL NO. 2289

(Senators J. Lee, Dever, Robinson)
(Representatives Guggisberg, Karls, Meier)

AN ACT to provide an appropriation to the department of human services for assistive technology services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$160,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing assistive technology services, for the biennium beginning July 1, 2015, and ending June 30, 2017.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 61

SENATE BILL NO. 2304

(Senators Unruh, Heckaman, Wardner)
(Representatives Carlson, Klein, Onstad)

AN ACT to provide for the design of a governor's residence; to provide an appropriation to the office of management and budget for the demolition of the current governor's residence and the construction of a new residence; and to provide an appropriation to the governor's office for temporary housing expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. GOVERNOR'S RESIDENCE - ARCHITECT AND ENGINEERING SERVICES - FUNDRAISING AND PROJECT OVERSIGHT COMMITTEE.

1. The office of management and budget shall procure architect and engineering professional services pursuant to chapter 54-44.7 for the design of a governor's residence that must include space to accommodate meetings and events. The office of management and budget project selection committee, which must include the majority and minority leaders of the house of representatives or their designees, and the majority and minority leaders of the senate or their designees, shall require the selected person or firm to provide at least three preliminary designs to be presented at a public meeting of the capitol grounds planning commission. A member of the legislative assembly who attends the public input hearing is entitled to receive expense reimbursement for attending the meeting. The director of the facility management division of the office of management and budget or the director's designee shall serve as the project manager. A member of the legislative assembly serving on the project selection committee is entitled to receive compensation in the amount provided per day for members of the legislative management under section 54-35-10 for attending meetings.
2. The members of the 501(c)(3) Friends of the Residence and the capitol grounds planning commission shall appoint a fundraising task force to coordinate volunteer fundraising for the donations appropriated under section 2 of this Act. Upon request of the legislative management, the Friends of the Residence shall report to the legislative management regarding the fundraising plans of the task force and the progress of fundraising efforts. All donations received for the project must be deposited in a dedicated account by the Friends of the Residence and transferred to the capitol building account upon the request of the capitol grounds planning commission.

SECTION 2. APPROPRIATION - GOVERNOR'S RESIDENCE PROJECT. There is appropriated out of any moneys in the capitol building fund in the state treasury, not otherwise appropriated, the sum of \$4,000,000, or so much of the sum as may be necessary, and from funds derived from private donations, the sum of \$1,000,000, or so much of the sum as may be necessary, to the office of management and budget for the purpose of designing and constructing a governor's residence in accordance with this Act, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. CONSTRUCTION AUTHORIZATION - ADDITIONAL INCOME.

Section 2 of this Act includes \$5,000,000, of which \$4,000,000 is from the capitol building fund and \$1,000,000 is from funds to be raised from private donations and deposited in the capitol building fund, for the demolition of the existing governor's residence, the design and construction of a new residence, and for fixtures and furniture for the new residence. Construction may not begin until the capitol grounds planning commission certifies to the office of management and budget that, of the special funds required to complete the project, at least \$500,000 in cash has been received and placed in the capitol building fund designated for the sole purpose of constructing the project authorized in this Act. If more than \$1,000,000 in donated funds is raised, the office of management and budget may seek emergency commission and budget section approval to spend the excess funds for upgraded fixtures and furniture for the new residence. Any increased spending authority for the project may not be used to expand the scope of the project.

SECTION 4. APPROPRIATION - TEMPORARY HOUSING EXPENSES. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the governor's office for temporary housing expenses for the governor during the demolition of the existing governor's residence and construction of a new residence, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item. Any funds not used for temporary housing expenses may not be spent for any other purpose and must be canceled in accordance with section 54-44.1-11.

Approved April 28, 2015
Filed April 28, 2015

GENERAL PROVISIONS

CHAPTER 62

SENATE BILL NO. 2053

(Legislative Management)
(Judiciary Committee)

AN ACT to amend and reenact sections 14-12.2-47.1, 14-12.2-47.2, 14-12.2-47.4, 14-12.2-47.5, 14-12.2-47.6, 14-12.2-47.7, 14-12.2-47.8, 14-12.2-47.9, 14-12.2-47.10, 14-12.2-47.11, and 14-12.2-47.13, subsection 4 of section 15.1-32-01, section 34-05-01.2, subsection 1 of section 38-18.1-03, subsection 1 of section 43-51-11.1, and sections 54-44.1-18 and 61-24-02 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; and to repeal chapter 4-21 and section 11-11.1-05 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶ **SECTION 1. AMENDMENT.** Section 14-12.2-47.1 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.1. (Contingent effective date - See note) (701) Definitions.

In sections 14-12.2-47.1 through 14-12.2-47.13:

1. "Application" means a request under the convention by an obligee, obligor, or on behalf of a child, made through a central authority for assistance from another central authority.
2. "Central authority" means the entity designated by the United States or a foreign country described in subdivision d of subsection 5 of section 14-12.2-01 to perform the functions specified in the convention.
3. "Convention support order" means ~~ana support~~ support order of a tribunal of a foreign country ~~in which the convention is in force with respect to the United States described in subdivision d of subsection 5 of section 14-12.2-01.~~
4. "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.
5. "Foreign central authority" means the entity designated by a foreign country ~~in which the convention is in force with respect to the United States described in subdivision d of subsection 5 of section 14-12.2-01~~ in subdivision d of subsection 5 of section 14-12.2-01 to perform the functions specified in the convention.

¹⁶ Section 14-12.2-47.1 was also amended by section 13 of House Bill No. 1111, chapter 126.

6. "Foreign support agreement" means ~~an agreement for support in a record, also known as a maintenance arrangement in the convention, that:~~
- a. Means an agreement for support in a record that:
 - (1) Is enforceable as a support order in the country of origin;
 - (2) Has been:
 - (a) Formally drawn up or registered as an authentic instrument by a foreign tribunal; or
 - (b) Authenticated by, or concluded, registered, or filed with a foreign tribunal; and
 - (3) May be reviewed and modified by a foreign tribunal; and
 - b. ~~Has been formally drawn up or registered or has been authenticated by, or concluded, registered, or filed with a foreign tribunal; and~~
 - c. ~~May be reviewed and modified by a foreign tribunal~~Includes a maintenance arrangement or authentic instrument under the convention.
7. "United States central authority" means the secretary of the United States department of health and human services.

¹⁷ **SECTION 2. AMENDMENT.** Section 14-12.2-47.2 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.2. (Contingent effective date - See note) (702) Applicability.

Sections 14-12.2-47.1 through 14-12.2-47.13 apply only to a support proceeding involving a foreign country in which under the convention is in force with respect to the United States. In such a proceeding, if a provision of sections 14-12.2-47.1 through 14-12.2-47.13 is inconsistent with a provision of sections 14-12.2-01 through 14-12.2-46.4, sections 14-12.2-47.1 through 14-12.2-47.13 control.

¹⁸ **SECTION 3. AMENDMENT.** Section 14-12.2-47.4 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.4. (Contingent effective date - See note) (704) Initiation by department of human services of support proceeding subject to under convention.

1. In a support proceeding subject to under the convention, the department of human services of this state shall:
 - a. Transmit and receive applications; and
 - b. Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

¹⁷ Section 14-12.2-47.2 was also amended by section 13 of House Bill No. 1111, chapter 126.

¹⁸ Section 14-12.2-47.4 was also amended by section 13 of House Bill No. 1111, chapter 126.

2. The following support proceedings are available to an obligee under the convention:
 - a. Recognition or recognition and enforcement of a foreign support order;
 - b. Enforcement of a support order issued or recognized in this state;
 - c. Establishment of a support order if there is no existing order, including, where necessary, determination of parentage of a child;
 - d. Establishment of a support order if recognition of a foreign support order is refused under subdivision b, d, or i of subsection 2, 4, or 9 of section 14-12.2-47.8;
 - e. Modification of a support order of a tribunal of this state; and
 - f. Modification of a support order of a tribunal of another state or foreign country.
3. The following support proceedings are available under the convention to an obligor against whom there is an existing support order:
 - a. Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;
 - b. Modification of a support order of a tribunal of this state; and
 - c. Modification of a support order of a tribunal of another state or foreign country.

¹⁹ **SECTION 4. AMENDMENT.** Section 14-12.2-47.5 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.5. (Contingent effective date - See note) (705) Direct request.

1. A petitioner may file a direct request ~~in a tribunal of this state~~ seeking the establishment or modification of a support order or determination of parentage of a child. In such a proceeding, the law of this state applies.
2. A petitioner may file a direct request ~~in a tribunal of this state~~ seeking the recognition and enforcement of a support order or support agreement. In such a proceeding, the provisions of sections 14-12.2-47.6 through 14-12.2-47.13 apply.
3. In a direct request for recognition and enforcement of a convention support order or foreign support agreement:
 - a. ~~No~~^A security, bond, or deposit ~~shall be~~ not required to guarantee the payment of costs and expenses ~~related to the proceedings~~; and
 - b. The obligee or obligor, who in the issuing country has benefited from free legal assistance, shall be entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

¹⁹ Section 14-12.2-47.5 was also amended by section 13 of House Bill No. 1111, chapter 126.

4. An individual filing ~~directly with a tribunal will not receive a direct request is not entitled to~~ assistance from the department of human services.
5. Nothing in sections 14-12.2-47.1 through 14-12.2-47.13 prevents the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or support agreement.

²⁰ **SECTION 5. AMENDMENT.** Section 14-12.2-47.6 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.6. (Contingent effective date - See note) (706) Registration of convention support order.

1. Except as otherwise provided in sections 14-12.2-47.1 through 14-12.2-47.13, a party who is an individual or a support enforcement agency seeking recognition of a convention support order shall register the order in this state as provided in sections 14-12.2-35 through 14-12.2-46.4.
2. Notwithstanding section 14-12.2-23 and subsection 1 of section 14-12.2-36, a request for registration of a convention support order must be accompanied by:
 - a. A complete text of the support order, or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague conference on private international law;
 - b. A record stating that the support order is enforceable in the issuing country;
 - c. If the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;
 - d. A record showing the amount of arrears, if any, and the date the amount was calculated;
 - e. A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and
 - f. If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.
3. A request for registration of a convention support order may seek recognition and partial enforcement of the order.
4. A tribunal of this state may vacate the registration of a convention support order ~~on its own motion~~; without the filing of a contest under section 14-12.2-47.7 only if, acting on its own motion, the tribunal finds that

²⁰ Section 14-12.2-47.6 was also amended by section 13 of House Bill No. 1111, chapter 126.

recognition and enforcement of the order would be manifestly incompatible with public policy.

5. The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order.

²¹ **SECTION 6. AMENDMENT.** Section 14-12.2-47.7 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.7. (Contingent effective date - See note) (707) Contest of registered convention support order.

1. Except as otherwise provided in sections 14-12.2-47.1 through 14-12.2-47.13, sections 14-12.2-39 through 14-12.2-42 apply to a contest of a registered convention support order.
2. A party contesting a registered convention support order must file a contest ~~with~~not later than thirty days after notice of the registration ~~unless but if~~ the contesting party does not reside in the United States, ~~in which case the~~ contest must be filed ~~with~~not later than sixty days after notice of the registration.
3. If the nonregistering party fails to contest the registered convention support order ~~in a timely manner~~by the time specified in subsection 2, the order is enforceable ~~by operation of law~~.
4. A contest of a registered convention support order may be based only on grounds set forth in section 14-12.2-47.8, and the contesting party bears the burden of proof.
5. In a contest of a registered convention support order, a tribunal of this state:
 - a. Is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and
 - b. May not review the merits of the support order.
6. A tribunal of this state deciding a contest of a registered convention support order shall promptly notify the parties of its decision.
7. ~~An~~A challenge or appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

²² **SECTION 7. AMENDMENT.** Section 14-12.2-47.8 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.8. (Contingent effective date - See note) (708) ~~Refusal of recognition~~Recognition and enforcement of registered convention support order.

~~A tribunal of this state may refuse recognition and enforcement of a registered convention support order only on the following grounds:~~

²¹ Section 14-12.2-47.7 was also amended by section 13 of House Bill No. 1111, chapter 126.

²² Section 14-12.2-47.8 was also amended by section 13 of House Bill No. 1111, chapter 126.

1. Except as otherwise provided in subsection 2, a tribunal of this state shall recognize and enforce a registered convention support order.
2. The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:
 - a. Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;
 2. b. The issuing tribunal lacked personal jurisdiction consistent with section 14-12.2-04;
 3. c. The order is not enforceable in the issuing country;
 4. d. The order was obtained by fraud in connection with a matter of procedure;
 5. e. A record transmitted in accordance with section 14-12.2-47.6 lacks authenticity or integrity;
 6. f. A proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;
 7. g. The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement in this state;
 8. h. Payment, to the extent alleged arrears have been paid in whole or in part;
 9. i. In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country when the law of that country:
 - a. (1) Provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or
 - b. (2) Does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or
 10. j. The order was made in violation of section 14-12.2-47.11.
3. If a tribunal of this state does not recognize a convention support order under subdivision b, d, or i of subsection 2:
 - a. The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order; and
 - b. The department of human services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 14-12.2-47.4.

²³ **SECTION 8. AMENDMENT.** Section 14-12.2-47.9 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.9. (Contingent effective date - See note) (709) Partial enforcement –New support order.

1. If a tribunal of this state ~~may~~does not recognize and enforce the ~~whole~~ of a convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a convention support order.

2. If a tribunal of this state ~~may not recognize a convention support order under subsection 2, 4, or 9 of section 14-12.2-47.8:~~

a. ~~The tribunal may not dismiss proceeding without allowing a reasonable time for a party to request the establishment of a new support order.~~

b. ~~The department of human services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 14-12.2-47.4.~~

²⁴ **SECTION 9. AMENDMENT.** Section 14-12.2-47.10 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.10. (Contingent effective date - See note) (710) Foreign support agreement.

1. Except as provided in subsections 3 and 4, a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

2. An application or direct request for recognition and enforcement of a foreign support agreement shall be accompanied by:

a. A complete text of the foreign support agreement; and

b. A record stating that the foreign support agreement is enforceable as a decision~~an order of support~~ in the issuing country.

3. A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

4. In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

a. Recognition and enforcement of the agreement is manifestly incompatible with public policy;

b. The agreement was obtained by fraud or falsification;

c. The agreement is incompatible with a support order involving the same parties and having the same purpose, ~~either in this state, another state, or~~

²³ Section 14-12.2-47.9 was also amended by section 13 of House Bill No. 1111, chapter 126.

²⁴ Section 14-12.2-47.10 was also amended by section 13 of House Bill No. 1111, chapter 126.

a foreign country if the support order is entitled to recognition and enforcement under this chapter in this state; or

- d. The record submitted under subsection 2 lacks authenticity or integrity.
5. A proceeding for recognition and enforcement of a foreign support agreement shall be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or foreign country.

²⁵ **SECTION 10. AMENDMENT.** Section 14-12.2-47.11 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.11. (Contingent effective date - See note) (711) Modification of convention child support order subject to convention.

1. A tribunal of this state may not modify a convention child support order ~~subject to the convention~~ if the obligee remains a resident of the foreign country where the support order was issued unless:
 - a. The obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or
 - b. The foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.
2. If a tribunal of this state ~~may~~ does not modify ~~the~~ convention child support order ~~subject to the convention~~ because the order ~~may~~ is not be recognized in this state, ~~subdivision a of subsection 23 of section 14-12.2-47.9~~ 14-12.2-47.8 applies.

²⁶ **SECTION 11. AMENDMENT.** Section 14-12.2-47.13 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.13. (Contingent effective date - See note) (713) Record in original language - English translation required.

A record filed with a tribunal of this state under sections 14-12.2-47.1 through 14-12.2-47.13 must be in the original language and, if ~~necessary~~ not in English, must be accompanied by an English translation.

SECTION 12. AMENDMENT. Subsection 4 of section 15.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:

4. a. "Student with a disability" means an individual who is at least three years of age but who has not reached the age of twenty-one before ~~September~~ August first of the year in which the individual turns twenty-one and who requires special education and related services because of:
 - (1) An intellectual disability;
 - (2) A hearing impairment, including deafness;

²⁵ Section 14-12.2-47.11 was also amended by section 13 of House Bill No. 1111, chapter 126.

²⁶ Section 14-12.2-47.13 was also amended by section 13 of House Bill No. 1111, chapter 126.

- (3) Deaf-blindness;
- (4) A speech or language impairment;
- (5) A visual impairment, including blindness;
- (6) An emotional disturbance;
- (7) An orthopedic impairment;
- (8) Autism;
- (9) A traumatic brain injury;
- (10) Other health impairment; or
- (11) A specific learning disability.

- b. "Student with a disability" includes a student age eighteen through twenty-one who is incarcerated in an adult correctional facility and who, in the last educational placement prior to incarceration, was identified as being a student with a disability and did not have an individualized education program or was identified as being a student with a disability and had an individualized education program.

SECTION 13. AMENDMENT. Section 34-05-01.2 of the North Dakota Century Code is amended and reenacted as follows:

34-05-01.2. Labor commissioner to administer department of labor and human rights.

~~Beginning January 1, 1999, the~~The governor shall appoint a labor commissioner to administer the department of labor and human rights. The labor commissioner shall serve at the pleasure of the governor.

SECTION 14. AMENDMENT. Subsection 1 of section 38-18.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. A mineral interest is deemed to be used when:
 - a. There are any minerals produced under that interest.
 - b. Operations are being conducted thereon for injection, withdrawal, storage, or disposal of water, gas, or other fluid substances.
 - c. In the case of solid minerals, there is production from a common vein or seam by the owners of such mineral interest.
 - d. The mineral interest on any tract is subject to a lease, mortgage, assignment, or conveyance of the mineral interest recorded in the office of the recorder in the county in which the mineral interest is located.
 - e. The mineral interest on any tract is subject to an order or an agreement to pool or unitize, recorded in the office of the recorder in the county in which the mineral interest is located.
 - f. ~~Taxes are paid on the mineral interest by the owner or the owner's agent.~~

g. A proper statement of claim is recorded as provided by section 38-18.1-04.

SECTION 15. AMENDMENT. Subsection 1 of section 43-51-11.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A board shall adopt rules regarding licensure of a military spouse ~~and~~ shall grant on a case-by-case basis exceptions to the board's licensing standards to allow a military spouse to practice the occupation or profession in the state if upon application to the board:
 - a. The military spouse demonstrates competency in the occupation or profession through methods or standards determined by the board which must include experience in the occupation or profession for at least two of the four years preceding the date of application under this section;
 - b. The military spouse pays any fees required by the board from which the applicant is seeking a license; and
 - c. The board determines the exception will not substantially increase the risk of harm to the public.

SECTION 16. AMENDMENT. Section 54-44.1-18 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-18. Searchable database of expenditures.

1. ~~By June 30, 2011, the~~The director of the budget shall develop and make publicly available an aggregate and searchable budget database website that includes the following information for the biennium ending ~~June 30, 2009~~:
 - a. Each budget unit making expenditures.
 - b. The amount of funds expended.
 - c. The source of the funds expended.
 - d. The budget program of the expenditure.
 - e. Any other information determined relevant by the director of the budget.
2. The director of the budget shall include the name and city of the recipient of each expenditure in the budget database website after the director has completed implementation of a business intelligence component to the state's financial reporting system.
3. The director of the budget may not include in the database any information that is confidential or exempt under state or federal law.
4. The director of the budget may update the budget database website as new data becomes available. Each state agency shall provide to the director of the budget any data required to be included in the budget database website no later than thirty days after the data becomes available to the agency.
5. By January first of each even-numbered year, the director of the budget shall add data for the previous biennium to the budget database website. The director of the budget shall ensure that all data added to the budget database website remains accessible to the public for a minimum of ten years.

6. The budget database website may not redirect users to any other government website, unless the website has information from all budget units and each category of information required can be searched electronically by field in a single search.
7. The governing body of each political subdivision may submit the annual budget adopted by the governing body to the director of the budget. The director of the budget shall include on the office of management and budget website any information submitted by a participating governing body of a political subdivision. The official who submits the annual budget to the director of the budget may not submit any information that is confidential under state or federal law. In lieu of submitting the annual budget adopted by the governing body to the director, any participating governing body may provide to the director a publicly accessible internet link on which the annual budget adopted by the participating governing body is available.

²⁷ **SECTION 17. AMENDMENT.** Section 61-24-02 of the North Dakota Century Code is amended and reenacted as follows:

61-24-02. Garrison Diversion Conservancy District created.

The "Garrison Diversion Conservancy District", hereinafter referred to as the "district" consists of that part of the state that is included within the boundaries of the following counties: Barnes, Benson, Bottineau, Burleigh, Cass, Dickey, Eddy, Foster, Grand Forks, Griggs, LaMoure, McHenry, McKenzie, McLean, Nelson, Pierce, Ramsey, Ransom, Renville, Richland, Sargent, Sheridan, Steele, Stutsman, Traill, Ward, ~~and Wells, and Williams~~.

The district is a governmental agency, body politic and corporate with the authority to exercise the powers specified in this chapter, or which may be reasonably implied.

Any county may join the district upon application of its board of county commissioners and the approval of the application by the board of directors of the district. Such county is authorized to levy taxes as may be necessary to carry out its part of the agreement for becoming a part of the district, which levy is in addition to the amount that may otherwise be legally levied for county purposes.

SECTION 18. REPEAL. Chapter 4-21 and section 11-11.1-05 of the North Dakota Century Code are repealed.

Approved March 19, 2015
Filed March 19, 2015

²⁷ Section 61-24-02 was also amended by section 102 of Senate Bill No. 2144, chapter 439.

AGRICULTURE

CHAPTER 63

SENATE BILL NO. 2271

(Senators Unruh, Armstrong, O'Connell)
(Representatives D. Anderson, Kempenich, Schatz)

AN ACT to create and enact section 4-01-31 of the North Dakota Century Code, relating to a pipeline restoration and reclamation oversight program; to provide an appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 4-01-31 of the North Dakota Century Code is created and enacted as follows:

4-01-31. Pipeline restoration and reclamation oversight pilot program - Generally.

1. The agriculture commissioner shall establish a pilot program that shall provide technical assistance and support to surface owners and surface tenants on pipeline restoration and followup support to surface owners and surface tenants on pipeline reclamation.
2. The agriculture commissioner may contract for ombudsmen for the purposes of being a resource for technical assistance and followup on pipeline issues. The ombudsmen may not investigate or assist with any pipeline installed before January 1, 2006, or regulated by the public service commission under title 49, and may not assist in easement negotiations.
3. The pilot program may provide technical education, support, and outreach on pipeline-related matters in coordination with other entities.
4. The agriculture commissioner may contract with local individuals, deemed trustworthy by the surface owners and surface tenants, to be ombudsmen. The agriculture commissioner is not subject to the provisions of chapter 54-44.4 when contracting for the services of ombudsmen.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the abandoned oil and gas well plugging site reclamation fund in the state treasury, not otherwise appropriated, the sum of \$400,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of establishing and administering a pipeline restoration and reclamation oversight pilot program, without additional full-time employees, under section 1 of this Act, for the period beginning with the effective date of this Act, and ending June 30, 2017.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 64

HOUSE BILL NO. 1432

(Representatives Brandenburg, Belter, Boe, Headland, D. Johnson, Kasper,
Kempnich, Thoreson)
(Senators Dotzenrod, Erbele, Schaible, Wanzek)

AN ACT to create and enact four new sections to chapter 4-01 of the North Dakota Century Code, relating to federal environmental legislation and regulations that detrimentally impact or have the potential to detrimentally impact the state's agricultural, energy, or oil production sectors; to provide for a transfer; to provide for a continuing appropriation; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 4-01 of the North Dakota Century Code is created and enacted as follows:

Federal environmental law impact review committee.

1. The federal environmental law impact review committee consists of:
 - a. The agriculture commissioner, who shall serve as the chairman;
 - b. The governor or the governor's designee;
 - c. The majority leader of the house of representatives, or the leader's designee;
 - d. The majority leader of the senate, or the leader's designee;
 - e. One member of the legislative assembly from the minority party, selected by the chairman of the legislative management;
 - f. One individual appointed by the lignite energy council;
 - g. One individual appointed by the North Dakota corn growers association;
 - h. One individual appointed by the North Dakota grain growers association;
 - i. One individual appointed by the North Dakota petroleum council;
 - j. One individual appointed by the North Dakota soybean growers association; and
 - k. One individual appointed by the North Dakota stockmen's association.
2. The committee shall review federal environmental legislation and regulations that detrimentally impact or have the potential to detrimentally impact the state's agricultural, energy, or oil production sectors and confer with the attorney general with respect to participation in administrative or judicial processes pertaining to such legislation or regulations.

3.
 - a. Any member of the legislative assembly serving on the committee is entitled to compensation at the rate provided for attendance at interim committee meetings and reimbursement for expenses, as provided by law for state officers, if the member is attending meetings of the committee or performing duties directed by the committee.
 - b. The compensation and reimbursement of expenses, as provided for in this subsection, are payable by the legislative council.

SECTION 2. A new section to chapter 4-01 of the North Dakota Century Code is created and enacted as follows:

Environmental impact - Cost of participation.

1. Any expenses incurred by the agriculture commissioner or by the federal environmental law impact review committee in meeting the requirements of section 1 of this Act must be paid by the agriculture commissioner from the federal environmental law impact fund.
2. If the attorney general elects to participate in an administrative or judicial process, pertaining to federal environmental legislation or regulations, which detrimentally impact or have the potential to detrimentally impact the state's agricultural, energy, or oil production sectors, any expenses incurred by the attorney general in the participation must be paid by the agriculture commissioner from the federal environmental law impact review fund.
3. For purposes of this section, "expenses" include administrative costs, consulting fees, research costs, expert witness fees, attorney fees, and travel costs.

SECTION 3. A new section to chapter 4-01 of the North Dakota Century Code is created and enacted as follows:

Gifts - Grants - Donations.

The agriculture commissioner may accept gifts, grants, and donations for the purposes set forth in section 2 of this Act, provided the commissioner posts the amount and source of any gifts, grants, and donations on the department of agriculture's website. Any moneys received in accordance with this section must be deposited in the federal environmental law impact review fund.

SECTION 4. A new section to chapter 4-01 of the North Dakota Century Code is created and enacted as follows:

Federal environmental law impact review fund - Continuing appropriation.

1. The federal environmental law impact review fund consists of:
 - a. Any moneys appropriated or transferred for the purposes set forth in section 2 of this Act; and
 - b. Any gifts, grants, and donations forwarded to the agriculture commissioner for the purposes set forth in section 2 of this Act.
2. All moneys in the federal environmental law impact review fund are appropriated to the commissioner on a continuing basis for the purposes set forth in section 2 of this Act.

SECTION 5. APPROPRIATION - TRANSFER - FEDERAL ENVIRONMENTAL LAW IMPACT REVIEW FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,500,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the federal environmental law impact review fund, for the purpose of funding the state's participation in administrative or judicial processes based on federal environmental legislation or regulations that detrimentally impact or have the potential to detrimentally impact the state's agricultural, energy, or oil production sectors, for the biennium beginning July 1, 2015, and ending June 30, 2017. The office of management and budget shall transfer sums under this section at the time and in the amount directed by the agriculture commissioner.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 65

SENATE BILL NO. 2183

(Senators Campbell, Dotzenrod, Laffen, Wanzek)
(Representatives Belter, Brandenburg)

AN ACT to amend and reenact section 4-14.2-02 of the North Dakota Century Code, relating to the membership of the northern crops council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-14.2-02 of the North Dakota Century Code is amended and reenacted as follows:

4-14.2-02. Northern crops council - ~~Establishment~~Duties - Chairman - Meetings -~~Compensation.~~

4. The northern crops council ~~is established.~~ The council shall establish policies for the operation of the northern crops institute.

1. The council consists of:

- a. The agriculture commissioner or the commissioner's designee;
- b. The president of North Dakota state university of agriculture and applied science or the president's designee;
- ~~b. A representative selected by the North Dakota wheat commission.~~
- ~~c. A representative selected by the North Dakota oilseed council.~~
- ~~d. A representative selected by the North Dakota barley council.~~
- ~~e. A representative selected by the North Dakota soybean council.~~
- ~~f. The agriculture commissioner or the commissioner's designee.~~
- ~~g. Five to seven producers of~~
- c. The president and general manager of the North Dakota mill and elevator association;
- d. An individual selected by the North Dakota barley council;
- e. An individual selected by the North Dakota oilseed council;
- f. An individual selected by the North Dakota soybean council;
- g. An individual selected by the North Dakota wheat commission;

- ~~h.~~ h. No fewer than five nor more than seven individuals who produce northern crops, selected by the members designated referenced in subdivisions a through f-g; and
 - ~~h.i.~~ h.i. Up to ~~four~~ No more than four representatives of industries that process northern crops, selected by the members designated in subdivisions a through fg.
2. a. ~~The term of office for each member of the council, except the president of North Dakota state university of agriculture and applied science and the agriculture commissioner, referenced in subdivisions d through i of subsection 1 is three years, and those members are limited to two 3-year terms.~~
 - b. Each term of office begins with the first reorganizational meeting after the date of the member's appointment.
 - ~~b.~~ Notwithstanding subdivision a, during the 2011-13 biennium, the council shall:
 - (1) ~~Stagger by lot the terms of the producers of northern crops so that no more than one of the producers' terms expires in June 2013; and~~
 - (2) ~~Stagger by lot the terms of the representatives of industries that process northern crops so that no more than one of the representatives' terms expires in June 2013.~~
 3. ~~The chairman of the council must be a member of the council elected annually by a majority vote of the council. Provided, the members designated~~ Annually, the council members shall select one of the individuals referenced in subdivisions a and fd through i of subsection 1 are not eligible to serve as the chairman.
 4. The council shall meet at least three times annually at such times and places as ~~must be~~ determined by the council and may meet in special meeting upon such call and notice as may be prescribed by rules adopted by the council.
 5. ~~A council~~ If a member is unable to attend a meeting of the council, the member may be represented by a person an individual who has a written proxy from the member.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 66

SENATE BILL NO. 2061

(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact subsection 21 of section 4-30-01 and sections 4-30-02, 4-30-36.2, 4-30-36.3, and 4-30-36.4 of the North Dakota Century Code, relating to the definition of Pasteurized Milk Ordinance, to license fees, and to the Pasteurized Milk Ordinance revision.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 21 of section 4-30-01 of the North Dakota Century Code is amended and reenacted as follows:

21. "Pasteurized Milk Ordinance" means the ~~2011~~2013 revision of the Grade "A" Pasteurized Ordinance issued by the United States food and drug administration and by the United States department of agriculture's public health service.

SECTION 2. AMENDMENT. Section 4-30-02 of the North Dakota Century Code is amended and reenacted as follows:

4-30-02. Licenses required - Fees - Term.

Every producer-processor, peddler, distributor, every person purchasing milk or milk products for processing or manufacturing, or owning, operating, or leasing a creamery, cheese factory, condensery, drying plant, ice cream plant, ice milk plant, milk plant, every other business engaged in the processing or manufacturing of milk or milk products, and every organization acquiring milk or milk products as an agent for sale on behalf of others and doing business within this state shall obtain the license required by this section for each such place of business. Application for license must be made to the commissioner upon forms as the commissioner may require. Upon making application for license, it is implied that consent is given by the applicant for inspection by the department. If the commissioner finds that the applicant conforms to the North Dakota laws and the rules and regulations of the department, the commissioner shall issue a license for conducting those operations listed on the application form. If a licensee wishes to conduct operations other than those listed, the licensee may request that the commissioner approve them, and if the commissioner finds that the proposals are in conformance with North Dakota laws and the rules of the department, the commissioner shall approve them. The license must be posted conspicuously in each licensed business. All licenses issued under this section must expire on the thirtieth day of June of each year and are not transferable. The fee for licenses is twenty-five dollars. Every organization acquiring milk or milk products as an agent for sale on behalf of others is, for the purposes of this chapter, deemed to be a purchaser of milk from a dairy producer. ~~A reinspection fee of seventy-five dollars per inspection must be paid by each dairy farm facility for which the commissioner has conducted a reinspection resulting from suspension of a farm permit, degrade of a farm facility from grade A to manufacturing grade, or unsanitary conditions that must be corrected within a specified period of time.~~

SECTION 3. AMENDMENT. Section 4-30-36.2 of the North Dakota Century Code is amended and reenacted as follows:

4-30-36.2. State milk sanitation rating and sampling surveillance officer - Duties - Guidelines.

The state milk sanitation rating and sampling surveillance officer is responsible for the rating and certification of milk and dairy products. The rating and certification of milk and dairy products must be in accordance with the procedures outlined in the public health service/food and drug administration publication entitled "Methods of Making Sanitation Ratings of Milk Shippers - ~~2011~~2013 Revision, Edition" and the sampling of milk and dairy products must be in accordance with the guidelines in the Standard Methods.

SECTION 4. AMENDMENT. Section 4-30-36.3 of the North Dakota Century Code is amended and reenacted as follows:

4-30-36.3. Milk laboratory evaluations officer - Duties - Guidelines.

The milk laboratory evaluations officer is responsible for the certification and evaluation of milk and dairy products laboratories within the state. Evaluations and certification of milk laboratories must be made in accordance with the Standard Methods and the procedures outlined in the public health service/food and drug administration publication entitled "Evaluation of Milk Laboratories - ~~2011~~2013 Edition".

SECTION 5. AMENDMENT. Section 4-30-36.4 of the North Dakota Century Code is amended and reenacted as follows:

4-30-36.4. Grade A pasteurized milk ordinance.

Dairy producers, processors, and manufacturers shall comply with the Pasteurized Milk Ordinance and follow the standards set by the "Procedures Governing the Cooperative State-Public Health Service Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, ~~2011~~2013 Revision".

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 67

HOUSE BILL NO. 1436

(Representatives Monson, Fehr)
(Senator Campbell)

AN ACT to amend and reenact sections 4-41-02 and 4-41-03 and subdivision b of subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to industrial hemp.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-41-02 of the North Dakota Century Code is amended and reenacted as follows:

4-41-02. Industrial hemp - Licensure - Reporting requirements - Continuing appropriation.

1. Any person desiring to grow or process industrial hemp for commercial purposes or research shall apply to the agriculture commissioner for a license on a form prescribed by the commissioner.
 - a. The application for a license must include the name and address of the applicant and the legal description of the land area to be used to produce or process industrial hemp.
 - b. Except for employees of the state seed department, the agricultural experiment station, or the North Dakota state university extension service involved in research and extension-related activities, the commissioner shall require each applicant for initial licensure to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in section 12-60-24. All costs associated with the ~~background~~criminal history record check are the responsibility of the applicant.
 - c. Criminal history records provided to the commissioner under this section are confidential. The commissioner may use the records only in determining an applicant's eligibility for licensure.
 - d. Any person with a prior criminal conviction ~~is not eligible for~~may be denied licensure.
 - e. If the applicant has completed the application process to the satisfaction of the commissioner, the commissioner shall issue the license, which is valid for a period of one year.
 - f. Any person licensed under this section is presumed to be growing or processing industrial hemp for commercial purposes or research.
 - g. A license required by this section is not conditioned on or subject to review or approval by the United States drug enforcement agency.

- h. This subsection does not apply to any person licensed by the United States drug enforcement agency to conduct research.
 - i. An application for a license under this subsection may be filed with the commissioner at any time.
2. a. Each licensee must file with the commissioner documentation indicating that the seeds planted were of a type and variety certified to have no more than three-tenths of one percent tetrahydrocannabinol and a copy of any contract to grow industrial hemp.
 - b. Each licensee shall notify the commissioner of the sale or distribution of any industrial hemp grown by the licensee, and the names of the persons to whom the hemp was sold or distributed.
3. The commissioner shall adopt rules to allow the industrial hemp to be tested during growth for tetrahydrocannabinol levels and to allow for supervision of the industrial hemp during its growing, harvesting, and processing.
 4. To provide sufficient funds to pay costs associated with monitoring and testing industrial hemp in the state, the commissioner shall assess each applicant a fee of five dollars per acre. The minimum fee assessed must be one hundred fifty dollars per applicant. Collections from this fee must be deposited in the commissioner's operating fund and are appropriated to the commissioner to be used to enforce this chapter.

SECTION 2. AMENDMENT. Section 4-41-03 of the North Dakota Century Code is amended and reenacted as follows:

4-41-03. Industrial hemp seed - ~~Authority to import and sell~~Authorized activity - Research.

The agriculture commissioner, North Dakota state university, and any other person licensed under this chapter may import and resell, and plant industrial hemp seed that has been certified as having no more than three-tenths of one percent tetrahydrocannabinol, cultivate the growing plant, and harvest any resulting crop, for any legally permissible purpose, including an authorized pilot program or other agricultural research involving the planting, cultivating, or marketing of industrial hemp.

²⁸ **SECTION 3. AMENDMENT.** Subdivision b of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- b. The agriculture commissioner for each applicant for a license to grow or process industrial hemp under section 4-41-02 and any individual engaged in an activity authorized under section 4-41-03.

Approved March 26, 2015

Filed March 26, 2015

²⁸ Section 12-60-24 was also amended by section 1 of House Bill No. 1105, chapter 97, and section 1 of House Bill No. 1125, chapter 98, and section 1 of Senate Bill No. 2077, chapter 99, and section 1 of Senate Bill No. 2085, chapter 302, section 1 of Senate Bill No. 2236, chapter 309, section 1 of House Bill No. 1153, chapter 297, section 1 of Senate Bill No. 2145, chapter 100, and section 6 of Senate Bill No. 2215, chapter 96.

CHAPTER 68

HOUSE BILL NO. 1238

(Representatives D. Johnson, B. Anderson, D. Anderson, Boe, Kempenich, Pollert)
(Senators Bowman, Dotzenrod, Erbele, Flakoll, Heckaman, Wanzek)

AN ACT to amend and reenact sections 4.1-03-11 and 4.1-03-17 of the North Dakota Century Code, relating to an increase in the assessment on cattle; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-11. Assessment - Penalty.

1. a. Any person who sells cattle in this state or from this state must pay an assessment equal to the ~~greater of:~~
 - a. ~~Fifty cents for each animal sold; or~~
 - b. ~~The amount set forth in federal law.~~
b. In addition to the assessment required in subdivision a, any person who sells cattle in this state or from this state must pay an assessment equal to one dollar for each animal sold.
2. The assessment provided for in subsection 1 does not apply to cattle owned by a person who certifies to the commission, on forms provided by the commission, that:
 - a. The person's only share in the proceeds of a sale is a sales commission, handling fee, or other service fee; or
 - b. (1) The person acquired ownership of the cattle to facilitate the transfer of ownership to a third party;
(2) The person resold the cattle within ten days from the date on which the person acquired ownership; and
(3) Any assessment that was levied upon the prior owner has been collected and remitted or will be remitted in a timely fashion.
3. Any person willfully providing false or misleading information to the commission under this section is guilty of a class B misdemeanor.

SECTION 2. AMENDMENT. Section 4.1-03-17 of the North Dakota Century Code is amended and reenacted as follows:

4.1-03-17. RefundPermitted refunds of assessment - RequiredRefunds requiring certification by attorney general.

1.
 - a. ~~When the attorney general certifies to the commission that refunds of assessments paid in accordance with this chapter under subdivision a of subsection 1 of section 4.1-03-11 are no longer precluded by federal law, the commission may provide refunds to producers~~ refunds of assessments paid under subdivision a of subsection 1 of section 4.1-03-11.
 - b. Refunds of assessments paid under subdivision b of subsection 1 of section 4.1-03-11 are available, subject to the requirements of this section.
2.
 - a. To receive a permitted refund of any assessment paid in accordance with this chapter, a producer shall ~~submit to the commission a written request for a refund application from the commission~~ within sixty days after the date of the sale. The request may be made orally, in writing, or in electronic form.
 - b. The producer must complete the refund application and return the application to the commission, together with a record of the assessment paid, within ninety days after the date of the sale. The application may be returned to the commission in person, by mail, or in electronic form. The commission shall then refund the net amount of the assessment that had been collected.
 - c. If a request for a refund is not submitted to the commission within the prescribed time period, the producer is presumed to have agreed to the assessment.

SECTION 3. EXPIRATION DATE. Subdivision b of subsection 1 of section 4.1-03-11 is effective until the attorney general certifies to the commission that the amount of the assessment due in accordance with federal law, as set forth in subdivision a of subsection 1 of section 4.1-03-11, has increased beyond the amount in effect on July 31, 2015, and is thereafter ineffective.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 69

SENATE BILL NO. 2186

(Senator Larsen)

AN ACT to amend and reenact sections 4.1-08-02, 4.1-08-06, and 4.1-08-07 of the North Dakota Century Code, relating to honey assessments; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-08-02 of the North Dakota Century Code is amended and reenacted as follows:

4.1-08-02. ~~(Effective through June 30, 2015) Assessment.~~

An annual assessment in the amount of ten cents is imposed on each colony of honeybees licensed by the beekeeper. The minimum annual assessment is one dollar.

~~(Effective after June 30, 2015) Assessment. An annual assessment in the amount of five cents is imposed on each colony of honeybees licensed by the beekeeper. The minimum annual assessment is one dollar.~~

SECTION 2. AMENDMENT. Section 4.1-08-06 of the North Dakota Century Code is amended and reenacted as follows:

4.1-08-06. ~~(Effective through June 30, 2015) Assessment - Authorized expenditures.~~

The assessment required by this chapter may be used to fund research, including efforts that focus on honeybee colony health; education programs; and market development efforts, as well as promotional efforts such as the North Dakota honey queen program.

~~(Effective after June 30, 2015) Assessment - Authorized expenditures. The assessment required by this chapter may be used to fund research, education programs, and market development efforts, as well as promotional efforts such as the North Dakota honey queen program.~~

SECTION 3. AMENDMENT. Section 4.1-08-07 of the North Dakota Century Code is amended and reenacted as follows:

4.1-08-07. ~~(Effective through June 30, 2015) Commissioner - Powers.~~

The commissioner may:

1. Expend moneys appropriated under this chapter for the purposes set forth in section 4.1-08-06, provided the commissioner first consults with the board of directors of the North Dakota beekeepers' association; and
2. Do all things necessary and proper to enforce and administer this chapter.

~~(Effective after June 30, 2015) Commissioner - Powers.~~ The commissioner may:

- ~~1. Expend moneys appropriated under this chapter for the purposes set forth in section 4-1-08-06, provided the commissioner first consults with a committee appointed by the North Dakota beekeepers' association; and~~
- ~~2. Do all things necessary and proper to enforce and administer this chapter.~~

SECTION 4. EFFECTIVE DATE. This Act becomes effective on July 1, 2015.

Approved March 30, 2015
Filed March 31, 2015

CHAPTER 70

SENATE BILL NO. 2025

(Legislative Management)
(Agriculture Committee)

AN ACT to create and enact chapter 4.1-16 of the North Dakota Century Code, relating to beekeeping; to amend and reenact section 4.1-08-03 of the North Dakota Century Code, relating to the submission of assessments by beekeepers; to repeal chapter 4-12.2 of the North Dakota Century Code, relating to beekeeping; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-08-03 of the North Dakota Century Code is amended and reenacted as follows:

4.1-08-03. Submission of assessments - Civil penalty.

1. Each beekeeper shall submit the assessment required by section 4.1-08-02 to the commissioner at the same time the beekeeper submits the license application required by section ~~4-12.2-044.1-16-02~~.
2. If a beekeeper fails to submit the assessment as required by this section, the commissioner may impose a penalty equal to five percent of the amount due, plus interest at the rate of six percent per annum from the due date.

SECTION 2. Chapter 4.1-16 of the North Dakota Century Code is created and enacted as follows:

4.1-16-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Apiary" means the site at which one or more colonies of bees are kept.
2. "Bee" means a honey-producing insect of the genus Apis, including all stages of its life.
3. "Beekeeper" means a person who by virtue of ownership or a lease is responsible for the maintenance of bees located in or placed in this state.
4. "Colony" means a familial group of adult bees consisting of drones, workers, and a queen.
5. "Hive" means a manmade structure that houses a colony.

4.1-16-02. Beekeeper's license - Application - Declaration.

1. Before a person may act as a beekeeper in this state, the person must be licensed by the agriculture commissioner.

2. To obtain a beekeeper's license, a person must complete an application and submit it to the commissioner.
3. The application must include:
 - a. The applicant's name, address, and telephone number;
 - b. The maximum number of colonies to be located in or placed in this state; and
 - c. The name, address, and telephone number of a resident agent who is authorized to accept service of process.
4. As a condition of licensure, the applicant shall declare that:
 - a. An apiary will not be placed at a location without first obtaining the consent of the property owner; and
 - b. An apiary will be relocated at the request of the agriculture commissioner if:
 - (1) The commissioner, after examining documentary evidence, has determined that the health or welfare of an individual is endangered as a result of the apiary's location;
 - (2) The individual referenced in paragraph 1 resides on land contiguous to that on which the apiary has been placed;
 - (3) The commissioner has identified another acceptable location for placement of the apiary; and
 - (4) There are no other contractual or other legal impediments to the relocation.

4.1-16-03. Beekeeper's license - Application of minor - Liability.

An individual who is less than eighteen years of age may be licensed as a beekeeper, if that individual's application for license is signed by the individual's parent. Any civil or administrative liability for a violation of this chapter by a beekeeper who is less than eighteen years of age is imputed to the parent who signed the application. The parent is jointly and severally liable with the beekeeper.

4.1-16-04. Beekeeper's license - Transferability - Expiration.

1. A beekeeper's license issued under this chapter is not transferable.
2. A beekeeper's license issued under this chapter expires on December thirty-first.

4.1-16-05. License - Grounds for denial.

The agriculture commissioner may refuse to grant a license to any person who:

1. Has repeatedly violated this chapter;

2. Failed to pay an adjudicated civil penalty for violating this chapter, within thirty days after a final determination that the civil penalty is owed; or
3. Provided false or misleading information in connection with any application or notification required by this chapter.

4.1-16-06. License fee.

The fee for a beekeeper's license is five dollars.

4.1-16-07. Colony assessment.

In addition to the license fee required by section 4.1-16-06, an applicant for a license must submit a colony assessment in an amount equal to fifteen cents multiplied by the maximum number of colonies listed in the application.

4.1-16-08. Apiary location - Notification.

1. Before placing or locating hives in this state, a beekeeper shall notify the agriculture commissioner of:
 - a. (1) The location of each apiary to the nearest section, quarter section, township, and range, and, if within the corporate limits of a city, the number or name of the lot, block, and addition in the city; or
(2) The location of each apiary using satellite navigation system coordinates; and
 - b. The name of the person who owns or leases the property on which the apiary is located.
2. The notification required by this section may be provided to the commissioner in written or in electronic format.

4.1-16-09. Identification of apiary.

1. A beekeeper shall identify each apiary for which the beekeeper is responsible by:
 - a. Affixing a three-digit identification number, assigned by the agriculture commissioner, to the uppermost box of a hive that is visible upon approach to the apiary's main entrance, provided each digit is at least three inches [7.62 centimeters] high, one-half inch [1.27 centimeters] wide, and weather-resistant; and
 - b. Displaying the beekeeper's name and phone number in a location that is visible upon approach to the apiary's main entrance, provided the numbers and letters used are at least one and one-half inches [3.81 centimeters] high and weather-resistant.
2. Any apiary that is not identified, as required by this section, may be subject to seizure by the commissioner.

4.1-16-10. Unidentified apiary - Notice - Seizure.

1. If the agriculture commissioner determines that an apiary is not identified, as required by section 4.1-16-09, and if after making a reasonable effort the

commissioner fails to identify the beekeeper responsible for the apiary, the commissioner shall publish in the official newspaper of the county in which the apiary is located, a notice indicating that at a time certain, all of the colonies, the hives, including their content, and all beekeeping equipment present at the apiary, will be seized and sold at auction or destroyed, unless the beekeeper or other responsible person appears to claim the property and pay for any costs incurred by the commissioner under this section.

2. A seizure under this section may not occur until at least the sixth day after the date of the published notice.

4.1-16-11. Confiscation and disposal.

Except as provided for in section 4.1-16-10, the agriculture commissioner or a law enforcement officer may confiscate bees, hives, or beekeeping equipment, being transported or maintained in violation of this chapter. Any bees, hives, or beekeeping equipment, confiscated under this section, must be disposed of pursuant to a court order or an administrative order issued by the commissioner.

4.1-16-12. Agriculture commissioner - Powers.

The agriculture commissioner may:

1. Assist farmers in identifying beekeepers who provide pollination services; and
2. Enter upon private land during daylight hours, for the purpose of enforcing this chapter. Except when conducting an inspection in accordance with section 4.1-16-13, the commissioner shall first make a good faith effort to notify the owner of the land or a lessee regarding the entry.

4.1-16-13. Agriculture commissioner - Inspection of apiary - Issuance of certificate.

At the request of a beekeeper, the agriculture commissioner shall inspect an apiary for the purpose of issuing a certificate of inspection or other official document or validation. The commissioner may charge a fee to cover the costs of inspecting an apiary under this section.

4.1-16-14. Agriculture commissioner - Inspection of apiary - Noncertification purposes.

The agriculture commissioner may:

1. At the request of a beekeeper, inspect apiaries for any purpose other than the issuance of a certificate of inspection or other official document or validation; and
2. Charge a fee to cover the costs of inspecting an apiary under subsection 1.

4.1-16-15. Quarantine - Declaration - Hearing - Penalty.

1. a. If the agriculture commissioner determines that a quarantine of this state or any portion thereof may be necessary to eradicate or control the spread of disease, insects, or pests, within the apicultural industry, the commissioner shall schedule a public hearing on the matter and provide notice of the hearing by publishing its time, place, and date in the official

newspaper of each county having land within the proposed quarantine area.

- b. If after the hearing the commissioner orders the imposition of a quarantine, the order must include the date by which or the circumstances under which the commissioner shall lift the quarantine order.
2. If the commissioner determines that the imposition of an emergency quarantine is necessary to eradicate or control the spread of disease, insects, or pests, within the apicultural industry, the commissioner may impose such an order for a period not exceeding fourteen days. Within the fourteen-day period, the commissioner shall hold a public hearing as provided for in subsection 1 and determine whether a quarantine order under subsection 1 should be imposed.
3. Following the establishment of a quarantine, the movement of any colonies, hives, or other beekeeping equipment, described in the quarantine order, is subject to the order.
4. For purposes of this section, "insects" include Africanized honeybees.

4.1-16-16. Service of process.

If neither the beekeeper nor the beekeeper's registered agent can be located for the purpose of serving process, in connection with a violation of this chapter or rules adopted to implement this chapter, the agriculture commissioner becomes the statutory agent for service of process and any service upon the commissioner is deemed to be complete.

4.1-16-17. Penalties.

1. A person violating this chapter is guilty of a class A misdemeanor.
2. In addition to criminal sanctions that may be imposed pursuant to subsection 1, a person found to have violated this chapter or rules adopted under this chapter is subject to a civil penalty not to exceed five thousand dollars per violation. The civil penalty may be adjudicated by a court or by the agriculture commissioner through an administrative hearing pursuant to chapter 28-32.
3. The commissioner may maintain a civil action in the name of the state against any person violating this chapter.
4. The violation of any condition of licensure, as set forth in section 4.1-16-02, is deemed to be a violation of this chapter.

4.1-16-18. Beekeeping - Agricultural practice.

Beekeeping is deemed to be an agricultural practice.

SECTION 3. REPEAL. Chapter 4-12.2 of the North Dakota Century Code is repealed.

CHAPTER 71

HOUSE BILL NO. 1026

(Legislative Management)
(Agriculture Committee)

AN ACT to create and enact chapter 4.1-17 of the North Dakota Century Code, relating to ginseng; and to repeal chapter 4-39 of the North Dakota Century Code, relating to ginseng.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 4.1-17 of the North Dakota Century Code is created and enacted as follows:

4.1-17-01. Ginseng - Rules - Certificates.

1. The agriculture commissioner may implement rules relating to the management and harvesting of ginseng, including the registration of persons buying or selling ginseng, the creation and maintenance of records, inspection requirements, and the issuance of any certificates or other documents required in accordance with state or federal law.
2. For purposes of this section, "ginseng" means *Panax quinquefolius* L. and includes ginseng seeds, tissue culture, live root, and dried root.

SECTION 2. REPEAL. Chapter 4-39 of the North Dakota Century Code is repealed.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 72

HOUSE BILL NO. 1027

(Legislative Management)
(Agriculture Committee)

AN ACT to create and enact chapter 4.1-26 of the North Dakota Century Code, relating to the milk marketing board; to amend and reenact section 54-07-01.2 of the North Dakota Century Code, relating to boards and commissions; and to repeal chapter 4-18.1 of the North Dakota Century Code, relating to the milk marketing board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 4.1-26 of the North Dakota Century Code is created and enacted as follows:

4.1-26-01. Definitions.

Unless the context otherwise requires, the definitions in this section apply to this chapter.

1. "Bulk milk" means milk that is purchased by a processor from a person other than a dairy farmer and which is purchased in a container other than the one in which the milk will be resold to a retailer or to a consumer.
2. "Dairy farmer" means any person who produces grade A raw milk for sale to a processor.
3. "Dairy farmer-processor" means a person who is both a dairy farmer and a processor and who does not purchase raw milk from other dairy farmers, provided:
 - a. A dairy farmer-processor is a dairy farmer with respect to the sale of raw milk produced by that person to a processor; and
 - b. A dairy farmer-processor is a processor with respect to any processing, manufacturing, or sale of milk products or frozen dairy products or with respect to the receipt of bulk milk from a source other than that person's own production.
4. "Dealer" means any processor or distributor.
5. "Distributor" means a person, other than a processor, that sells to consumers on one or more home delivery routes, that sells to retailers, or that sells to both.
6. "Distributor price" means the price at which any milk product or frozen dairy product, not intended for resale at a fixed location owned by a distributor, is purchased by a distributor.

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7. "Frozen dairy product" means:
- a. Ice cream;
 - b. Ice milk;
 - c. Frozen custard;
 - d. Fruit sherbet;
 - e. The mix from which any such product listed in subdivisions a through d is made; and
 - f. Any frozen product that contains milk solids not fat, or butterfat, and which is commonly referred to in the dairy industry as a novelty.
8. "Marketing area" means a geographical portion of this state, within which minimum or maximum prices established by the board must be uniform.
9. "Milk" means the lacteal secretion of a cow, including when the secretion is raw, cooled, pasteurized, standardized, homogenized, recombined, or concentrated, provided the secretion meets applicable grade A requirements.
10. "Milk product" means:
- a. (1) Buttermilk, including plain and creamed;
(2) Concentrated milk;
(3) Creamline milk;
(4) Flavored milk;
(5) Flavored skim milk;
(6) Fortified milk;
(7) Homogenized milk;
(8) Low fat milk;
(9) Raw milk;
(10) Regular milk;
(11) Skim milk;
(12) Special milk;
(13) Standardized milk; and
(14) Whole pasteurized milk;
 - b. (1) Cottage cheese; and
(2) Creamed cottage cheese;

- c. Eggnog:
 - d. (1) Fluid cream;
(2) Half and half;
(3) Sour cream;
(4) Whipped cream; and
(5) Whipping cream; and
 - e. Yogurt.
11. a. "Processor" means a person who:
- (1) Processes or manufactures milk products or frozen dairy products;
 - (2) Purchases raw milk from a grade A dairy farmer for resale to a person who processes or manufactures milk products or frozen dairy products;
or
 - (3) Purchases bulk milk from anyone for resale to a person who processes or manufactures milk products or frozen dairy products.
- b. The term "processor" does not include a person who purchases ice cream mix, ice milk mix, or other frozen dairy products, provided:
- (1) The person's processing activities are limited to converting the mix into a frozen dairy product; and
 - (2) More than half the sales of which are then made by the person to consumers at retail on the premises where the processing activities take place.
12. "Retail price" means the price at which any milk product or frozen dairy product is purchased by any person who makes such purchase for purposes other than resale.
13. "Retailer" means any person who is engaged in transferring title to milk products or frozen dairy products to consumers at one or more retail establishments located in this state.
14. "Stabilization plan" means a plan that contains minimum prices, maximum prices, or both, and enforcement mechanisms.
15. "Wholesale price" means the price at which any milk product or frozen dairy product is purchased by a retailer.

4.1-26-02. Milk marketing board - Membership.

- 1. The milk marketing board consists of:
 - a. A dairy farmer appointed by the governor from a list of two names submitted by the milk producers association of North Dakota;

- b. A processor appointed by the governor from a list of two names submitted by the North Dakota dairy industries association;
 - c. A retailer appointed by the governor from a list of two names submitted by the North Dakota grocers association; and
 - d. Two consumer representatives appointed by the governor, provided that neither consumer representative may have a financial interest in a dairy farm nor in an entity that processes, distributes, or sells milk products.
2. An individual is not qualified to serve on the board if the individual held any other public office, in an elected or an appointed capacity, during the two-year period preceding appointment to the board.
 3. A member of the board may not hold any other public office, in an elected or an appointed capacity, during the member's term of office.
 4. In considering individuals for appointment to the board, the governor shall ensure that a geographic balance is maintained.

4.1-26-03. Terms of office.

1. The term of office for each member is five years and begins on July first.
2. Terms of office must be staggered so that no more than one term expires each year.
3. If at any time during a member's term the member ceases to possess any of the qualifications required by this chapter, the member's office is deemed vacant and the governor shall appoint another individual for the remainder of the term.

4.1-26-04. Compensation.

Each member of the board is entitled to receive compensation in the amount established by the board, but not exceeding one hundred thirty-five dollars per day, plus reimbursement for expenses as provided by law for state officers, if the member is attending meetings or performing duties directed by the board.

4.1-26-05. Chairman - Meetings.

1. Annually, the board shall elect one member to serve as the chairman.
2. The chairman shall call all meetings of the board and shall call a special meeting of the board within seven days when petitioned to do so by three board members.

4.1-26-06. Board powers.

The board may:

1. Do all things necessary and proper to enforce and administer this chapter;
2. Employ and compensate necessary personnel;
3. Employ an attorney licensed in this state;

4. Serve as a mediator or an arbitrator in any dispute among or between dairy farmers, processors, distributors, retailers, or consumers, provided:
 - a. All parties to the dispute request the board to provide such services; and
 - b. The dispute pertains to the production, transportation, processing, storage, distribution, or sale of milk products or frozen dairy products; and
5. Contract with any person for any purpose related to this chapter.

4.1-26-07. Director.

The board shall employ and compensate a director and annually review the appointment of the director. The director serves at the pleasure of the board.

4.1-26-08. Authority of governmental entities.

1. This chapter does not limit, decrease, or amend the authority of the agriculture commissioner, any public board of health, or any public health official, with respect to matters of health and sanitation.
2. This chapter does not authorize the milk marketing board to regulate the sale of raw milk that is not grade A.

4.1-26-09. Milk marketing areas - Boundaries.

1. The milk marketing board shall divide the state into milk marketing areas.
2. All real property in the state must belong to a milk marketing area.
3. The board may increase the number of marketing areas in the state, decrease the number of marketing areas in the state, or alter the boundaries of marketing areas, provided the board holds a hearing in accordance with chapter 28-32 and considers:
 - a. Testimony and documentary evidence regarding the production, distribution, and sale of milk products and frozen dairy products in the areas;
 - b. The regulation of prices paid by processors for raw milk in accordance with federal milk marketing orders; and
 - c. Any other factors affecting implementation of this chapter.

4.1-26-10. Milk stabilization plans - Required provisions.

The milk marketing board shall establish a milk stabilization plan for each milk marketing area.

1. a. Each milk stabilization plan must include the minimum price that processors located within the particular milk marketing area must pay to dairy farmers for raw milk.
- b. In establishing the minimum price, as required by this subsection, the board shall consider various factors pertinent to the milk marketing area, including:

- (1) Supplies of raw milk;
 - (2) Reserve supplies of raw milk;
 - (3) Production and retail sales data;
 - (4) Feed prices; and
 - (5) Wage rates.
2. a. Each milk stabilization plan must include the minimum price that a processor must charge a retailer for milk products, provided the minimum price for each item is applicable, regardless of the location at which the retailer accepts delivery.
- b. Each milk stabilization plan must include the minimum price that a distributor must charge a retailer for milk products, provided the minimum price for each item is applicable, regardless of the location at which the retailer accepts delivery.
- c. Each milk stabilization plan must include the minimum price that any person must charge a consumer for milk products.
- d. In establishing the minimum price, as required by this subsection, the board shall consider various factors pertinent to the milk marketing area, including:
- (1) Raw milk prices;
 - (2) Processing and distribution costs;
 - (3) Returns upon investment; and
 - (4) Retail sales volumes.

4.1-26-11. Milk stabilization plans - Optional provisions.

1. a. A milk stabilization plan established in accordance with section 4.1-26-10 may include the minimum price that must be charged for milk products and frozen dairy products by any person other than those referenced in subsection 2 of section 4.1-26-10.
- b. (1) Nothing in this subsection requires the establishment of minimum prices for all items in a category.
- (2) Nothing in this subsection requires the establishment of both minimum wholesale and retail prices for a particular item.
2. A milk stabilization plan established in accordance with section 4.1-26-10 may provide for a classified pricing system predicated upon utilization and may provide for a marketwide pooling arrangement or a handler pooling arrangement, as defined in the Agricultural Marketing Agreement Act of 1937 [7 U.S.C. 601 et seq.], as amended.
3. If some portion of a milk marketing area falls under the jurisdiction of a federal milk marketing order, a milk stabilization plan established in accordance with

section 4.1-26-10 for the marketing area may require that licensed processors subject to both the milk stabilization plan and the federal milk marketing order:

- a. Pay minimum raw milk class prices that exceed the minimum raw milk class prices established by the federal milk marketing order; and
 - b. Pay the difference between the federal and state minimums directly to dairy farmers, on a handler pool basis.
4. A milk stabilization plan established in accordance with section 4.1-26-10 may contain a formula that automatically changes the minimum price payable to dairy farmers, provided the formula is based on changes in the factors set forth in subdivision b of subsection 1 of section 4.1-26-10.
 5. A milk stabilization plan established in accordance with section 4.1-26-10 may:
 - a. Establish the prices payable by a processor for raw milk purchased from sources other than dairy farmers; and
 - b. Contain provisions necessary to ensure that the prices paid for butterfat and milk solids not fat, whether in the form of raw milk or otherwise, are uniform for all processors whose raw milk purchases are regulated under the plan.
 6. If a milk stabilization plan established in accordance with section 4.1-26-10 contains a marketwide pooling arrangement, the plan may require that raw milk produced by dairy farmer-processors be included in the pooling arrangement.
 7. A milk stabilization plan established in accordance with section 4.1-26-10 may provide for price adjustments based upon:
 - a. The butterfat content of the raw milk;
 - b. The location at which the raw milk is received;
 - c. The location of a plant receiving raw milk that the processor purchased and thereafter transferred or diverted from the plant at which such raw milk is normally utilized; and
 - d. Any other factors for which price adjustments are permitted in the Agricultural Marketing Agreement Act of 1937, [7 U.S.C. 601 et seq.], as amended.

4.1-26-12. Milk stabilization plans - Optional provisions - Maximum prices.

1. A milk stabilization plan established in accordance with section 4.1-26-10 may include maximum prices for sales of milk products by a:
 - a. Processor;
 - b. Distributor; or
 - c. Retailer.

2. In establishing the maximum prices as permitted by this section, the board must consider various factors pertinent to the milk marketing area, including:
 - a. Supplies of raw milk;
 - b. Reserve supplies of raw milk;
 - c. Production and retail sales data;
 - d. Feed prices; and
 - e. Wage rates.

4.1-26-13. Milk stabilization plans - Optional provisions - Quantity discounts to retailers.

A milk stabilization plan established in accordance with section 4.1-26-10 may permit processors and distributors to provide quantity discounts to retailers, in connection with the sales of milk products and frozen dairy products.

1. If quantity discounts are permitted, the milk stabilization plan must include for each retailer:
 - a. A quantity discount rate for purchases of milk products that is based upon the retailer's total purchases of milk products from all suppliers, during an established base period of one, three, six, or twelve months; and
 - b. A quantity discount rate for purchases of frozen dairy products that is based upon the retailer's total purchases of frozen dairy products from all suppliers, during an established base period of one, three, six, or twelve months.
2. Any processor or distributor delivering milk products or frozen dairy products to an eligible retailer may provide the quantity discounts regardless of the product quantities actually purchased by the eligible retailer from a processor or distributor.
3. If a retailer operates two or more separate places of business, the quantity discount rate must be applied to each place of business and based upon the quantity of milk products or frozen dairy products that the retailer purchased for resale at each place of business.

4.1-26-14. Milk stabilization plans - Optional provisions - Frozen dairy products - Wholesale price - Filing.

1. A milk stabilization plan established in accordance with this chapter may require that processors and distributors file with the board the uniform wholesale price at which a frozen dairy product will be sold within the marketing area.
2. If price filings are required, as permitted by this section, the board:
 - a. (1) Shall prescribe the time at which and the manner in which the initial price filings must be submitted; and

- (2) Shall permit a processor or distributor desiring to meet the lower prices of a competitor to do so in such portions of the marketing area as specified in the amended price filing;
- b. May not prohibit a processor or distributor from meeting lawful competition without delay in connection with the sale of a frozen dairy product; and
- c. May establish other requirements as necessary to implement this section.

4.1-26-15. Cost variances - Recognition.

1. Minimum and maximum prices established in accordance with this chapter for products other than raw milk may reflect packaging cost differences.
2. Minimum and maximum prices established in accordance with this chapter for home-delivered products may vary from the prices established for products sold to consumers by retailers.

4.1-26-16. Minimum prices payable to dairy farmers - Effect of change.

Whenever a milk stabilization plan is changed with respect to the minimum price that processors located within a particular milk marketing area must pay to dairy farmers for raw milk, the milk marketing board shall ensure that simultaneous changes occur in all other minimum and maximum prices established in accordance with this chapter.

4.1-26-17. Licenses.

1. a. A person must be licensed by the milk marketing board as a dairy farmer if the person sells grade A raw milk that the person has produced to a processor that:
 - (1) Must be licensed in accordance with this chapter; and
 - (2) Processes the milk at a plant located in this state.
- b. This subsection is applicable regardless of whether the person's dairy farm is located within or outside of this state.
2. A person must be licensed as a processor by the milk marketing board if the person:
 - a. Operates a processing plant located in this state;
 - b. Sells milk products or frozen dairy products to a retailer for resale at a retail establishment in this state, regardless of whether:
 - (1) The processor's plant is located in this state or outside of this state; or
 - (2) The retailer takes title to or possession of the products in this state or outside of this state; or
 - c. Sells milk products or frozen dairy products to a distributor for resale to:
 - (1) North Dakota consumers on home delivery; or

- (2) A retailer.
3. A person must be licensed as a distributor by the milk marketing board if the person sells milk products or frozen dairy products to:
- a. North Dakota consumers on one or more home delivery routes; or
 - b. A retailer.
4. a. A person must be licensed as a retailer by the milk marketing board if the person:
- (1) Purchases milk products or frozen dairy products for purposes of resale to consumers; or
 - (2) Sells milk products or frozen dairy products to consumers.
- b. (1) A person licensed as a dairy farmer, a processor, or a distributor shall also be licensed as a retailer, if the person sells milk products or frozen dairy products to consumers at a fixed place of business located in this state.
- (2) Each fixed place of business referenced in this subdivision requires separate licensure.
5. In order to effectuate the purchase of milk products and frozen dairy products at wholesale prices, the following entities may be licensed as retailers:
- a. School districts;
 - b. Nonpublic schools;
 - c. Hospitals;
 - d. State institutions; and
 - e. Not-for-profit entities.
6. This section requires separate licensure for each place of business.

4.1-26-18. Vending machine suppliers - Authorization to license.

The milk marketing board, by rule, may provide for the licensing of persons engaged in supplying milk products or frozen dairy products to consumers through the use of vending machines.

4.1-26-19. License - Application.

To obtain a license required by this chapter, a person must complete an application form and submit it to the milk marketing board.

4.1-26-20. Licenses - Additional requirements.

1. Before a processor may be licensed by the milk marketing board, as required by this chapter, the processor shall obtain a license from the agriculture commissioner, in accordance with chapter 4-30.

2. Before a distributor may be licensed by the board, as required by this chapter, the distributor shall obtain a license from the agriculture commissioner, in accordance with chapter 4-30.
3. Before a dairy farmer may be licensed by the board, as required by this chapter, the dairy farmer shall provide proof of inspection by the agriculture commissioner or the state department of health, as provided for in accordance with section 23-01-16.
4. A person who is a dairy farmer-processor shall obtain both a dairy farmer's license and a processor's license.

4.1-26-21. License application - Hearing.

1. Within thirty days after receiving an application for a license under this chapter, the milk marketing board shall:
 - a. Issue the license; or
 - b. Notify the applicant of the date on which a hearing will be held to receive evidence relative to the application.
2. A hearing under this section may not be held less than twenty days after the date on which notice is given, unless the board and the applicant agree to an earlier date.
3. Within thirty days after the hearing is closed, or as soon thereafter as practicable, the board shall notify the applicant of its decision in the matter.

4.1-26-22. Refusal to license.

The milk marketing board may refuse to license any person, except a dairy farmer.

4.1-26-23. Processor's license - Distributor's license - Grounds for denial.

The milk marketing board may deny an application for a processor's license or a distributor's license if the board determines that:

1. Persons currently licensed by the board in that capacity are supplying an adequate variety and quantity of high-quality milk products and frozen dairy products to retailers and consumers in this state;
2. Deliveries are being made with sufficient regularity and frequency; and
3. The issuance of additional licenses of the type sought will:
 - a. Result in an excess of processing plant capacity;
 - b. Tend to increase to unsatisfactory levels the average unit processing or average unit distribution costs for persons already licensed by the board;
or
 - c. Otherwise tend to prevent achievement of the objectives of this chapter.

4.1-26-24. License application - Required declaration.

1. As a condition of licensure, an applicant for a processor's license shall declare in the application that the applicant:
 - a. Will not sell milk products or frozen dairy products to any person who is not properly licensed in accordance with this chapter;
 - b. Will sell such milk products or frozen dairy products as are customarily handled by a processor to any retailer who:
 - (1) Desires to purchase such products from the processor; and
 - (2) Has a place of business in any community in which the processor processes, distributes, or sells milk products or frozen dairy products; and
 - c. Will offer to any retailer the same frequency of delivery and the same in-store services as are customary in the community.
2. As a condition of licensure, an applicant for a distributor's license shall declare in the application that the applicant:
 - a. Will not sell milk products or frozen dairy products to any person who is not licensed in accordance with this chapter;
 - b. Will not purchase milk products or frozen dairy products from any person who is not licensed in accordance with this chapter;
 - c. Will sell such milk products or frozen dairy products as are customarily handled by a distributor to any retailer who:
 - (1) Desires to purchase such products from the distributor; and
 - (2) Has a place of business in any community in which the distributor distributes or sells milk products or frozen dairy products; and
 - d. Will offer to any retailer the same frequency of delivery and the same in-store services as are customary in the community.
3. As a condition of licensure, an applicant for a retailer's license shall declare in the application that the applicant will not purchase milk products or frozen dairy products from any person who is not licensed in accordance with this chapter.
4. For purposes of this section, "community" means a city, together with any commonly recognized residential or business area adjacent to the city.

4.1-26-25. License - Expiration.

A license issued under this chapter is effective until:

1. There is a change of ownership or of location;
2. The license is suspended or revoked; or

3. The business that is licensed is discontinued or is inactive for more than thirty days.

4.1-26-26. License - Fees prohibited.

The milk marketing board may not charge a fee for the issuance or maintenance of any license required by this chapter.

4.1-26-27. Assessments - Continuing appropriation.

1.
 - a. Each licensed processor shall pay to the milk marketing board an amount determined by the board but not exceeding eighteen cents per hundredweight [45.36 kilograms], on all milk and milk equivalents used by the processor in manufacturing milk products and frozen dairy products.
 - b. The assessment required in accordance with this section is not imposed on milk products or frozen dairy products sold outside this state.
2. The assessment required by this section must be calculated quarterly and paid within fourteen days after the end of each calendar quarter.
3. The board shall forward all moneys received under this chapter to the state treasurer for deposit in the milk marketing fund. All moneys in the milk marketing fund are appropriated on a continuing basis to the board to carry out this chapter.

4.1-26-28. Records - Retention.

1. The milk marketing board shall specify by rule all records that each licensee must maintain.
2. Each licensee shall retain the records required in accordance with this section for a period of three years.

4.1-26-29. Records - Confidential - Penalty.

1. Any information created, collected, or maintained by the milk marketing board under this chapter is confidential and not subject to the open records requirements of section 44-04-18, except that the board may:
 - a. Utilize the information in the administration of this chapter;
 - b. Provide testimony regarding the information in a judicial proceeding or an administrative proceeding conducted in accordance with chapter 28-32;
 - c. Provide the information to the agriculture commissioner for the purpose of determining a licensee's financial condition, as required by chapter 4-30; and
 - d. Utilize the information in compiling and disseminating general statistical data.
2. Any person divulging confidential information in violation of this section is guilty of a class A misdemeanor.

4.1-26-30. Prohibitions.

1. A licensee may not buy or sell any milk product or any frozen dairy product at a price that is less than the minimum price nor more than the maximum price set forth in the applicable milk stabilization plan.
2. If price filings are required, as permitted by section 4.1-26-14:
 - a. A dealer may not sell a frozen dairy product at a price that varies from the filed price in effect on the date of the sale; and
 - b. A retailer may not purchase a frozen dairy product at a price that varies from the filed price in effect on the date of the sale.
3. A licensee may not engage in any act or omission that is contrary to a declaration made in the person's application for a license, as submitted to the milk marketing board.
4. a. A licensee may not use or attempt to use any method, device, or transaction that:
 - (1) Is intended to accomplish or has the effect of accomplishing, the sale or attempted sale of milk products or frozen dairy products at less than the minimum prices set forth in the applicable milk stabilization plan;
 - (2) Is intended to accomplish or has the effect of accomplishing the purchase or attempted purchase of milk products or frozen dairy products at less than the minimum prices set forth in the applicable milk stabilization plan;
 - (3) Is designed to circumvent any price requirements provided for in this chapter; or
 - (4) Has the effect of substantially undermining the effectiveness of any price requirements provided for in this chapter.
- b. The provisions of subdivision a are applicable regardless of whether the method, device, or transaction:
 - (1) Is applied directly to the milk product or frozen dairy product sold or purchased; or
 - (2) Is used in connection with the sale or handling of any other product, commodity, article, or service.
5. a. A distributor may not purchase milk products or frozen dairy products at prices that are less than minimum wholesale prices if the products are resold to consumers at a fixed place of business owned by the distributor.
- b. This subdivision does not prohibit a distributor from purchasing at wholesale prices those milk products or frozen dairy products that are to be resold at a fixed place of business owned by the distributor, provided the distributor purchases at distributor prices all other milk products and frozen dairy products that are to be resold by the distributor.

6. A retailer may not sell or offer to sell milk products or frozen dairy products of a particular brand at a price that is different from that charged by the retailer for the same quantity, type, quality, or grade of a different brand, unless the price differential equals the difference in the price paid by the retailer for the referenced products.

4.1-26-31. Disruptive trade practices.

1. A person may not provide discounts, rebates, or allowances in connection with the sale of milk products or frozen dairy products, unless the discounts, rebates, or allowances are permitted in accordance with section 4.1-26-13.
2. A dealer may not provide free equipment or services to a retailer. This subsection does not prohibit a dealer from:
 - a. Stocking the dairy case or frozen products cabinet of a retailer; or
 - b. Stamping on each milk product or frozen dairy product the retail price at which the retailer desires to sell the product.
3. A person may not provide advertising or display allowances.
4.
 - a. A person may not give a free milk product or a free frozen dairy product to a customer.
 - b. This subsection does not prohibit a person from:
 - (1) Providing tasting samples to an individual; or
 - (2) Donating products for charitable purposes.
5. A dealer may not make loans to a retailer, renew loans to a retailer, or provide financial assistance in any other form to a retailer.
6. A dealer may not furnish signs to a retailer.
7. A person may not sell, offer to sell, or advertise any milk product or frozen dairy product in combination with any other product or service.
8. A person may not sell, offer to sell, or advertise any product or service at a price that is available only to purchasers of a milk product or a frozen dairy product.
9. A dealer may not provide a gift to a retailer.
10.
 - a. A dealer may not lease, lend, or rent equipment to a retailer.
 - b. If a dealer sells equipment to a retailer, the board shall prescribe the minimum markup, based upon the seller's invoice cost or the depreciated value in the case of used equipment.
11.
 - a. (1) Except as otherwise provided in this subdivision, a person may not require a deposit if milk products or frozen dairy products are purchased in returnable containers.

- (2) A person may require a deposit on a milk case, provided the deposit does not exceed the replacement value of the milk case.
- b. A person may not provide an allowance or a credit in connection with the return of a container.
12. a. Except as otherwise provided, a dealer may not provide payment to a franchisor, a wholesale grocer, or any other person closely connected with a retailer for central billing, customer solicitation, or other services, if the purpose or effect of the payment is to induce the recipient to influence or attempt to influence a retailer's decision regarding:
- (1) The brand of milk products or frozen dairy products to be purchased and resold by the retailer; or
- (2) The amount of space to be allocated to any brand of milk products or frozen dairy products.
- b. If a wholesale grocer establishes a central billing service to guarantee the collection of dealer accounts:
- (1) All dealers that supply member or corporate stores must be afforded the same service; and
- (2) The central billing service fee may not exceed two percent of the invoice cost.

4.1-26-32. Inspections and investigations.

1. A representative of the milk marketing board may enter upon real property and access any structure and personal property, at any time, for the purpose of:
- a. Inspecting or pursuing an investigation pertaining to the production, storage, processing, manufacturing, or sale of raw milk, milk products, or frozen dairy products; or
- b. Inspecting records to determine statutory and regulatory compliance.
2. The milk marketing board may subpoena records, copy records, and audit records of any person doing business with an individual licensed under this chapter.

4.1-26-33. License - Suspension and revocation.

1. The board may suspend or revoke a license granted to any person under this chapter if the person violates:
- a. This chapter;
- b. A milk stabilization plan issued in accordance with this chapter; or
- c. Any rule that implements this chapter.
2. The provisions of this subsection do not apply to a dairy farmer.

4.1-26-34. Violation of chapter - Civil penalty.

A person violating this chapter, a milk stabilization plan issued in accordance with this chapter, or any rule that implements this chapter, is subject to a civil penalty in an amount not exceeding five hundred dollars per day for each violation. The civil penalty may be adjudicated by a court or by the milk marketing board through an administrative hearing.

4.1-26-35. Administrative and regulatory functions.

All administrative and regulatory functions of the board must be exercised in accordance with chapter 28-32.

4.1-26-36. Legal actions.

All legal actions may be brought by or against the board in the name of the North Dakota milk marketing board.

SECTION 2. AMENDMENT. Section 54-07-01.2 of the North Dakota Century Code is amended and reenacted as follows:

54-07-01.2. Governor to have power to appoint majority of members of certain boards and commissions - Limitations.

1. Notwithstanding sections 2-05-01, ~~4-18-1-04~~, 4.1-05-02, ~~4.1-26-02~~, 6-01-03, 6-09-02.1, 12-55.1-02, 12-59-01, 15-39.1-05.1, 15.1-01-01, 15.1-13-02, 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-06-05.6, 50-06.1-16, 54-34.3-10, 54-54-02, 55-01-01, 55-06-01, 61-02-04, and 61-28-03, all members of the following boards and commissions must, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:
 - a. The aeronautics commission.
 - b. The milk marketing board.
 - c. The dairy promotion commission.
 - d. The state banking board.
 - e. The state credit union board.
 - f. The advisory board of directors to the Bank of North Dakota.
 - g. The pardon advisory board.
 - h. The state parole board.
 - i. The state board of public school education.
 - j. The education standards and practices board.
 - k. The board of trustees of the teachers' fund for retirement.

- l. The state game and fish advisory board.
 - m. The health council.
 - n. The air pollution control advisory council.
 - o. The board of animal health.
 - p. The administrative committee on veterans' affairs.
 - q. The committee on aging.
 - r. The committee on employment of people with disabilities.
 - s. The commission on the status of women.
 - t. The North Dakota council on the arts.
 - u. The state historical board.
 - v. The Yellowstone-Missouri Rivers confluence commission.
 - w. The state water commission.
 - x. The state water pollution control board.
2. The governor shall have the option of reappointing any member to any board or commission to complete the term to which the member was appointed, or the governor may appoint a simple majority of any board or commission to complete the terms of those resigned members who do not receive reappointments. In order to assure continuity, the governor shall reappoint for the completion of their original terms no fewer than one less than a simple majority of the former members of each board or commission.
3. If the governor has not acknowledged in writing the resignation of any members of any board or commission prior to July first of the first year of the governor's term, the board or commission member must be considered to have been reappointed to complete the term to which the member was originally appointed. All members of boards and commissions shall continue to serve until the time they are notified of the acceptance of their resignation by the governor, and in all cases the members of boards and commissions shall continue to serve until their successors have been named and qualified.
4. In those instances where nominations for the filling of vacancies on boards and commissions are submitted to the governor pursuant to state law, the governor shall notify such persons and organizations of acceptance of the resignation of any board or commission member. Such persons and organizations shall furnish the governor with the number of required nominations to fill the vacancies within sixty days after the notice or the governor may nominate and appoint such members as are otherwise qualified.
5. The provisions of this section do not apply to those constitutional officers who serve on boards and commissions, except insofar as a governor may count

such constitutional officers among those the governor reappoints in order to conform to the continuity requirements of this section.

6. All vacancies created by resignation after July first of the first year of each term of a governor must be filled as provided by law. If any person refuses an appointment, the governor shall fill such position as otherwise provided by law.

SECTION 3. REPEAL. Chapter 4-18.1 of the North Dakota Century Code is repealed.

Approved March 16, 2015

Filed March 16, 2015

CHAPTER 73

SENATE BILL NO. 2261

(Senators Wanzek, Larsen, Miller)
(Representatives Brandenburg, D. Johnson, Pollert)

AN ACT to amend and reenact sections 4.1-53-12, 4.1-53-16, 4.1-53-17, 4.1-53-48, 4.1-53-57, 4.1-53-59, 4.1-53-61, 4.1-55-17, 4.1-56-13, and 4.1-57-22 of the North Dakota Century Code, relating to agricultural seed; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-53-12 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-12. Agricultural seed - Label requirements.

1. a. Agricultural seed offered for sale or sold in this state, for planting purposes, must be labeled.
 - b. The requirements of subdivision a extend to agricultural seed used for cover crops.
2. a. If the agricultural seed is offered for sale or sold in a container, the label must be plainly printed in English and conspicuously placed on or attached to the container.
 - b. If the agricultural seed is offered for sale or sold in bulk, the label must be plainly printed in English and provided to the purchaser at or before the time of delivery.

SECTION 2. AMENDMENT. Section 4.1-53-16 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-16. Agricultural seed - Additional label requirements - Limited applicability.

1. In addition to any other label requirements set forth in this chapter, the label on each container of barley, canola, dry beans, durum, field peas, flax, oats, ~~rye~~, soybeans, and wheat seed offered for sale or sold in this state for planting purposes must include:
 - a. The kind of each agricultural seed;
 - b. The variety of each agricultural seed component constituting more than five percent of the whole; and
 - c. The percentage by weight of each agricultural seed component constituting more than five percent of the whole.
2. In addition to any other requirements set forth in this chapter, the label on each container of agricultural seed other than barley, canola, dry beans,

durum, field peas, flax, oats, ~~rye~~, soybeans, and wheat seed offered for sale in this state for planting purposes:

- a. Must include the kind of each agricultural seed;
- b. May include the variety of each agricultural seed component constituting more than five percent of the whole; and
- c. Must include the percentage by weight of each agricultural seed component constituting more than five percent of the whole.

SECTION 3. AMENDMENT. Section 4.1-53-17 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-17. Agricultural seed - Selling by brand - Label requirement.

The seed of barley, canola, dry beans, durum, field peas, flax, oats, ~~rye~~, soybeans, and wheat may be sold by brand, provided the true variety name or number is clearly stated on the label.

SECTION 4. AMENDMENT. Section 4.1-53-48 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-48. Plant Variety Protection Act - Requirements for certification.

1. If a certificate of plant variety protection issued under the Plant Variety Protection Act [7 U.S.C. 2121 et seq.], as amended through July 31, ~~2011~~2015, specifies that the variety may be sold only as a class of certified seed, that seed must be certified by an official seed-certifying agency before it can be advertised for sale, offered for sale, or sold.
2. Seed from a certified lot may be used in a blend or mixture by or with the approval of the owner of the variety.

SECTION 5. AMENDMENT. Section 4.1-53-57 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-57. Penalty - Criminal - Civil - Exemption.

1. Any person willfully violating this chapter or the rules implementing this chapter is guilty of a class A misdemeanor.
2. When construing and enforcing this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person must be deemed to be the act, omission, or failure of such person as well as that of the person employed.
3. Any person found guilty of violating this chapter or the rules implementing this chapter is subject to a civil penalty in an amount not to exceed ~~five~~ten thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the seed commissioner.
4. A person is not subject to the penalties of this chapter for having offered for sale or sold any seed that was incorrectly represented as to kind, variety, or origin and which could not be identified through examination, unless the person failed to:

- a. Obtain an invoice or grower's declaration stating the required information; or
- b. Take other actions necessary to ensure that the seed was properly identified.

SECTION 6. AMENDMENT. Section 4.1-53-59 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-59. Liability of seed commission, seed department, seed commissioner, and certified or noncertified agricultural seed producers.

A warranty of any kind, either expressed or implied, including a warranty of merchantability, fitness for a particular purpose, varietal identity, or absence of disease, is not made by the seed commission, the seed department, the seed commissioner, or certified or noncertified seed producers as to the quantity or quality of the crop produced from the seeds or as to other produce, which is inspected and certified, except as provided in this section. The sole warranty made is that the seeds were inspected under the rules of the seed department or the United States department of agriculture. The seed commissioner functions and serves only in an official regulatory manner.

SECTION 7. AMENDMENT. Section 4.1-53-61 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-61. Applicability of chapter.

This chapter does not apply to:

1. Seed that is not intended for planting purposes; and
2. Seed grown by a producer and sold by that producer without advertising and without using a third party as an agent or broker to effect the sale, provided this exemption is not applicable if the seed is a variety protected by the Plant Variety Protection Act [7 U.S.C. 2321 et seq.], as amended through July 31, 2011~~2015~~.

SECTION 8. AMENDMENT. Section 4.1-55-17 of the North Dakota Century Code is amended and reenacted as follows:

4.1-55-17. Penalties.

1. Any person willfully violating this chapter is guilty of a class A misdemeanor.
2. Any person willfully violating this chapter is subject to a civil penalty in an amount not exceeding ~~five~~ten thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the seed commissioner.

SECTION 9. AMENDMENT. Section 4.1-56-13 of the North Dakota Century Code is amended and reenacted as follows:

4.1-56-13. Penalty.

1. Any person willfully violating this chapter is guilty of a class ~~BA~~ misdemeanor.

2. Any person willfully violating this chapter is subject to a civil penalty in an amount not exceeding ten thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the seed commissioner.

SECTION 10. AMENDMENT. Section 4.1-57-22 of the North Dakota Century Code is amended and reenacted as follows:

4.1-57-22. Violations of chapter - Penalty.

A person is guilty of a class A misdemeanor and subject to a civil penalty in an amount up to ~~five hundred one thousand~~ dollars per violation, which may be imposed by a court or by the seed commissioner in an administrative hearing, if the person:

1. Makes any false statement or report as to the grade, condition, markings, quality, or quantity of potatoes received or delivered, or acts in a manner designed to deceive the consignor or purchaser of the potatoes;
2. Breaches any contract for the purchase or sale of potatoes to which the person was a party unless the breach is based on a state inspection certificate, secured with reasonable promptness after receipt of the shipment and showing that the kind or quality of potatoes is not that which was purchased or ordered;
3. Fails to account for potatoes or to pay for potatoes within the time required by this chapter;
4. Purchases for the person's own account any potatoes received on consignment, either directly or indirectly, without the consent of the consignor;
5. Issues false or misleading market quotations;
6. Cancels any quotations during the period advertised by the person;
7. Makes any false or misleading statement on an application for licensure as a wholesale potato dealer;
8. Increases the sales charges on shipped potatoes by means of fictitious sales;
9. Receives potatoes from foreign states or countries for sale or resale, within or outside this state, and gives the purchaser the impression through any method of advertising or description that the potatoes are from a source other than their true origin; or
10. Violates this chapter or any rule implementing this chapter.

Approved March 30, 2015
Filed March 31, 2015

ALCOHOLIC BEVERAGES

CHAPTER 74

SENATE BILL NO. 2324

(Senators J. Lee, Murphy, Poolman)
(Representatives Keiser, Schreiber Beck)

AN ACT to amend and reenact subsections 3 and 6 of section 5-01-16 of the North Dakota Century Code, relating to out-of-state shipments of alcohol to customers in this state; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 3 and 6 of section 5-01-16 of the North Dakota Century Code are amended and reenacted as follows:

3. For a first violation of subsection 1 or 2, the tax commissioner shall notify, by certified mail, the person and order that person to cease and desist any shipment of alcoholic beverages in violation of subsection 1 or 2 and shall assess a civil penalty of one hundred dollars for each illegal shipment. TheFor a second violation of subsection 1 or 2 is a class A misdemeanor, the tax commissioner shall assess a civil penalty of two hundred dollars for each illegal shipment. AnyFor any subsequent violation of subsection 1 or 2 is a class C felony and, the tax commissioner shall assess a civil penalty of five hundred dollars for each illegal shipment.
6. A licensed alcohol carrier may ship alcoholic beverages into, out of, or within this state. A licensed alcohol carrier shall pay an annual fee of one hundred dollars and obtain a license on an application form provided by the tax commissioner and subject to any requirements determined by the tax commissioner.
 - a. A licensed alcohol carrier shall ensure all containers of alcoholic beverages shipped directly to an individual in this state are labeled with conspicuous words "SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY". A licensed alcohol carrier may not deliver alcoholic beverages to a person under twenty-one years of age, or to a person who is or appears to be in an intoxicated state or condition. A licensed alcohol carrier shall obtain valid proof of identity and age before delivery and shall obtain the signature of an adult as a condition of delivery.
 - b. A licensed alcohol carrier shall maintain records of alcoholic beverages shipped into, out of, or within this state which include the ~~license number~~ and name of the licensed direct shipper, the ~~license number~~ and name of any licensed logistics shipper, the date of each shipment, the recipient's name and address, and an electronic or paper form of signature from the recipient of the alcoholic beverages. A licensed alcohol carrier shall submit

a report to the tax commissioner on a monthly basis in the form and format prescribed by the tax commissioner. The report is due on the last day of the month following the month of shipment. If the due date falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the due date. The tax commissioner may require that the report be submitted in an electronic format approved by the tax commissioner.

- c. ~~A licensed alcohol carrier may not ship alcoholic beverages received from an unlicensed direct shipper. For a violation, the licensed alcohol carrier is subject to the penalties in subsection 3f the tax commissioner has provided notice to a licensed alcohol carrier that a direct shipper is not licensed, the licensed alcohol carrier must notify the direct shipper that the direct shipper must obtain a direct shipper permit before tendering packages to the licensed alcohol carrier for delivery. Any assessed penalty may be waived by the tax commissioner for good cause upon request by the licensed alcohol carrier.~~

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 75

SENATE BILL NO. 2325

(Senators Murphy, Hogue, J. Lee)
(Representatives Rick C. Becker, Hanson, Louser)

AN ACT to amend and reenact subsections 1 and 6 of section 5-01-21 of the North Dakota Century Code, relating to multiple brewer taproom licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 6 of section 5-01-21 of the North Dakota Century Code are amended and reenacted as follows:

1. The tax commissioner may issue ~~multiple~~ brewer taproom ~~license~~ licenses to the owner or operator of a brewery producing no more than twenty-five thousand barrels of malt beverages annually. A brewer with multiple taproom licenses must produce malt beverages at each location and the total amount of malt beverages produced at all locations combined may not exceed twenty-five thousand barrels of malt beverages annually. Each brewer taproom license may be issued and renewed for an annual fee of five hundred dollars, which is in lieu of all other state license fees required by this title. All provisions of this chapter which apply to a retail license must apply to a license issued under this section unless the provision is explicitly inconsistent with this section.
6. A brewer may have ~~only one multiple taproom license and licenses,~~ but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of any other manufacturer, brewer, importer, wholesaler, or retailer, or be an affiliate thereof, whether the affiliation is corporate or by management, direction, or control.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 76

HOUSE BILL NO. 1464

(Representative Mitskog)
(Senator Casper)

AN ACT to create and enact section 5-01-22 of the North Dakota Century Code, relating to the prohibition of powdered alcohol products.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 5-01-22 of the North Dakota Century Code is created and enacted as follows:

5-01-22. Powdered alcohol products prohibited - Penalty - Exceptions.

1. As used in this section, "powdered alcohol product" means any alcohol prepared or sold in a powder form for either direct use or reconstitution in a liquid beverage or food.
2. A person may not sell, offer to sell, purchase, offer to purchase, possess, or consume a powdered alcohol product.
3. A violation of this section is a class B misdemeanor.
4. This section does not apply to the use of powdered alcohol products for research by a:
 - a. Health care provider that operates primarily for the purpose of conducting scientific research;
 - b. State institution;
 - c. Private college or university; or
 - d. Pharmaceutical or biotechnology company.

Approved April 24, 2015
Filed April 24, 2015

CHAPTER 77

HOUSE BILL NO. 1416

(Representatives K. Koppelman, Delmore, Kiefert, Klemin, Ruby)
(Senators Dotzenrod, Hogue, Luick, O'Connell)

AN ACT to create and enact a new section to chapter 5-02 of the North Dakota Century Code, relating to violations of alcohol retail licenses; to amend and reenact section 5-01-06.1 of the North Dakota Century Code, relating to liability for injuries related to intoxication; and to provide for a report to legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-06.1 of the North Dakota Century Code is amended and reenacted as follows:

5-01-06.1. Claim for relief for fault resulting from intoxication.

1. Every spouse, child, parent, guardian, employer, or other ~~person~~individual who is injured by any obviously intoxicated ~~person~~individual has a claim for relief for fault under section 32-03.2-02 against any person who knowingly disposes, sells, barter, or gives away alcoholic beverages to a ~~person~~an individual under twenty-one years of age; ~~or to~~ an incompetent; or an obviously intoxicated ~~person~~individual, and if death ensues, the survivors of the decedent are entitled to damages defined in section 32-21-02. ~~Not if a retail licensee is found liable under this section and exemplary damages are sought, the finder of fact may consider as a mitigating factor that the licensee provided to an employee alcohol server training that addressed intoxication, drunk driving, and underage drinking.~~
2. If a retail licensee provided to an employee alcohol server training that addresses intoxication, drunk driving, and underage drinking, a person with a claim for relief under this section may not use the fact that the retail licensee provided this training to prove culpability.
3. A claim for relief pursuant to~~under~~ this section may not be had on behalf of the intoxicated ~~person~~individual nor on behalf of the intoxicated ~~person's~~individual's estate or personal representatives, nor may a claim for relief be had on behalf of an adult passenger in an automobile driven by an intoxicated ~~person~~individual or on behalf of the passenger's estate or personal representatives.

SECTION 2. A new section to chapter 5-02 of the North Dakota Century Code is created and enacted as follows:

Violations - Alcohol server training.

For a first violation taken against the retail licensee by a licensing authority for serving alcoholic beverages, the licensing authority shall accept as a mitigating factor the retail licensee provided to the licensee's employees alcohol server training that addressed intoxication, drunk driving, and underage drinking, as approved by the

licensing authority. Under this section, a mitigating factor must result in a lesser punishment than the retail licensee would have received if not for the mitigating factor.

SECTION 3. WORKFORCE SAFETY AND INSURANCE - SAFETY PROGRAMS - REPORT. During the 2015-16 interim, workforce safety and insurance shall investigate whether there is an industry interest in using safety programs under section 65-03-04 to provide grants to an industry association to provide alcohol server training to employees of bars and restaurants that serve alcohol in order to address workplace safety and public safety. Before August 1, 2016, workforce safety and insurance shall report to the legislative management on the outcome of the organization's efforts under this section.

Approved March 18, 2015

Filed March 18, 2015

CHAPTER 78**HOUSE BILL NO. 1434**

(Representatives Strinden, Boehning, Hanson, Maragos)

AN ACT to amend and reenact section 5-02-05 of the North Dakota Century Code, relating to sales of alcohol on Sunday.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-05 of the North Dakota Century Code is amended and reenacted as follows:

5-02-05. Dispensing prohibited on certain days - Penalty.

A person may not dispense or permit the consumption of alcoholic beverages on a licensed premises between two a.m. and ~~twelve noon~~eleven a.m. on Sundays, between the hours of two a.m. and eight a.m. on all other days of the week, or on Christmas Day or after six p.m. on Christmas Eve. In addition, a person may not provide off sale after two a.m. on Thanksgiving Day or between two a.m. and noon on Sundays. A person that violates this section is guilty of a class A misdemeanor.

Approved April 9, 2015

Filed April 9, 2015

CHAPTER 79

SENATE BILL NO. 2333

(Senators Oban, Armstrong, Casper, Klein)
(Representatives Beadle, J. Nelson)

AN ACT to amend and reenact section 5-02-06 of the North Dakota Century Code, relating to individuals under twenty-one years of age allowed in alcoholic beverage establishments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-02-06 of the North Dakota Century Code is amended and reenacted as follows:

5-02-06. Prohibitions for individuals under twenty-one years of age - Penalty - Exceptions.

1. Except as permitted in this section, a licensee who dispenses alcoholic beverages to an individual under twenty-one years of age, or who permits an individual under twenty-one years of age to remain on the licensed premises while alcoholic beverages are being sold or displayed, is guilty of a class A misdemeanor, subject to sections 5-01-08, 5-01-08.1, and 5-01-08.2.
2. An individual under twenty-one years of age may enter and remain on a licensed premises while alcohol is being sold or displayed, at the discretion of the owner of the licensed premises, if:
 - a. The individual is accompanied by a parent or guardian who is twenty-one years of age or older. For purposes of this section, "guardian" means an individual who has the legal responsibility for the health and well-being of the individual under twenty-one years of age;
 - b. The individual is on the premises to consume a meal or in an emergency situation;
 - c. The premises serves at a tabletop, food that is prepared in a kitchen with at least an indoor grill;
 - d. The individual is not on the licensed premises after ten p.m.; and
 - e. The owner of the licensed premises receives permission of the local licensing authority for individuals to be on the premises as allowed under this section and the licensed premises is located in a city with a population of one thousand five hundred or fewer people, or the licensed premises is not located in a city.
3. An individual under twenty-one years of age may not remain in a restaurant where alcoholic beverages are being sold except if the restaurant is separated from the room in which alcoholic beverages are opened or mixed and gross sales of food are at least equal to gross sales of alcoholic beverages which are consumed in the dining area, or if the individual is employed by the

restaurant as a food waiter, food waitress, busboy, or busgirl under the direct supervision of an individual twenty-one or more years of age and is not engaged in the sale, dispensing, delivery, or consumption of alcoholic beverages.

- ~~3-4.~~ An individual under twenty-one years of age may enter and remain on the licensed premises if the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages; if the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or if the individual enters the licensed premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.
- ~~4-5.~~ An individual under twenty-one years of age may remain in an area of a site where beer, wine, or sparkling wine is sold in accordance with the conditions of an event permit issued pursuant to section 5-02-01.1.
- ~~5-6.~~ An individual who is eighteen years of age or older but under twenty-one years of age may be employed by a restaurant as provided in subsection 2 to serve and collect money for alcoholic beverages, if the individual is under the direct supervision of an individual twenty-one or more years of age, but may not be engaged in mixing, dispensing, or consuming alcoholic beverages. Any establishment where alcoholic beverages are sold may employ individuals from eighteen to twenty-one years of age to work in the capacity of musicians under the direct supervision of an individual twenty-one or more years of age.
- ~~6-7.~~ For purposes of this section, an individual is not twenty-one years of age until eight a.m. on that individual's twenty-first birthday.
- ~~7-8.~~ If an individual is convicted of this section, the court shall consider the following in mitigation:
- a. After consuming the alcohol, the underage individual was in need of medical assistance as a result of consuming alcohol; and
 - b. Within twelve hours after the underage individual consumed the alcohol, the defendant contacted law enforcement or emergency medical personnel to report that the underage individual was in need of medical assistance as a result of consuming alcohol.

BANKS AND BANKING

CHAPTER 80

SENATE BILL NO. 2084

(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to create and enact section 6-01-04.5 and subsection 5 to section 6-06-08 of the North Dakota Century Code, relating to the investigation of bank holding companies and fees for credit union examinations; to amend and reenact sections 6-01-02, 6-01-04.4, and 6-01-09, subsection 1 of section 6-03-47.2, and section 6-08-08.1 of the North Dakota Century Code, relating to definitions, prompt corrective action for state banks, the examination of technology service providers, and investments of state banks; and to repeal section 6-05-25 of the North Dakota Century Code, relating to when subscribed capital stock must be paid in by annuity, safe deposit, surety, and trust companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-01-02 of the North Dakota Century Code is amended and reenacted as follows:

6-01-02. Definitions.

As used in this title, unless the context or subject matter otherwise requires:

1. "Association", "banking association", or "state banking association" means any corporation organized under the laws of this state covering state banking associations, and all corporations, limited liability companies, partnerships, firms, or associations whose business in whole or in part consists of the taking of money on deposit, except national banks, trust companies, and the Bank of North Dakota.
2. "Bank" means any national bank, national banking association, corporation, state bank, state banking association, or savings bank, whether organized under the laws of this state or of the United States, engaged in the business of banking.
3. "Bank holding company" means bank holding company as defined in 12 U.S.C. 1841(a)(1).
4. "Banking" means the business of receiving deposits, making loans, discounting commercial paper, issuing drafts, traveler's checks, and similar instruments, handling and making collections, cashing checks and drafts, and buying and selling exchange.
5. "Banking department" means the state department of financial institutions.

6. "Banking institution" means any bank, trust company, or bank and trust company organized under the laws of this state.
7. "Branch" means a place of business where deposits are received, checks paid, or money lent as a result of a bank that was merged into another bank pursuant to an interstate merger.
8. "Commissioner" means the commissioner of financial institutions.
9. "Corporate central credit union" means a credit union operated for the primary purpose of serving corporate accounts. A credit union is deemed to be a corporate central credit union when its total dollar amount of outstanding corporate loans plus corporate share and deposit holdings is equal to or greater than seventy-five percent of its outstanding loans plus share and deposit holdings.
10. "Credit union" means a cooperative, nonprofit association organized for the purposes of encouraging thrift among its members, creating a source of credit at a fair and reasonable rate of interest, and providing an opportunity for its members to improve their economic and social condition.
11. "Derivative transaction" means derivative transaction as defined in 12 U.S.C. 84(b)(3).
12. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
13. "Electronic communication" means any form of communication, not directly involving the physical transmission of paper that creates a record that may be retained, retrieved, and reviewed by a recipient of the communication and may be directly reproduced in paper form by the recipient through an automated process.
14. "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
15. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and signed or adopted by a person with the intent to sign the record.
16. "Financial corporation" means all entities regulated by the department of financial institutions, excluding financial institutions and credit unions.
17. "Financial institution" means any bank, industrial loan company, or savings and loan association organized under the laws of this state or of the United States.
18. "Market value" means the highest price for which property can be sold in the open market by a willing seller to a willing purchaser, neither acting upon compulsion and both exercising reasonable judgment.
19. "Merger" or "merge" means the merging or consolidation of two or more banks including the purchase of all or substantially all of the assets and assumption of liabilities of a bank, facility, or branch.

20. "Mutual investment corporation" or "mutual savings corporation" means a corporation organized to engage in the investment or savings business, but having no capital stock or a nominal capital stock.
21. "National bank" or "national banking association" means an institution chartered by the comptroller of the currency under the National Bank Act [12 U.S.C. 24].
22. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
23. "Technology service provider" includes any person that provides services to a financial institution, financial corporation, or credit union, including: core processing; information and transaction processing and settlement activities that support banking functions such as lending, deposit-taking, funds transfer, fiduciary, or trading activities; internet-related services; security monitoring; and system development and maintenance.
24. "Tier 1, tier 2, and tier 3 capital" means those terms as set under title 12, Code of Federal Regulations, part 325, in effect on August 1, 2011.
- 24-25. "Trust company" means any corporation formed for the purpose of transacting business as an annuity, safe deposit, surety, or trust company.

SECTION 2. AMENDMENT. Section 6-01-04.4 of the North Dakota Century Code is amended and reenacted as follows:

6-01-04.4. Prompt corrective action.

The board may enter an order if the board finds that a state bank is undercapitalized, significantly undercapitalized, or critically undercapitalized. For the purpose of this section, undercapitalized, significantly undercapitalized, and critically undercapitalized have the same definition as found in title 12, Code of Federal Regulations, part ~~325324~~, section ~~403403~~. The order may require an undercapitalized state bank to take prompt corrective action as the board determines reasonable to bring the bank to an adequately capitalized condition, including the submission and implementation of an acceptable capital restoration plan. For a significantly or critically undercapitalized state bank, the board may issue a temporary cease and desist order appointing a receiver, or with the consent of the federal deposit insurance corporation appoint a conservator or take such other action as may be better to resolve the problems of the state bank consistent with section 38 of the Federal Deposit Insurance Act of 1991 [Pub. L. 102-242; 105 Stat. 2253; 12 U.S.C. 1831(o) et seq.], in effect on July 22, 2010. A bank that has been served with a complaint requesting the state banking board to issue a prompt corrective action under this section may request a hearing before the board within five days after service of the complaint upon the bank. A request for a hearing must be granted and the hearing must be held not later than ten days after the request is filed with the board. A complete record of the hearing must be established and maintained. On the basis of the hearing, the board may issue an order. The bank may appeal the board's order under this section to the district court of Burleigh County, North Dakota, within ten days after the board's order is served on the bank. The appeal is governed by chapter 28-32.

SECTION 3. Section 6-01-04.5 of the North Dakota Century Code is created and enacted as follows:

Investigation of bank holding companies.

The department may investigate a bank holding company that owns or controls a North Dakota state chartered financial institution upon the commissioner's receipt of information material to the safety and soundness of the bank holding company, and may pursue and impose penalties under sections 6-01-04.1, 6-01-04.2, and 6-01-04.3 against such a bank holding company.

SECTION 4. AMENDMENT. Section 6-01-09 of the North Dakota Century Code is amended and reenacted as follows:

6-01-09. Supervision and examination by commissioner of financial institutions.

The commissioner shall exercise a constant supervision over the business affairs of all financial corporations, financial institutions, and credit unions, including all out-of-state branches of financial corporations, financial institutions, and credit unions. Either the commissioner or one or more examiners shall visit each financial institution at least once each thirty-six months to examine its affairs and ascertain its financial condition. The commissioner shall inspect and verify the assets and liabilities of the institution and branches to ascertain with reasonable certainty that the value of the assets and the amounts of the liabilities are correctly carried on its books. The commissioner shall examine the validity of mortgages held by savings institutions and shall see that all of the mortgages are properly recorded. The commissioner shall investigate the method of operation and conduct of the corporations and institutions and their systems of accounting to ascertain whether the methods conform to the law and sound banking usage and principles. The commissioner shall inquire into and report any infringement of the laws governing those corporations and institutions, and for that purpose the commissioner may examine the officers, agents, and employees of the corporations and institutions and all persons doing business therewith. The commissioner may examine, or cause to be examined, or review the books and records of any subsidiary corporation of a bank under the commissioner's supervision and may require the bank to provide information on the holding company that owns the bank. The commissioner may also examine, or cause to be examined, or review the books and records of any technology service provider that provides services to financial corporations and financial institutions under the commissioner's supervision, to evaluate that entity's risk management systems and controls and compliance with applicable laws that affect such services provided to financial corporations and financial institutions. The commissioner shall report the condition of the corporations and institutions, together with the commissioner's recommendations or suggestions in connection therewith, to the state banking board, and the board may take such action as the exigencies may demand.

SECTION 5. AMENDMENT. Subsection 1 of section 6-03-47.2 of the North Dakota Century Code is amended and reenacted as follows:

1. Bonds, notes, or debentures of any corporation rated at "A" or higher by a nationally recognized rating service approved by the commissioner, provided that the lesser of the book value or face value of the investments at the time of purchase may not exceed for any one corporation twenty-five percent of the unimpaired capital and surplus of the banking association.

SECTION 6. Subsection 5 to section 6-06-08 of the North Dakota Century Code is created and enacted as follows:

5. If the commissioner determines more than one visit, inspection, or examination is necessary to promote the safety and soundness of a credit union during a twelve-month period, the credit union shall pay to the department a fee for the time used by the commissioner or other person designated by the commissioner in supervising, filing, and corresponding in connection with each additional visit, inspection, or examination and report of examination and for time used by each examiner or other person in making and otherwise preparing and typing the reports of examination provided for under this section. Fees for the visit, inspection, or examination must be charged by the department of financial institutions at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the visit, inspection, or examination provided for by this section. A credit union shall pay this fee within ten days of receiving a billing from the commissioner. Fees must be deposited in the financial institutions regulatory fund.

SECTION 7. AMENDMENT. Section 6-08-08.1 of the North Dakota Century Code is amended and reenacted as follows:

6-08-08.1. Sale or purchase of associations, banking institutions, or holding companies - Notification to commissioner - Hearing.

1. No person, acting directly or indirectly or through or in concert with one or more other persons, may ~~sell or otherwise dispose of an association, or banking institution, or~~ purchase or otherwise acquire control of an association or banking institution unless the state banking board has been given prior written notice by application of the proposed disposition or acquisition. The written application must include such information as the state banking board shall specify. The transaction may not be consummated before the board has granted approval.
2. The applicant shall publish notice of the application as required by the board by rule.
3. Within ten business days after the date the application is received, the commissioner shall determine if the application is complete and notify the applicant by mail of the determination. If the commissioner determines the application is incomplete, the commissioner will, within the ten business days, request additional information deemed necessary to complete the application. Within ten business days after the receipt of the additional information, the commissioner will notify the applicant by mail of the commissioner's determination of completeness. Within sixty days, or the next regularly scheduled meeting of the board, after the mailing of a notice of completeness by the commissioner, the board must either approve or disapprove the application.
4. The board may disapprove any application if the board determines that:
 - a. The character, reputation, general fitness, financial standing, and responsibility of the persons proposed as new stockholders, directors, or officers is such that the interests of the other stockholders, depositors, and creditors of the institution and the public generally will be jeopardized by the change in control and management.
 - b. The qualifications of management do not include adequate experience with financial institutions or other approved related experience.

5. Within three business days after the board's decision to disapprove an application, the board shall notify the applicant in writing of the disapproval. The notice must provide a statement of the basis for the disapproval.
6. Within twenty days after receipt of the notice of disapproval, the applicant may request a hearing on the disapproval. The board must conduct a hearing, if requested, under the provisions of chapter 28-32. At the conclusion of the hearing, the board shall by order approve or disapprove the application on the basis of the record at the hearing.
7. For purposes of this section, "control" means ownership or control, directly, indirectly, or through the actions of one or more persons of the power to vote twenty-five percent or more of any class of voting securities of an association, banking institution, controlling bank holding company, or the direct or indirect power to control in any manner the election of a majority of the directors of an association or banking institution, or to direct the management or policies of an association or banking institution, whether by individuals, corporations, limited liability companies, partnerships, trusts, or other entities or organizations of any type. ~~"Holding company" means any partnership, corporation, business trust, association, or entity or organization of any type which controls an association or banking institution.~~
8. The following acquisitions of voting securities of a North Dakota state chartered bank, which would otherwise require submission of an application under this section, are not subject to the application requirements if the acquiring person notifies the commissioner within ninety days after the acquisition and provides any relevant information requested by the commissioner: acquisition of voting securities through inheritance; acquisition of voting securities as a bona fide gift; and acquisition of voting securities in satisfaction of a debt previously contracted in good faith. This subsection does not limit the authority of the commissioner to require a party to submit a written application to the board under subsection 1.

SECTION 8. REPEAL. Section 6-05-25 of the North Dakota Century Code is repealed.

Approved March 19, 2015
Filed March 19, 2015

CHAPTER 81

HOUSE BILL NO. 1373

(Representatives Dosch, Trottier)
(Senator Davison)

AN ACT to create and enact section 6-09-38.1 of the North Dakota Century Code, relating to creation of the North Dakota achieving a better life experience plan; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 6-09-38.1 of the North Dakota Century Code is created and enacted as follows:

6-09-38.1. North Dakota achieving a better life experience plan - Administration - Rules - Continuing appropriation.

The Bank of North Dakota shall adopt rules to administer, manage, promote, and market the North Dakota achieving a better life experience plan. The Bank shall ensure that the North Dakota achieving a better life experience plan is maintained in compliance with internal revenue service standards for qualified state disability expense programs. The Bank, as trustee of the North Dakota achieving a better life experience plan, may impose an annual administrative fee to recover expenses incurred in connection with operation of the plan. Administrative fees received by the Bank are appropriated to the Bank on a continuing basis to be used as provided under this section.

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 82

HOUSE BILL NO. 1443

(Representatives Carlson, Belter, Delzer)
(Senators Cook, Schaible)

AN ACT to create and enact section 6-09-49 of the North Dakota Century Code, relating to creation of the infrastructure revolving loan fund; to provide a statement of legislative intent; to provide for transfers; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 6-09-49 of the North Dakota Century Code is created and enacted as follows:

6-09-49. Infrastructure revolving loan fund - Continuing appropriation.

1. The infrastructure revolving loan fund is a special fund in the state treasury from which the Bank of North Dakota shall provide loans to political subdivisions for essential infrastructure projects. The Bank shall administer the infrastructure revolving loan fund. The maximum term of a loan made under this section is thirty years. A loan made from the fund under this section must have an interest rate that does not exceed two percent per year.
2. The Bank shall establish priorities for making loans from the infrastructure revolving loan fund. Loan funds must be used to address the needs of the community by providing critical infrastructure funding. Except as expressly provided under this section, a political subdivision may not use infrastructure revolving loan funds for capital construction. In addition to eligible infrastructure needs established by the Bank, eligible infrastructure needs may include new water treatment plants; new wastewater treatment plants; new sewer lines and water lines; and new storm water and transportation infrastructure, including curb and gutter construction.
3. In processing political subdivision loan applications under this section, the Bank shall calculate the maximum loan amount for which a qualified applicant may qualify, not to exceed fifteen million dollars per loan. The Bank shall consider the applicant's ability to repay the loan when processing the application and shall issue loans only to applicants that provide reasonable assurance of sufficient future income to repay the loan. The Bank may adopt policies establishing priorities for issuance of loans, setting additional qualifications for applicants, and establishing timelines addressing when a participating political subdivision may be required to make loan draws and the consequences of not meeting these timelines, and setting other guidelines relating to the loan program under this section.
4. The Bank shall deposit in the infrastructure revolving loan fund all payments of interest and principal paid under loans made from the infrastructure revolving loan fund. The Bank may use a portion of the interest paid on the outstanding loans as a servicing fee to pay for administrative costs which may not exceed one-half of one percent of the amount of the interest payment. All moneys

transferred to the fund, interest upon moneys in the fund, and payments to the fund of principal and interest are appropriated to the Bank on a continuing basis for administrative costs and for loan disbursement according to this section.

5. The Bank may adopt policies and establish guidelines to supplement and leverage the funds in the infrastructure revolving loan fund. Additionally, the Bank may adopt policies allowing participation by local financial institutions.

SECTION 2. LEGISLATIVE INTENT - ELIGIBLE BORROWERS UNDER INFRASTRUCTURE REVOLVING LOAN FUND. If a political subdivision receives funds distributed by the state treasurer under subsection 1 or 4 of section 1 or by the department of transportation under subsection 1 of section 2 of Senate Bill No. 2103, as approved by the sixty-fourth legislative assembly, it is the intent of the sixty-fourth legislative assembly that political subdivision be ineligible to receive a loan under the infrastructure revolving loan fund until July 1, 2017.

SECTION 3. TRANSFER - BANK OF NORTH DAKOTA - INFRASTRUCTURE REVOLVING LOAN FUND. During the biennium beginning July 1, 2015, and ending June 30, 2017, the Bank of North Dakota shall transfer the sum of \$100,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and undivided profits to the infrastructure revolving loan fund.

SECTION 4. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - INFRASTRUCTURE REVOLVING LOAN FUND. During the biennium beginning July 1, 2015, and ending June 30, 2017, the office of management and budget shall transfer the sum of \$50,000,000 from the strategic investment and improvements fund to the infrastructure revolving loan fund. The office of management and budget shall transfer the funds provided under this section to the infrastructure revolving loan fund as requested by the Bank of North Dakota.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 83

HOUSE BILL NO. 1180

(Representatives D. Anderson, Boe, Dockter, Maragos)
(Senators Burckhard, Robinson)

AN ACT to amend and reenact section 6-09.10-10 of the North Dakota Century Code, relating to the confidentiality of mediation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.10-10 of the North Dakota Century Code is amended and reenacted as follows:

6-09.10-10. Mediation - Open records and meetings exception.

1. a. Information created, collected, ~~and~~ maintained, by the North Dakota mediation service, in the course of any formal or informal mediation, is confidential and not subject to the open records requirements of section 44-04-18. The information may be released only upon the written consent of all parties to the mediation or pursuant to an order issued by the court upon a showing of good cause.
 - b. (1) Mediation communication is confidential and not subject to the open records requirements of section 44-04-18. Mediation communication may be released only upon the written consent of all parties to the mediation or pursuant to an order issued by the court upon a showing of good cause.
 - (2) For purposes of this subdivision, "mediation communication" means a written statement, and an oral statement or any nonverbal communication, either of which must be inscribed on a tangible medium or stored in a medium that is retrievable in perceivable form, provided the communication occurs during a mediation or is made for purposes of considering, initiating, conducting, continuing, or reconvening a mediation.
2. All mediation meetings and meetings involving the board, negotiators, mediators, or other personnel are confidential, closed meetings and are not subject to the open meetings requirements of section 44-04-19, ~~if the finances of specific farmers, creditors, or others are discussed.~~

Approved March 25, 2015
Filed March 25, 2015

CORPORATIONS

CHAPTER 84

SENATE BILL NO. 2351

(Senators Wanzek, Miller, O'Connell)
(Representatives Headland, D. Johnson, Trotter)

AN ACT to create and enact section 10-06.1-12.1 of the North Dakota Century Code, relating to the ownership or leasing of farm and ranch land by corporations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 10-06.1-12.1 of the North Dakota Century Code is created and enacted as follows:

10-06.1-12.1. Ownership or leasing of land by corporations - Exceptions.

1. This chapter does not apply to the ownership or leasing of land used for the operation of a dairy farm by a domestic corporation or a limited liability company and does not prohibit the operation of a dairy farm by a domestic corporation or a limited liability company, provided:
 - a. The land owned or leased for the authorized purpose does not exceed six hundred forty acres [258.99 hectares];
 - b. The dairy farm is operational within three years from the date the land is acquired; and
 - c. The dairy farm is permitted as an animal feeding operation or as a concentrated animal feeding operation by the state department of health and consists of at least fifty cows.
2. This chapter does not apply to the ownership or leasing of land used for the operation of a swine production facility by a domestic corporation or a limited liability company and does not prohibit the operation of a swine production facility by a domestic corporation or a limited liability company, provided:
 - a. The land owned or leased for the authorized purpose does not exceed six hundred forty acres [258.99 hectares];
 - b. The swine production facility is operational within three years from the date the land is acquired; and
 - c. The swine production facility is permitted as an animal feeding operation or as a concentrated animal feeding operation by the state department of health and consists of at least five hundred swine.
3. The agriculture commissioner shall by rule develop reporting and monitoring requirements to ensure compliance with this section.

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4.
 - a. If the agriculture commissioner determines that a domestic corporation or a limited liability company is not operating within the exceptions provided by this section, the commissioner shall notify the secretary of state and the attorney general.
 - b. A domestic corporation or a limited liability company that is not operating within the exceptions provided by this section is subject to the enforcement provisions of this chapter.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 85

HOUSE BILL NO. 1382

(Representatives Laning, Boe, Kempenich)
(Senators Burckhard, Campbell, O'Connell)

AN ACT to create and enact a new section to chapters 10-13 and 40-33 of the North Dakota Century Code, relating to the construction of electric transmission lines by cooperatives and municipal power agencies; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 10-13 of the North Dakota Century Code is created and enacted as follows:

Right of rural electric cooperative to construct, own, and maintain electric transmission lines.

1. For purposes of this section, the terms electric transmission provider, electric transmission line, electric public utility, and rural electric cooperative have the same meanings as in section 49-03-01.5.
2. Except as provided in subsection 3, an electric transmission provider or designee may not construct an electric transmission line interconnecting with an existing electric transmission line owned, leased, or operated by a rural electric cooperative, unless the electric transmission provider or designee has provided written notice to the rural electric cooperative of its intention to do so. If the rural electric cooperative provides written notification to the electric transmission provider or designee within one hundred eighty days from receipt of the written notice under this subsection, that the rural electric cooperative is willing and able to construct and operate a similar electric transmission line, the rural electric cooperative shall have the right to construct the line.
3. If an electric transmission line would interconnect facilities owned, leased, or operated by a rural electric cooperative and facilities owned, leased, or operated by a municipal utility, a municipal power agency, or an electric public utility doing business in this state the following conditions apply:
 - a. The rural electric cooperative and municipal utility, municipal power agency, or the electric public utility shall attempt to agree on all terms and conditions, including design, construction, ownership, and operation of the electric transmission line.
 - b. If parties are unable to agree, this subsection does not compel a party to participate in the project or be construed as a waiver by any party of its right to establish and enforce any requirements for interconnection of transmission facilities to its transmission system.
4. For purposes of this section, a "municipal utility" means anything a municipality is allowed to possess under section 40-33-01 and a "municipal power agency" has the meaning provided in section 40-33.2-02.

SECTION 2. A new section to chapter 40-33 of the North Dakota Century Code is created and enacted as follows:

Right of municipal electric utilities and municipal power agencies to construct, own, and maintain electric transmission lines.

1. For purposes of this section, the terms electric transmission provider, electric transmission line, and electric public utility, have the same meanings as in section 49-03-01.5. Municipal power agency has the meaning provided in section 40-33.2-02 and also includes a municipal power agency of which any municipality in this state is a member.
2. Except as provided in subsection 3, an electric transmission provider or designee may not construct an electric transmission line interconnecting with an existing electric transmission line owned, leased, or operated by a municipal utility or municipal power agency, unless the electric transmission provider or designee has provided written notice to the municipal utility or municipal power agency of its intention to do so. If the municipal utility or municipal power agency provides written notification to the electric transmission provider or designee within one hundred eighty days from receipt of the written notice under this subsection, that the municipal utility or municipal power agency is willing and able to construct and operate a similar electric transmission line, the municipal utility or municipal power agency shall have the right to construct said line.
3. If an electric transmission line would interconnect facilities owned, leased, or operated by a municipal utility or municipal power agency and facilities owned, leased, or operated by a rural electric cooperative or an electric public utility doing business in this state the following conditions apply:
 - a. The municipal utility or municipal power agency and the rural electric cooperative or the electric public utility shall attempt to agree on all terms and conditions, including design, construction, ownership, and operation of the electric transmission line.
 - b. If parties are unable to agree, this subsection does not compel a party to participate in the project or be construed as a waiver by any party of its right to establish and enforce any requirements for interconnection of transmission facilities to its transmission system.

SECTION 3. APPLICATION. This Act applies to any electric transmission line that is scheduled to begin being constructed after December 31, 2015.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 86

HOUSE BILL NO. 1335

(Representative Keiser)
(Senator Armstrong)

AN ACT to create and enact sections 10-15-53.1, 10-15-53.2, 10-15-53.3, 10-19.1-146.1, 10-33-141.3, and 45-10.2-108.1 of the North Dakota Century Code, relating to the annual report of a cooperative, involuntary dissolution of a cooperative or revocation of certificate of authority of a foreign cooperative, the reinstatement of a cooperative or foreign cooperative following involuntary dissolution or revocation of certificate of authority, amendment of articles by a nonprofit corporation, involuntary dissolution of a nonprofit corporation or revocation of certificate of authority of a foreign nonprofit corporation, and involuntary dissolution of a limited partnership or revocation of certificate of authority for a foreign limited partnership; to amend and reenact section 10-01.1-11, subsections 9 and 10 of section 10-06.1-17, subsection 5 of section 10-15-08.1, subsection 2 of section 10-15-52.7, sections 10-15-53, 10-15-54, and 10-19.1-17, subsection 4 of section 10-19.1-148, section 10-33-14, subsection 4 of section 10-33-141, subsection 7 of section 10-34-04, subsection 7 of section 45-10.2-24, subsection 1 of section 45-10.2-25, section 45-11-05.1, subsection 4 of section 45-22-03, section 45-22-16, subsection 15 of section 45-23-08 of the North Dakota Century Code, relating to the resignation of registered agent, contents of an annual report of a farm corporation or limited liability company, a cooperative filing documents with the secretary of state, fees paid by cooperatives, amendment of articles by a business corporation, amendment of articles by a nonprofit corporation, real estate investment trusts, an address change of a limited partnership, the signature requirements on documents filed with the secretary of state by a limited partnership, the fictitious name certificate, an address change of a limited liability partnership, revocation of the registration of a limited liability partnership or foreign limited liability partnership, and the fee to file the registration of a foreign limited liability limited partnership; and to repeal sections 10-15-36, 10-19.1-141, 10-33-134, and 45-10.2-87 of the North Dakota Century Code, relating to the annual report of a cooperative, revocation of the certificate of authority of a foreign corporation, revocation of the certificate of authority of a foreign nonprofit corporation, and revocation of the certificate of authority of a foreign limited partnership.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 10-01.1-11 of the North Dakota Century Code is amended and reenacted as follows:

10-01.1-11. Resignation of registered agent - Removal of agent appointed without consent.

1. Until the legal existence of a represented entity ceases, or until the authority of a foreign entity is withdrawn or revoked, a registered agent may resign at any time with respect to a represented entity by filing with the secretary of state a statement of resignation signed by or on behalf of the registered agent which states:

- a. The name of the entity;
 - b. The name of the registered agent;
 - c. That the registered agent resigns from serving as agent for service of process for the entity; and
 - d. The name and address of the person to which the registered agent will send the notice required by subsection 3.
2. A statement of resignation takes effect on the earlier of the thirty-first day after the day on which it is filed or the appointment of a new registered agent for the represented entity.
 3. The registered agent shall promptly furnish the represented entity with notice in a record of the date on which a statement of resignation was filed.
 4. When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity may have against the registered agent or that the registered agent may have against the entity.
 5. A registered agent may resign with respect to a represented entity whether or not the entity is in good standing but not after the legal existence of the represented entity has ceased or, in the case of a foreign entity, after its authority has been withdrawn or revoked.
 6. If a person becomes aware of having been named as a registered agent without the person's prior consent, the appointed person shall notify the secretary of state in writing of the nonconsensual appointment. Upon notification, the secretary of state shall remove the appointed person as registered agent in the published record and notify the entity that it fails to maintain a registered agent. The entity that filed a document with the secretary of state evidencing a nonconsensual appointment of registered agent is subject to the provisions related to failure to maintain a registered agent as provided in the laws of this state which govern the entity and the documents filed.

²⁹ **SECTION 2. AMENDMENT.** Subsections 9 and 10 of section 10-06.1-17 of the North Dakota Century Code are amended and reenacted as follows:

9. A corporation engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in section 10-19.1-147chapter 10-19.1, except that the penalties must be calculated from the date of the report required by this section.
10. A limited liability company engaged in farming which fails to file an annual report is subject to the penalties for failure to file an annual report as provided in subsections 5 and 6 of section 10-32-149chapter 10-32.1, except that the penalties must be calculated from the date of the report required by this section.

²⁹ Section 10-06.1-17 was also amended by section 5 of House Bill No. 1136, chapter 87.

SECTION 3. AMENDMENT. Subsection 5 of section 10-15-08.1 of the North Dakota Century Code is amended and reenacted as follows:

5. A cooperative that is involuntarily dissolved by the secretary of state under section ~~10-15-36~~10-15-53.2 may reacquire the right to use that name by reinstating the cooperative within the time provided in section ~~10-15-36~~10-15-53.3 or by refiling articles of association, unless the name has been adopted for use or reserved by another person, in which case the filing must be rejected unless the filing is accompanied by a written consent or judgment as provided in subdivision d of subsection 1. A cooperative that is unable to reacquire the use of its name shall adopt a new name that complies with this section.

SECTION 4. AMENDMENT. Subsection 2 of section 10-15-52.7 of the North Dakota Century Code is amended and reenacted as follows:

2. Except for revocation of the certificate of authority for failure to file the annual report as provided in section ~~10-15-36~~10-15-53.2, no certificate of authority of a foreign cooperative may be revoked by the secretary of state unless:
 - a. The secretary of state has given the foreign cooperative at least sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the foreign cooperative fails to appoint and maintain a registered agent in this state, then addressed to its principal executive office; and
 - b. During the sixty-day period, the foreign cooperative has failed to:
 - (1) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
 - (2) File any amendment;
 - (3) File any merger;
 - (4) File an application for certificate of withdrawal; or
 - (5) Correct the misrepresentation.

SECTION 5. AMENDMENT. Section 10-15-53 of the North Dakota Century Code is amended and reenacted as follows:

10-15-53. Secretary of state - Filing documents - Effective date.

1. ~~Except as otherwise required by law, if any document is to be filed, an original must be delivered to a record authorized or required to be filed with the secretary of state under this chapter must be captioned to describe the purpose of the record, be in a medium permitted by the secretary of state, and be delivered to the secretary of state. If the filing fees required by section 10-15-54 have been paid, then, unless the secretary of state determines that a record does not comply with the filing requirements of this chapter, the secretary of state, who shall stamp the date of filing on the document and provide to the cooperative a certificate of filing file the record, and for all records, except annual reports, send an image of the filed record to the person who filed the record.~~

2. Upon request and payment of the fee provided in section 10-15-54, the secretary of state shall send to the requester a certified copy of a requested record.
3. Except as otherwise provided in this chapter, a record filed with the secretary of state under this chapter may specify a delayed effective date that is no later than ninety days from the date of filing. If the record does not specify a delayed effective date, a record filed with the secretary of state is effective on the date the record is filed as evidenced by the endorsement of the secretary of state of the date on the record.

SECTION 6. Section 10-15-53.1 of the North Dakota Century Code is created and enacted as follows:

10-15-53.1. Secretary of state - Annual report to the secretary of state.

1. A cooperative and a foreign cooperative shall file an annual report signed by a principal officer or the general manager setting forth:
 - a. Its name and complete address of its principal place of business.
 - b. The names and addresses of its directors and principal officers.
 - c. In the case of a domestic cooperative, a statement, by class and par value, of the amount of stock it has authority to issue and the amount issued.
 - d. A statement as to the general type of business in which engaged during the prior year.
2. The annual report must be made on forms prescribed by the secretary of state and the information contained in the report must be given as of the date of the execution of the report. If the cooperative or foreign cooperative is in the hands of a receiver or trustee, the annual report must be signed on behalf of the cooperative or foreign cooperative by the receiver or trustee.
3. The secretary of state may destroy any annual report provided for in this section after the annual report is on file for six years.
4. The annual report must be delivered to the secretary of state with the fees provided in section 10-15-54 before April first of each year, except the first annual report of a cooperative or foreign cooperative must be delivered before April first of the year following the calendar year in which the certificate of incorporation or certificate of authority was issued by the secretary of state.
 - a. An annual report in a sealed envelope postmarked by the United States postal service before April first, an annual report in a sealed packet with a verified shipment date by any other carrier service before April first, or an annual report electronically transmitted to the secretary of state with a transmission time before April first is in compliance with this requirement. When a filing date falls on a Saturday, Sunday, or other holiday as defined in section 1-03-01, a postmark or verified shipment or transmission date on the next business day complies with this requirement.
 - b. The secretary of state shall file the report if the report conforms to the requirements of subsections 1 and 2.

- (1) If the report does not conform to those requirements, the report must be returned to the cooperative or foreign cooperative for any necessary corrections.
 - (2) If the report is filed before the deadlines provided in this section, any penalty for the failure to file a report within the time provided does not apply if the report is corrected to conform to the requirements of subsections 1 and 2 and returned to the secretary of state within thirty days after the annual report was returned by the secretary of state for corrections.
5. After May first, the secretary of state shall notify any cooperative or foreign cooperative failing to file its annual report that its certificate of incorporation or certificate of authority is not in good standing and may be dissolved or revoked as provided in section 10-15-53.2.

SECTION 7. Section 10-15-53.2 of the North Dakota Century Code is created and enacted as follows:

10-15-53.2. Secretary of state - Involuntary dissolution - Revocation of certificate of authority.

1. With respect to involuntary dissolution of a cooperative by the secretary of state:
 - a. A cooperative may be involuntarily dissolved by the secretary of state if:
 - (1) The cooperative has failed to:
 - (a) File with the secretary of state its annual report or any other record required to be filed with the secretary of state under this chapter together with the fees provided in section 10-15-54; or
 - (b) Appoint and maintain a registered agent and registered office as provided in section 10-15-12; or
 - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the cooperative pursuant to this chapter.
 - b. A cooperative that fails to file its annual report, together with the fees provided in section 10-15-54, before April first of the year following the year it is found to be not in good standing ceases to exist and is considered involuntarily dissolved by operation of law.
 - (1) The secretary of state shall note the dissolution of the certificate of incorporation of the cooperative on the records of the secretary of state and shall give notice of the action to the dissolved cooperative.
 - (2) Notice by the secretary of state must be mailed to the cooperative to its principal office.
 - (3) The decision of the secretary of state that the cooperative has been involuntarily dissolved under this subsection is final.

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- (4) A cooperative that was dissolved for failure to file an annual report may be reinstated as provided in subsection 1 of section 10-15-53.3.
- c. Except for dissolution of a cooperative for failure to file the annual report as provided in 10-15-53.1, a cooperative may not be dissolved by the secretary of state unless:
- (1) The secretary of state has given the cooperative not less than sixty days' notice by mail addressed to its principal office; and
 - (2) During the sixty-day period, the cooperative has failed to:
 - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
 - (b) File any other required record; or
 - (c) Correct the misrepresentation.
- d. Upon expiration of sixty days after the mailing of the notice, the existence of the cooperative ceases. The secretary of state shall issue a notice of dissolution and shall mail the notice to the cooperative to its principal office.
2. With respect to the revocation of a certificate of authority of a foreign cooperative by the secretary of state:
- a. The certificate of a foreign cooperative to transact business in this may be revoked by the secretary of state if:
 - (1) The foreign cooperative has failed to:
 - (a) File with the secretary of state its annual report or any other record required to be filed with the secretary of state under this chapter together with the fees provided in section 10-15-54;
 - (b) Appoint and maintain a registered agent and registered office as provided in section 10-15-12;
 - (c) File with the secretary of state any amendment to its application for a certificate of authority as provided in section 10-15-52.3;
 - (d) File with the secretary of state any merger as provided in section 10-15-52.1; or
 - (e) File with the secretary of state an application for certificate of withdrawal of its authority as provided in section 10-15-52.4 when the existence of the foreign cooperative has expired or the foreign cooperative has been dissolved in the jurisdiction of the foreign cooperative; or
 - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the foreign cooperative pursuant to this chapter.

- b. A foreign cooperative that fails to file its annual report, together with the fees provided in section 10-15-54, before April first of the year following the year it is found not to be in good standing forfeits its authority to transact business in this state and its certificate of authority is considered revoked by operation of law.
- (1) The secretary of state shall note the revocation of the certificate of authority of the foreign cooperative on the records of the secretary of state and shall give notice of the action to the foreign cooperative.
 - (2) Notice by the secretary of state must be mailed to the last registered agent of the cooperative at its last registered office in this state or, if the cooperative failed to maintain a registered agent in this state, mailed to its principal office.
 - (3) The decision of the secretary of state that a certificate of authority must be revoked under this subsection is final.
 - (4) A foreign cooperative for which authority was forfeited by, and certificate of authority was revoked by the secretary of state for failure to file an annual report may be reinstated as provided in subsection 1 of section 10-15-53.3 and may appeal as provided in subsection 2 of section 10-15-53.3.
- c. Except for revocation of the certificate of authority for failure to file the annual report as provided in 10-15-53.1, a certificate of authority of a foreign cooperative may not be revoked by the secretary of state unless:
- (1) The secretary of state has given the foreign cooperative not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the cooperative failed to maintain a registered agent in this state, the notice must be mailed to its principal office; and
 - (2) During the sixty-day period, the foreign cooperative has failed to:
 - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
 - (b) File any amendment;
 - (c) File any merger;
 - (d) File an application for withdrawal;
 - (e) File any other required record; or
 - (f) Correct the misrepresentation.
- d. Upon expiration of sixty days after the mailing of the notice, the authority of the foreign cooperative to transact business in this state ceases. The secretary of state shall issue a notice of revocation and shall mail the notice to the registered agent at the registered office in this state or, if the foreign cooperative failed to maintain a registered agent in this state, the notice must be mailed to its principal office.

3. If the cooperative or foreign cooperative files its annual report after the notice with the fee provided for in section 10-15-54 for late filing, the secretary of state shall restore the certificate of incorporation or authority to good standing. Until restored to good standing, the secretary of state may not accept for filing any document respecting the cooperative or foreign cooperative except those incident to its dissolution or withdrawal.

SECTION 8. Section 10-15-53.3 of the North Dakota Century Code is created and enacted as follows:

10-15-53.3. Secretary of state - Reinstatement following an involuntary dissolution or revocation of authority - Appeals.

1. With respect to reinstatement following involuntary dissolution or revocation of authority:
 - a. A cooperative dissolved for failure to file an annual report or a foreign cooperative for which authority was forfeited by failure to file an annual report may be reinstated by filing the most recent past-due report, together with the statutory filing and penalty fees for an annual report and a reinstatement fee. The fees must be paid and the report filed within one year following the date of the involuntary dissolution or revocation. Reinstatement under this section does not affect the rights or liability of any person for the time from the dissolution or revocation to the reinstatement.
 - b. With respect to a reinstatement that is more than one year after involuntary dissolution or revocation:
 - (1) If the secretary of state dissolves a cooperative or revokes the certificate of authority to transact business in this state of any foreign cooperative, under the provisions of section 10-15-53.2, the cooperative or foreign cooperative may appeal to district court in the judicial district serving Burleigh County for reinstatement by filing with the clerk of court a petition, including:
 - (a) A copy of the articles of incorporation of the cooperative and a copy of the notice of the involuntary dissolution given by the secretary of state; or
 - (b) A copy of the certificate of authority of the foreign cooperative to transact business in this state and a copy of the notice of revocation given by the secretary of state.

The matter must be tried de novo by the court. The court shall either sustain the action of the secretary of state or direct the secretary of state to take the action as the court may deem proper.

- (2) If the court order sought is one for reinstatement of a cooperative that has been dissolved as provided in subsection 1 of section 10-15-53.2, or reinstatement of the certificate of authority of a foreign cooperative that has been revoked as provided in subsection 2 of section 10-15-53.2, together with any other actions the court deems proper, any order that reverses the decision of the secretary of state shall require the cooperative or foreign cooperative to:

- e. Appeals from all final orders and judgments by the district court under this subsection may be taken as in other civil actions.

SECTION 9. AMENDMENT. Section 10-15-54 of the North Dakota Century Code is amended and reenacted as follows:

10-15-54. Fees.

No document may be filed or recorded nor any certificate issued until all fees therefor have been paid. Any fee or penalty due under this chapter may be recovered in a suit brought by the attorney general in the name of the state. The secretary of state shall charge and collect from any association for:

1. Filing articles of association and issuing a certificate of association, thirty dollars.
2. Filing articles of amendment and issuing a certificate of amendment, twenty dollars.
3. Filing restated articles of association, thirty dollars.
4. Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, fifty dollars.
5. Filing articles or decree of dissolution, twenty dollars.
6. Receiving service of any process, notice, or demand, the fee provided in section 10-01.1-03.
7. Filing an application of a foreign cooperative for a certificate of authority to do business in this state and issuing a certificate therefor, forty dollars.
8. For filing a name reservation, a transfer of name reservation, a cancellation of name reservation, or a consent to use of name, ten dollars.
9. For filing a change of registered office or change of registered agent, or both, the fees provided in section 10-01.1-03.
10. Filing an annual report of a cooperative or foreign cooperative, twenty dollars.
 - a. The secretary of state shall charge and collect additional fees for late filing of the annual report as follows:
 - (1) After the date provided in subsection 4 of section 10-15-53.1, five dollars.
 - (2) After the notice provided in subsection 5 of section 10-15-53.1, ten dollars.
 - (3) After the dissolution of a cooperative or the revocation of the certificate of authority of a foreign cooperative, a reinstatement fee of thirty dollars.
 - b. Fees paid to the secretary of state under this subsection are not refundable if an annual report submitted to the secretary of state cannot be filed because the report lacks information required by section

10-15-53.1, or the annual report lacks sufficient payment as required by this subsection.

11. Filing any other document or statement, or issuing any other certificate, twentyten dollars.
12. Filing a statement of correction, twenty dollars.
- ~~44-13.~~ Any document submitted for approval before the actual time of submission for filing, one-half of the fee provided in this section for filing the document.
- ~~42. Filing a statement of correction, twenty dollars.~~
14. Furnishing a copy of any record, or paper relating to a cooperative or a foreign cooperative:
 - a. The fee provided in section 54-09-04 for copying a record; and
 - b. Five dollars for a search of records.
15. Furnishing a certificate of good standing, existence, authorization, or certifying any copy:
 - a. Fifteen dollars; and
 - b. Five dollars for a search of records.

SECTION 10. AMENDMENT. Section 10-19.1-17 of the North Dakota Century Code is amended and reenacted as follows:

10-19.1-17. Amendment of articles.

The articles of a corporation may be amended at any time to include or modify any provision that is required or permitted to appear in the articles or to omit any provision not required to be included in the articles, except that when articles are amended to restate them, the name and address of each incorporator and each initial director may be omitted. If only a change of address of the principal executive office is required, an amendment need not be filed; however, the change of address of the principal executive office must then be reported on the annual report filed after the change or be submitted in writing to the secretary of state without a filing fee. Unless otherwise provided in this chapter, the articles may be amended or modified only in accordance with sections 10-19.1-18, 10-19.1-19, and 10-19.1-20.

SECTION 11. Section 10-19.1-146.1 of the North Dakota Century Code is created and enacted as follows:

10-19.1-146.1. Secretary of state - Involuntary dissolution - Revocation of certificate of authority.

1. With respect to involuntary dissolution of a corporation by the secretary of state:
 - a. A corporation may be involuntarily dissolved by the secretary of state if:
 - (1) The corporation has failed to appoint and maintain a registered agent and registered office as provided in section 10-19.1-15; or

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- (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the corporation pursuant to this chapter.
- b. A corporation may not be dissolved by the secretary of state as provided for in this section unless:
- (1) The secretary of state has given the corporation not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the corporation does not maintain a registered agent in this state, the notice must be mailed to its principal office; and
- (2) During the sixty-day period, the corporation has failed to:
- (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
- (b) File any other required record; or
- (c) Correct the misrepresentation.
- c. Upon expiration of sixty days after the mailing of the notice, the existence of the corporation ceases. The secretary of state shall issue a notice of dissolution and shall mail the notice addressed to its registered agent at the registered office in this state or, if the corporation does not maintain a registered agent in this state, the notice must be mailed to its principal office.
2. With respect to the revocation of a certificate of authority of a foreign corporation by the secretary of state:
- a. The certificate of a foreign corporation to transact business in this state may be revoked by the secretary of state if:
- (1) The foreign corporation has failed to:
- (a) Appoint and maintain a registered agent and registered office as provided in section 10-19.1-138;
- (b) File with the secretary of state any amendment to its application for a certificate of authority as provided in section 10-19.1-137;
- (c) File with the secretary of state any merger as provided in section 10-19.1-139; or
- (d) File with the secretary of state an application for certificate of withdrawal of its authority as provided in section 10-19.1-140 when the corporation's existence has expired or the foreign corporation has been dissolved in the jurisdiction of the foreign corporation; or
- (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the foreign corporation under this chapter.

- b. A certificate of authority may not be revoked by the secretary of state as provided for in this section unless:
- (1) The secretary of state has given the foreign corporation not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the corporation failed to maintain a registered agent in this state, the notice must be mailed to its principal office; and
 - (2) During the sixty-day period, the foreign corporation has failed to:
 - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
 - (b) File any amendment;
 - (c) File any merger;
 - (d) File an application for withdrawal;
 - (e) File any other required record; or
 - (f) Correct the misrepresentation.
- c. Upon expiration of sixty days after the mailing of the notice, the authority of the foreign corporation to transact business in this state ceases. The secretary of state shall issue a notice of revocation and shall mail the notice to the registered agent at the registered office in this state or, if the foreign corporation failed to maintain a registered agent in this state, the notice must be mailed to its principal office.
3. If the corporation or foreign corporation files a report of change relating to the registered agent or any other required record or correction of a misrepresentation after the notice with the fee provided for in section 10-19.1-147, the secretary of state shall restore the certificate of incorporation or authority to good standing. Until restored to good standing, the secretary of state may not accept for filing any document respecting the corporation or foreign corporation except those incident to its dissolution or withdrawal.

SECTION 12. AMENDMENT. Subsection 4 of section 10-19.1-148 of the North Dakota Century Code is amended and reenacted as follows:

4. If the secretary of state dissolves a corporation or revokes the certificate of authority to transact business in this state of any foreign corporation, pursuant to section 10-19.1-146.1, then the corporation or foreign corporation may appeal to the district court in the judicial district serving Burleigh County by filing with the clerk of the court a petition, including:
 - a. A copy of the corporation's articles of incorporation and a copy of the notice of dissolution given by the secretary of state; or
 - b. A copy of the certificate of authority of the foreign corporation to transact business in this state and a copy of the notice of revocation given by the secretary of state.

The court shall try the matter de novo. The court shall sustain the action of the

secretary of state or direct the secretary of state to take the action the court determines proper.

SECTION 13. AMENDMENT. Section 10-33-14 of the North Dakota Century Code is amended and reenacted as follows:

10-33-14. Amendment of articles.

The articles of a corporation may be amended at any time to include or modify any provision that is required or permitted to appear in the articles or to omit any provision not required to be included in the articles, except that when articles are amended to restate them, the name and address of each incorporator and each initial director may be omitted. If only a change of address of the principal executive office is required, an amendment need not be filed; however, the change of address of the principal executive office must then be reported on the annual report filed after the change or be submitted in writing to the secretary of state without a filing fee. Unless otherwise provided in this chapter, the articles may be amended or modified only in accordance with section 10-33-15.

SECTION 14. AMENDMENT. Subsection 4 of section 10-33-141 of the North Dakota Century Code is amended and reenacted as follows:

4. If the secretary of state dissolves a corporation or revokes the certificate of authority to conduct activities in this state of any foreign corporation, pursuant to section ~~10-33-134~~10-33-141.3, the corporation or foreign corporation may appeal to the district court in the judicial district serving Burleigh County by filing with the clerk of the court a petition including:
 - a. A copy of the corporation's articles of incorporation and a copy of the notice of dissolution given by the secretary of state; or
 - b. A copy of the foreign corporation's certificate of authority to conduct activities in this state and a copy of the notice of revocation given by the secretary of state. The matter must be tried de novo by the court. The court shall sustain the action of the secretary of state or shall direct the secretary of state to take the action the court determines proper.

SECTION 15. Section 10-33-141.3 of the North Dakota Century Code is created and enacted as follows:

10-33-141.3. Secretary of state - Involuntary dissolution - Revocation of certificate of authority.

1. With respect to involuntary dissolution of a corporation by the secretary of state:
 - a. A corporation may be involuntarily dissolved by the secretary of state if:
 - (1) The corporation has failed to appoint and maintain a registered agent and registered office as provided in section 10-33-12; or
 - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the corporation pursuant to this chapter.

- b. A corporation may not be dissolved by the secretary of state as provided for in this section unless:
 - (1) The secretary of state has given the corporation not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the corporation does not maintain a registered agent in this state, the notice must be mailed to its principal office; and
 - (2) During the sixty-day period, the corporation has failed to:
 - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
 - (b) File any other required record; or
 - (c) Correct the misrepresentation.
 - c. Upon expiration of sixty days after the mailing of the notice, the existence of the corporation ceases. The secretary of state shall issue a notice of dissolution and shall mail the notice addressed to its registered agent at the registered office in this state or, if the corporation does not maintain a registered agent in this state, the notice must be mailed to its principal office.
2. With respect to the revocation of a certificate of authority of a foreign corporation by the secretary of state:
- a. The certificate of a foreign corporation to transact business in this state may be revoked by the secretary of state if:
 - (1) The foreign corporation has failed to:
 - (a) Appoint and maintain a registered agent and registered office as provided in section 10-33-131;
 - (b) File with the secretary of state any amendment to its application for a certificate of authority as provided in section 10-33-130;
 - (c) File with the secretary of state any merger as provided in section 10-33-132; or
 - (d) File with the secretary of state an application for certificate of withdrawal of its authority as provided in section 10-33-133 when the corporation's existence has expired or the foreign corporation has been dissolved in the jurisdiction of the foreign corporation; or
 - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the foreign corporation under this chapter.
 - b. A certificate of authority may not be revoked by the secretary of state as provided for in this section unless:
 - (1) The secretary of state has given the foreign corporation not less than sixty days' notice by mail addressed to its registered agent at the

registered office in this state or, if the corporation failed to maintain a registered agent in this state, the notice must be mailed to its principal office; and

(2) During the sixty-day period, the foreign corporation has failed to:

(a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;

(b) File any amendment;

(c) File any merger;

(d) File an application for withdrawal;

(e) File any other required record; or

(f) Correct the misrepresentation.

c. Upon expiration of sixty days after the mailing of the notice, the authority of the foreign corporation to transact business in this state ceases. The secretary of state shall issue a notice of revocation and shall mail the notice to the registered agent at the registered office in this state or, if the foreign corporation failed to maintain a registered agent in this state, the notice must be mailed to its principal office.

3. If the corporation or foreign corporation files a report of change relating to the registered agent or any other required record or correction of a misrepresentation after the notice with the fee provided for in section 10-33-140, the secretary of state shall restore the certificate of incorporation or authority to good standing. Until restored to good standing, the secretary of state may not accept for filing any document respecting the corporation or foreign corporation except those incident to its dissolution or withdrawal.

SECTION 16. AMENDMENT. Subsection 7 of section 10-34-04 of the North Dakota Century Code is amended and reenacted as follows:

7. If any statement in the application was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the real estate investment trust shall file promptly with the secretary of state an application for an amended application executed by an authorized person correcting the statement. If only a change of address of the principal place of business is required, an amended application need not be filed; however, the change of address of the principal place of business must be submitted in writing to the secretary of state without a filing fee.

SECTION 17. AMENDMENT. Subsection 7 of section 45-10.2-24 of the North Dakota Century Code is amended and reenacted as follows:

7. A limited partnership shall submit a written report of any change of address of the principal executive office to the secretary of state without a filing fee or report the change of address on the annual report following the change and need not file an amendment to a certificate of limited partnership.

SECTION 18. AMENDMENT. Subsection 1 of section 45-10.2-25 of the North Dakota Century Code is amended and reenacted as follows:

1. Each record delivered to the secretary of state for filing pursuant to this chapter must be signed in the following manner:
 - a. An initial certificate of limited partnership must be signed by all general partners listed in the certificate.
 - b. An amendment to the certificate of limited partnership converting the limited partnership to a limited liability limited partnership must be signed by all general partners listed in the certificate.
 - c. An amendment to the certificate of limited partnership designating as general partner a person admitted under subdivision b of subsection 3 of section 45-10.2-66 following the dissociation of a last general partner of a limited partnership must be signed by that person.
 - d. An amendment to the certificate of limited partnership required by subsection 3 of section 45-10.2-68 following the appointment of a person to wind up the activities of the dissolved limited partnership must be signed by that person.
 - e. Any other amendment to the certificate of limited partnership must be signed by:
 - (1) At least one general partner listed in the certificate;
 - (2) Each other person designated in the amendment as a new general partner; and
 - (3) Each person that the amendment indicates has dissociated as a general partner, unless:
 - (a) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; ~~or~~
 - (b) The dissociated person has not been requested by the limited partnership to sign an amendment and the amendment so states;
or
 - (c) The person has previously delivered to the secretary of state for filing a statement of dissociation.
 - f. A restated certificate of limited partnership must be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other subdivision of this subsection, the certificate must be signed in a manner that satisfies that subdivision.
 - g. A statement of termination must be signed by a majority in interest of the general partners listed in the certificate of limited partnership or, if the certificate of a dissolved limited partnership lists no general partners, then by the person appointed pursuant to subsection 3 or 4 of section 45-10.2-68 to wind up the activities of the dissolved limited partnership.
 - h. Articles of conversion must be signed by all of the general partners listed in the certificate of limited partnership.

- i. Articles of merger must be signed as provided in subsection 1 of section 45-10.2-102.
- j. Any other record delivered on behalf of a limited partnership to the secretary of state for filing must be signed by at least one general partner listed in the certificate of limited partnership.
- k. A statement by a person pursuant to subdivision d of subsection 1 of section 45-10.2-59 stating that the person has dissociated as a general partner must be signed by that person.
- l. A statement of withdrawal by a person pursuant to section 45-10.2-36 must be signed by that person.
- m. A record delivered on behalf of a foreign limited partnership to the secretary of state for filing must be signed by at least one general partner of the foreign limited partnership.
- n. Any other record delivered on behalf of any person to the secretary of state for filing must be signed by that person.

SECTION 19. Section 45-10.2-108.1 of the North Dakota Century Code is created and enacted as follows:

45-10.2-108.1. Secretary of state - Involuntary dissolution - Revocation of certificate of authority.

1. With respect to involuntary dissolution of a limited partnership by the secretary of state:
 - a. A limited partnership may be involuntarily dissolved by the secretary of state if:
 - (1) The limited partnership has failed to appoint and maintain a registered agent and registered office as provided in section 45-10.2-17; or
 - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited partnership under this chapter.
 - b. A limited partnership may not be dissolved by the secretary of state as provided for in this section unless:
 - (1) The secretary of state has given the limited partnership not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the limited partnership does not maintain a registered agent in this state, the notice must be mailed to its principal office; and
 - (2) During the sixty-day period, the limited partnership has failed to:
 - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
 - (b) File any other required record; or

- (c) Correct the misrepresentation.
- c. Upon expiration of sixty days after the mailing of the notice, the existence of the limited partnership ceases. The secretary of state shall issue a notice of dissolution and shall mail the notice addressed to its registered agent at the registered office in this state or, if the limited partnership does not maintain a registered agent in this state, the notice must be mailed to its principal office.
2. With respect to the revocation of a certificate of authority of a foreign limited partnership by the secretary of state:
- a. The certificate of authority of a foreign limited partnership to transact business in this state may be revoked by the secretary of state if:
- (1) The foreign limited partnership has failed to:
- (a) Appoint and maintain a registered agent and registered office as provided in section 45-10.2-82;
- (b) Maintain the registration of a general partner as required in section 45-10.2-16;
- (c) File a report upon any change in the address of its principal executive office;
- (d) File with the secretary of state any amendment to its application for a certificate of authority as provided in section 45-10.2-81;
- (e) File with the secretary of state any merger as provided in section 45-10.2-83; or
- (f) File with the secretary of state an application for cancellation of its authority as provided in section 45-10.2-85 when the foreign limited partnership's existence has expired or the foreign limited partnership has been dissolved in the jurisdiction of the foreign limited partnership; or
- (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the foreign limited partnership under this chapter.
- b. A certificate of authority may not be revoked by the secretary of state as provided for in this section unless:
- (1) The secretary of state has given the foreign limited partnership not less than sixty days' notice by mail addressed to its registered agent at the registered office in this state or, if the limited partnership failed to maintain a registered agent in this state, the notice must be mailed to its principal office; and
- (2) During the sixty-day period, the foreign limited partnership has failed to:

- (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
 - (b) Maintain the registration of a general partner as required in section 45-10.2-16;
 - (c) File a report upon any change in the address of its principal executive office;
 - (d) File any amendment;
 - (e) File any merger;
 - (f) File an application for cancellation;
 - (g) File any other required record; or
 - (h) Correct the misrepresentation.
- c. Upon expiration of sixty days after the mailing of the notice, the authority of the foreign limited partnership to transact business in this state ceases. The secretary of state shall issue a notice of revocation and shall mail the notice to the registered agent at the registered office in this state or, if the foreign limited partnership failed to maintain a registered agent in this state, the notice must be mailed to its principal office.
3. If the limited partnership or foreign limited partnership files a report of change relating to the registered agent or any other required record or correction of a misrepresentation after the notice with the fee provided for in section 45-10.2-109, the secretary of state shall restore the certificate of authority to good standing. Until restored to good standing, the secretary of state may not accept for filing any document respecting the limited partnership or foreign limited partnership except those incident to its dissolution or cancellation.

SECTION 20. AMENDMENT. Section 45-11-05.1 of the North Dakota Century Code is amended and reenacted as follows:

45-11-05.1. Change of name or address of member.

1. Any member named on a fictitious name certificate that effects a name change must record that name change with the secretary of state. The secretary of state must record the name change upon the payment of twenty-five dollars and filing of the following:
 4. a. A notarized statement reciting the name change if the member is an individual.
 2. b. A certificate of fact reciting the name change duly authenticated by the proper officer of the state or country if the member is a corporation or limited partnership incorporated or organized in another state or country which does not have a certificate of authority to transact business in North Dakota.
 3. c. An amendment or application for amended certificate of authority for a member that is a corporation or, a limited liability company, a limited

partnership, a limited liability partnership, or a limited liability limited partnership registered with the secretary of state.

2. A registrant ~~must~~shall notify the secretary of state in writing without a filing fee when effecting a change of address. ~~A corporate~~An annual report or from a corporation, a limited liability company, a limited partnership renewal, a limited liability partnership, or a limited liability limited partnership filed by the secretary of state which reflects a change of address of the principal place of business of the member may serve as such notice.

SECTION 21. AMENDMENT. Subsection 4 of section 45-22-03 of the North Dakota Century Code is amended and reenacted as follows:

4. An original of the registration must be filed with the secretary of state.
- a. If the secretary of state finds the registration conforms to law and the fees provided in section 45-22-22 are paid, the secretary of state shall endorse on the original the word "filed" and the day, month, and year of the filing and shall file the original in the office of the secretary of state.
 - b. If any statement in the registration is false when made or becomes inaccurate after the registration is filed, making the registration false or inaccurate in any respect, the limited liability partnership shall file promptly with the secretary of state an amended or corrected registration or reflect the changes on the limited liability partnership's next annual report. If only a change of address of the principal executive office is required, an amended or corrected registration need not be filed. However, the change of address of the principal executive office must be reported in the next annual report filed after the change or be submitted in writing to the secretary of state without a filing fee.
 - c. In the case of a change in a foreign limited liability partnership's name, a foreign limited liability partnership shall file promptly with the secretary of state a certificate to that effect authenticated by the proper officer of the jurisdiction of origin.
 - d. In the case of a termination or merger:
 - (1) A foreign limited liability partnership that is not the surviving organization need not file an amended registration but, within thirty days after the merger or termination becomes effective, shall file with the secretary of state a certificate to that effect authenticated by the proper officer of the foreign limited liability partnership's jurisdiction of origin.
 - (2) It is not necessary for any foreign limited liability partnership, which is the surviving organization in a merger, to procure a new or amended registration unless the name of the foreign limited liability partnership is changed or unless the foreign limited liability partnership desires to pursue in this state purposes other than those which the foreign limited liability partnership is authorized to transact in this state.
 - e. ~~The secretary of state may destroy any registration that is on file for seven years.~~

SECTION 22. AMENDMENT. Section 45-22-16 of the North Dakota Century Code is amended and reenacted as follows:

45-22-16. Secretary of state - Revocation of registration.

1. The registration of a limited liability partnership or foreign limited liability partnership may be revoked by the secretary of state if:
 - a. The limited liability partnership or foreign limited liability partnership fails:
 - (1) To appoint and maintain a registered agent and registered office as provided in chapter 10-01.1;
 - (2) To file any amendment to the ~~limited liability partnership's~~ limited liability partnership or foreign limited liability partnership as required to be filed pursuant to subdivision b or c of subsection 4 of section 45-22-03;
 - (3) Fails to file a merger as required to be filed pursuant to subdivision d of subsection 4 of section 45-22-03; or
 - (4) Fails to file a withdrawal statement or cancellation of its registration if the foreign limited liability partnership's existence expires, it is dissolved, or it ceases to exist in the jurisdiction of origin.
 - b. An intentional misrepresentation is made in any material matter in any registration, report, affidavit, or other document submitted by the limited liability partnership or foreign limited liability partnership pursuant to this chapter.
2. Except for revocation of the registration for failure to file the annual report as provided in section 45-22-21.1, the secretary of state may not revoke the registration of a limited liability partnership or foreign limited liability partnership unless:
 - a. The secretary of state gave the limited liability partnership or foreign limited liability partnership at least sixty days' notice of the reason for the pending revocation by mail addressed to the ~~limited liability partnership's~~ registered agent of the limited liability partnership or foreign limited liability partnership at the registered office or, if the limited liability partnership or foreign limited liability partnership fails to appoint and maintain a registered agent in this state, by mail addressed to the ~~limited liability partnership's~~ principal executive office; and
 - b. During the sixty-day period, the limited liability partnership or foreign limited liability partnership fails:
 - (1) To appoint and maintain a registered agent as provided in chapter 10-01.1;
 - (2) To file the report of change regarding the name or business address of the registered agent;
 - (3) To file any amendment to the ~~limited liability partnership's~~ limited liability partnership or foreign limited liability partnership

required to be filed pursuant to subdivision b or c of subsection 4 of section 45-22-03; or

(4) To correct the misrepresentation.

3. Upon the expiration of the sixty-day period without the limited liability partnership or foreign limited liability partnership curing the reason for the pending revocation set forth in the notice, the registration is revoked. The secretary of state shall note the revocation in the records of the secretary of state and shall give notice of the revocation to the limited liability partnership or foreign limited liability partnership. Notice by the secretary of state must be mailed to the last registered agent at the last registered office. If the limited liability partnership or foreign limited liability partnership failed to appoint and maintain a registered office in this state, the notice must be mailed to the ~~limited liability partnership's~~ principal executive office.

SECTION 23. AMENDMENT. Subsection 15 of section 45-23-08 of the North Dakota Century Code is amended and reenacted as follows:

15. Filing a registration of foreign limited liability limited partnership, one hundred ten dollars.

SECTION 24. REPEAL. Sections 10-15-36, 10-19.1-141, 10-33-134, and 45-10.2-87 of the North Dakota Century Code are repealed.

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 87**HOUSE BILL NO. 1136**

(Judiciary Committee)

(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact chapter 10-32.1 of the North Dakota Century Code, relating to the regulation of limited liability companies and foreign liability companies; to amend and reenact subsections 5 and 12 of section 10-01.1-02, sections 10-06.1-05, 10-06.1-12, 10-06.1-14, and 10-06.1-17, subsections 27, 31, and 34 of section 10-19.1-01, paragraph 2 of subdivision e of subsection 1 and subdivision c of subsection 6 of section 10-19.1-13, subsection 9 of section 10-19.1-100, subsection 3 of section 10-19.1-102, paragraph 2 of subdivision e of subsection 2 of section 10-19.1-104.1, subsection 1 of section 10-31-02.1, section 10-31-03.1, subdivision a and paragraph 3 of subdivision b of subsection 2 and subsections 5 and 6 of section 10-31-13, subdivisions a and b of subsection 7 of section 10-31-13.1, paragraph 2 of subdivision e of subsection 1 and subdivision c of subsection 6 of section 10-33-10, subsection 1 of section 10-33-72, sections 10-36-03, 38-08.1-03, and 43-07-19, subsection 23 of section 45-10.2-02, paragraph 2 of subdivision f of subsection 1 and subdivision c of subsection 6 of section 45-10.2-10, paragraph 2 of subdivision a of subsection 2 of section 45-10.2-94, paragraph 2 of subdivision e of subsection 1 and subdivision c of subsection 6 of section 45-13-04.1, subdivision b of subsection 1 and paragraph 2 of subdivision a of subsection 11 of section 45-21-01, paragraph 2 of subdivision e of subsection 1 and subdivision c of subsection 5 of section 45-22-04, paragraph 2 of subdivision a of subsection 13 of section 45-23-01, paragraph 2 of subdivision f of subsection 1 and subdivision c of subsection 5 of section 45-23-03, section 50-22-02.2, and subsection 3 of section 54-44.4-09 of the North Dakota Century Code, relating to limited liability companies; to repeal chapter 10-32 of the North Dakota Century Code, relating to limited liability companies; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 5 and 12 of section 10-01.1-02 of the North Dakota Century Code are amended and reenacted as follows:

5. "Domestic limited liability company" means a limited liability company, other than a foreign limited liability company, organized under chapter ~~40-32~~10-32.1.
12. "Foreign limited liability company" means a limited liability company:
 - a. That is organized under laws other than the laws of this state for a purpose for which a limited liability company may be organized under chapter ~~40-32~~10-32.1; and
 - b. That is a qualified foreign entity.

SECTION 2. AMENDMENT. Section 10-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-05. Conversion of limited liability company.

A domestic business limited liability company organized under chapter ~~40-32~~10-32.1 may convert to a farming or ranching limited liability company by adopting an amendment to its articles of organization which specifies that the limited liability company elects to be subject to this chapter and by complying with all requirements of this chapter. The amendment must be filed with the secretary of state with the prescribed fee and with the initial report required by section 10-06.1-15. A farming or ranching limited liability company may convert to a domestic business limited liability company by adopting an amendment to its articles of organization. The amendment must be filed with the secretary of state with the prescribed fee. The amendment must be accompanied by a report outlining the information, as of the date of the amendment, which is required under section 10-06.1-17 and the manner in which the limited liability company has divested itself of its owned or leased land holdings and its business of farming or ranching.

SECTION 3. AMENDMENT. Section 10-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-12. Corporation or limited liability company allowed to engage in the business of farming or ranching - Requirements.

This chapter does not prohibit a domestic corporation or a domestic limited liability company from owning real estate and engaging in the business of farming or ranching, if the corporation meets all the requirements of chapter 10-19.1 or the limited liability company meets all the requirements of chapter ~~40-32~~10-32.1 which are not inconsistent with this chapter. The following requirements also apply:

1. If a corporation, the corporation must not have more than fifteen shareholders. If a limited liability company, the limited liability company must not have more than fifteen members.
2. Each shareholder or member must be related to each of the other shareholders or members within one of the following degrees of kinship or affinity: parent, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, or the spouse of a person so related.
3. Each shareholder or member must be an individual or one of the following:
 - a. A trust for the benefit of an individual or a class of individuals who are related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.
 - b. An estate of a decedent who was related to every shareholder of the corporation or member of the limited liability company within the degrees of kinship or affinity specified in this section.
4. A trust or an estate may not be a shareholder or member if the beneficiaries of the trust or the estate together with the other shareholders or members are more than fifteen in number.
5. Each individual who is a shareholder or member must be a citizen of the United States or a permanent resident alien of the United States.

6. If a corporation, the officers and directors of the corporation must be shareholders who are actively engaged in operating the farm or ranch and at least one of the corporation's shareholders must be an individual residing on or operating the farm or ranch. If a limited liability company, the governors and managers of the limited liability company must be members who are actively engaged in operating the farm or ranch and at least one of its members must be an individual residing on or operating the farm or ranch.
7. An annual average of at least sixty-five percent of the gross income of the corporation or limited liability company over the previous five years, or for each year of its existence, if less than five years, must have been derived from farming or ranching operations.
8. The income of the corporation or limited liability company from nonfarm rent, nonfarm royalties, dividends, interest, and annuities cannot exceed twenty percent of the gross income of the corporation or limited liability company.

SECTION 4. AMENDMENT. Section 10-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-14. Applicability of North Dakota limited liability company laws.

Chapter ~~10-32~~10-32.1, except those sections which pertain to foreign limited liability companies, is applicable to farming or ranching limited liability companies, which have the powers and privileges and are subject to the duties, restrictions, and liabilities of other business limited liability companies, except when inconsistent with the intent of this chapter. This chapter takes precedence in the event of any conflict with the provisions of chapter ~~10-32~~10-32.1.

³⁰ **SECTION 5. AMENDMENT.** Section 10-06.1-17 of the North Dakota Century Code is amended and reenacted as follows:

10-06.1-17. Annual report - Contents - Filing requirements.

Before April sixteenth of each year, every corporation engaged in farming or ranching after June 30, 1981, and every limited liability company engaged in farming or ranching shall file with the secretary of state an annual report signed as provided in subsection 54 of section 10-19.1-01 if a corporation and subsection ~~58~~47 of section ~~10-32-02~~10-32.1-02 if a limited liability company. If the corporation or limited liability company is in the hands of a receiver or trustee, it must be signed on behalf of the corporation or limited liability company by the receiver or trustee. An annual report in a sealed envelope postmarked by the United States postal service before the date provided in this section or an annual report in a sealed packet with a verified shipment date by any other carrier service before the date provided in this section meets the filing date requirement. An annual report must include the following information with respect to the preceding calendar year:

1. The name of the corporation or limited liability company.
2. The name of the registered agent of the corporation or limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, the address of the registered office of the corporation or limited liability company in this state.

³⁰ Section 10-06.1-17 was also amended by section 2 of House Bill No. 1335, chapter 86.

3. With respect to each corporation:
 - a. A statement of the aggregate number of shares the corporation has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.
 - b. A statement of the aggregate number of issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class.
4. With respect to each shareholder or member:
 - a. The name and address of each, including the names and addresses and relationships of beneficiaries of trusts and estates which own shares or membership interests;
 - b. The number of shares or membership interests or percentage of shares or membership interests owned by each;
 - c. The relationship of each;
 - d. A statement of whether each is a citizen or permanent resident alien of the United States; and
 - e. A statement of whether at least one is an individual residing on or operating the farm or ranch.
5. With respect to management:
 - a. If a corporation, then the names and addresses of the officers and members of the board of directors; or
 - b. If a limited liability company, then the names and addresses of the managers and members of the board of governors.
6. A statement listing the acreage [hectarage] and location listed by section, township, range, and county of all land in the state owned or leased by the corporation or limited liability company and used for farming or ranching. The statement must also designate which, if any, of the acreage [hectarage] is leased from or jointly owned with any shareholder or member and list the name of the shareholder or member with that acreage [hectarage].
7. A statement of the percentage of the annual average gross income of the corporation or limited liability company which has been derived from farming or ranching operations over the previous five years or for each year of existence if less than five years.
8. A statement of the percentage of gross income of the corporation or limited liability company derived from nonfarm rent, nonfarm royalties, dividends, interest, and annuities during the period covered by the report.
9. A corporation engaged in farming which fails to file an annual report is subject to the penalties provided in section 10-19.1-147 except that the penalties must be calculated from the date of the report required by this section.

10. A limited liability company engaged in farming which fails to file an annual report is subject to the penalties provided in subsections 5 and 6 of section ~~40-32-149~~10-32.1-89 except that the penalties must be calculated from the date of the report required by this section.

SECTION 6. AMENDMENT. Subsections 27, 31, and 34 of section 10-19.1-01 of the North Dakota Century Code are amended and reenacted as follows:

27. "Foreign limited liability company" means a limited liability company organized under laws other than the laws of this state for a purpose for which a limited liability company may be organized under chapter ~~40-32-10-32.1~~.
31. "Governing statute" of an organization means:
- a. With respect to a domestic organization, the following chapters of this code which govern the internal affairs of the organization:
 - (1) If a corporation, then this chapter;
 - (2) If a limited liability company, then chapter ~~40-32-10-32.1~~;
 - (3) If a general partnership, then chapters 45-13 through 45-21;
 - (4) If a limited partnership, then chapter 45-10.2;
 - (5) If a limited liability partnership, then chapter 45-22; and
 - (6) If a limited liability limited partnership, then chapter 45-23; and
 - b. With respect to a foreign organization, the laws of the jurisdiction under which the organization is created and under which the internal affairs of the organization are governed.
34. "Limited liability company" or "domestic limited liability company" means a limited liability company, other than a foreign limited liability company, organized under or governed by chapter ~~40-32-10-32.1~~.

³¹ **SECTION 7. AMENDMENT.** Paragraph 2 of subdivision e of subsection 1 of section 10-19.1-13 of the North Dakota Century Code is amended and reenacted as follows:

- (2) A name the right to which is, at the time of incorporation, reserved in the manner provided in section 10-19.1-14, ~~40-32-44~~10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

³² **SECTION 8. AMENDMENT.** Subdivision c of subsection 6 of section 10-19.1-13 of the North Dakota Century Code is amended and reenacted as follows:

- c. Holds a reserved name in the manner provided in section 10-19.1-14, ~~40-32-44~~10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

³¹ Section 10-19.1-13 was also amended by section 8 of House Bill No. 1136, chapter 87.

³² Section 10-19.1-13 was also amended by section 7 of House Bill No. 1136, chapter 87.

SECTION 9. AMENDMENT. Subsection 9 of section 10-19.1-100 of the North Dakota Century Code is amended and reenacted as follows:

9. If all of the ownership interests of one or more domestic subsidiaries that is a constituent organization to a merger under this section are not owned by the parent directly, or indirectly through related constituent organizations, immediately before the merger, then the owners of each domestic subsidiary which is either a limited liability company or a corporation, have dissenter's rights under section 10-19.1-87 or ~~40-32-54~~, without regard to subsection 3 of section 10-19.1-87 or ~~subsection 2 of section 10-32-54~~10-32.1-33, and under section 10-19.1-88 or ~~10-32-55~~.
- a. If the parent is a constituent organization but is not the surviving organization in the merger, the articles of incorporation or articles of organization of the surviving organization immediately after the merger differ from the articles of incorporation or articles of organization of the parent immediately before the merger in a manner that would entitle an owner of the parent to dissenter's rights under subdivision a of subsection 1 of section 10-19.1-87 or ~~under subdivision a of subsection 4 of section 10-32-54~~section 10-32.1-33, and the articles of incorporation or articles of organization of the surviving constituent organization constitute an amendment to the articles of incorporation or articles of organization of the parent, then that owner of the parent has dissenter's rights as provided under section 10-19.1-87 or ~~40-32-54~~10-32.1-33.
- b. Except as provided in this subsection, ~~sections~~section 10-19.1-87 and ~~40-32-54~~ does not apply to any merger affected under this section.

SECTION 10. AMENDMENT. Subsection 3 of section 10-19.1-102 of the North Dakota Century Code is amended and reenacted as follows:

3. When a merger or exchange becomes effective, the ownership interests to be converted or exchanged under the terms of the plan cease to exist in the case of a merger, or are deemed to be exchanged in the case of an exchange. The owners of those ownership interests are entitled only to the securities, money, or other property into which those ownership interests have been converted or for which those ownership interests have been exchanged in accordance with the plan, subject to any dissenter's rights under section 10-19.1-87 or ~~40-32-54~~10-32.1-33.

SECTION 11. AMENDMENT. Paragraph 2 of subdivision e of subsection 2 of section 10-19.1-104.1 of the North Dakota Century Code is amended and reenacted as follows:

- (2) A certificate of organization, if the converted organization is a limited liability company deemed to be organized under chapter ~~40-32~~10-32.1;

SECTION 12. AMENDMENT. Subsection 1 of section 10-31-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. One or more individuals may organize a professional organization in the form of a limited liability company for the practice of a profession by filing articles of organization with the secretary of state. The articles of organization must meet the requirements of chapter ~~40-32~~10-32.1 and must contain the following:

- a. The profession to be practiced through the professional limited liability company; and
- b. The name and residence address of each original member of the professional limited liability company who will practice the profession in this state and of each original member of the professional limited liability company who is a minority owner.

SECTION 13. AMENDMENT. Section 10-31-03.1 of the North Dakota Century Code is amended and reenacted as follows:

10-31-03.1. Applicability of chapter ~~40-32~~10-32.1.

Chapter ~~40-32~~10-32.1 applies to a professional organization that is created in the form of a limited liability company and which enjoys the powers and privileges and is subject to the duties, restrictions, and liabilities of other limited liability companies except when inconsistent with the letter and purpose of this chapter. This chapter takes precedence in the event of any conflict with chapter ~~40-32~~10-32.1.

³³ **SECTION 14. AMENDMENT.** Subdivision a of subsection 2 of section 10-31-13 of the North Dakota Century Code is amended and reenacted as follows:

- a. Each limited liability company organized under this chapter shall file with the secretary of state an annual report at the time specified for the filing of the report by chapter ~~40-32~~10-32.1 giving the name and residence address of all managers, governors, and members of the organization at the time of filing of the annual report.

³⁴ **SECTION 15. AMENDMENT.** Paragraph 3 of subdivision b of subsection 2 of section 10-31-13 of the North Dakota Century Code is amended and reenacted as follows:

- (3) Accompanied by the filing fee prescribed in section ~~40-32-180~~10-32.1-92.

³⁵ **SECTION 16. AMENDMENT.** Subsection 5 of section 10-31-13 of the North Dakota Century Code is amended and reenacted as follows:

5. In order to regulate organizations that have minority ownership, the secretary of state shall collect one thousand dollars for articles of incorporation for a corporation, articles of organization for a limited liability company, or articles of amendment related to an organization that has a minority owner. This fee is in addition to the fees provided for these filings under section 10-19.1-147 or ~~40-32-150~~10-32.1-92. Fees collected by the secretary of state under this

³³ Section 10-31-13 was also amended by section 15 of House Bill No. 1136, chapter 87, section 16 of House Bill No. 1136, chapter 87, and section 17 of House Bill No. 1136, chapter 87.

³⁴ Section 10-31-13 was also amended by section 14 of House Bill No. 1136, chapter 87, section 16 of House Bill No. 1136, chapter 87, and section 17 of House Bill No. 1136, chapter 87.

³⁵ Section 10-31-13 was also amended by section 14 of House Bill No. 1136, chapter 87, section 15 of House Bill No. 1136, chapter 87, and section 17 of House Bill No. 1136, chapter 87.

subsection must be deposited in the secretary of state's general services operating fund.

³⁶ **SECTION 17. AMENDMENT.** Subsection 6 of section 10-31-13 of the North Dakota Century Code is amended and reenacted as follows:

6. In order to regulate organizations that have ownership that renders more than one professional service, the secretary of state shall collect one thousand dollars for articles of incorporation for a corporation, articles of organization for a limited liability company, or articles of amendment related to an organization that has ownership that renders more than one professional service. This fee is in addition to the fees provided for these filings under section 10-19.1-147 or ~~40-32-150~~10-32.1-92. Fees collected by the secretary of state under this subsection must be deposited in the secretary of state's general services operating fund.

SECTION 18. AMENDMENT. Subdivisions a and b of subsection 7 of section 10-31-13.1 of the North Dakota Century Code are amended and reenacted as follows:

7. a. The provisions of chapter ~~40-32~~10-32.1 applicable to foreign limited liability companies apply to a foreign professional organization rendering professional services in this state in the form of a foreign limited liability company. Such a foreign professional organization enjoys the powers and privileges and is subject to the duties, restrictions, and liabilities of other foreign limited liability companies doing business in this state, except when inconsistent with the letter and purpose of the provisions of this chapter applicable to foreign professional organizations.
- b. A foreign professional organization rendering professional services in this state in the form of a foreign limited liability company shall include in its application for a certificate of authority under section ~~40-32-138~~10-32.1-75 or its annual report under section ~~40-32-149~~10-32.1-89 the following information:

SECTION 19. Chapter 10-32.1 of the North Dakota Century Code is created and enacted as follows:

10-32.1-01. Citation.

This chapter may be cited as the "North Dakota Uniform Limited Liability Company Act".

10-32.1-02. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Acquiring organization" means the domestic or foreign organization that acquires the ownership interests of another foreign or domestic organization in an exchange.
2. "Address" means:

³⁶ Section 10-31-13 was also amended by section 14 of House Bill No. 1136, chapter 87, section 15 of House Bill No. 1136, chapter 87, and section 16 of House Bill No. 1136, chapter 87.

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- a. In the case of a registered office or principal executive office, the mailing address, which may not be only a post-office box, including a zip code, or the actual office location; and
 - b. In all other cases, the mailing address, including a zip code.
3. "Filed documents" means:
- a. In the case of a limited liability company organized under this chapter, articles of organization, articles of amendment, a statement of correction, restated articles of organization, a statement of change of registered office, registered agent, or name of registered agent, a statement establishing or fixing the rights and preferences of a class or series of membership interests, articles of merger, articles of abandonment, articles of conversion, articles of domestication, statement of authority or a statement amending or canceling a statement of authority, and articles of dissolution and termination.
 - b. In the case of a foreign limited liability company, the term includes all records serving a similar function required to be filed with the secretary of state or other state office of the state of organization of the foreign limited liability company.
4. "Board" means the board of governors, however designated, of a board-managed limited liability company.
5. "Board-managed limited liability company" means a limited liability company that qualifies as such under subsection 1 of section 10-32.1-39.
6. "Bylaws" means any rule, resolution, or other provision, regardless how designated, that:
- a. Relates to the management of the business or the regulation of the affairs of the limited liability company; and
 - b. Was expressly part of the bylaws by the action, taken from time to time under section 10-32.1-39 by the board or the members.
7. "Class", when used with reference to membership interests, means a category of membership interests which differs in one or more rights or preferences from another category of membership interests of the limited liability company.
8. "Closely held limited liability company" means a limited liability company that does not have more than thirty-five members.
9. "Contribution" means any benefit provided by a person to a limited liability company:
- a. In order to become a member upon formation of the company and in accordance with an agreement between or among the persons that have agreed to become the initial members of the company;
 - b. In order to become a member after formation of the company and in accordance with an agreement between the person and the company; or

- c. In the capacity of the person as a member and in accordance with the operating agreement or an agreement between the member and the company.
10. "Corporation" or "domestic corporation" means a corporation, other than a foreign corporation, organized for profit and incorporated under chapter 10-19.1.
 11. "Debtor in bankruptcy" means a person that is the subject of:
 - a. An order for relief under United States Code, title 12, or a successor statute of general application; or
 - b. A comparable order under federal, state, or foreign law governing insolvency.
 12. "Dissolution" means that the limited liability company incurred an event under subsection 1 of section 10-32.1-50 that obligates the limited liability company to wind up the affairs of the limited liability company and to terminate the existence of the limited liability company as a legal entity.
 13. "Distribution", except as otherwise provided in subsection 7 of section 10-32.1-31, means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.
 14. "Effective", with respect to a record required or permitted to be filed with the secretary of state under this chapter, means effective under subsection 3 of section 10-32.1-86.
 15. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
 16. "Electronic communication" means any form of communication, not directly involving the physical transmission of paper:
 - a. That creates a record that may be retained, retrieved, and reviewed by a recipient of the communication; or
 - b. That may be directly reproduced in paper form by the recipient through an automated process.
 17. "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
 18. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
 19. "Filed with the secretary of state" means except as otherwise permitted by law or rule:
 - a. That a record meeting the applicable requirements of this chapter, together with the fees provided in section 10-32.1-92, has been delivered or communicated to the secretary of state by a method or medium of

- communication acceptable by the secretary of state, and has been determined by the secretary of state to conform to law.
- b. That the secretary of state did then:
- (1) Record the actual date on which the record was filed, and if different, the effective date of the filing which may not be later than ninety days after the date on which the record was accepted; and
- (2) Record the record in the office of the secretary of state.
20. "Foreign corporation" means a corporation organized for profit that is incorporated under laws other than the laws of this state for a purpose for which a corporation may be incorporated under chapter 10-19.1.
21. "Foreign limited liability company" means a limited liability company which is organized under or governed by laws other than the laws of this state for a purpose for which a limited liability company may be organized under this chapter.
22. "Foreign organization" means an organization created under laws other than the laws of this state for a purpose for which an organization may be created under the laws of this state.
23. "Good faith" means honesty in fact in the conduct of the act or transaction concerned.
24. "Governing body" means for an organization that is:
- a. A corporation, its board of directors;
- b. A limited liability company that is:
- (1) Member-managed, its members;
- (2) Board-managed, its board of governors; or
- (3) Manager-managed, its managers; or
- c. Any other organization, the body selected by its owners that has the ultimate power to determine the policies of the organization and to control its policies.
25. "Governor" means a member of the board, however designated, of a board-managed limited liability company.
26. "Intentionally" means that the person referred to either has a purpose to do or fail to do the act or cause the result specified or believes that the act or failure to act, if successful, will cause that result and as such a person "intentionally" violates a statute:
- a. If the person intentionally does the act or causes the result prohibited by the statute; or
- b. If the person intentionally fails to do the act or cause the result required by the statute, even though the person may not know of the existence or

- constitutionality of the statute or the scope or meaning of the terms used in the statute.
27. "Legal representative" means a person empowered to act for another person, including an agent, manager, officer, partner, or associate of an organization; a trustee of a trust; a personal representative; a trustee in bankruptcy; and a receiver, guardian, custodian, or conservator.
 28. "Limited liability company", or "domestic limited liability company" means a limited liability company, other than a foreign limited liability company, organized under or governed by this chapter excluding a nonprofit limited liability company organized under or governed by chapter 10-36.
 29. "Manager" means an individual who is eighteen years of age or more who under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in subsection 3 of section 10-32.1-39.
 30. "Manager-managed limited liability company" means a limited liability company that qualifies as such under subsection 1 of section 10-32.1-39.
 31. "Member" means a person that has become a member of a limited liability company under section 10-32.1-27 and has not dissociated under section 10-32.1-48.
 32. "Membership interest" means one of the units, however designated, of which the proprietary interests of a member in a limited liability company is divided.
 33. "Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company or a board-managed limited liability company.
 34. "Nonprofit limited liability company" means a limited liability company organized under or governed by chapter 10-36.
 35. "Notice" has the meaning provided in section 10-32.1-04.
 36. "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in subsection 1 of section 10-32.1-13 and includes the operating agreement as amended or restated.
 37. With respect to "oppressive":
 - a. "Oppressive", with respect to an application brought by a member under paragraph 2 of subdivision 3 of subsection 1 of section 10-32.1-50, means conduct:
 - (1) Engaged in by one or more:
 - (a) Members in a member-managed limited liability company or who are otherwise in control of any limited liability company;

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39. "Organizer" means a person that acts under section 10-32.1-20 to form a limited liability company.
40. "Originating records" means for an organization which is:
- a. A corporation, its articles of incorporation;
 - b. A limited liability company, its articles of organization;
 - c. A limited partnership, its certificate of limited partnership;
 - d. A limited liability partnership, its registration; or
 - e. A limited liability limited partnership, its certificate of limited liability limited partnership.
41. "Owners" means the holders of ownership interests in an organization.
42. "Ownership interests" means for a domestic or foreign organization that is:
- a. A corporation, its shares;
 - b. A limited liability company, its transferable interests;
 - c. A limited partnership, its partnership interests or transferable interests;
 - d. A general partnership, its partnership interests or transferable interests;
 - e. A limited liability partnership, its partnership interests or transferable interests;
 - f. A limited liability limited partnership, its partnership interests or transferable interests; or
 - g. Any other organization, its governance or transferable interests.
43. "Principal executive office" means:
- a. If the limited liability company has an elected or appointed president, then an office where the elected or appointed president of the limited liability company has an office; or
 - b. If the limited liability company has no elected or appointed president, then the registered office of the limited liability company.
44. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
45. "Recorded in the real property records" means that a certified copy of a record meeting the applicable requirements of this chapter, including containing a legal description of the property affected by the record, as filed with the secretary of state, has been recorded in the office of the county recorder in the county in which the real property affected by the record is located.

46. "Registered office" means:
- a. The office that a limited liability company is required to designate and maintain under section 10-32.1-16; or
 - b. The office that a foreign limited liability company is required to designate and maintain under section 10-32.1-78.
47. "Remote communication" means communication via electronic communication, conference telephone, videoconference, the internet, or other means by which persons not physically present in the same location may communicate with each other on a substantially simultaneous basis.
48. "Series" means a category of membership interests, within a class of membership interests, that has some of the same rights and preferences as other membership interests within the same class, but that differ in one or more rights and preferences from another category of membership interests within that class.
49. "Sign" or "Signed" means:
- a. That the signature of a person, which may be a facsimile affixed, engraved, printed, placed, stamped with indelible ink, transmitted by facsimile telecommunication or electronically, or in any other manner reproduced on the record, is placed on a record with the present intention to authenticate that record.
 - b. With respect to a record required by this chapter to be filed with the secretary of state, that:
 - (1) The record has been signed by a person authorized to do so by this chapter, the articles or organization, a member-control agreement, or the bylaws or a resolution approved by the governors as required by section 10-32.1-39 or the members as required by section 10-32.1-39; and
 - (2) The signature and the record are communicated by a method or medium acceptable by the secretary of state.
 - c. The initial articles of organization must be signed by at least one person acting as an organizer.
 - d. A record filed on behalf of a dissolved limited liability company that has no members must be signed:
 - (1) By the person winding up the activities of the company under subsection 3 of section 10-31.2-51; or
 - (2) By a person appointed under subsection 4 of section 10-32.1-51, to wind up those activities.
 - e. A statement of denial by a person under section 10-32.1-25 must be signed by that person.

- f. Any other record filed under this chapter may be signed by an agent pursuant to chapters 3-01, 3-02, 3-03, and 3-04.
50. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
51. "Termination" means the end of the existence of a limited liability company as a legal entity and occurs when:
- a. Articles of dissolution and termination are filed with the secretary of state under section 10-32.1-51 together with the fees provided in section 10-32.1-92.
 - b. Articles of dissolution and termination are considered filed with the secretary of state under subsection 3 of section 10-32.1-59, together with the fees provided in section 10-32.1-92.
 - c. Notice of termination has been issued by the secretary of state as provided in section 10-32.1-90.
52. "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.
53. "Transferable interest" or "membership interest" means the right, as originally associated with the capacity of a person as a member, to receive distributions from a limited liability company in accordance with the operating agreement, whether or not the person remains a member or continues to own any part of the right.
54. "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.
55. "Vote" includes authorization by written action.
56. "Winding up" means the period triggered by dissolution during which the limited liability company ceases to carry on business, except to the extent necessary for concluding affairs, and disposing of assets under section 10-32.1-51.
57. "Written action" means:
- a. A written record signed by every person required to take the action described; and
 - b. The counterparts of a written record signed by any person taking the action described.
 - (1) Each counterpart constitutes the action of the persons signing it; and
 - (2) All the counterparts, taken together, constitute one written action by all of the persons signing them.

10-32.1-03. Legal recognition of electronic records and electronic signatures.

For purposes of this chapter:

1. A record or signature may not be denied legal effect or enforceability solely because it is in electronic form;
2. A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation;
3. If a provision requires a record to be in writing, then an electronic record satisfies the requirement; and
4. If a provision requires a signature, then an electronic signature satisfies the requirement.

10-32.1-04. Knowledge and notice.

1. A person knows a fact when the person:
 - a. Has actual knowledge of it; or
 - b. Is deemed to know it under subdivision a of subsection 4, or law other than this chapter.
2. A person has notice of a fact when the person:
 - a. Has reason to know the fact from all of the facts known to the person at the time in question; or
 - b. Is deemed to have notice of the fact under subdivision b of subsection 4.
3. A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.
4. A person that is not a member is deemed:
 - a. To know of a limitation on authority to transfer real property as provided in subsection 7 of section 10-32.1-24; and
 - b. To have notice of:
 - (1) The dissolution of a limited liability company, ninety days after a notice of dissolution under paragraph 1 of subdivision b of subsection 2 of section 10-32.1-51, becomes effective;
 - (2) The termination of a limited liability company, ninety days after the articles of dissolution and termination under paragraph 6 of subdivision b of subsection 2 of section 10-32.1-51, becomes effective; and
 - (3) The merger, conversion, or domestication of a limited liability company, ninety days after the articles of merger, conversion, or domestication under sections 10-32.1-67 through 10-32.1-71 becomes effective.

10-32.1-05. Application to existing relationships.

1. On or after July 1, 2015, a limited liability company may not be formed under chapter 10-32.
2. Before January 1, 2016, this chapter governs only:
 - a. A limited liability company formed on or after July 1, 2015; and
 - b. Except as otherwise provided in subsection 3, a limited liability company formed before July 1, 2015, which elects, in the manner provided in its articles of organization, operating agreement or bylaws for amending the operating agreement, to be subject to this chapter.
3. Except as otherwise provided in subsection 4, on and after January 1, 2016, this chapter governs all limited liability companies.
4. For the purposes of applying this chapter to a limited liability company formed before July 1, 2015:
 - a. The articles of organization of the limited liability company under chapter 10-32 at the time the limited liability company becomes subject to this chapter are deemed to be the articles of organization of the limited liability company; and
 - b. For the purposes of applying subsection 35 of section 10-32.1-02, and subject to subsection 4 of section 10-32.1-15, the language in the articles of organization, and any bylaws, operating agreement, or member control agreement, or any combination of those documents of a limited liability company formed before July 1, 2015, that becomes subject to this chapter will operate as if that language were in the operating agreement of the limited liability company when it becomes subject to this chapter; and
 - c. Subject to the operating agreement of the limited liability company:
 - (1) The limited liability company shall keep the records specified in subdivision k of subsection 1 of section 10-32-51, at the principal executive office of the limited liability company, or at another place or places within the United States as determined under subsection 1 of section 10-32-51, before the limited liability company became subject to this chapter;
 - (2) For the purpose of applying paragraph 1, subsections 3 and 4 of section 10-32-56, continue to apply to the limited liability company as if those provisions had not been repealed;
 - (3) Subsection 1 of section 10-32.1-30, does not apply to the limited liability company;
 - (4) The profits and losses of the limited liability company are to be allocated among the members, and among classes and series of members, in proportion to the value of the contributions of the members reflected in the records required by paragraph 1;

- (5) The voting power of each membership interest is in proportion to the value of the contributions of the members reflected in the records required by paragraph 1;
- (6) Distributions of cash or other assets of the limited liability company, including distributions on the dissolution of the limited liability company, must be allocated in proportion to the value of the contributions of the members reflected in the records required by paragraph 1;
- (7) Subdivision a of subsection 1 and subsections 2 and 3 of 10-32-54 and section 10-32-55 continue to apply to the limited liability company as if those provisions had not been repealed; and
- (8) For the purpose of applying paragraph 7, subsection 1 of section 10-32-40.1 continues to apply to the limited liability company as if that provision had not been repealed.

10-32.1-06. Reservation of legislative right.

The legislative assembly reserves the right to amend or repeal the provisions of this chapter. A limited liability company organized under or governed by this chapter is subject to this reserved right.

10-32.1-07. Nature, purpose, and duration of a limited liability company.

1. A limited liability company is an entity distinct from its members.
2. Except for a nonprofit limited liability company subject to chapter 10-36, which must comply with that chapter, a limited liability company may have any lawful purpose.
3. A limited liability company has perpetual duration unless stated otherwise in articles of organization filed with the secretary of state prior to July 1, 2015.

10-32.1-08. Powers.

1. Except as provided in subsection 2, a limited liability company has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities. With respect to loans, guarantees, and suretyship:
 - a. Without in any way limiting the generality of the power of a limited liability company to do all things necessary or convenient to carry on its activities, a limited liability company may lend money to, guarantee an obligation of, become a surety for, or otherwise financially assist a person, if the transaction, or a class of transactions to which the transaction belongs, is approved pursuant to this chapter and the operating agreement of the limited liability company, and:
 - (1) Is in the usual and regular course of business of the limited liability company;
 - (2) Is with, or for the benefit of, a related organization, an organization in which the limited liability company has a financial interest, an organization with which the limited liability company has a business relationship, or an organization to which the limited liability company

has the power to make donations, any of which relationships constitute consideration sufficient to make the loan, guarantee, suretyship, or other financial assistance so approved enforceable against the limited liability company;

- (3) Is with, or for the benefit of, a member who provides services to the limited liability company, or a manager or other employee of the limited liability company or a subsidiary, including a member, manager, or employee who is a governor of the limited liability company or a subsidiary, and may reasonably be expected, in the judgment of the board of governors, to benefit the limited liability company; or
 - (4) Whether or not any separate consideration has been paid or promised to the limited liability company, has been approved by:

 - (a) The owners of two-thirds of the voting power of persons other than the interested person or persons; or
 - (b) The unanimous vote of all members, whether or not ordinarily entitled to vote.
 - b. Any loan, guaranty, surety contract, or other financial assistance described in subdivision a may be with or without interest and may be unsecured or may be secured in any manner including, without limitation, a grant of a security interest in the transferable interest of a member in the limited liability company.
 - c. This subsection does not grant any authority to act as a bank or to carry on the business of banking.
2. Until a limited liability company has or has had at least one member, the company lacks the capacity to do any act or carry on any activity except:
- a. Delivering to the secretary of state for filing:

 - (1) A statement of change under section 10-32.1-17;
 - (2) An amendment to the certificate under section 10-32.1-21;
 - (3) A statement of correction under section 10-32.1-88;
 - (4) An annual report under section 10-32.1-89;
 - (5) A notice of termination under section 10-32.1-51; and
 - (6) Articles of dissolution and termination under section 10-32.1-51;
 - b. Admitting a member under section 10-32.1-27; and
 - c. Dissolving under section 10-32.1-50.
3. A limited liability company that has or has had at least one member may ratify an act or activity that occurred when the company lacked capacity under subsection 2.

10-32.1-09. Governing law.

The law of this state governs:

1. The internal affairs of a limited liability company; and
2. The liability of a member as member, a manager as manager, and a governor as governor, for the debts, obligations, or other liabilities of a limited liability company.

10-32.1-10. Supplemental principles of law.

Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

10-32.1-11. Limited liability company name.

1. The limited liability company name:
 - a. Must be expressed in letters or characters used in the English language as those letters or characters appear in the American standard code for information interchange table;
 - b. Must contain the words "limited liability company", or must contain the abbreviation "L.L.C." or the abbreviation "LLC", either of which abbreviation may be used interchangeably for all purposes authorized by this chapter, including real estate matters, contracts, and filings with the secretary of state;
 - c. May not contain:
 - (1) The word "corporation", "incorporated", "limited partnership", "limited liability partnership", "limited liability limited partnership", or any abbreviation of these words; or
 - (2) The words "limited" or "company" without association to the words "limited liability company" or the abbreviations of these words as provided in subsection b;
 - d. May not contain a word or phrase that indicates or implies that the limited liability company:
 - (1) Is organized for a purpose other than:
 - (a) A lawful business purpose for which a limited liability company may be organized under this chapter; or
 - (b) For a purpose stated in its articles of organization; or
 - (2) May not be organized under this chapter; and
 - e. May not be the same as, or deceptively similar to:
 - (1) The name, whether foreign and authorized to do business in this state or domestic, unless there is filed with the articles a record which complies with subsection 3, of:

- (a) Another limited liability company;
 - (b) A corporation;
 - (c) A limited partnership;
 - (d) A limited liability partnership; or
 - (e) A limited liability limited partnership;
 - (2) A name, the right of which is, at the time of organization, reserved in the manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
 - (3) A fictitious name registered in the manner provided in chapter 45-11;
 - (4) A trade name registered in the manner provided in chapter 47-25; or
 - (5) A trademark or service mark registered in the manner provided in chapter 47-22.
2. The secretary of state shall determine whether a limited liability company name is deceptively similar to another name for purposes of this chapter.
3. If the secretary of state determines that a limited liability company name is deceptively similar to another name for purposes of this chapter, then the limited liability company name may not be used unless there is filed with the articles:
- a. The written consent of the holder of the rights to the name to which the proposed name has been determined to be deceptively similar; or
 - b. A certified copy of a judgment of a court in this state establishing the prior right of the applicant to the use of the name in this state.
4. This section and section 10-32.1-12 do not:
- a. Abrogate or limit:
 - (1) The law of unfair competition or unfair practices;
 - (2) Chapter 47-25;
 - (3) The laws of the United States with respect to the right to acquire and protect copyrights, trade names, trademarks, service names, and service marks; or
 - (4) Any other rights to the exclusive use of names or symbols.
 - b. Derogate the common law or the principles of equity.
5. A domestic or foreign limited liability company that is the surviving organization in a merger with one or more other organizations, or that acquires by sale, lease, or other disposition to or exchange with an organization all or substantially all of the assets of another organization including its name, may have the same name, subject to the requirements of

- subsection 1, as that used in this state by any of the other organizations, if the organization whose name is sought to be used:
- a. Was organized, incorporated, formed, or registered under the laws of this state;
 - b. Is authorized to transact business or conduct activities in this state;
 - c. Holds a reserved name in the manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
 - d. Holds a fictitious name registered in the manner provided in chapter 45-11;
 - e. Holds a trade name registered in the manner provided in chapter 47-25; or
 - f. Holds a trademark or service mark registered in the manner provided in chapter 47-22.
6. The use of a name by a limited liability company in violation of this section does not affect or vitiate its limited liability company existence. However, a court in this state may, upon application of the state or of an interested or affected person, enjoin the limited liability company from doing business under a name assumed in violation of this section, although its articles of organization may have been filed with the secretary of state and a certificate of organization issued.
7. A limited liability company whose period of existence has expired or that is involuntarily terminated by the secretary of state pursuant to section 10-32.1-89 may reacquire the right to use that name by refiling articles of organization pursuant to section 10-32.1-20, unless the name has been adopted for use or reserved by another person, in which case the filing will be rejected unless the filing is accompanied by a written consent or judgment pursuant to subsection 2. A limited liability company that cannot reacquire the use of its limited liability company name shall adopt a new limited liability company name which complies with the provisions of this section:
- a. By refiling the articles of organization pursuant to section 10-32.1-20;
 - b. By amending pursuant to section 10-32.1-21; or
 - c. By reinstating pursuant to section 10-32.1-91.
8. Subject to section 10-32.1-73, this section applies to any foreign limited liability company transacting business in this state, having a certificate of authority to transact business in this state, or applying for a certificate of authority.
9. An amendment that only changes the name of the limited liability company may be authorized by a resolution approved by the board and may, but need not, be submitted to and approved by the members as provided in subdivision b of subsection 1 of section 10-32.1-21.
10. A limited liability company that files its articles of organization with an effective date later than the date of filing as provided in subdivision b of subsection 2 of section 10-32.1-20 shall maintain the right to the name until the effective date.

10-32.1-12. Reserved name.

1. The exclusive right to the use of a limited liability company name otherwise permitted by section 10-32.1-11 may be reserved by any person.
2. The reservation is made by filing a request with the secretary of state that the name be reserved together with the fees provided in section 10-32.1-92.
 - a. If the name is available for use by the applicant, then the secretary of state shall reserve the name for the exclusive use of the applicant for a period of twelve months.
 - b. The reservation may be renewed for successive twelve-month periods.
3. The right to the exclusive use of a limited liability company name reserved pursuant to this section may be transferred to another person by or on behalf of the applicant for whom the name was reserved by filing with the secretary of state a notice of the transfer and specifying the name and address of the transferee together with the fees provided in section 10-32.1-92.
4. The right to the exclusive use of a limited liability company name reserved pursuant to this section may be canceled by or on behalf of the applicant for whom the name was reserved by filing with the secretary of state a notice of the cancellation together with the fees provided in section 10-32.1-92.
5. The secretary of state may destroy all reserved name requests and index thereof one year after expiration.

10-32.1-13. Operating agreement - Scope - Function - Limitations.

1. Except as otherwise provided in subsections 2 and 3, the operating agreement governs:
 - a. Relations among the members as members and between the members and the limited liability company;
 - b. The rights and duties under this chapter of a person in the capacity of manager or governor;
 - c. The activities of the company and the conduct of those activities; and
 - d. The means and conditions for amending the operating agreement.
2. To the extent the operating agreement does not otherwise provide for a matter described in subsection 1, this chapter governs the matter.
3. An operating agreement may not:
 - a. Vary the capacity of a limited liability company under section 10-32.1-08 to sue and be sued in its own name;
 - b. Vary the law applicable under section 10-32.1-09;
 - c. Vary the power of the court under section 10-32.1-22;

- d. Subject to subsections 4 through 7, eliminate the duty of loyalty, the duty of care, or any other fiduciary duty;
 - e. Subject to subsections 4 through 7, eliminate the contractual obligation of good faith and fair dealing under subsection 4 of section 10-32.1-41;
 - f. Unreasonably restrict the duties and rights stated in section 10-32.1-42;
 - g. Vary the power of a court to decree dissolution in the circumstances specified in subdivisions d and e of subsection 1 of section 10-32.1-50;
 - h. Vary the requirement to wind up the business of a limited liability company as specified in subsection 1 and subdivision a of subsection 2 of section 10-32.1-51;
 - i. Unreasonably restrict the right of a member to maintain an action under sections 10-32.1-33 through 10-32.1-38;
 - j. Restrict the right to approve a merger, conversion, or domestication under section 10-32.1-71 to a member that will have personal liability with respect to a surviving, converted, or domesticated organization; or
 - k. Except as otherwise provided in subsection 2 of section 10-32.1-15, restrict the rights under this chapter of a person other than a member, manager, or governor.
4. If not manifestly unreasonable, and without limiting the terms that may be included in an operating agreement, the operating agreement may:
- a. Restrict or eliminate the duty:
 - (1) As required in subdivision a of subsection 2 and in subsections 7 and 8 of section 10-32.1-41, to account to the limited liability company and to hold as trustee for it any property, profit, or benefit derived by the member in the conduct or winding up of the company's business, from a use by the member of the company's property, or from the appropriation of a limited liability company opportunity;
 - (2) As required in subdivision b of subsection 2 and in subsections 7 and 8 of section 10-32.1-41, to refrain from dealing with the company in the conduct or winding up of the company's business as or on behalf of a party having an interest adverse to the company; and
 - (3) As required by subdivision c of subsection 2 and in subsections 7 and 8 of section 10-32.1-41, to refrain from competing with the company in the conduct of the business of the company before the dissolution of the company;
 - b. Identify specific types or categories of activities that do not violate the duty of loyalty;
 - c. Alter the duty of care, except to authorize intentional misconduct or knowing violation of law;

- d. Alter any other fiduciary duty, including eliminating particular aspects of that duty; and
 - e. Prescribe the standards by which to measure the performance of the contractual obligation of good faith and fair dealing under subsection 4 of section 10-32.1-41.
5. The operating agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.
6. To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this chapter and imposes the responsibility on one or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.
7. The operating agreement may alter or eliminate the indemnification for a member, manager, or governor provided by subsection 2 of section 10-32.1-40, and may eliminate or limit the liability of a member, manager, or governor to the limited liability company and members for money damages, except for:
 - a. Breach of the duty of loyalty;
 - b. A financial benefit received by the member or manager to which the member or manager is not entitled;
 - c. A breach of a duty under section 10-32.1-32;
 - d. Intentional infliction of harm on the company or a member; or
 - e. An intentional violation of criminal law.
8. The court shall decide any claim under subsection 4 that a term of an operating agreement is manifestly unreasonable. The court:
 - a. Shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and
 - b. May invalidate the term only if, in light of the purposes and activities of the limited liability company, it is readily apparent that:
 - (1) The objective of the term is unreasonable; or
 - (2) The term is an unreasonable means to achieve the objective of the provision.

10-32.1-14. Operating agreement effect on a limited liability company and persons becoming members - Preformation agreement.

1. A limited liability company is bound by and may enforce the operating agreement, whether or not the company has itself manifested assent to the operating agreement.
2. A person that becomes a member of a limited liability company is deemed to assent to the operating agreement.
3. Two or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the company the agreement will become the operating agreement. One person intending to become the initial member of a limited liability company may assent to terms providing that upon the formation of the company the terms will become the operating agreement.

10-32.1-15. Operating agreement - Effect on third parties and relationship to records effective on behalf of a limited liability company.

1. An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.
2. The obligations of a limited liability company and its members to a person in the capacity of the person as a transferee or dissociated member are governed by the operating agreement. Subject only to any court order issued under subdivision b of subsection 2 of section 10-32.1-45, to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or dissociated member is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the capacity of the person as a transferee or dissociated member.
3. If a record that has been delivered by a limited liability company to the secretary of state for filing has become effective under this chapter and contains a provision that would be ineffective under subsection 3 of section 10-32.1-13, if contained in the operating agreement, then the provision is likewise ineffective in the record.
4. Subject to subsection 3, if a record that has been delivered by a limited liability company to the secretary of state for filing has become effective under this chapter and conflicts with a provision of the operating agreement, then:
 - a. The operating agreement prevails as to members, dissociated members, transferees, managers, and governors; and
 - b. The record prevails as to other persons to the extent they reasonably rely on the record.

10-32.1-16. Registered office and registered agent.

Every limited liability company shall have a registered office and a registered agent, in the manner prescribed by chapter 10-01.1.

10-32.1-17. Change of registered office or registered agent.

Every limited liability company may change its registered office or change its registered agent, and the agent may resign or change its business address or name, in the manner prescribed by chapter 10-01.1.

10-32.1-18. Resignation of registered agent.

The registered agent of every limited liability company may resign in the manner prescribed by chapter 10-01.1.

10-32.1-19. Service of process on a limited liability company, foreign limited liability company, and nonresident managers and governors.

1. A registered agent appointed by a limited liability company or foreign limited liability company is an agent of the company for service of any process, notice, or demand required or permitted by law to be served on the company.
2. If a limited liability company or foreign limited liability company does not maintain a registered agent in this state or if the registered agent with reasonable diligence cannot be found at the address of the registered agent, then the secretary of state is an agent of the company upon whom process, notice, or demand may be served.
3. Any process, notice, or demand required or permitted by law to be served on the limited liability company, the foreign limited liability company, a manager, a governor, or a member of a member-managed limited liability company may be served upon the secretary of state as provided in section 10-01.1-13.
4. This section does not affect the right to serve process, notice, or demand in any other manner provided by law.

10-32.1-20. Formation of a limited liability company - Articles of organization.

1. One or more individuals of the age of eighteen years or more or other persons may act as organizers to form a limited liability company by signing and filing with the secretary of state articles of organization together with the fees provided in section 10-32.1-92.
2. The articles of organization:
 - a. Must state:
 - (1) The name of the limited liability company, which must comply with section 10-32.1-11;
 - (2) With respect to the registered agent:
 - (a) The name of the commercial registered agent of the limited liability company as provided in chapter 10-01.1; or
 - (b) The name and address of a noncommercial registered agent in this state as provided in chapter 10-01.1;
 - (c) The address of the principal executive office;

- (d) The name and address of each organizer; and
- b. May state an effective date of organization, which must not be later than ninety days from the date of filing with the secretary of state.
3. Subject to subsection 3 of section 10-32.1-15, articles of organization may also contain statements as to matters other than those required by subsection 2. However, a statement in articles of organization is not effective as a statement of authority.
4. With respect to formation:
- a. A limited liability company is formed when articles of organization have been filed with the secretary of state or at a later date as specified in the articles of organization.
 - b. If the secretary of state finds that the articles of organization conform to law and that all fees have been paid under section 10-32.1-92, then the secretary of state shall file the articles of organization and issue a certificate of organization to the organizers or their representative.
 - c. Except as against this state in a proceeding to terminate or revoke the certificate of organization or in a judicial proceeding pursuant to section 10-32.1-51, the filing of the articles of organization by the secretary of state is conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.
 - d. The formation of a limited liability company does not by itself cause any person to become a member. However, this chapter does not preclude an agreement, made before or after formation of a limited liability company, which provides that one or more persons will become members, or acknowledging that one or more persons became members, upon or otherwise in connection with the formation of the limited liability company.

10-32.1-21. Amendment or restatement of articles of organization.

1. Articles of organization may be amended or restated at any time.
 - a. Before any contribution is reflected in the required records of a limited liability company, the articles of organization may be amended by the organizers or by the board. The articles of organization may also be amended by the board to establish or fix the rights and preferences of a class or series of membership interests before any contribution pertaining to that class or series is reflected in the records of the limited liability company by filing articles of amendment with the secretary of state.
 - b. With respect to amendment after contribution:
 - (1) Except as otherwise provided in subdivision a, after any contribution has been reflected in the records of a limited liability company, the articles of organization may be amended in the manner set forth in this subdivision.
 - (2) A resolution approved by the affirmative vote of a majority of the governors present, or proposed by a member or members owning five percent or more of the voting power of the members entitled to vote,

that sets forth the proposed amendment must be submitted to a vote at the next regular or special meeting of the members of which notice has not yet been given but still can be timely given. Any number of amendments may be submitted to the members and voted upon at one meeting, but the same or substantially the same amendment proposed by a member or members need not be submitted to the members or be voted upon at more than one meeting during a fifteen-month period. The resolution may amend the articles of organization in their entirety to restate and supersede the original articles of organization and all amendments to them.

- (3) Written notice of the meeting of the members setting forth the substance of the proposed amendment must be given to each member entitled to vote in the manner provided in subsection 5 of section 10-32.1-39 for the giving of notice of meetings of members.
- (4) The proposed amendment is adopted:

 - (a) When approved by the affirmative vote of the members required by section 10-32.1-39; or
 - (b) If the articles of organization provide for a specified proportion equal to or larger than the majority necessary to transact a specified type of business at a meeting, or if it is proposed to amend the articles to provide for a specified proportion equal to or larger than the majority necessary to transact a specified type of business at a meeting, then the affirmative vote necessary to add the provision to, or to amend an existing provision in, the articles of organization is the larger of:

 - [1] The specified proportion or number or, in the absence of a specific provision, the affirmative vote necessary to transact the type of business described in the proposed amendment at a meeting immediately before the effectiveness of the proposed amendment; or
 - [2] The specified proportion or number that would, upon effectiveness of the proposed amendment, be necessary to transact the specified type of business at a meeting.
2. To amend its articles of organization, a limited liability company must file with the secretary of state an amendment stating:

 - a. The name of the company;
 - b. The changes the amendment makes to the articles of organization as most recently amended or restated; and
 - c. A statement that the amendment was adopted pursuant to this chapter.
3. If only a change of address of the principal executive office is required, then an amendment need not be filed. However, the change of address of the principal executive office must then be reported in the next annual report filed after the change or be submitted in writing to the secretary of state without a filing fee.

4. To restate its articles of organization, a limited liability company must file with the secretary of state a restatement, designated as such in its heading, stating:
 - a. In the heading or an introductory paragraph, the present name of the company; and
 - b. The changes the restatement makes to the articles of organization as most recently amended or restated, except that the name and address of each organizer may be omitted.
5. Subject to subsection 3 of section 10-32.1-15 and subsection 3 of section 10-32.1-87, an amendment to or restatement of articles of organization is effective when filed with the secretary of state or at a later date as specified in the amendment to, or restatement of, the articles of organization.
6. The owners of the outstanding transferable interests of a class or series are entitled to vote as a class or series upon a proposed amendment to the articles of organization, whether or not entitled to vote on the amendment by the provisions of the articles of organization, if the amendment would:
 - a. Effect an exchange, reclassification, or cancellation of all or part of the membership interests of the class or series, or effect a combination of outstanding membership interests of a class or series into a lesser number of membership interests of the class or series if each other class or series is not subject to a similar combination;
 - b. Effect an exchange, or create a right of exchange, of all or any part of the membership interests of another class or series for the membership interests of the class or series;
 - c. Change the rights or preferences of the membership interests of the class or series;
 - d. Create a new class or series of membership interests having rights and preferences prior and superior to the membership interests of that class or series, or increase the rights and preferences or the number of membership interests, of a class or series having rights and preferences prior or superior to the membership interests of that class or series;
 - e. Divide the membership interests of the class into series and determine the designation of each series and the variations in the relative rights and preferences between the membership interests of each series or authorize the board to do so;
 - f. Limit or deny any existing preemptive rights of the membership interests of the class or series; or
 - g. Cancel or otherwise affect distributions on the membership interests of the class or series.
7. With respect to the effect of the amendment:
 - a. An amendment does not affect an existing cause of action in favor of or against the limited liability company, nor a pending suit to which the limited

- liability company is a party, nor the existing rights of persons other than members.
- b. If the limited liability company name is changed by the amendment, a suit brought by or against the limited liability company under its former name does not abate for that reason.
 - c. An amendment restating the articles in their entirety supersedes the original articles and all amendments to the original articles.
8. If the secretary of state finds that the articles of amendment conform to law, and that all fees have been paid as provided in section 10-32.1-92, then the articles of amendment must be recorded in the office of the secretary of state.
9. A limited liability company that amends its name and which is the owner of a service mark, trademark, or trade name, is a general partner named in a fictitious name certificate, is a general partner in a limited partnership or a limited liability limited partnership, or is a managing partner of a limited liability partnership that is on file with the secretary of state must change or amend the name of the limited liability company in each registration when the limited liability company files an amendment.
10. With respect to the amendment of articles of organization in court-supervised reorganization:
- a. Whenever a plan of reorganization of a limited liability company has been confirmed by decree or order of a court of competent jurisdiction in proceedings for the reorganization of the limited liability company, pursuant to the provisions of any applicable statute of the United States relating to reorganization of limited liability companies, the articles may be amended, in the manner provided in this section, in as many respects as may be necessary to carry out the plan and to put it into effect, so long as the articles as amended contain only provisions which might be lawfully contained in original articles of organization at the time of making the amendment. In particular, and without limitation upon any general power of amendment, the articles may be amended to:
 - (1) Change the limited liability company name, period of duration, or organizational purposes of the limited liability company.
 - (2) Repeal, alter, or amend the bylaws of the limited liability company.
 - (3) Change the preferences, limitations, relative rights in respect of all or any part of the membership interests of the limited liability company, and classify, reclassify, or cancel all or any part thereof.
 - (4) Authorize the issuance of bonds, debentures, or other obligations of the limited liability company, whether convertible into membership interests of any class or bearing warrants or other evidence of optional rights to purchase or subscribe for membership interests of any class, and fix the terms and conditions thereof.
 - (5) Constitute or reconstitute and classify or reclassify the board and appoint governors and managers in place of or in addition to all or any of the governors or managers then in office.

- b. Amendments to the articles pursuant to subdivision a must be made in the following manner:
 - (1) Articles of amendment approved by decree or order of the court must be signed and verified in duplicate by the person or persons designated or appointed by the court for that purpose and must set forth the name of the limited liability company, the amendments of the articles approved by the court, the date of the decree or order approving the articles of amendment, the title of the proceedings in which the decree or order was entered by a court having jurisdiction of the proceedings for the reorganization of the limited liability company pursuant to the provisions of an applicable statute of the United States.
 - (2) An original of the articles of amendment must be filed with the secretary of state. If the secretary of state finds that the articles of amendment conform to law, and that all fees have been paid as provided in section 10-32.1-92, then the articles of amendment must be recorded in the office of the secretary of state.
 - c. The articles of amendment become effective upon their acceptance by the secretary of state or at any other time within ninety days after their acceptance if the articles of amendment so provide.
 - d. The articles are deemed to be amended accordingly, without any action by the governors or members of the limited liability company and with the same effect as if the amendment had been adopted by the unanimous action provided for in section 10-32.1-39.
11. If a member-managed limited liability company, a manager of a manager-managed limited liability company, or a governor of a board-managed limited liability company, knows that any information in articles of organization filed with the secretary of state was inaccurate when the articles were filed, or has become inaccurate owing to changed circumstances, the member, manager, or governor shall promptly:
- a. Cause the articles to be amended; or
 - b. If appropriate, file with the secretary of state a change of registered agent or change of registered office in the manner prescribed by chapter 10-01.1.

10-32.1-22. Signing and filing pursuant to a judicial order.

- 1. If a person required by this chapter to sign a record or file a record with the secretary of state does not do so, then any other person that is aggrieved may petition the appropriate court to order:
 - a. The person to sign the record;
 - b. The person to file the record with the secretary of state for filing; or
 - c. The secretary of state to file the record unsigned.
- 2. If a petitioner under subsection 1 is not the limited liability company or foreign limited liability company to which the record pertains, then the petitioner shall make the company a party to the action.

10-32.1-23. No agency power of a member as a member.

1. A member is not an agent of a limited liability company solely by reason of being a member.
2. The status of a person as a member does not prevent or restrict law other than this chapter from imposing liability on a limited liability company because of the conduct of the person.

10-32.1-24. Statement of authority.

1. A limited liability company may file with the secretary of state a statement of authority. The statement:
 - a. Must include the name of the company and the address of its registered office;
 - b. With respect to any position that exists in or with respect to the company, may state the authority, or limitations on the authority, of all persons holding the position to:
 - (1) Execute an instrument transferring real property held in the name of the company; or
 - (2) Enter into other transactions on behalf of, or otherwise act for or bind, the company; and
 - c. May state the authority, or limitations on the authority, of a specific person to:
 - (1) Execute an instrument transferring real property held in the name of the company; or
 - (2) Enter into other transactions on behalf of, or otherwise act for or bind, the company.
2. To amend or cancel a statement of authority filed with the secretary of state under subsection 1 of section 10-32.1-86, a limited liability company must file with the secretary of state an amendment or cancellation stating:
 - a. The name of the company;
 - b. The address of its registered office;
 - c. The caption of the statement being amended or canceled and the date the statement being affected became effective; and
 - d. The contents of the amendment or a declaration that the statement being affected is canceled.
3. A statement of authority affects only the power of a person to bind a limited liability company to persons that are not members.
4. Subject to subsection 4 of section 10-32.1-04 and to subsection 3, and except as otherwise provided in subsections 6, 7, and 8, a limitation on the authority

of a person or a position contained in an effective statement of authority is not by itself evidence of knowledge or notice of the limitation by any person.

5. Subject to subsection 3, a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value:
 - a. The person has knowledge to the contrary;
 - b. The statement has been canceled or restrictively amended under subsection 2; or
 - c. A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.
6. Subject to subsection 3, an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company, whether or not a certified copy of the statement is recorded in the real property records, is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:
 - a. The statement has been canceled or restrictively amended under subsection 2 and a certified copy of the cancellation or restrictive amendment has been recorded in the real property records; or
 - b. A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective and a certified copy of the later-effective statement is recorded in the real property records.
7. Subject to subsection 3, if a certified copy of an effective statement containing a limitation on the authority to transfer real property held in the name of a limited liability company is recorded in the real property records, then all persons are deemed to know of the limitation.
8. Subject to subsection 9, an effective notice of dissolution is a cancellation of any filed statement of authority for the purposes of subsection 6 and is a limitation on authority for the purposes of subsection 7.
9. After a notice of dissolution becomes effective, a limited liability company may file with the secretary of state and, if appropriate, may record in the real property records, a statement of authority that is designated as a postdissolution statement of authority. The statement operates as provided in subsections 6 and 7.
10. An effective statement of denial operates as a restrictive amendment under this section and may be recorded by certified copy in the real property records for the purposes of subdivision a of subsection 6.

10-32.1-25. Statement of denial.

A person named in a filed statement of authority granting that person authority may file with the secretary of state for filing a statement of denial that:

1. Provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains; and
2. Denies the grant of authority.

10-32.1-26. Liability of members, managers, and governors.

1. The debts, obligations, or other liabilities of a limited liability company, whether arising in contract, tort, or otherwise:
 - a. Are solely the debts, obligations, or other liabilities of the company; and
 - b. Do not become the debts, obligations, or other liabilities of a member, manager, or governor solely by reason of the member acting as a member, manager acting as a manager, or governor acting as a governor.
2. The failure of a limited liability company to observe formalities relating exclusively to the management of its internal affairs is not a ground for imposing liability on the members, managers, or governors for the debts, obligations, or other liabilities of the company.
3. Except as relates to the failure of a limited liability company to observe any formalities relating exclusively to the management of its internal affairs, the case law that states the conditions and circumstances under which the corporate veil of a corporation may be pierced under North Dakota law also applies to limited liability companies.

10-32.1-27. Becoming a member.

1. If a limited liability company is to have only one member upon formation, then the person becomes a member as agreed by that person and the organizer of the company. That person and the organizer may be, but need not be, different persons. If different, then the organizer acts on behalf of the initial member.
2. If a limited liability company is to have more than one member upon formation, then those persons become members as agreed by the persons before the formation of the company. The organizer acts on behalf of the persons in forming the company and may be, but need not be, one of the persons.
3. A shelf limited liability company shall not be allowed under this chapter.
4. After a limited liability company has or has had at least one member, a person becomes a member:
 - a. As provided in the operating agreement;
 - b. As the result of a transaction effective under sections 10-32.1-55 through 10-32.1-71;
 - c. With the consent of all the members; or
 - d. If, within ninety consecutive days after the company ceases to have any members:

- (1) The last person to have been a member, or the legal representative of that person, designates a person to become a member; and
 - (2) The designated person consents to become a member.
5. A person may become a member without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.

10-32.1-28. Form of contribution.

A contribution may consist of tangible or intangible property or other benefit to a limited liability company, including money, services performed, promissory notes, other agreements to contribute money or property, and contracts for services to be performed.

10-32.1-29. Liability for contributions.

1. The obligation of a person to make a contribution to a limited liability company is not excused by the death, disability, or other inability of the person to perform personally. If a person does not make a required contribution, then the person or the estate of the person is obligated to contribute money equal to the value of the part of the contribution which has not been made, at the option of the company.
2. A creditor of a limited liability company which extends credit or otherwise acts in reliance on an obligation described in subsection 1 may enforce the obligation.

10-32.1-30. Sharing of and right to distributions before dissolution.

1. Subject to paragraphs 1 through 4 of subdivision c of subsection 4 of section 10-32.1-05, any distributions made by a limited liability company before its dissolution and winding up must be in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under section 10-32.1-44 and any charging order in effect under section 10-32.1-45.
2. A person has a right to a distribution before the dissolution and winding up of a limited liability company only if the company decides to make an interim distribution. The dissociation of a person does not entitle the person to a distribution.
3. A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in subsection 3 of section 10-32.1-54, a limited liability company may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the share of distributions of the person.
4. If a member or transferee becomes entitled to receive a distribution, then the member or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

10-32.1-31. Limitations on distribution.

1. A limited liability company may not make a distribution if after the distribution:
 - a. The company would not be able to pay its debts as they become due in the ordinary course of the activities of the company; or
 - b. The total assets of the company would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those of persons receiving the distribution.
2. A limited liability company may base a determination that a distribution is not prohibited under subsection 1 on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.
3. Except as otherwise provided in subsection 6, the effect of a distribution under subsection 1 is measured:
 - a. In the case of a distribution by purchase, redemption, or other acquisition of a transferable interest in the company, as of the date money or other property is transferred or debt incurred by the company; and
 - b. In all other cases, as of the date:
 - (1) The distribution is authorized, if the payment occurs within one hundred twenty days after that date; or
 - (2) The payment is made, if the payment occurs more than one hundred twenty days after the distribution is authorized.
4. The indebtedness of a limited liability company to a member incurred by reason of a distribution made according to this section is at parity with the indebtedness of the company to its general, unsecured creditors.
5. The indebtedness of a limited liability company, including indebtedness issued in connection with or as part of a distribution, is not a liability for purposes of subsection 1 if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could be made to members under this section.
6. If indebtedness is issued as a distribution, then each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.
7. In subsection 1, "distribution" does not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

10-32.1-32. Liability for improper distributions.

1. Except as otherwise provided in subsection 2, if a member of a member-managed limited liability company, manager of a manager-managed limited liability company, or governor of a board-managed limited liability company consents to a distribution made in violation of section 10-32.1-31 and in consenting to the distribution fails to comply with section 10-32.1-41, then the member, manager, or governor is personally liable to the company for the amount of the distribution that exceeds the amount that could have been distributed without the violation of section 10-32.1-31.
2. To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability stated in subsection 1 applies to the other members and not the member that the operating agreement relieves of authority and responsibility.
3. A person that receives a distribution knowing that the distribution to that person was made in violation of section 10-32.1-31 is personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under section 10-32.1-31.
4. A person against which an action is commenced because the person is liable under subsection 1 may:
 - a. Implead any other person that is subject to liability under subsection 1 and seek to compel pro rata contribution from the person in that action to the extent of the liability of the person as provided in subsection 1; and
 - b. Implead any person that received a distribution in violation of section 10-32.1-31 and seek to compel contribution from the person in the amount by which the distribution received by the person exceeded the amount that could have been properly paid under section 10-32.1-31.
5. An action under this section is barred if not commenced within two years after the distribution.

10-32.1-33. Direct action by a member.

1. Subject to subsection 2, a member may maintain a direct action against another member, a manager, a governor, or the limited liability company to enforce the rights of the member and otherwise protect the interests of the member, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.
2. A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

10-32.1-34. Derivative action.

A member may maintain a derivative action to enforce a right of a limited liability company if:

1. The member first makes a demand on the other members in a member-managed or board-managed limited liability company, the managers of a manager-managed limited liability company, or the board of governors of a board-managed limited liability company requesting that they cause the company to bring an action to enforce the right, and the member, manager, or board does not bring the action within a reasonable time; or
2. A demand under subsection 1 would be futile.

10-32.1-35. Proper plaintiff.

1. Except as otherwise provided in subsection 2, a derivative action under section 10-32.1-34 may be maintained only by a person that is a member at the time the action is commenced and remains a member while the action continues.
2. If the sole plaintiff in a derivative action dies while the action is pending, then the court may permit another member of the limited liability company to be substituted as plaintiff.

10-32.1-36. Pleading.

In a derivative action under section 10-32.1-34, the complaint must state with particularity:

1. The date and content of the demand of the plaintiff and the response to the demand by the other members, managers, or board of governors; or
2. If a demand has not been made, the reasons a demand under subsection 1 of section 10-32.1-34, would be futile.

10-32.1-37. Special litigation committee.

1. If a limited liability company is named as or made a party in a derivative proceeding, then the company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the company appoints a special litigation committee, then on motion by the committee made in the name of the company, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection does not prevent the court from enforcing the right of a person to information under section 10-32.1-42 or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.
2. A special litigation committee may be composed of one or more disinterested and independent individuals, who may be members.
3. A special litigation committee may be appointed:
 - a. In a member-managed limited liability company:
 - (1) By the consent of a majority of the members not named as defendants or plaintiffs in the proceeding; and

- (2) If all members are named as defendants or plaintiffs in the proceeding, then by a majority of the members named as defendants;
- b. In a manager-managed limited liability company:
- (1) By a majority of the managers not named as defendants or plaintiffs in the proceeding; and
- (2) If all managers are named as defendants or plaintiffs in the proceeding, then by a majority of the managers named as defendants; and
- c. In a board-managed limited liability company:
- (1) By a majority of governors not named as defendants or plaintiffs in the proceeding; and
- (2) If all governors are named as defendants or plaintiffs in the proceeding, then by a majority of the governors named as defendants.
4. After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:
- a. Continue under the control of the plaintiff;
- b. Continue under the control of the committee;
- c. Be settled on terms approved by the committee; or
- d. Be dismissed.
5. After making a determination under subsection 4, a special litigation committee shall file with the court a statement of its determination and its report supporting its determination, giving notice to the plaintiff. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, then the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection 1 and allow the action to proceed under the direction of the plaintiff.

10-32.1-38. Proceeds and expenses.

1. Except as otherwise provided in subsection 2:
- a. Any proceeds or other benefits of a derivative action under section 10-32.1-34, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and
- b. If the plaintiff receives any proceeds, then the plaintiff shall remit them immediately to the company.

2. If a derivative action under section 10-32.1-34 is successful in whole or in part, then the court may award the plaintiff reasonable expenses, including reasonable attorney fees and costs, from the recovery of the limited liability company.

10-32.1-39. Management of a limited liability company.

1. A limited liability company is a member-managed limited liability company unless the operating agreement:
 - a. Expressly provides that:
 - (1) The company is or will be "manager-managed" or "board-managed";
 - (2) The company is or will be "managed by managers" or "managed by a board"; or
 - (3) Management of the company is or will be "vested in managers" or "vested in a board"; or
 - b. Includes words of similar import.
2. In a member-managed limited liability company, the following rules apply:
 - a. The management and conduct of the company are vested in the members.
 - b. Each member has equal rights in the management and conduct of the activities of the company.
 - c. A difference arising among members as to a matter in the ordinary course of the activities of the company may be decided by a majority of the members.
 - d. An act outside the ordinary course of the activities of the company may be undertaken only with the consent of all members.
 - e. The operating agreement may be amended only with the consent of all members.
3. In a manager-managed limited liability company, the following rules apply:
 - a. Except as otherwise expressly provided in this chapter, any matter relating to the activities of the company is decided exclusively by the managers.
 - b. Each manager has equal rights in the management and conduct of the activities of the company.
 - c. A difference arising among managers as to a matter in the ordinary course of the activities of the company may be decided by a majority of the managers.
 - d. The consent of all members is required to:
 - (1) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the property of the company, with or without the good will, outside the ordinary course of the activities of the company;

- present and entitled to vote on the election of governors at a duly called or held meeting at which a quorum is present.
- d. A member may waive notice of a meeting for the election of governors. The waiver of notice by a member under this subdivision is effective whether given before, at, or after the meeting, and whether given in a record, orally, or by attendance. Attendance by a member at a meeting for election of governors is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection.
 - e. Once elected, a governor holds office for the term for which the governor was elected and until a successor is elected, or until the earlier death, resignation, disqualification, or removal of the governor. A governor may resign at any time. A governor may be removed at any time, without cause and without advance notice, by a majority of the voting power of all of the members. The existence of vacancies does not affect the power of the board to function if at least one governor remains in office.
 - f. When a vacancy occurs, the limited liability company shall immediately notify all members in a record of the vacancy, stating the cause of the vacancy and the date the notice is sent. Within thirty days of that date, the members may fill the vacancy in the same method the members may elect governors under subdivision c. If the vacancy is not filled by the members under this subdivision, then the vacancy may be filled by the affirmative vote of a majority of the remaining governors, even though less than a quorum.
 - g. The board shall meet from time to time as determined by members holding a majority of the voting power of the members, at a place decided by the board. If the day or date, time, and place of a board of governors meeting have been provided in a board resolution, or announced at a previous meeting of the board of governors, then no notice is required. Notice of an adjourned meeting need not be given other than by announcement at the meeting at which adjournment is taken. If notice is required for a meeting, then notice shall be made in the manner stated in subdivision h.
 - h. A governor may call a board meeting by giving at least ten days' notice in a record to all governors of the date, time, and place of the meeting. The notice need not state the purpose of the meeting. As to each governor, the notice is effective when given.
 - i. "Notice" shall be determined as provided in subsection 35 of section 10-32.1-02.
 - j. A governor may waive notice of a meeting of the board of governors. A waiver of notice by a governor entitled to notice is effective whether given before, at, or after the meeting, and whether given in a record, orally, or by attendance. Attendance by a governor at a meeting is a waiver of notice of that meeting, except where the governor objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection.

- k. A majority of the governors currently holding office is a quorum for the transaction of business. When a quorum is present at a duly called or held meeting of the board, the vote of a majority of the directors present constitutes an act of the board. If a quorum is present when a duly called or held meeting is convened, then the governors present may continue to transact business until adjournment, even though the withdrawal of a number of governors originally present leaves less than the proportion or number otherwise required for a quorum.
- l. Any meeting among governors may be conducted solely by one or more means of remote communication through which all of the governors may participate with each other during the meeting, if the number of governors participating in the meeting would be sufficient to constitute a quorum. Participation in a meeting through remote communication constitutes presence in person at the meeting.
- m. A governor may participate in a board of governors meeting by means of remote communication, through which the governor, other governors so participating, and all governors physically present at the meeting may participate with each other during the meeting. Participation in a meeting through remote communication constitutes presence in person at the meeting.
- n. An action required or permitted to be taken at a board meeting may be taken by written action signed by the number of governors that would be required to take the same action at a meeting of the board of governors at which all governors were present. The written action is effective when signed by the required number of governors, unless a different effective time is provided in the written action. When written action is permitted to be taken by less than all governors, then all governors must be notified immediately of its text and effective date. Failure to provide the notice does not invalidate the written action. A governor who does not sign or consent to the written action has no liability for the action or actions taken by the written action.
- o. If the board designates a person as "chief manager", "president", "chief executive officer", or another title of similar import, then that person shall:
- (1) Serve as an agent of the limited liability company at the will of the board, without prejudice to any rights the person may have under a contract with the limited liability company;
 - (2) Have general active management of the business of the limited liability company, subject to the supervision and control of the board;
 - (3) See that all orders and resolutions of the board of governors are carried into effect;
 - (4) Sign and deliver in the name of the limited liability company any deeds, mortgages, bonds, contracts, or other instruments pertaining to the business of the limited liability company, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the board of governors to some other officer or agent of the limited liability company;

limited liability company if located within this state, and at the registered office if the principal executive office is not located within the state. Any action requiring the consent of members under this chapter may be taken or approved without a meeting by the written consent of the members holding the voting power required to take such action at a duly called meeting at which all members were present. A member may appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the agent of the member.

6. The dissolution of a limited liability company does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management in any capacity.
7. This chapter does not entitle a member to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the company.

10-32.1-40. Indemnification and insurance.

1. For purposes of this section, unless the context otherwise requires:

 - a. "Limited liability company" includes a domestic or foreign limited liability company that was the predecessor of the limited liability company referred to in this section in a merger or other transaction in which the existence of the predecessor ceased upon consummation of the transaction.
 - b. "Official capacity" means:

 - (1) With respect to a member of a member-managed company, a manager of a manager-managed company, or a governor of a board-managed company, actions taken in that capacity;
 - (2) With respect to a person other than a member of a member-managed company, a manager of a manager-managed company, or a governor of a board-managed company:

 - (a) The elective or appointive office or position held by a manager or officer, member of a committee of the board of governors;
 - (b) The employment relationship undertaken by an employee of the limited liability company; or
 - (c) The scope of the services provided by members of the limited liability company who provide services to the limited liability company; and

 - (3) With respect to a governor, manager, member, or employee of the limited liability company who, while a member, governor, manager, or employee of the limited liability company, is or was serving at the request of the limited liability company or whose duties in that position involve or involved service as a governor, director, manager, officer, member, partner, trustee, employee, or agent of another organization or employee benefit plan, the position of that person as a governor, director, manager, officer, member, partner, trustee, employee, or

agent, as the case may be, of the other organization or employee benefit plan.

- c. "Proceeding" means a threatened, pending, or completed civil, criminal, administrative, arbitration, or investigative proceeding, including a proceeding by or in the right of the limited liability company.
- d. "Special legal counsel" means counsel who has not in the preceding five years:
 - (1) Represented the limited liability company or a related organization in a capacity other than special legal counsel; or
 - (2) Represented a member, governor, manager, member of a committee of the board of governors, or employee, or other person whose indemnification is in issue.

2. With respect to indemnification:

- a. Subject to the provisions of subsection 4, a limited liability company shall indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person against judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorney's fees and disbursements, incurred by the person in connection with the proceeding, if, with respect to the acts or omissions of the person complained of in the proceeding, the person:
 - (1) Has not been indemnified by another organization or employee benefit plan for the same judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements, and reasonable expenses, including attorney's fees and disbursements, incurred by the person in connection with the proceeding with respect to the same acts or omissions;
 - (2) Acted in good faith;
 - (3) Received no improper personal benefit and complied with the duties stated in sections 10-32.1-31 and 10-32.1-41, if applicable;
 - (4) In the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and
 - (5) In the case of acts or omissions occurring in the official capacity described in paragraph 1 or 2 of subdivision b of subsection 1, reasonably believed that the conduct was in the best interests of the limited liability company, or in the case of acts or omissions occurring in the official capacity described in paragraph 3 of subdivision b of subsection 1, reasonably believed that the conduct was not opposed to the best interests of the limited liability company. If the acts or omissions of the person complained of in the proceeding relate to conduct as a director, officer, trustee, employee, or agent of an employee benefit plan, then the conduct is not considered to be

- opposed to the best interests of the limited liability company if the person reasonably believed that the conduct was in the best interests of the participants or beneficiaries of the employee benefit plan.
- b. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent does not, of itself, establish that the person did not meet the criteria set forth in this subsection.
3. Subject to the provisions of subsection 4, if a person is made or threatened to be made a party to a proceeding, then the person is entitled, upon written request to the limited liability company, to payment or reimbursement by the limited liability company of reasonable expenses, including attorney's fees and disbursements, incurred by the person in advance of the final disposition of the proceeding:
 - a. Upon receipt by the limited liability company of a written affirmation by the person of a good faith belief that the criteria for indemnification in subsection 2 have been satisfied and a written undertaking by the person to repay all amounts so paid or reimbursed by the limited liability company, if it is ultimately determined that the criteria for indemnification have not been satisfied;
 - b. After a determination that the facts then known to those making the determination would not preclude indemnification under this section; and
 - c. The written undertaking required by subdivision a is an unlimited general obligation of the person making it, but need not be secured and shall be accepted without reference to financial ability to make the repayment.
 4. The articles of organization or the operating agreement either may prohibit indemnification or advances of expenses otherwise required by this section or may impose conditions on indemnification or advances of expenses in addition to the conditions contained in subsections 2 and 3, including, without limitation, monetary limits on indemnification or advances of expenses, if the conditions apply equally to all persons or to all persons within a given class. A prohibition or limit on indemnification or advances may not apply to or affect the right of a person to indemnification or advances of expenses with respect to any acts or omissions of the person occurring before the effective date of a provision in the articles of organization, a member control agreement, or the date of adoption of a provision in the bylaws establishing the prohibition or limit on indemnification or advances.
 5. This section does not require, or limit the ability of, a limited liability company to reimburse expenses, including attorney fees and disbursements, incurred by a person in connection with an appearance as a witness in a proceeding at a time when the person has not been made or threatened to be made a party to a proceeding.
 6. With respect to the determination of eligibility:
 - a. All determinations whether indemnification of a person is required because the criteria in subsection 2 have been satisfied and whether a person is entitled to payment or reimbursement of expenses in advance of the final disposition of a proceeding as provided in subsection 3 must be made:

- (1) In a board-managed limited liability company:
 - (a) By the board of governors by a majority of a quorum, provided that governors who are, at the time, parties to the proceeding shall not be counted for determining either a majority or the presence of a quorum;
 - (b) If a quorum under subparagraph a cannot be obtained, then by a majority of a committee of the board of governors, consisting solely of two or more governors not at the time parties to the proceeding, duly designated to act in the matter by a majority of the full board of governors including governors who are parties; and
 - (c) If a determination is not made under subparagraph a or b, then by special legal counsel, selected either by a majority of the board of governors or a committee by vote pursuant to subparagraph a or b or, if the requisite quorum of the full board of governors cannot be obtained and the committee cannot be established, then by a majority of the full board of governors including governors who are parties.
- (2) In all other cases, then by the affirmative vote of the members, subject to subsection 4 of section 10-32.1-05 with each member having voting power in proportion to the interest of the member in distributions of the limited liability company before dissolution, but the membership interests held by parties to the proceeding must not be counted in determining the presence of a quorum and are not considered to be present and entitled to vote on the determination; or
- (3) If an adverse determination is made under subparagraphs a or b, or if no determination is made under subparagraphs a or b then within sixty days after:
 - (a) The later to occur of the termination of a proceeding or a written request for indemnification to the limited liability company; or
 - (b) A written request for an advance of expenses, as the case may be, by a court in this state, which may be the same court in which the proceeding involving the liability of the person took place, upon application of the person and any notice which the court requires. The person seeking indemnification or payment or reimbursement of expenses pursuant to this subdivision has the burden of establishing that the person is entitled to indemnification or payment or reimbursement of expenses.
- b. With respect to a person who is not, and was not at the time of the acts or omissions complained of in the proceedings, a member, governor, manager, or person possessing, directly or indirectly, the power to direct or cause the direction of the management or policies of the limited liability company, the determination whether indemnification of this person is required because the criteria set forth in subsection 2 have been satisfied and whether this person is entitled to payment or reimbursement of expenses in advance of the final disposition of a proceeding as provided in subsection 3 may be made:

- (1) In a board-managed limited liability company, by an annually appointed committee of the board of governors, having at least one member who is a governor, which committee shall report at least annually to the board of governors concerning its actions; and
 - (2) In all other cases by a committee appointed annually by the members, having at least one committee member who is a member of the limited liability company, which committee shall report at least annually to the board of governors concerning its actions.
7. A limited liability company may purchase and maintain insurance on behalf of a member, manager, or governor of the company against liability asserted against or incurred by the member, manager, or governor in that capacity or arising from that status even if, under subsection 7 of section 10-32.1-13, the operating agreement could not eliminate or limit the liability of a person to the company for the conduct giving rise to the liability and whether or not the limited liability company would have been required to indemnify the person against the liability under this section.
8. A limited liability company that indemnifies or advances expenses to a person according to this section in connection with a proceeding by or on behalf of the limited liability company shall report to the members in writing the amount of the indemnification or advance and to whom and on whose behalf it was paid not later than the next meeting of members.
9. Nothing in this section must be construed to limit the power of the limited liability company to indemnify persons other than a governor, manager, member, employee, or member of a committee of the board of the limited liability company, by contract or otherwise.

10-32.1-41. Standards of conduct for members, managers, and governors.

1. A member of a member-managed limited liability company owes to the company and, subject to subsection 2 of section 10-32.1-33, the other members the fiduciary duties of loyalty and care stated in subsections 2 and 3.
2. The duty of loyalty of a member in a member-managed limited liability company includes the duties:
 - a. To account to the company and to hold as trustee for it any property, profit, or benefit derived by the member:
 - (1) In the conduct or winding up of the activities of the company;
 - (2) From a use by the member of the property of the company; or
 - (3) From the appropriation of a limited liability company opportunity;
 - b. To refrain from dealing with the company in the conduct or winding up of the activities of the company as or on behalf of a person having an interest adverse to the company; and
 - c. To refrain from competing with the company in the conduct of the activities of the company before the dissolution of the company.

3. Subject to the business judgment rule, the duty of care of a member of a member-managed limited liability company in the conduct and winding up of the activities of the company is to act with the care that a person in a like position would reasonably exercise under similar circumstances and in a manner the member reasonably believes to be in the best interests of the company. In discharging this duty, a member may rely in good faith on opinions, reports, statements, or other information provided by another person that the member reasonably believes is a competent and reliable source for the information.
4. A member in a limited liability company shall discharge the duties of the member and exercise any rights under this chapter or under the operating agreement consistently with the contractual obligation of good faith and fair dealing, including acting in a manner, in light of the operating agreement, that is honest, fair, and reasonable.
5. It is a defense to a claim under subdivision b of subsection 2, and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.
6. All of the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.
7. In a manager-managed limited liability company, the following rules apply:
 - a. Subsections 1, 2, 3, and 5 apply to the manager or managers and not the members.
 - b. The duty stated under subdivision c of subsection 2 continues until winding up is completed.
 - c. Subsection 4 applies to the members and managers.
 - d. Subsection 6 applies only to the members.
 - e. A member does not have any fiduciary duty to the company or to any other member solely by reason of being a member.
8. In a board-managed limited liability company, the following rules apply:
 - a. Subsections 1, 2, 3, and 5 apply to the governors and not the members.
 - b. The duty stated under subdivision c of subsection 2 continues until winding up is completed.
 - c. Subsection 4 applies to the members and governors.
 - d. Subsection 6 applies only to the members.
 - e. A member does not have any fiduciary duty to the company or to any other member solely by reason of being a member.

10-32.1-42. Right of members, managers, governors, and dissociated members to information.

1. In a member-managed or board-managed limited liability company, the following rules apply:
 - a. On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the activities, financial condition, and other circumstances of the company, to the extent the information is material to the rights and duties of the member under the operating agreement or this chapter.
 - b. The company shall furnish to each member:
 - (1) Without demand, any information concerning the activities, financial condition, and other circumstances of the company which the company knows and is material to the proper exercise of the rights and duties of the member under the operating agreement or this chapter, except to the extent the company can establish that it reasonably believes the member already knows the information; and
 - (2) On demand, any other information concerning the activities, financial condition, and other circumstances of the company, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.
 - c. The duty to furnish information under subdivision b also applies to each member to the extent the member knows any of the information described in subdivision b.
2. In a manager-managed limited liability company, the following rules apply:
 - a. The informational rights stated in subsection 1 and the duty stated in subdivision c of subsection 1, apply to the managers or governors and not the members.
 - b. During regular business hours and at a reasonable location specified by the company, a member may obtain from the company and inspect and copy full information regarding the activities, financial condition, and other circumstances of the company as is just and reasonable if:
 - (1) The member seeks the information for a purpose material to the interest of the member as a member;
 - (2) The member makes a demand in a record received by the company, describing with reasonable particularity the information sought and the purpose for seeking the information; and
 - (3) The information sought is directly connected to the purpose of the member.
 - c. Within ten days after receiving a demand pursuant to paragraph 3 of subdivision b, the company shall in a record inform the member that made the demand:

- c. Subject to section 10-32.1-46, does not entitle the transferee to:
- (1) Participate in the management or conduct of the activities of the company; or
 - (2) Except as otherwise provided in subsection 3, have access to records or other information concerning the activities of the company.
2. A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.
 3. In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the transactions of the company only from the date of dissolution.
 4. A transferable interest may be evidenced by a certificate of the interest issued by the limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.
 5. A limited liability company need not give effect to the rights of a transferee under this section until the company has notice of the transfer.
 6. A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement is ineffective as to a person having notice of the restriction at the time of transfer.
 7. Except as otherwise provided in subdivision b of subsection 4 of section 10-32.1-48, when a member transfers a transferable interest, the transferor retains the rights of a member other than the interest in distributions transferred and retains all duties and obligations of a member.
 8. When a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee is liable for the obligations of the member under section 10-32.1-29 and subsection 3 of section 10-32.1-32, known to the transferee when the transferee becomes a member.

10-32.1-45. Charging order.

1. On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on the transferable interest of a judgment debtor and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that would otherwise be paid to the judgment debtor.
2. To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection 1, the court may:
 - a. Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and
 - b. Make all other orders necessary to give effect to the charging order.

3. Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, then the court may foreclose the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale obtains only the transferable interest, does not thereby become a member, and is subject to section 10-32.1-44.
4. At any time before foreclosure under subsection 3, the member or transferee whose transferable interest is subject to a charging order under subsection 1 may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.
5. At any time before foreclosure under subsection 3, a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.
6. This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the transferable interest of the member or transferee.
7. This section provides the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the transferable interest of the judgment debtor.

10-32.1-46. Power of the personal representative of a deceased member.

If a member dies, then the personal representative of the deceased member or other legal representative may exercise the rights of a transferee provided in subsection 3 of section 10-32.1-44, and, for the purposes of settling the estate, the rights of a current member under section 10-32.1-42.

10-32.1-47. Power of a member to dissociate - Wrongful dissociation.

1. A person has the power to dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under subsection 1 of section 10-32.1-48.
2. The dissociation of a person from a limited liability company is wrongful only if the dissociation:
 - a. Is in breach of an express provision of the operating agreement; or
 - b. Occurs before the termination of the company and:
 - (1) The person withdraws as a member by express will;
 - (2) The person is expelled as a member by judicial order under subsection 5 of section 10-32.1-48;
 - (3) The person is dissociated under subdivision a of subsection 7 of section 10-32.1-48, by becoming a debtor in bankruptcy; or

- (4) In the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.
3. A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section 10-32.1-33, to the other members for damages caused by the dissociation. The liability is in addition to any other debt, obligation, or other liability of the member to the company or the other members.

10-32.1-48. Events causing dissociation.

A person is dissociated as a member from a limited liability company when:

1. The company has notice of the express will of the person to withdraw as a member, but, if the person specified a withdrawal date later than the date the company had notice, then on that later date;
2. An event stated in the operating agreement as causing the dissociation of the person occurs;
3. The person is expelled as a member pursuant to the operating agreement;
4. The person is expelled as a member by the unanimous consent of the other members if:
 - a. It is unlawful to carry on the activities of the company with the person as a member;
 - b. There has been a transfer of all of the transferable interest of the person in the company, other than:
 - (1) A transfer for security purposes; or
 - (2) A charging order in effect under section 10-32.1-45 which has not been foreclosed;
 - c. The person is a corporation and, within ninety days after the company notifies the person that it will be expelled as a member because:
 - (1) The person has filed articles of dissolution or the equivalent;
 - (2) Its charter has been revoked;
 - (3) Its right to conduct business has been suspended by the jurisdiction of its incorporation;
 - (4) The articles of dissolution have not been revoked; or
 - (5) Its charter or right to conduct business has not been reinstated; or
 - d. The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;
5. On application by the company, the person is expelled as a member by judicial order because the person:

- a. Has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the activities of the company;
 - b. Has willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agreement or the duties or obligations of the person under section 10-32.1-41; or
 - c. Has engaged, or is engaging, in conduct relating to the activities of the company which makes it not reasonably practicable to carry on the activities with the person as a member;
6. In the case of a person who is an individual:
- a. The individual dies; or
 - b. In a member-managed limited liability company:
 - (1) A guardian or general conservator for the individual is appointed; or
 - (2) There is a judicial order that the individual has otherwise become incapable of performing the duties of the individual as a member under this chapter or the operating agreement;
7. In a member-managed limited liability company, the person:
- a. Becomes a debtor in bankruptcy;
 - b. Executes an assignment for the benefit of creditors; or
 - c. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the property of the person;
8. In the case of a person that is a trust or is acting as a member by virtue of being a trustee of a trust, the entire transferable interest of the trust in the company is distributed;
9. In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the entire transferable interest of the estate in the company is distributed;
10. In the case of a member that is not an individual, partnership, limited liability company, corporation, trust, or estate, the termination of the member;
11. The company participates in a merger under sections 10-32.1-55 through 10-32.1-71, if:
- a. The company is not the surviving entity; or
 - b. Otherwise as a result of the merger, the person ceases to be a member;
12. The company participates in a conversion under sections 10-32.1-61 through 10-32.1-71;

13. The company participates in a domestication under sections 10-32.1-67 through 10-32.1-71, if, as a result of the domestication, the person ceases to be a member; or
14. The company terminates.

10-32.1-49. Effect of the dissociation of a person as member.

1. When a person is dissociated as a member of a limited liability company:
 - a. The right of the person to participate as a member in the management and conduct of the activities of the company terminates;
 - b. If the company is member-managed, then the fiduciary duties of the person as a member end with regard to matters arising and events occurring after the dissociation of the person; and
 - c. Subject to sections 10-32.1-46 and 10-32.1-55 through 10-32.1-71, any transferable interest owned by the person immediately before dissociation in the capacity of the person as a member is owned by the person solely as a transferee.
2. The dissociation of a person as a member of a limited liability company does not of itself discharge the person from any debt, obligation, or other liability to the company or the other members that the person incurred while a member.

10-32.1-50. Events causing dissolution.

1. A limited liability company is dissolved, and its activities must be wound up, upon the occurrence of any of the following:
 - a. An event or circumstance that the operating agreement states causes dissolution;
 - b. The consent of all the members;
 - c. Following the admission of the initial member or members, the passage of ninety consecutive days during which the company has no members;
 - d. On application by a member, the entry by appropriate court of an order dissolving the company on the grounds that:
 - (1) The conduct of all or substantially all of the activities of the company are unlawful; or
 - (2) It is not reasonably practicable to carry on the activities of the company in conformity with the articles of organization and the operating agreement;
 - e. On application by a member, the entry by appropriate court of an order dissolving the company on the grounds that the managers, governors, or those members in control of the company:
 - (1) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or

- (2) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant.
2. In a proceeding brought under subdivision e of subsection 1, the court may order a remedy other than dissolution, which may include the sale for fair value of all membership interests a member owns in a limited liability company to the limited liability company or one or more of the other members. A remedy other than dissolution may be ordered in any case where that remedy would be appropriate under all the facts and circumstances of the case.
3. A proceeding brought under subdivision e of subsection 1 must be brought in a court within the county in which the registered office of the limited liability company is located. It is not necessary to make members parties to the action or proceeding unless relief is sought against them personally.

10-32.1-51. Winding up.

1. A dissolved limited liability company shall wind up its activities, and the company continues after dissolution only for the purpose of winding up.
2. In winding up its activities, a limited liability company:
- a. Shall discharge the debts, obligations, or other liabilities of the company, settle and close the activities of the company, and marshal and distribute the assets of the company; and
- b. May:
- (1) File with the secretary of state a notice of dissolution stating the name of the company and that the company is dissolved;
- (2) Preserve the company activities and property as a going concern for a reasonable time;
- (3) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
- (4) Transfer the property of the company;
- (5) Settle disputes by mediation or arbitration;
- (6) File with the secretary of state articles of dissolution and termination stating the name of the company and that the company is terminated; and
- (7) Perform other acts necessary or appropriate to the winding up.
3. If a dissolved limited liability company has no members, then the legal representative of the last person to have been a member may wind up the activities of the company. If the person does so, then the person has the powers of a sole manager under subsection 3 of section 10-32.1-39, and is deemed to be a manager for the purposes of subdivision b of subsection 1 of section 10-32.1-26.
4. If the legal representative under subsection 3 declines or fails to wind up the activities of the company, then a person may be appointed to do so by the

consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this subsection:

- a. Has the powers of a sole manager under subsection 3 of section 10-32.1-39, and is deemed to be a manager for the purposes of subdivision b of subsection 1 of section 10-32.1-26; and
 - b. Shall promptly file with the secretary of state an amendment to the articles of organization of the company to:
 - (1) State that the company has no members;
 - (2) State that the person has been appointed pursuant to this subsection to wind up the company; and
 - (3) Provide the mailing address of the person.
5. The appropriate court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the activities of the company:
- a. On application of a member, if the applicant establishes good cause;
 - b. On the application of a transferee, if:
 - (1) The company does not have any members;
 - (2) The legal representative of the last person to have been a member declines or fails to wind up the activities of the company; and
 - (3) Within a reasonable time following the dissolution a person has not been appointed pursuant to subsection 4; or
 - c. In connection with a proceeding under subdivision d or e of subsection 1 of section 10-32.1-50.

10-32.1-52. Known claims against a dissolved limited liability company.

1. Except as otherwise provided in subsection 4, a dissolved limited liability company may give notice of a known claim under subsection 2 that has the effect as provided in subsection 3.
2. A dissolved limited liability company may in a record notify its known claimants of the dissolution. The notice must:
 - a. Specify the information required to be included in a claim;
 - b. Provide a mailing address to which the claim is to be sent;
 - c. State the deadline for receipt of the claim, which may not be less than one hundred twenty days after the date the notice is received by the claimant; and
 - d. State that the claim will be barred if not received by the deadline.

3. A claim against a dissolved limited liability company is barred if the requirements of subsection 2 are met and:
 - a. The claim is not received by the specified deadline; or
 - b. If the claim is timely received but rejected by the company:
 - (1) The company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim within ninety days after the claimant receives the notice of rejection; and
 - (2) The claimant does not commence the required action within the ninety days.
4. This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

10-32.1-53. Other claims against a dissolved limited liability company.

1. A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them according to the notice.
2. The notice authorized by subsection 1 must:
 - a. Be published at least once in a newspaper of general circulation in the county or counties in this state in which the principal executive office of the dissolved limited liability company is located or, if it has none in this state, then in the county or counties in which the registered office of the company is or was last located;
 - b. Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent; and
 - c. State that a claim against the company is barred unless an action to enforce the claim is commenced within five years after publication of the notice.
3. If a dissolved limited liability company publishes a notice according to subdivision b, unless the claimant commences an action to enforce the claim against the company within five years after the publication date of the notice, then the claim of each of the following claimants is barred:
 - a. A claimant that did not receive notice in a record under section 10-32.1-52;
 - b. A claimant whose claim was timely sent to the company but not acted on; and
 - c. A claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.
4. A claim not barred under this section may be enforced:
 - a. Against a dissolved limited liability company, to the extent of its undistributed assets; and

- b. If assets of the company have been distributed after dissolution, then against a member or transferee to the extent of the proportionate share of the claim of that person or of the assets distributed to the member or transferee after dissolution, whichever is less, but the total liability of a person for all claims under this subdivision does not exceed the total amount of assets distributed to the person after dissolution.

10-32.1-54. Distribution of assets in winding up limited liability activities of the company.

1. In winding up its activities, a limited liability company must apply its assets to discharge its obligations to creditors, including members that are creditors.
2. After a limited liability company complies with subsection 1, any surplus must be distributed in the following order, subject to any charging order in effect under section 10-32.1-45:
 - a. To each person owning a transferable interest that reflects contributions made by a member and not previously returned, an amount equal to the value of the unreturned contributions; and
 - b. In equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under section 10-32.1-44.
3. If a limited liability company does not have sufficient surplus to comply with subdivision a of subsection 2, then any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.
4. All distributions made under subsections 2 and 3 must be paid in money.

10-32.1-55. Merger, conversion, and domestication - Definitions.

For the purposes of sections 10-32.1-55 through 10-32.1-71, unless the context otherwise requires:

1. "Constituent limited liability company" means a constituent organization that is a limited liability company.
2. "Constituent organization" means an organization that is party to a merger or exchange.
3. "Converted organization" means the organization into which a converting organization converts pursuant to sections 10-32.1-61 through 10-32.1-66.
4. "Converting limited liability company" means a converting organization that is a limited liability company.
5. "Converting organization" means an organization that converts into another organization pursuant to section 10-32.1-61.
6. "Domesticated company" means the company that exists after a domesticating foreign limited liability company or limited liability company effects a domestication pursuant to sections 10-32.1-67 through 10-32.1-71.

7. "Domesticating company" means the company that effects a domestication pursuant to sections 10-32.1-67 through 10-32.1-71.
8. "Governing statute" of an organization means:
 - a. With respect to a domestic organization, the following chapters of this code which govern the internal affairs of the organization:
 - (1) If a corporation, then chapter 10-19.1;
 - (2) If a limited liability company, then this chapter;
 - (3) If a general partnership, then chapters 45-13 through 45-21;
 - (4) If a limited partnership, then chapter 45-10.2;
 - (5) If a limited liability partnership, then chapter 45-22; and
 - (6) If a limited liability limited partnership, then chapter 45-23; and
 - b. With respect to a foreign organization, the laws of the jurisdiction under which the organization is created and which govern the internal affairs of the organization.
9. "Organization" has the meaning provided in subsection 38 of section 10-32.1-02.
10. "Organizational documents" means:
 - a. For a domestic or foreign general partnership, its partnership agreement;
 - b. For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement;
 - c. For a domestic or foreign limited liability company, its certificate or articles of organization and operating agreement, or comparable records as provided in its governing statute;
 - d. For a business trust, its agreement of trust and declaration of trust;
 - e. For a domestic or foreign corporation for profit, its articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute; and
 - f. For any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.
11. "Originating Records" has the meaning provided in subsection 39 of section 10-32.1-02.
12. "Personal liability" means liability for a debt, obligation, or other liability of an organization which is imposed on a person that co-owns, has an interest in, or is a member of the organization:

- a. By the governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or
 - b. By the organizational documents of the organization under a provision of the governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, obligations, or other liabilities of the organization solely by reason of the person or persons co-owning, having an interest, or interests in, or being a member, or members of the organization.
13. "Surviving organization" means the organization resulting from a merger which:
- a. May pre-exist the merger; or
 - b. May be created by the merger.

10-32.1-56. Merger and exchange.

1. A limited liability company may merge with one or more other constituent organizations pursuant to this section, sections 10-32.1-55 through 10-32.1-59, and 10-32.1-71, a plan of merger if:
 - a. The governing statute of each of the other organizations authorizes the merger;
 - b. The merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and
 - c. Each of the other organizations complies with its governing statute in effecting the merger.
2. A limited liability company may engage in an exchange with one or more other constituent organizations pursuant to this section by which one of the constituent organizations acquires all of the ownership interests of one or more classes or series of another constituent organization pursuant to this section, sections 10-32.1-55 through 10-32.1-58, 10-32.1-60, and 10-32.1-71, and a plan of exchange if:
 - a. The governing statute of each of the other constituent organizations authorizes the exchange;
 - b. The exchange is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and
 - c. Each of the other constituent organizations complies with its governing statute in effecting the exchange.
3. A plan of merger or exchange must be in a record and must include:
 - a. The name and form of each constituent organization and;
 - b. In the case of a merger:

- (1) The name and form of the surviving organization and, if the surviving organization is to be created by the merger, then a statement to that effect;
- (2) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration; and
- (3) If the surviving organization is to be created by the merger, then the originating record of the surviving organization that is proposed to be in a record;
- (4) If the surviving organization is not to be created by the merger, then any amendments to be made by the merger to the organizational documents of the surviving organization that are, or are proposed to be, in a record; and
- (5) Any other provisions with respect to the proposed merger that are considered necessary or desirable.

c. In the case of an exchange:

- (1) The name of the acquiring organization;
 - (2) The terms and conditions of the exchange, including the manner and basis of exchanging the ownership interests to be acquired for securities of, or other ownership interests in, the acquiring organization or any other organization or, in whole or part, for money or other property; and
 - (3) Any other provisions with respect to the proposed exchange that are considered necessary or desirable.
4. If an organization is not the surviving organization but is the owner of a service mark, trademark, or trade name, is a general partner named in a fictitious name certificate, is a general partner in a limited partnership or a limited liability limited partnership, or is a managing partner of a limited liability partnership that is on file with the secretary of state, then it must change or amend the name of the organization to its name in each registration when filing the articles of merger.

10-32.1-57. Action on a plan of merger or exchange by a constituent limited liability company.

1. Subject to section 10-32.1-71, a plan of merger or exchange must be consented to by all the members of a constituent limited liability company.
2. Subject to section 10-32.1-71 and any contractual rights, after a merger or exchange is approved, and at any time before the merger or exchange becomes effective according to this chapter, a constituent limited liability company may amend the plan or abandon the merger or exchange:
 - a. As provided in the plan; or

- b. Except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

10-32.1-58. Filings required for a merger or exchange - Effective date.

1. After each constituent organization has approved a plan of merger or exchange, articles of merger or exchange must be signed on behalf of:
 - a. Each constituent limited liability company, as provided in subsection 47 of section 10-32.1-02; and
 - b. Each other constituent organization, as provided in its governing statute.
2. Articles of merger under this section must include:
 - a. The name and form of each constituent organization and the jurisdiction of its governing statute;
 - b. The name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, then a statement to that effect;
 - c. The date the merger is effective under the governing statute of the surviving organization;
 - d. If the surviving organization is to be created by the merger:
 - (1) If it will be a limited liability company, then the articles of organization of the company; or
 - (2) If it will be an organization other than a limited liability company, then the organizational document that creates the organization that is in a public record;
 - e. If the surviving organization preexists the merger, then any amendments provided for in the plan of merger for the organizational document that created the organization that are in a public record;
 - f. A statement as to each constituent organization that the merger was approved as required by the governing statute of the organization;
 - g. If the surviving organization is a foreign organization not authorized to transact business in this state, then the address of an office that the secretary of state may use for the purposes of subsection 2 of section 10-32.1-59; and
 - h. Any additional information required by the governing statute of any constituent organization.
3. Articles of exchange under this section must include:
 - a. The name and form of each constituent organization and the jurisdiction of its governing statute;
 - b. The manner and basis of exchanging the ownership interests to be acquired for securities of, or other ownership interests in, the acquiring

- organization or any other organization or, in whole or part, for money or other property;
- c. The date the exchange is effective under the governing statute of the acquiring organization;
 - d. A statement as to each constituent organization that the exchange was approved as required by the governing statute of the organization; and
 - e. Any additional information required by the governing statute of any constituent organization.
4. The articles of merger or exchange, together with the fees provided in section 10-32.1-92, shall be filed with the secretary of state.
5. With respect to the effective date of merger or exchange:
- a. A merger becomes effective under sections 10-32.1-55 through 10-32.1-59 and 10-32.1-71:
 - (1) If the surviving organization is a limited liability company, then upon the later of:
 - (a) Compliance with subsection 4; or
 - (b) Subject to subsection 3 of section 10-32.1-86, the effective date specified in the articles of merger; or
 - (2) If the surviving organization is not a limited liability company, then as provided by the governing statute of the surviving organization.
 - b. An exchange becomes effective under sections 10-32.1-55 through 10-32.1-58, 10-32.1-60, and 10-32.1-71 upon the later of:
 - (1) Compliance with subsection 4; or
 - (2) Subject to subsection 3 of section 10-32.1-86, the effective date specified in the articles of exchange.

10-32.1-59. Effect of a merger.

1. When a merger becomes effective:
- a. The surviving organization continues or comes into existence;
 - b. Each constituent organization that merges into the surviving organization ceases to exist as a separate entity;
 - c. All property owned by each constituent organization that ceases to exist vests in the surviving organization upon compliance with the transfer requirements of applicable law;
 - d. All debts, obligations, or other liabilities of each constituent organization that ceases to exist continue as debts, obligations, or other liabilities of the surviving organization;

- e. An action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred;
 - f. Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization;
 - g. Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;
 - h. Except as otherwise agreed, if a constituent limited liability company ceases to exist, then the merger does not dissolve the limited liability company for the purposes of sections 10-32.1-50 through 10-32.1-54;
 - i. If the surviving organization is created by the merger:
 - (1) If it is a limited liability company, then the articles of organization become effective; or
 - (2) If it is an organization other than a limited liability company, then the originating record that creates the organization becomes effective; and
 - j. If the surviving organization pre-existed the merger, then any amendments provided for in the articles of merger or the originating record that created the organization become effective.
2. A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent organization if before the merger the constituent organization was subject to suit in this state on the debt, obligation, or other liability. A surviving organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for the purposes of enforcing a debt, obligation, or other liability under this subsection. Service of process on the secretary of state under this subsection must be made in the same manner and has the same consequences as in section 10-32.1-19.
 3. As to any limited liability company that was a constituent organization and is not the surviving constituent organization, the articles of merger serve as the articles of dissolution and termination and, unless previously filed, the notice of dissolution.

10-32.1-60. Effect of an exchange.

When an exchange becomes effective, the membership interests in a limited liability company to be exchanged under the terms of the plan are considered to be exchanged. The members owning those membership interests are entitled only to the ownership interests, securities, money, or other property into which those membership interests have been converted or for which those membership interests have been exchanged according to the plan.

10-32.1-61. Conversion.

1. An organization other than a limited liability company may convert to a limited liability company, and a limited liability company may convert to another

organization other than a general partnership as provided in this section, sections 10-32.1-62 through 10-32.1-66, and 10-32.1-71 and a plan of conversion, if:

- a. The governing statute of the other organization authorizes the conversion;
 - b. The conversion is not prohibited by the law of the jurisdiction that enacted the governing statute; and
 - c. The other organization complies with its governing statute in effecting the conversion.
2. For the purposes of sections 10-32.1-61 through 10-32.1-66 and 10-32.1-71, unless the context otherwise requires:
- a. "Act of the board" means action by the board as provided in section 10-32.1-39 whether:
 - (1) At a meeting of the board; or
 - (2) By a written action of the board.
 - b. "Act of the members" means action by the members as provided in section 10-32.1-39 whether:
 - (1) At a meeting of the members; or
 - (2) By a written action of the members.
 - c. "Certificate of creation" means:
 - (1) A certificate of incorporation, if the converted organization is a corporation deemed to be incorporated under chapter 10-19.1;
 - (2) A certificate of organization, if the converted organization is a limited liability company deemed to be organized under this chapter;
 - (3) A certificate of limited partnership, if the converted organization is a limited partnership deemed to be formed under chapter 45-10.2;
 - (4) The filed registration of a limited liability partnership, if the converted organization is a limited liability partnership deemed to be established under chapter 45-22; or
 - (5) A certificate of limited liability limited partnership, if the converted organization is a limited liability limited partnership deemed to be formed under chapter 45-23.
 - d. "Date of origin" means the date on which:
 - (1) A corporation which is:
 - (a) The converting organization was incorporated; or
 - (b) The converted organization is deemed to be incorporated;

- (2) A limited liability company which is:
 - (a) The converting organization was organized; or
 - (b) The converted organization is deemed to be organized;
- (3) A general partnership that is the converting organization was formed;
- (4) A limited partnership which is:
 - (a) The converting organization was formed; or
 - (b) The converted organization is deemed to be formed;
- (5) A limited liability partnership which is:
 - (a) The converting organization was formed; or
 - (b) The converted organization is deemed to be formed; and
- (6) A limited liability limited partnership which is:
 - (a) The converting organization was formed; or
 - (b) The converted organization is deemed to be formed.
- e. "Filed registration" means the registration of a limited liability partnership which has been filed with the secretary of state.
- f. "General partnership" means an organization formed by two or more persons under chapters 45-13 through 45-21.
- g. "Organizational records" means for an organization that is:
 - (1) A corporation, its articles of incorporation and bylaws;
 - (2) A limited liability company, its articles of organization, operating agreement or bylaws, and any member-control agreement;
 - (3) A limited partnership, its partnership agreement;
 - (4) A limited liability partnership, its partnership agreement; or
 - (5) A limited liability limited partnership, its partnership agreement.
- h. "Originating records" has the meaning provided in subsection 39 of section 10-32.1-02.

10-32.1-62. Plan of conversion.

A plan of conversion must be in a record and must contain:

1. The name and form of the converting organization before conversion;
2. The name and form of the converted organization after conversion;

3. The terms and conditions of the proposed conversion;
4. The manner and basis of converting each ownership interest in the converting organization into ownership interests in the converted organization or, in whole or in part, into money or other property;
5. The organizational records of the converted organization; and
6. Any other provisions with respect to the proposed conversion that are deemed necessary or desirable.

10-32.1-63. Plan approval and amendment.

1. If the converting organization is a limited liability company, then:
 - a. A resolution containing or amending the plan of conversion must be approved by an act of the board of the converting limited liability company and must then be approved by an act of its members.
 - (1) In the action by the members, a class or series of membership interests is entitled to vote as a class or series on the approval or amendment of the plan.
 - (2) Any amendment of the plan is subject to any contractual rights.
 - b. If the resolution containing or amending the plan of conversion is approved by the members:
 - (1) At a member meeting, then:
 - (a) Written notice must be given to every member of the converting limited liability company, whether or not entitled to vote at the meeting, not less than fourteen days nor more than fifty days before the meeting, in the manner provided in subsection 34 of section 10-32.1-02.
 - (b) The written notice must state that a purpose of the meeting is to consider the proposed plan of conversion or an amendment to it.
 - (c) A copy or short description of the plan of conversion or the amendment to it must be included in or enclosed with the notice.
 - (2) By a written action of the members, then a copy or short description of the plan of conversion or the amendment to it must be included in or attached to the written action.
2. If the converting organization is not a limited liability company, then the approval and amendment of the plan of conversion must comply with its governing statute in effecting the conversion.

10-32.1-64. Articles of conversion.

1. Upon receiving the approval required by section 10-32.1-63, articles of conversion must be prepared in a record that must contain:

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- a. A statement that the converting organization is being converted into another organization, including:
 - (1) The name of the converting organization immediately before the filing of the articles of conversion;
 - (2) The name to which the name of the converting organization is to be changed, which must be a name that satisfies the laws applicable to the converted organization;
 - (3) The form of organization that the converted organization will be; and
 - (4) The jurisdiction of the governing statute of the converted organization;
 - b. A statement that the plan of conversion has been approved by the converting organization as provided in section 10-32.1-63;
 - c. A statement that the plan of conversion has been approved as required by the governing statute of the converted organization;
 - d. The plan of conversion without organizational records;
 - e. A copy of the originating record of the converted organization;
 - f. If the converted organization is a foreign organization not authorized to transact business or conduct activities in this state, then the street and mailing address of an office which the secretary of state may use for the purposes of subsection 4 of section 10-32.1-66; and
 - g. If the converting organization is a general partnership, then the date of origin of the general partnership.
2. The articles of conversion must be signed on behalf of the converting organization and filed with the secretary of state.
 - a. If the converted organization is a domestic organization:
 - (1) Then the filing of the articles of conversion must also include the filing with the secretary of state of the originating record of the converted organization.
 - (2) Upon both the articles of conversion and the originating record of the converted organization being filed with the secretary of state together with the fees provided in section 10-32.1-92, the secretary of state shall issue a certificate of conversion and the appropriate certificate of creation to the converted organization or its legal representative.
 - b. If the converted organization is a foreign organization:
 - (1) That is transacting business or conducting activities in this state, then:
 - (a) The filing of the articles of conversion must include the filing with the secretary of state of an application for a certificate of authority by the converted organization.

- (b) Upon both the articles of conversion and the application for a certificate of authority by the converted organization being filed with the secretary of state together with the fees provided in section 10-32.1-92, the secretary of state shall issue a certificate of conversion and the appropriate certificate of authority to the converted organization or the legal representative.
- (2) That is not transacting business or conducting activities in this state, then, upon the articles of conversion being filed with the secretary of state together with the fees provided in section 10-32.1-92, the secretary of state shall issue a certificate of conversion to the converted organization or its legal representative.
3. A converting organization that is the owner of a service mark, trademark, or trade name, is a general partner named in a fictitious name certificate, is a general partner in a limited partnership or a limited liability limited partnership, or is a managing partner of a limited liability partnership that is on file with the secretary of state must change or amend the name of the converting organization to the name of the converted organization in each registration when filing the articles of conversion.

10-32.1-65. Abandonment of a conversion.

1. If the articles of conversion have not been filed with the secretary of state, and:
- a. If the converting organization is a limited liability company, then:
- (1) Before a plan of conversion has been approved by the converting limited liability company as provided in section 10-32.1-63, it may be abandoned by an act of its board.
- (2) After a plan of conversion has been approved by the converting limited liability company as provided in section 10-32.1-63, and before the effective date of the plan, it may be abandoned:
- (a) If the members of the converting limited liability company entitled to vote on the approval of the plan as provided in section 10-32.1-63 have approved the abandonment by an act of the members; or
- (b) If the plan provides for abandonment and if all conditions for abandonment set forth in the plan are met.
- b. If the converting organization is not a limited liability company, then the abandonment of the plan of conversion must comply with its governing statute.
2. If articles of conversion have been filed with the secretary of state, but have not yet become effective, then the converting organization shall file with the secretary of state articles of abandonment that contain:
- a. The name of the converting organization;
- b. The provision of this section under which the plan is abandoned; and
- c. If the plan is abandoned:

- (1) By an act of the board under paragraph 1 of subdivision a of subsection 1, or by an act of the members under subparagraph a of paragraph 2 of subdivision a of subsection 1, then the text of the resolution abandoning the plan; or
- (2) As provided in the plan under subparagraph b of paragraph of subdivision a of subsection 1, then a statement that the plan provides for abandonment and that all conditions for abandonment set forth in the plan are met.

10-32.1-66. Effective date of conversion - Effect.

1. A conversion is effective when the filing requirements of subsection 2 of section 10-32.1-64 have been fulfilled or on a later date specified in the articles of conversion.
2. With respect to the effect of conversion on the converting organization and on the converted organization:
 - a. An organization that has been converted as provided in sections 10-32.1-61 through 10-32.1-66 is for all purposes the same entity that existed before the conversion.
 - b. Upon a conversion becoming effective:
 - (1) If the converted organization:
 - (a) Is a limited liability company, then the converted organization has all the rights, privileges, immunities, and powers, and is subject to all the duties and liabilities, of a limited liability company organized under this chapter; or
 - (b) Is not a limited liability company, then the converted organization has all the rights, privileges, immunities, and powers, and is subject to the duties and liabilities as provided in its governing statute;
 - (2) All property owned by the converting organization remains vested in the converted organization;
 - (3) All debts, liabilities, and other obligations of the converting organization continue as obligations of the converted organization;
 - (4) An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;
 - (5) Except as otherwise provided by other law, all rights, privileges, immunities, and powers of the converting organization remain vested in the converted organization; and
 - (6) Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect.
3. When a conversion becomes effective, each ownership interest in the converting organization is deemed to be converted into ownership interests in the converted organization or, in whole or in part, into money or other property

to be received under the plan, subject to any rights of a dissenter under section 10-32.1-33.

4. A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting limited liability company, if before the conversion the converting limited liability company was subject to suit in this state on the obligation.
5. A converted organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing an obligation under this subsection as provided in section 10-01.1-13.

10-32.1-67. Domestication.

1. A foreign limited liability company may become a limited liability company pursuant to this section, sections 10-32.1-67 through 10-32.1-71, and a plan of domestication if:
 - a. The governing statute of the foreign limited liability company authorizes the domestication;
 - b. The domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and
 - c. The foreign limited liability company complies with its governing statute in effecting the domestication.
2. A limited liability company may become a foreign limited liability company pursuant to this section, sections 10-32.1-67 through 10-32.1-71, and a plan of domestication if:
 - a. The governing statute of the foreign limited liability company authorizes the domestication;
 - b. The domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and
 - c. The foreign limited liability company complies with its governing statute in effecting the domestication.
3. A plan of domestication must be in a record and must include:
 - a. The name of the domesticating company before domestication and the jurisdiction of its governing statute;
 - b. The name of the domesticated company after domestication and the jurisdiction of its governing statute;
 - c. The terms and conditions of the domestication, including the manner and basis for converting interests in the domesticating company into any combination of money, interests in the domesticated company, and other consideration; and
 - d. The originating record of the domesticated company.

10-32.1-68. Action on a plan of domestication by a domesticating limited liability company.

1. A plan of domestication must be consented to:
 - a. By all the members, subject to section 10-32.1-71, if the domesticating company is a limited liability company; and
 - b. As provided in the governing statute of the domesticating company if the company is a foreign limited liability company.
2. Subject to any contractual rights, after a domestication is approved, and at any time before articles of domestication are filed with the secretary of state under section 10-32.1-69, a domesticating limited liability company may amend the plan or abandon the domestication:
 - a. As provided in the plan; or
 - b. Except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.

10-32.1-69. Filings required for domestication - Effective date.

1. After a plan of domestication is approved, a domesticating company shall file with the secretary of state articles of domestication, together with the fees provided under section 10-32.1-92, which articles of domestication must include:
 - a. A statement, as the case may be, that the company has been domesticated from or into another jurisdiction;
 - b. The name of the domesticating company and the jurisdiction of its governing statute;
 - c. The name of the domesticated company and the jurisdiction of its governing statute;
 - d. The date the domestication is effective under the governing statute of the domesticated company;
 - e. If the domesticating company was a limited liability company, then a statement that the domestication was approved as required by this chapter;
 - f. If the domesticating company was a foreign limited liability company, then a statement that the domestication was approved as required by the governing statute of the other jurisdiction; and
 - g. If the domesticated company was a foreign limited liability company not authorized to transact business in this state, then the address of an office that the secretary of state may use for the purposes of subsection 2 of section 10-32.1-70.
2. A domestication becomes effective:

- a. When the articles of organization takes effect, if the domesticated company is a limited liability company; and
- b. According to the governing statute of the domesticated company, if the domesticated organization is a foreign limited liability company.

10-32.1-70. Effect of domestication.

1. When a domestication takes effect:
 - a. The domesticated company is for all purposes the company that existed before the domestication;
 - b. All property owned by the domesticating company remains vested in the domesticated company;
 - c. All debts, obligations, or other liabilities of the domesticating company continue as debts, obligations, or other liabilities of the domesticated company;
 - d. An action or proceeding pending by or against a domesticating company may be continued as if the domestication had not occurred;
 - e. Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the domesticating company remain vested in the domesticated company;
 - f. Except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication take effect; and
 - g. Except as otherwise agreed, the domestication does not dissolve a domesticating limited liability company for the purposes of sections 10-32.1-50 through 10-32.1-54.
2. A domesticated company that is a foreign limited liability company consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by the domesticating company if, before the domestication, the domesticating company was subject to suit in this state on the debt, obligation, or other liability. A domesticated company that is a foreign limited liability company and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the secretary of state under this subsection must be made in the same manner and has the same consequences as in section 10-32.1-19.
3. If a limited liability company has adopted and approved a plan of domestication under section 10-32.1-68 providing for the company to be domesticated in a foreign jurisdiction, then a statement surrendering the articles of organization of the company must be filed with the secretary of state setting forth:
 - a. The name of the company;
 - b. A statement that the articles of organization are being surrendered in connection with the domestication of the company in a foreign jurisdiction;

- c. A statement that the domestication was approved as required by this chapter; and
- d. The jurisdiction of formation of the domesticated foreign limited liability company.

10-32.1-71. Restrictions on approval of mergers, exchanges, conversions, and domestications.

1. If a member of a constituent, converting, or domesticating limited liability company will have personal liability with respect to a surviving, constituent, converted, or domesticated organization, then approval or amendment of a plan of merger, exchange, conversion, or domestication is ineffective without the consent of the member, unless:
 - a. The operating agreement of the company provides for approval of a merger, exchange, conversion, or domestication with the consent of fewer than all the members; and
 - b. The member has consented to the provision of the operating agreement.
2. A member does not give the consent required by subsection 1 merely by consenting to a provision of the operating agreement that permits the operating agreement to be amended with the consent of fewer than all the members.

10-32.1-72. Foreign limited liability company - Governing law.

1. The law of the state or other jurisdiction under which a foreign limited liability company is formed governs:
 - a. The internal affairs of the company; and
 - b. The liability of a member as member, a manager as manager, and a governor as governor for the debts, obligations, or other liabilities of the company.
2. A foreign limited liability company may not be denied a certificate of authority by reason of any difference between the law of the jurisdiction under which the company is formed and the law of this state.
3. A foreign limited liability company holding a valid certificate of authority in this state has no greater rights and privileges than a domestic limited liability company. A certificate of authority does not authorize a foreign limited liability company to engage in any business or exercise any power that a limited liability company may not engage in or exercise in this state.

10-32.1-73. Foreign limited liability company - Name.

A foreign limited liability company may apply for a certificate of authority under any name that would be available to a domestic limited liability company, whether or not the name is the name under which it is authorized in its jurisdiction of organization. A trade name must be registered as provided in chapter 47-25 when applying for the certificate of authority under a name other than the name as authorized in the jurisdiction of origin.

10-32.1-74. Foreign limited liability company - Admission of foreign limited liability company - Transacting business - Obtaining licenses and permits.

A foreign limited liability company may not:

1. Transact business in this state or obtain any license or permit required by this state until it has procured a certificate of authority from the secretary of state.
2. Transact in this state any business that is prohibited to a domestic limited liability company organized under this chapter.
3. Be denied a certificate of authority because the laws of the state or country where the limited liability company is organized differ from the laws of this state.

10-32.1-75. Foreign limited liability company - Application for a certificate of authority.

1. An applicant for the certificate shall file with the secretary of state a certificate of status from the filing office in the jurisdiction in which the foreign limited liability company is organized and an application executed by an authorized person and setting forth:
 - a. The name of the foreign limited liability company and, if different, the name under which it proposes to transact business in this state;
 - b. The jurisdiction of its organization;
 - c. With respect to a registered agent:
 - (1) The name of the commercial registered agent as required by chapter 10-01.1; or
 - (2) If a noncommercial registered agent, then the name and address in this state of the noncommercial registered agent;
 - d. The date, if any, on which the foreign limited liability company expires in the jurisdiction of its organization;
 - e. The purpose the foreign limited liability company proposes to pursue in transacting its business in this state;
 - f. The names and addresses of the governors and managers of the foreign limited liability company; and
 - g. Any additional information deemed appropriate by the secretary of state to determine whether the foreign limited liability company is entitled to a certificate of authority to transact business in this state.
2. The application must be accompanied by payment of the fees provided in section 10-32.1-92 together with a certificate of good standing or a certificate of existence duly authenticated by the organizing officer of the state or country where the foreign limited liability company is organized.

10-32.1-76. Foreign limited liability company - Issuance of a certificate of authority.

If the secretary of state finds that an application for a certificate of authority conforms to law and all fees provided in section 10-32.1-92 have been paid, then the secretary of state shall:

1. Endorse on the application the word "filed" and the date of the filing;
2. File the application and the certificate of good standing or certificate of existence; and
3. Issue to the foreign limited liability company or its representative a certificate of authority to transact business in this state.

10-32.1-77. Foreign limited liability company - Amendments to a certificate of authority.

1. If any statement in the application for a certificate of authority by a foreign limited liability company is false when made or if the foreign limited liability company changes the name of the foreign limited liability company or purposes sought in this state, then the foreign limited liability company promptly shall file with the secretary of state an application for an amended certificate of authority executed by an authorized person correcting the statement and in the case of a change in the name of the foreign limited liability company, a certificate to that effect authenticated by the proper officer of the state or country under the laws of which the foreign limited liability company is organized.
2. In the case of a termination or merger, a foreign limited liability company that is not the surviving organization need not file an application for an amended certificate of authority but shall promptly file with the secretary of state a certificate to that effect authenticated by the proper officer of the state or country under the laws of which the foreign limited liability company is organized.
3. A foreign limited liability company that changes the name of the foreign limited liability company and applies for an amended certificate of authority and that is the owner of a service mark, trademark, or trade name, a general partner named in a fictitious name certificate, a general partner in a limited partnership or a limited liability limited partnership, or a managing partner in a limited liability partnership that is on file with the secretary of state shall change the name of the foreign limited liability company in each of the foregoing registrations which is applicable when the foreign limited liability company files an application for an amended certificate of authority.

10-32.1-78. Foreign limited liability company - Registered agent - Registered office.

A foreign limited liability company authorized to transact business in this state shall continuously maintain a registered agent and registered office in this state as provided in chapter 10-01.1.

10-32.1-79. Foreign limited liability company - Merger of a foreign limited liability company authorized to transact business in this state.

If a foreign limited liability company authorized to transact business in this state is a party to a statutory merger permitted by the laws of the state or country under which the foreign limited liability company is organized, and the limited liability company is not the surviving organization, then the surviving organization shall, within thirty days after the merger becomes effective, file with the secretary of state a certified statement of merger duly authenticated by the proper officer of the state or country where the statutory merger was effected. Any foreign organization, which is the surviving organization in a merger and which will continue to transact business in this state, shall procure a certificate of authority if not previously authorized to transact business in this state.

10-32.1-80. Foreign limited liability company - Conversion of a foreign limited liability authorized to transact business in this state.

If a foreign limited liability company authorized to transact business in this state converts to another organization permitted by its governing statute, then within thirty days after the conversion becomes effective, the newly created organization resulting from the conversion shall file with the secretary of state a certified statement of conversion duly authenticated by the proper officer of the jurisdiction in which the statutory conversion was effected. Any foreign organization that is the converted organization in a conversion and which will continue to transact business in this state shall obtain a certificate of authority or applicable registration in accordance with the North Dakota governing statute applicable to the converted organization.

10-32.1-81. Foreign limited liability company - Certificate of withdrawal.

1. A foreign limited liability company authorized to transact business in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure the certificate, the foreign limited liability company shall file with the secretary of state an application for withdrawal, together with the fees provided in section 10-32.1-92, which must set forth:
 - a. The name of the foreign limited liability company and the state or country under the laws of which it is organized;
 - b. That the foreign limited liability company is not transacting business in this state;
 - c. That the foreign limited liability company surrenders its authority to transact business in this state;
 - d. That service of process in any action, suit, or proceeding based upon any cause of action arising in this state during the time the foreign limited liability company was authorized to transact business in this state may thereafter be made on such foreign limited liability company as provided in section 10-01.1-13; and
 - e. A mailing address to which a person may mail a copy of any process against the foreign limited liability company.
2. The filing with the secretary of state of articles of dissolution and termination, or a certificate of merger if the foreign limited liability company is not the

surviving organization, from the proper officer of the state or country under the laws of which the foreign limited liability company is organized constitutes a valid application of withdrawal and the authority of the foreign limited liability company to transact business in this state shall cease upon filing of the certificate.

10-32.1-82. Foreign limited liability company - Transactions not constituting transacting business.

1. A foreign limited liability company shall not be considered to be transacting business in this state for the purposes of this chapter solely by reason of carrying on in this state any one or more of the following, including:
 - a. Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;
 - b. Holding meetings of its managers, governors, or members or carrying on other activities concerning its internal affairs;
 - c. Maintaining bank accounts;
 - d. Maintaining offices or agencies for the transfer, exchange, and registration of its securities, or appointing and maintaining trustees or depositories with relation to its securities;
 - e. Holding title to and managing real or personal property, or any interest therein, situated in this state, as executor of the will or administrator of the estate of any decedent, as trustee of any trust, or as guardian of any person or conservator of the estate of any person;
 - f. Making, participating in, or investing in loans or creating, as borrower or lender, or otherwise acquiring indebtedness or mortgages or other security interests in real or personal property;
 - g. Securing or collecting its debts or enforcing any rights in property securing its debts; or
 - h. Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.
2. For purposes of sections 10-32.1-72 through 10-32.1-85, the ownership in this state of income-producing real property or tangible personal property, other than property excluded under subsection 1, constitutes transacting business in this state.
3. This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation, or regulation under law of this state other than this chapter.

10-32.1-83. Foreign limited liability company - Service of process on a foreign limited liability company.

Service of process on a foreign limited liability company must be as provided in section 10-01.1-13.

10-32.1-84. Foreign limited liability company - Effect of failure to have a certificate of authority.

1. A foreign limited liability company transacting business in this state may not maintain an action or proceeding in this state unless it has a certificate of authority to transact business in this state.
2. The failure of a foreign limited liability company to have a certificate of authority to transact business in this state does not impair the validity of a contract or act of the company or prevent the company from defending an action or proceeding in this state.
3. A member, manager, or governor of a foreign limited liability company is not liable for the debts, obligations, or other liabilities of the company solely because the company transacted business in this state without a certificate of authority.
4. If a foreign limited liability company transacts business in this state without a certificate of authority or cancels its certificate of authority, then it appoints the secretary of state as its agent for service of process for rights of action arising out of the transaction of business in this state.
5. A foreign limited liability company that transacts business in this state without a valid certificate of authority is subject to a civil penalty, payable to the state, not to exceed five thousand dollars. Each governor or, in the absence of governors, each member or agent who authorizes, directs, or participates in the transaction of business in this state on behalf of a foreign limited liability company that does not have a certificate is subject to a civil penalty, payable to the state, not to exceed one thousand dollars.
6. The civil penalties set forth in subsection 5 may be recovered in an action brought within the district court of Burleigh County by the attorney general. Upon a finding by the court that a foreign limited liability company or any of its members, governors, or agents have transacted business in this state in violation of this chapter, the court shall issue, in addition to the imposition of a civil penalty, an injunction restraining the further transaction of the business of the foreign limited liability company and the further exercise of the rights and privileges of the foreign limited liability company in this state. The foreign limited liability company must be enjoined from transacting business in this state until all civil penalties plus any interest and court costs that the court may assess have been paid and until the foreign limited liability company has otherwise complied with the provisions of this chapter.

10-32.1-85. Secretary of state - Powers - Enforcement.

1. The secretary of state has the power and authority reasonably necessary to efficiently administer this chapter and to perform the duties imposed thereby.
2. Subject to the provisions of this chapter, the secretary of state may propound to any limited liability company, domestic or foreign, and to any manager, governor, or member thereof, such interrogatories as may be reasonably necessary and proper to ascertain whether the limited liability company has complied with all provisions of this chapter which are applicable to the limited liability company, the manager, the governor, or the member.

- a. The interrogatories must be answered within thirty days after mailing or within any additional time as may be fixed by the secretary of state. The answers to such interrogatories must be full and complete and must be made in writing and under oath.
- b. If the interrogatories are directed:
 - (1) To an individual, then they must be answered by that individual; or
 - (2) To a limited liability company, then they must be answered by the persons whom the management and conduct of the activities of the company are vested pursuant to section 10-32.1-39.
- c. The secretary of state need not file any record to which such interrogatories relate until such interrogatories have been answered, and not then if the answers disclose that such record is not in conformity with the provisions of this chapter.
- d. The secretary of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto, which disclose a violation of any of the provisions of this chapter.
- e. Each person who fails or refuses within the time provided by subdivision a of subsection 2 to answer truthfully and fully all interrogatories propounded to that person by the secretary of state is guilty of an infraction.
- f. Interrogatories propounded by the secretary of state and the answers thereto are not open to public inspection. The secretary of state may not disclose any facts or information obtained from the interrogatories or answers except insofar as may be permitted by law or insofar as is required for evidence in any criminal proceedings or other action by this state.

10-32.1-86. Secretary of state - Filing of records with secretary of state - Effective date.

1. A record authorized or required to be filed with the secretary of state under this chapter must be captioned to describe the purpose of the record, be in a medium permitted by the secretary of state, and be delivered to the secretary of state. If the filing fees required by section 10-32.1-92 have been paid, then, unless the secretary of state determines that a record does not comply with the filing requirements of this chapter, the secretary of state shall file the record and for all records, except annual reports, send an image of the filed record to the person who filed the record.
2. Upon request and payment of the fee provided in section 10-32.1-92, the secretary of state shall send to the requester a certified copy of a requested record.
3. Except as otherwise provided in this chapter, a record filed with the secretary of state under this chapter may specify a delayed effective date which must be no later than ninety days from the date of filing. Subject to section 10-32.1-18, subdivision 4 of subsection 4 of section 10-32.1-20, and section 10-32.1-87, if the record does not specify a delayed effective date, then a record filed with

the secretary of state is effective on the date the record is filed as evidenced by the endorsement of the secretary of state of the date on the record.

10-32.1-87. Secretary of state - Liability for inaccurate information in a filed record.

1. If a record filed with the secretary of state under this chapter contains inaccurate information, then a person that suffers a loss by reliance on the information may recover damages for the loss from:
 - a. A person that signed the record, or caused another to sign it on behalf of the person, and knew the information to be inaccurate at the time the record was signed; and
 - b. Subject to subsection 2, a member of a member-managed limited liability company or the manager of a manager-managed limited liability company, if:
 - (1) The record was filed with the secretary of state on behalf of the company; and
 - (2) The member or manager had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have:
 - (a) Effected an amendment under section 10-32.1-21;
 - (b) Filed a petition under section 10-32.1-22; or
 - (c) Filed a statement of correction under section 10-32.1-88.
2. To the extent that the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records filed with the secretary of state under this chapter and imposes that responsibility on one or more other members, the liability stated in subdivision b of subsection 1, applies to those other members and not to the member that the operating agreement relieves of the responsibility.
3. An individual who signs a record authorized or required to be filed under this chapter affirms under penalty of perjury that the information stated in the record is accurate.

10-32.1-88. Secretary of state - Correcting a filed record.

1. Whenever a record authorized by this chapter to be filed with the secretary of state has been filed and inaccurately records the action referred to in the record, contains an inaccurate or erroneous statement, or was defectively or erroneously signed, sealed, acknowledged, or verified, then the record may be corrected by filing a statement of correction.
2. A statement of correction:
 - a. Must:
 - (1) Be signed by:

- (a) The person that signed the original record; or
 - (b) By a person authorized to sign on behalf of that person;
 - (2) Set forth the name of the limited liability company that filed the record;
 - (3) Identify the record to be corrected by description and by the date of its filing with the secretary of state;
 - (4) Identify the inaccuracy, error, or defect to be corrected; and
 - (5) Set forth a statement in corrected form of the portion of the record to be corrected.
 - b. May not revoke or nullify the filed record.
3. The statement of correction must be filed with the secretary of state.
4. With respect to the effective date of correction:
- a. A certificate issued by the secretary of state before a record is corrected, with respect to the effect of filing the original record, is considered to be applicable to the record as corrected as of the date the record as corrected is considered to have been filed under this subsection.
 - b. After a statement of correction has been filed with the secretary of state, the original record as corrected is considered to have been filed:
 - (1) On the date the statement of correction was filed:
 - (a) As to persons adversely affected by the correction; and
 - (b) For the purposes of subsection 3 of section 10-32.1-04; and
 - (2) On the date the original record was filed as to all other persons and for all other purposes.

10-32.1-89. Secretary of state - Annual report to the secretary of state.

1. Each limited liability company, and each foreign limited liability company authorized to transact business in this state, shall file, within the time provided by subsection 3, an annual report setting forth:
- a. The name of the limited liability company or foreign limited liability company and the state or country under the laws of which it is organized.
 - b. The address of the registered office of the limited liability company or foreign limited liability company in this state, the name of its registered agent in this state at that address, and the address of its principal executive office.
 - c. A brief statement of the character of the business in which the limited liability company or foreign limited liability company is actually engaged in this state.

- d. The names and respective addresses of the managers and governors of the limited liability company or foreign limited liability company or the name or names and respective address or addresses of the managing member or members of the limited liability company or foreign limited liability company.
2. The annual report must be submitted on forms prescribed by the secretary of state. The information provided must be given as of the date of the execution of the report. The annual report must be signed as provided in subsection 49 of section 10-32.1-02, the articles, the bylaws, or a resolution approved by the affirmative vote of the required proportion or number of the governors or members entitled to vote. If the limited liability company or foreign limited liability company is in the hands of a receiver or trustee, then the annual report must be signed on behalf of the limited liability company or foreign limited liability company by the receiver or trustee. The secretary of state may destroy any annual report provided for in this section after the annual report is on file for six years.
3. The annual report of a limited liability company or foreign limited liability company must be delivered to the secretary of state before November sixteenth of each year, except that the first annual report of a limited liability company or foreign limited liability company must be delivered before November sixteenth of the year following the calendar year in which the certificate of organization or certificate of authority was issued by the secretary of state.
 - a. An annual report in a sealed envelope postmarked by the United States postal service before November sixteenth, an annual report in a sealed packet with a verified shipment date by any other carrier service before November sixteenth, or an annual report electronically transmitted to the secretary of state with a transmission time before November sixteenth, is in compliance with this requirement.
 - b. The secretary of state must file the report if the report conforms to the requirements of subsections 1 and 2.
 - (1) If the report does not conform, then it must be returned to the limited liability company or foreign limited liability company for any necessary corrections.
 - (2) If the report is filed before the deadlines provided in this subsection, then penalties for the failure to file a report within the time provided do not apply if the report is corrected to conform to the requirements of subsections 1 and 2 and returned to the secretary of state within thirty days after the annual report was returned by the secretary of state for correction.
4. After the date established under subsection 3, the secretary of state shall notify any limited liability company or foreign limited liability company failing to file its annual report that its certificate of organization or certificate of authority is not in good standing and that it may be terminated or revoked pursuant to section 10-32.1-90.
5. A limited liability company that was terminated for failure to file an annual report, or a foreign limited liability company whose authority was forfeited by

failure to file an annual report, may be reinstated pursuant to section 10-32.1-91.

10-32.1-90. Secretary of state - Involuntary termination - Revocation of certificate of authority.

1. With respect to the involuntary termination of a limited liability company by the secretary of state:
 - a. A limited liability company may be involuntarily terminated by the secretary of state if:
 - (1) The limited liability company has failed to:
 - (a) File with the secretary of state its annual report or any other record required to be filed with the secretary of state under this chapter together with the fees provided in section 10-32.1-92;
 - (b) Appoint and maintain a registered agent and registered office as provided in chapter 10-01.1.
 - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the limited liability company pursuant to this chapter.
 - b. A limited liability company that fails to file its annual report, together with the fees provided in section 10-32.1-92, within six months after the date established in subsection 3 of section 10-32.1-89 ceases to exist and is considered involuntarily terminated by operation of law.
 - (1) The secretary of state shall note the termination of the certificate of organization of the limited liability company on the records of the secretary of state and shall give notice of the action to the terminated limited liability company.
 - (2) Notice by the secretary of state must be mailed to the last registered agent of the limited liability company at the last registered office in this state or, if the limited liability company fails to appoint and maintain a registered agent in this state, then mailed to the principal executive office.
 - (3) The decision of the secretary of state that the limited liability company has been involuntarily terminated under this subsection is final.
 - (4) A limited liability company that was terminated for failure to file an annual report may be reinstated as provided in subsection 1 of section 10-32.1-91 and may appeal as provided in subsection 2 of section 10-32.1-91.
 - c. Except for termination of a limited liability company for failure to file the annual report as provided in section 10-32.1-89, no limited liability company may be terminated by the secretary of state unless:
 - (1) The secretary of state has given the limited liability company not less than sixty days notice by mail addressed to the registered agent at the registered office in this state or, if the limited liability company fails to

- appoint and maintain a registered agent in this state, then addressed to its principal executive office; and
- (2) During the sixty-day period, the limited liability company has failed to:
- (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or the registered agent;
 - (b) File any other required record; or
 - (c) Correct the misrepresentation.
- d. Upon the expiration of sixty days after the mailing of the notice, the existence of the limited liability company is terminated. The secretary of state shall issue a notice of termination and shall mail the notice to the registered agent at the registered office in this state, or, if the limited liability company failed to appoint and maintain a registered agent or a registered office in this state, then addressed to the principal executive office of the limited liability company.
2. With respect to the revocation of a certificate of authority of a foreign limited liability company by the secretary of state:
- a. The certificate of authority of a foreign limited liability company to transact business in this state may be revoked by the secretary of state if:
 - (1) The foreign limited liability company has failed to:
 - (a) File with the secretary of state its annual report or any other record required to be filed with the secretary of state under this chapter together with the fees provided in section 10-32.1-77;
 - (b) Appoint and maintain a registered agent and registered office as provided in chapter 10-01.1;
 - (c) File with the secretary of state any amendment to its application for a certificate of authority as provided in section 10-32.1-77;
 - (d) File with the secretary of state any merger as provided in section 10-32.1-79; or
 - (e) File with the secretary of state an application for certificate of withdrawal of its authority as provided in section 10-32.1-81 when the existence of the limited liability company has expired or the limited liability company has been dissolved or terminated in the jurisdiction of the organization; or
 - (2) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the foreign limited liability company pursuant to this chapter.
 - b. A foreign limited liability company that fails to file its annual report together with the fees provided in section 10-32.1-92, within six months after the date established by subsection 3 of section 10-32.1-89, forfeits the

authority to transact business in this state and its certificate of authority is considered revoked by operation of law.

- (1) The secretary of state shall note the revocation of the certificate of authority of the foreign limited liability company on the records of the secretary of state and shall give notice of the action to the foreign limited liability company.
 - (2) Notice by the secretary of state must be mailed to the last registered agent of the foreign limited liability company at its last registered office in this state or, if the foreign limited liability company fails to appoint and maintain a registered agent in this state, then mailed to its principal executive office.
 - (3) The decision of the secretary of state that a certificate of authority must be revoked under this subsection is final.
 - (4) A foreign limited liability company whose authority was forfeited by, and whose certificate of authority was revoked by the secretary of state for, failure to file an annual report may be reinstated as provided in subsection 1 of section 10-32.1-91 and may appeal as provided in subsection 2 of section 10-32.1-91.
- c. Except for revocation of the certificate of authority for failure to file the annual report as provided in section 10-32.1-89, no certificate of authority of a foreign limited liability company may be revoked by the secretary of state unless:
- (1) The secretary of state has given the foreign limited liability company not less than sixty days notice by mail addressed to its registered agent at the registered office in this state or, if the foreign limited liability company fails to appoint and maintain a registered agent in this state, then addressed to the principal office; and
 - (2) During the sixty-day period, the foreign limited liability company has failed to:
 - (a) File the report of change as provided in chapter 10-01.1 regarding the registered office or registered agent;
 - (b) File any merger;
 - (c) File an application for withdrawal;
 - (d) File any other required record; or
 - (e) Correct the misrepresentation.
- d. Upon the expiration of sixty days after the mailing of the notice, the authority of the foreign limited liability company to transact business in this state ceases. The secretary of state shall issue a notice of revocation and shall mail the notice to the registered agent at the registered office in this state, or, if the foreign limited liability company failed to appoint and maintain a registered agent or a registered office in this state, then

addressed to the principal executive office of the foreign limited liability company.

10-32.1-91. Secretary of state - Reinstatement following an involuntary termination or revocation of authority - Appeals.

1. With respect to reinstatement following involuntary termination or revocation of authority:
 - a. A limited liability company that was terminated for failure to file an annual report, or a foreign limited liability company whose authority was revoked for failure to file an annual report, may be reinstated by filing a past-due report, together with the statutory filing and penalty fees for an annual report and a reinstatement fee as provided in section 10-32.1-92. The fees must be paid and the report filed within one year following the involuntary termination or revocation.
 - b. With respect to a reinstatement which is more than one year after involuntary termination or revocation:
 - (1) If the secretary of state terminates a limited liability company or revokes the certificate of authority to transact business in this state of any foreign limited liability company, pursuant to the provisions of section 10-32.1-90, then the limited liability company or foreign limited liability company may appeal to district court in the judicial district serving Burleigh County for reinstatement by filing with the clerk of such court a petition, including:
 - (a) A copy of the articles of organization of the limited liability company and a copy of the notice of termination given by the secretary of state; or
 - (b) A copy of the certificate of authority of the foreign limited liability company to transact business in this state and a copy of the notice of revocation given by the secretary of state. The matter must be tried de novo by the court. The court shall either sustain the action of the secretary of state or direct the secretary of state to take such action as the court may deem proper.
 - (2) If the court order sought is one for reinstatement of a limited liability company that has been terminated as provided in subsection 1 of section 10-32.1-90, or for reinstatement of the certificate of authority of a foreign limited liability company that has been revoked as provided in subsection 2 of section 10-32.1-90, then, together with any other actions the court deems proper, any order which reverses the decision of the secretary of state shall require the limited liability company or foreign limited liability company to:
 - (a) File the most recent past-due annual report;
 - (b) Pay the fees to the secretary of state for all past-due annual reports as provided in subsection 24 of section 10-32.1-92; and
 - (c) Pay the reinstatement fee to the secretary of state as provided in subsection 24 of section 10-32.1-92.

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- (3) Appeals from all final orders and judgments entered by the district court under this section in review of any ruling or decision of the secretary of state may be taken as in other civil actions.
- c. Reinstatement returns the limited liability company to active status:
- (1) As of the date of the reinstatement:
- (a) In the office of the secretary of state;
- (b) As to persons adversely affected by the reinstatement; and
- (c) For purposes of subsection 3 of section 10-32.1-04; and
- (2) As of the date of the involuntary termination or revocation:
- (a) Validates contracts or other acts within the authority of the articles, and the limited liability company is liable for those contracts or acts; and
- (b) Restores to the limited liability company all assets and rights of the limited liability company and its members to the extent they were held by the limited liability company and its members before the involuntary dissolution or revocation occurred, except to the extent that assets or rights were affected by acts occurring after the involuntary dissolution or revocation, sold, or otherwise distributed after that time.
- d. Reapplication for any license or permit by a reinstated limited liability company shall be pursuant to the North Dakota statute governing the issuance of the license or permit.
- e. Appeals from all final orders and judgments by the district court under this subsection may be taken as in other civil actions.
2. With respect to appeals of the rejection by the secretary of state of any record required to be approved by the secretary of state before the record may be filed:
- a. The secretary of state shall give written notice of the rejection to the person that delivered the record, specifying the reasons for rejection.
- b. Within thirty days after the service of the notice of denial, the limited liability company or foreign limited liability company, as the case may be, may appeal to the district court in the judicial district serving Burleigh County by filing with the clerk of court a petition setting forth a copy of the record sought to be filed and a copy of the written rejection of the record of the secretary of state.
- c. The matter must be tried de novo by the court.
- d. The court shall either sustain the action of the secretary of state or direct the secretary of state to take such action as the court may deem proper.

- e. Appeals from all final orders and judgments by the district court under this subsection may be taken as in other civil actions.

10-32.1-92. Secretary of state - Fees and charges.

The secretary of state shall charge and collect for:

1. Filing articles of organization and issuing a certificate of organization, one hundred thirty-five dollars.
2. Filing articles of amendment, fifty dollars.
3. Filing statement of correction, fifty dollars.
4. Filing restated articles of organization, one hundred twenty-five dollars.
5. Filing a statement of authority or a statement amending or canceling the statement of authority of a limited liability company, twenty dollars.
6. Filing articles of conversion of a limited liability company, fifty dollars and:
 - a. If the organization resulting from the conversion will be a domestic organization governed by the laws of this state, then the fees provided by the governing laws to establish or register a new organization like the organization resulting from the conversion; or
 - b. If the organization resulting from the conversion will be a foreign organization that will transact business in this state, then the fees provided by the governing laws to obtain a certificate of authority or register an organization like the organization resulting from the conversion.
7. Filing abandonment of conversion, fifty dollars.
8. Articles of domestication, fifty dollars and:
 - a. If the organization resulting from the domestication will be a domestic organization governed by the laws of this state, then the fees provided by the governing laws to establish or register a new organization like the organization resulting from the domestication; or
 - b. If the organization resulting from the domestication will be a foreign organization that will transact business in this state, then the fees provided by the governing laws to obtain a certificate of authority or register an organization like the organization resulting from the domestication.
9. Filing articles of merger or exchange and issuing a certificate of merger or exchange, fifty dollars.
10. Filing abandonment of merger or exchange, fifty dollars.
11. Filing an application to reserve a name, ten dollars.
12. Filing a notice of transfer of a reserved name, ten dollars.
13. Filing a cancellation of reserved name, ten dollars.

14. Filing a consent to use of name, ten dollars.
15. Filing a statement of change of address of registered office or change of registered agent or both, or a statement of change of address of registered office by registered agent, the fee provided in section 10-01.1-03.
16. Filing a resolution for the establishment of a class or series of membership interests, fifty dollars.
17. Filing a notice of dissolution, ten dollars.
18. Filing a statement of revocation of voluntary dissolution proceedings, ten dollars.
19. Filing articles of dissolution and termination, twenty dollars.
20. Filing an application of a foreign limited liability company for a certificate of authority to transact business in this state and issuing a certificate of authority, one hundred thirty-five dollars.
21. Filing an amendment to the certificate of authority by a foreign limited liability company, fifty dollars.
22. Filing a certificate of fact stating a merger of a foreign limited liability company holding a certificate of authority to transact business in this state, fifty dollars.
23. Filing a certified statement of conversion of a foreign limited liability company, fifty dollars.
24. Filing an application for withdrawal of a foreign limited liability company and issuing a certificate of withdrawal, twenty dollars.
25. Filing an annual report of a limited liability company or foreign limited liability company, fifty dollars.
 - a. The secretary of state shall charge and collect additional fees for late filing of the annual report as follows:
 - (1) After the date provided in subsection 3 of section 10-32.1-89, fifty dollars; and
 - (2) After the termination of the limited liability company, or the revocation of the certificate of authority of a foreign limited liability company, the reinstatement fee of one hundred thirty-five dollars.
 - b. Fees paid to the secretary of state according to this subsection are not refundable if an annual report submitted to the secretary of state cannot be filed because it lacks information required by section 10-32.1-89, or the annual report lacks sufficient payment as required by this subsection.
26. Filing any process, notice, or demand for service, the fee provided in section 10-01.1-03.
27. Submitting any record for approval before the actual time of submission for filing, one-half of the fee provided in this section for filing the record.

28. Filing any other statement or report of a limited liability company or foreign limited liability company, ten dollars.
29. Furnishing a copy of any record, or paper relating to a limited liability company or a foreign limited liability company:
 - a. The fee provided in section 54-09-04 for copying a record; and
 - b. Five dollars for a search of records.
30. Furnishing a certificate of good standing, existence, or authorization:
 - a. Fifteen dollars; and
 - b. Five dollars for a search of records.

10-32.1-93. Secretary of state - Certificate of existence and authorization.

1. The secretary of state, upon request, compliance with subsection 2 and payment of the fee required by section 10-32.1-92, shall furnish to any person a certificate of existence for:
 - a. A limited liability company that exists; or
 - b. A foreign limited liability company that has an active certificate of authority.
2. The limited liability company or foreign limited liability company for which a certificate of existence is requested must have:
 - a. Filed all annual reports; and
 - b. Paid all fees due to the secretary of state.
3. Any certificate furnished by the secretary of state under this section may be created and furnished as an electronic record with the same force and effect as if produced in a paper form.

10-32.1-94. Secretary of state - Certificates and certified copies to be received in evidence.

1. All certificates issued by the secretary of state and all copies of records filed in accordance with this chapter, when certified by the secretary of state, may be taken and received in all courts, public offices, and official bodies as evidence of the facts therein stated.
2. A certificate by the secretary of state under the great seal of this state, as to the existence or nonexistence of the facts relating to limited liability companies which would not appear from a certified copy of any of the foregoing records or certificates, may be taken and received in all courts, public offices, and official bodies as evidence of the existence or nonexistence of the facts stated therein.
3. Any certificate or certified copy issued by the secretary of state under this section may be created and disseminated as an electronic record with the same force and effect as if produced in a paper form.

10-32.1-95. Secretary of state - Confidential records.

Any social security number or federal tax identification number disclosed or contained in any record filed with the secretary of state under this chapter is confidential. The secretary of state shall delete or obscure any social security number or federal tax identification number before a copy of any record is released to the public.

10-32.1-96. Secretary of state - Forms.

All annual reports required by this chapter to be filed in the office of the secretary of state must be made on forms prescribed by the secretary of state. Forms for all other records to be filed in the office of the secretary of state may be furnished by the secretary of state upon request. However, the use of such forms, unless otherwise specifically required by law, is not mandatory.

10-32.1-97. Attorney general - State interested in a proceeding.

If it appears at any stage of a proceeding in a court in this state that the state is, or is likely to be, interested in the proceeding or that it is a matter of general public interest, then the court shall order that a copy of the complaint or petition be served upon the attorney general in the same manner prescribed for serving a summons in a civil action. The attorney general shall intervene in a proceeding when the attorney general determines that the public interest requires it, whether or not the attorney general has been served.

10-32.1-98. Attorney general - Action by the attorney general.

1. A limited liability company may be involuntarily dissolved, wound up, and terminated by a decree of a court in this state in an action filed by the attorney general when it is established that:
 - a. The articles of organization were procured through fraud;
 - b. The limited liability company was organized for a purpose not permitted by this chapter;
 - c. The limited liability company failed to comply with the requirements essential to organization under this chapter;
 - d. The limited liability company has flagrantly violated a provision of this chapter, has violated a provision of this chapter more than once, or has violated more than one provision of this chapter; or
 - e. The limited liability company has acted, or failed to act, in a manner that constitutes surrender or abandonment of the limited liability company privileges or enterprise.
2. The attorney general may bring an action to enjoin a foreign limited liability company from transacting business in this state in violation of this chapter.
3. An action must not be commenced under this section until thirty days after notice to the limited liability company by the attorney general of the reason for the filing of the action. If the reason for filing the action is an act that the limited liability company has done, or omitted to do, and the act or omission may be corrected by an amendment of the articles of organization, a member control agreement, or the bylaws or by performance of or abstention from the

act, then the attorney general shall give the limited liability company thirty additional days in which to effect the correction before filing the action.

10-32.1-99. Uniformity of application and construction.

In applying and construing this uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

10-32.1-100. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, United States Code, title 15, section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, United States Code, title 15, section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, United States Code, title 15, section 7003(b).

10-32.1-101. Savings clause.

This chapter does not affect an action commenced, proceeding brought, or right accrued before this chapter takes effect.

³⁷ **SECTION 20. AMENDMENT.** Paragraph 2 of subdivision e of subsection 1 of section 10-33-10 of the North Dakota Century Code is amended and reenacted as follows:

- (2) A name the right to which is, at the time of incorporation, reserved in the manner provided in section 10-19.1-14, ~~40-32-11~~10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

³⁸ **SECTION 21. AMENDMENT.** Subdivision c of subsection 6 of section 10-33-10 of the North Dakota Century Code is amended and reenacted as follows:

- c. Holds a reserved name in the manner provided in section 10-19.1-14, ~~40-32-11~~10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

SECTION 22. AMENDMENT. Subsection 1 of section 10-33-72 of the North Dakota Century Code is amended and reenacted as follows:

1. Unless this chapter or the articles or bylaws require a greater vote or voting by class and except for the election of directors which is governed by section ~~40-32-34~~10-32.1-45, the members shall take action by the affirmative vote of the greater of:
 - a. A majority of the members with voting rights present and entitled to vote on that item of business; or

³⁷ Section 10-33-10 was also amended by section 21 of House Bill No. 1136, chapter 87.

³⁸ Section 10-33-10 was also amended by section 20 of House Bill No. 1136, chapter 87.

- b. A majority of the voting power of the minimum number of members with voting rights that would constitute a quorum for the transaction of business at the meeting.

If the articles or bylaws require a larger proportion or number than is required by this chapter for a particular action, then the articles or bylaws control.

SECTION 23. AMENDMENT. Section 10-36-03 of the North Dakota Century Code is amended and reenacted as follows:

10-36-03. Applicability of chapters ~~40-32~~10-32.1 and 10-33.

1. In any case not provided for in this chapter, chapter 10-33 governs.
2. In applying chapter 10-33 to a nonprofit limited liability company and unless the context otherwise requires, all references in chapter 10-33 to:
 - a. "Board" refers to the board of governors.
 - b. "Corporation" refers to a nonprofit limited liability company.
 - c. "Director" refers to a governor.
 - d. "Foreign corporation" refers to a foreign nonprofit limited liability company.
 - e. "Officer" refers to a manager.
3. Section ~~40-32~~10-32.1-11 applies to the name of a nonprofit limited liability company as if it were a limited liability company governed under chapter ~~40-32~~10-32.1.

SECTION 24. AMENDMENT. Section 38-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

38-08.1-03. Deemed doing business within state - Resident agent.

A person must be deemed doing business within this state when engaged in geophysical exploration within the boundaries of this state, and shall, if not already qualified to do business within the state under chapter 10-19.1, ~~40-32~~10-32.1, 45-10.2, 45-22, or 45-23 prior to such exploration, file with the secretary of state an authorization provided under the governing statute of the organization.

SECTION 25. AMENDMENT. Section 43-07-19 of the North Dakota Century Code is amended and reenacted as follows:

43-07-19. Nonresident contractors - Agent for service of process.

Every applicant for a contractor's license who is not a resident of the state of North Dakota, by signing and filing the application, appoints the secretary of state as the applicant's true and lawful agent upon whom may be served all lawful process in any action or proceeding against such nonresident contractor. Such appointment in writing is evidence of the contractor's consent that any such process against the contractor which is so served upon the secretary of state shall be of the same legal force and effect as if served upon the contractor personally within this state. Registered foreign corporations entitled to do business in this state according to chapter 10-19.1, registered foreign limited liability companies entitled to do business in the state according to chapter ~~40-32~~10-32.1, foreign limited liability partnerships

entitled to do business in the state according to chapter 45-22, and foreign limited partnerships entitled to do business in the state according to chapter 45-10.2 and having a current registered agent and registered address on file in the secretary of state's office need not appoint the secretary of state as agent for service of process under this section. Within ten days after service of the summons upon the secretary of state, notice of such service with the summons and complaint in the action shall be sent to the defendant contractor at the defendant contractor's last-known address by registered or certified mail with return receipt requested and proof of such mailing shall be attached to the summons. The secretary of state shall keep a record of all process served upon the secretary of state under this section, showing the day and hour of service. Whenever service of process was made under this section, the court, before entering a default judgment, or at any stage of the proceeding, may order such continuance as may be necessary to afford the defendant contractor reasonable opportunity to defend any action pending against the defendant contractor.

SECTION 26. AMENDMENT. Subsection 23 of section 45-10.2-02 of the North Dakota Century Code is amended and reenacted as follows:

23. "Governing statute" means:

- a. With respect to a domestic organization, the following chapters of this code which govern the internal affairs of the organization:
 - (1) If a corporation, chapter 10-19.1;
 - (2) If a limited liability company, chapter ~~40-32~~10-32.1;
 - (3) If a general partnership, chapters 45-12 through 45-21;
 - (4) If a limited partnership, this chapter;
 - (5) If a limited liability partnership, chapter 45-22; and
 - (6) If a limited liability limited partnership, chapter 45-23; and
- b. With respect to a foreign organization, the laws of the jurisdiction under which the organization is created and under which the internal affairs of the organization are governed.

³⁹ **SECTION 27. AMENDMENT.** Paragraph 2 of subdivision f of subsection 1 of section 45-10.2-10 of the North Dakota Century Code is amended and reenacted as follows:

- (2) A name the right to which is, at the time of the filing of the certificate of limited partnership, reserved in the manner provided in section 10-19.1-14, ~~40-32-41~~10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

⁴⁰ **SECTION 28. AMENDMENT.** Subdivision c of subsection 6 of section 45-10.2-10 of the North Dakota Century Code is amended and reenacted as follows:

³⁹ Section 45-10.2-10 was also amended by section 28 of House Bill No. 1136, chapter 87.

⁴⁰ Section 45-10.2-10 was also amended by section 27 of House Bill No. 1136, chapter 87.

- c. Holds a reserved name in the manner provided in section 10-19.1-14, ~~40-32-4110-32.1-12~~, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

SECTION 29. AMENDMENT. Paragraph 2 of subdivision a of subsection 2 of section 45-10.2-94 of the North Dakota Century Code is amended and reenacted as follows:

- (2) A certificate of organization, if the converted organization is a limited liability company deemed to be organized under chapter ~~40-3210-32.1~~;

⁴¹ **SECTION 30. AMENDMENT.** Paragraph 2 of subdivision e of subsection 1 of section 45-13-04.1 of the North Dakota Century Code is amended and reenacted as follows:

- (2) A name, the right of which is, at the time of filing, reserved in the manner provided in section 10-19.1-14, ~~40-32-4110-32.1-12~~, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

⁴² **SECTION 31. AMENDMENT.** Subdivision c of subsection 6 of section 45-13-04.1 of the North Dakota Century Code is amended and reenacted as follows:

- c. Holds a reserved name in the manner provided in section 10-19.1-14, ~~40-32-4110-32.1-12~~, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

⁴³ **SECTION 32. AMENDMENT.** Subdivision b of subsection 1 of section 45-21-01 of the North Dakota Century Code is amended and reenacted as follows:

- b. A certificate of organization, if the converted organization is a limited liability company deemed to be organized under chapter ~~40-3210-32.1~~;

⁴⁴ **SECTION 33. AMENDMENT.** Paragraph 2 of subdivision a of subsection 11 of section 45-21-01 of the North Dakota Century Code is amended and reenacted as follows:

- (2) If a limited liability company, then chapter ~~40-3210-32.1~~;

⁴⁵ **SECTION 34. AMENDMENT.** Paragraph 2 of subdivision e of subsection 1 of section 45-22-04 of the North Dakota Century Code is amended and reenacted as follows:

- (2) A name, the right to which is at the time of registration reserved in the manner provided in section 10-19.1-14, ~~40-32-4110-32.1-12~~, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

⁴¹ Section 45-13-04.1 was also amended by section 31 of House Bill No. 1136, chapter 87.

⁴² Section 45-13-04.1 was also amended by section 30 of House Bill No. 1136, chapter 87.

⁴³ Section 45-21-01 was also amended by section 33 of House Bill No. 1136, chapter 87.

⁴⁴ Section 45-21-01 was also amended by section 32 of House Bill No. 1136, chapter 87.

⁴⁵ Section 45-22-04 was also amended by section 35 of House Bill No. 1136, chapter 87.

⁴⁶ **SECTION 35. AMENDMENT.** Subdivision c of subsection 5 of section 45-22-04 of the North Dakota Century Code is amended and reenacted as follows:

- c. Holds a reserved name in the manner provided in section 10-19.1-14, ~~40-32-1110-32.1-12~~, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

SECTION 36. AMENDMENT. Paragraph 2 of subdivision a of subsection 13 of section 45-23-01 of the North Dakota Century Code is amended and reenacted as follows:

- (2) If a limited liability company, then chapter ~~40-3210-32.1~~;

⁴⁷ **SECTION 37. AMENDMENT.** Paragraph 2 of subdivision f of subsection 1 of section 45-23-03 of the North Dakota Century Code is amended and reenacted as follows:

- (2) A name the right to which is, at the time of organization, reserved in the manner provided in section 10-19.1-14, ~~40-32-1110-32.1-12~~, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

⁴⁸ **SECTION 38. AMENDMENT.** Subdivision c of subsection 5 of section 45-23-03 of the North Dakota Century Code is amended and reenacted as follows:

- c. Holds a reserved name in the manner provided in section 10-19.1-14, ~~40-32-1110-32.1-12~~, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;

SECTION 39. AMENDMENT. Section 50-22-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-22-02.2. Registrant name registration or certificate of authority required.

The secretary of state may not issue or renew a registration provided for in this chapter if the name of the registrant is an entity whose name is not in some manner registered with the secretary of state as a corporation, limited liability company, trade name, fictitious name of a partnership, limited partnership, or limited liability partnership. For a registrant that is a foreign entity, a registration under this chapter means the same as a license or permit under section 10-19.1-134, ~~40-32-13710-32.1-74~~, 10-33-127, or 45-22-19, or other substantially equivalent statute for the purpose of procuring a certificate of authority or similar authorization to act in this state.

SECTION 40. AMENDMENT. Subsection 3 of section 54-44.4-09 of the North Dakota Century Code is amended and reenacted as follows:

3. At the time of filing the application to become an approved vendor, the applicant, if organized as a corporation, limited liability company, limited liability partnership, or limited partnership, must be properly and currently registered with the secretary of state according to its type of business organization as a corporation under chapter 10-19.1, a limited liability

⁴⁶ Section 45-22-04 was also amended by section 34 of House Bill No. 1136, chapter 87.

⁴⁷ Section 45-23-03 was also amended by section 38 of House Bill No. 1136, chapter 87.

⁴⁸ Section 45-23-03 was also amended by section 37 of House Bill No. 1136, chapter 87.

company under chapter ~~40-3210-32.1~~, a limited liability partnership under chapter 45-22, or a limited partnership under chapter 45-10.2. Any exemptions to registration under the above chapters that would otherwise apply to those entities organized as such do not apply to this section and registration must be made for the applicant to become an approved vendor. Applicants for approved vendor status using a trade name or a fictitious partnership name must be in full compliance with chapter 47-25 or 45-11 at the time of making the application. Whenever any registration required by this section is canceled, revoked, or not renewed, the vendor ceases to be an approved vendor.

By signing and filing the application, the vendor applicant appoints the secretary of state as its true and lawful agent for service of process in this state upon whom may be served all lawful process in any action or proceeding against the vendor if the vendor or its registered agent cannot be found for service of process in this state. The signed application is written evidence of the applicant's consent that any process served against the applicant that is so served upon the secretary of state is of the same legal force and effect as if served upon the applicant personally within this state. Within ten days after service of the summons upon the secretary of state pursuant to this subsection, notice of the service with the summons and complaint in the action must be sent to the defendant vendor at the vendor's last-known address by certified mail with return receipt requested and proof of mailing must be attached to the summons. The secretary of state shall keep a record of all process served upon the secretary of state under this section showing the day and hour of service. When service of process is made as provided in this subsection, the court, before entering a default judgment, or at any stage of the proceeding, may order a continuance as may be necessary to afford the defendant vendor reasonable opportunity to defend any action pending against the vendor.

SECTION 41. REPEAL. Chapter 10-32 of the North Dakota Century Code is repealed.

Approved April 15, 2015
Filed April 15, 2015

COUNTIES

CHAPTER 88

SENATE BILL NO. 2056

(Legislative Management)
(Taxation Committee)

AN ACT to create and enact section 11-11-05.1, a new subsection to section 11-11-14, and a new subsection to section 40-05-01 of the North Dakota Century Code, relating to joint meetings of boards of county commissioners and financial information requests for city or county governing body consideration of property tax levy requests of unelected governing bodies; to amend and reenact subsections 8 and 9 of section 2-06-10, sections 2-06-14, 2-06-15, 4-02-27, 4.1-47-14, and 4.1-47-25, subsection 2 of section 11-11-53, sections 11-11.1-04, 11-28-06, 11-28-17, 11-36-14, 11-37-13, 23-18.2-12, 23-24-09, and 40-38-02, subsection 6 of section 40-57.4-03, and sections 40-57.4-04 and 61-04.1-26 of the North Dakota Century Code, relating to approval authority of boards of county commissioners and city governing bodies over property tax levies of unelected governing bodies; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 8 and 9 of section 2-06-10 of the North Dakota Century Code are amended and reenacted as follows:

- ~~8. Whenever bonds are issued under this chapter and made payable from revenues of an airport involving municipalities with over ten thousand population, subject to requirements of subsection 9, the governing body of the municipality, if at any time all revenues, including taxes, appropriated and theretofore collected for such bonds are insufficient to pay principal or interest then due, shall levy a general tax upon all of the taxable property in the municipality for the payment of the deficiency. If at any time a deficiency is likely to occur within one year for the payment of principal and interest due on the bonds, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of the deficiency. The governing body of the municipality shall levy a general tax upon all of the taxable property in the municipality for the payment of any deficiency in airport authority funds to pay principal or interest due for revenue bonds issued under this chapter before August 1, 2015, and made payable from revenues of an airport authority. The governing body of the municipality may levy a general tax upon all of the taxable property in the municipality for the payment of any deficiency that is likely to occur within one year in airport authority funds to pay principal or interest due for revenue bonds issued under this chapter before August 1, 2015, and made payable from revenues of an airport authority. The taxes levied by the municipality under this subsection are not subject to any limitation of rate or amount applicable to other municipal taxes.~~

9. For bonds issued under this section to be an obligation of a municipality or authority, the issuance of the bonds must be approved by a majority vote of the governing body of each municipality involved or, within thirty days after the authority decides it wishes to issue the bonds, the municipality or authority must put the question, specifying the amount of the bond at issue, to the people at an election. The question may be put at a general election, a primary election, a municipal election, or at an election called for the purpose. If a majority of the qualified electors voting on the issue vote in favor of issuing the bonds, the authority or municipality may, to the amount authorized in the election, pledge the general obligation of the authority or municipality to guarantee the repayment of the principal and interest on the bonds. Revenue bonds issued by an airport authority after July 31, 2015, must include the commitment of the municipality for the payment of any deficiency in airport authority funds to pay principal or interest due for revenue bonds as provided in this subsection. The governing body of the municipality shall levy a general tax upon all of the taxable property in the municipality for the payment of any deficiency in airport authority funds to pay principal or interest due for revenue bonds issued under this chapter after July 31, 2015, and made payable from revenues of an airport authority. The governing body of the municipality may levy a general tax upon all of the taxable property in the municipality for the payment of any deficiency that is likely to occur within one year in airport authority funds to pay principal or interest due for revenue bonds issued under this chapter after July 31, 2015, and made payable from revenues of an airport authority. The taxes levied by the municipality under this subsection are not subject to any limitation of rate or amount applicable to other municipal taxes. The commitment of the municipality and the issuance of the bonds must be approved by a majority vote of the governing body of each municipality involved or, upon placement of the question on the ballot at a primary, general, or special election, by approval of a majority of the qualified electors of the municipalities voting on the question.

⁴⁹ **SECTION 2. AMENDMENT.** Section 2-06-14 of the North Dakota Century Code is amended and reenacted as follows:

2-06-14. Tax levy may be certified requested by airport authority or municipality.

TheAn airport authority may certifyrequest annually tofrom the governing bodies, thean amount of tax to be levied by each municipality participating in the creation of the airport authority, and the municipality shallmay levy the amount certifiedrequested, pursuant to provisions of law authorizing cities and other political subdivisions of this state to levy taxes for airport purposes. With its levy request under this section, an airport authority may certify its current and anticipated revenues and resources, any anticipated revenue shortfall for bonded debt payment, and the amount necessary from its property tax levy authority for its annual principal and interest payment for bonded debt incurred under this chapter and, if it finds that the certified amount is necessary for the annual bonded debt payment, the municipality shall levy for the airport authority not less than the certified amount. The levy made may not exceed the maximum levy permitted by the laws of this state for airport purposes.

The municipality shall collect the taxes certified bylevied for an airport authority in the same manner as other taxes are levied and collected. The proceeds of such taxes

⁴⁹ Section 2-06-14 was also amended by section 1 of Senate Bill No. 2217, chapter 92.

must be deposited in a special account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided for in this chapter.

Prior to the issuance of bonds under section 2-06-10 the airport authority or the municipality may by resolution ~~covenant and agree~~provide its commitment as provided in section 2-06-10 that the total amount of such taxes then authorized by law, or such portion thereof as may be specified by the resolution, will be certified, levied, and deposited annually until the bonds and interest are fully paid.

SECTION 3. AMENDMENT. Section 2-06-15 of the North Dakota Century Code is amended and reenacted as follows:

2-06-15. County tax levy by county, city, or township for airport or airport authority purposes.

~~In counties supporting airports or airport authorities, a county, city, or township supporting an airport or airport authority may levy not exceeding the limitation in subsection 1 of section 57-15-06.7 may be made for such four mills for airport or airport authority purposes, but this levy shall not apply to any city, township, or park district that already has an airport levy. If any city or township within the county is levying a tax for support of an airport or airport authority and the total of the county and city or county and township levies exceeds four mills, the county tax levy within the city or township levying under this section must be reduced so the total levy in the city or township does not exceed four mills.~~

⁵⁰ **SECTION 4. AMENDMENT.** Section 4-02-27 of the North Dakota Century Code is amended and reenacted as follows:

4-02-27. Reports required - Tax levies for support thereof levy authority.

Any county fair association receiving the aid provided for in this chapter, at the regular meeting of the board of county commissioners held in the month of January following the holding of such county fair, shall make a full report to the board of all moneys received by it from all sources and of all disbursements. The report must show the amount of the debts and the amount of moneys in the treasury of the association, and the amount of any deficit after the payment of its expenses, and must contain an estimate of the amount, if any, which it will be necessary to raise above the estimated ordinary receipts of the association for the purposes of its fair for the ensuing year. The report and estimate must be verified by the oath of the president, or vice president, the secretary, treasurer, and a majority of the board of directors of the association. After the filing and approval of the report, the board of county commissioners ~~shall~~may levy a tax for the current year equal to the estimate contained in the association's report, if the report filed shows that the funds have been expended legally and if the levy has been approved by the voters or the board of county commissioners, as required by law. The tax levied for the current year may not exceed the limitation in section 57-15-06.7, and the amount levied must be paid to the association as provided in section 4-02-26.

⁵⁰ Section 4-02-27 was also amended by section 2 of Senate Bill No. 2217, chapter 92, and was repealed by section 104 of Senate Bill No. 2144, chapter 439.

⁵¹ **SECTION 5. AMENDMENT.** Section 4.1-47-14 of the North Dakota Century Code is amended and reenacted as follows:

4.1-47-14. County noxious weed control program - Payment of expenses - ~~Mill~~Tax levy authorization.

1. The board of county commissioners may pay the expenses of a county noxious weed control program authorized under this chapter from the county general fund, the noxious weed control fund, or both.
2. a. The county weed board may annually ~~certify to~~request from the board of county commissioners a tax, not to exceed two mills on the taxable valuation of all property in the county, other than that which lies within the boundaries of a city having a noxious weed control program under this chapter.
 - b. In addition to the levy authorized in subdivision a, the board of county commissioners may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the county, other than that which lies within the boundaries of a city having a noxious weed control program under this chapter.
 - c. The board of county commissioners ~~shall~~may levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is used to pay the expenses of a county noxious weed control program.
 - d. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
3. For purposes of this section, the expenses of a county noxious weed control program include compensation for and the reimbursement of expenses incurred by the county weed board, the county weed control officer, and other employees of the board, and expenses incurred in the provision of noxious weed control, as authorized by this chapter.

⁵² **SECTION 6. AMENDMENT.** Section 4.1-47-25 of the North Dakota Century Code is amended and reenacted as follows:

4.1-47-25. City noxious weed control program - Payment of expenses - ~~Mill~~Tax levy authorization.

1. The governing body of a city may pay the expenses of a city noxious weed control program authorized under this chapter from the city general fund, the noxious weed control fund, or both.
2. a. The city weed board may annually ~~certify to~~request from the governing body of a city a tax, not to exceed two mills on the taxable valuation of all property in the city.

⁵¹ Section 4.1-47-14 was also amended by section 9 of Senate Bill No. 2144, chapter 439, and section 3 of Senate Bill No. 2217, chapter 92.

⁵² Section 4.1-47-25 was also amended by section 11 of Senate Bill No. 2144, chapter 439, and section 4 of Senate Bill No. 2217, chapter 92.

- b. In addition to the levy authorized in subdivision a, the governing body of a city may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the city.
 - c. The governing body of a city ~~shall~~may levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is used to pay the expenses of a city noxious weed control program.
 - d. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
3. For purposes of this section, the expenses of a city noxious weed control program include compensation for and the reimbursement of expenses incurred by the city weed board, the city weed control officer, and other employees of the board, and expenses incurred in the provision of noxious weed control, as authorized by this chapter.

SECTION 7. Section 11-11-05.1 of the North Dakota Century Code is created and enacted as follows:

11-11-05.1. Joint meetings of boards of county commissioners for consideration of levies of taxing districts in multiple counties.

If feasible, the boards of county commissioners of affected counties shall hold joint public hearings and deliberations when considering the proposed property tax levy of a taxing district seeking authority for a levy against property within multiple counties. If joint hearing and deliberation is not feasible, the boards of county commissioners of affected counties shall coordinate their levy directives to be applied to property within the taxing district.

⁵³ **SECTION 8.** A new subsection to section 11-11-14 of the North Dakota Century Code is created and enacted as follows:

To require that financial records, including all revenues, expenditures, fund balances, and complete budgets, be submitted to the board of county commissioners at a time and in a format requested by the board by all boards, authorities, committees, and commissions with members appointed by the board of county commissioners before the board's consideration of the budget and tax levy.

⁵⁴ **SECTION 9. AMENDMENT.** Subsection 2 of section 11-11-53 of the North Dakota Century Code is amended and reenacted as follows:

2. The board of county commissioners may levy a tax, not exceeding the limitation in subsection 8 of section 57-15-06.7, for the promotion of historical works within the borders of the county and in general defray the expense of carrying on historical work in the county, including the maintenance of any historical room or building, and furthering the work of the historical society of the county. The levy is in addition to any moneys appropriated from the general fund of the county for historical work as provided in subsection 1. The

⁵³ Section 11-11-14 was also amended by section 1 of House Bill No. 1376, chapter 89, and section 12 of Senate Bill No. 2144, chapter 439.

⁵⁴ Section 11-11-53 was also amended by section 13 of Senate Bill No. 2144, chapter 439.

board of county commissioners may, by resolution, submit the question of an additional tax levy to the qualified electors of the county at the next countywide general, primary, or special election. If sixty percent of the qualified electors voting on the question approve, a tax ~~must~~may be levied not exceeding the limitation in subsection 8 of section 57-15-06.7, which tax may be expended as provided in this section.

⁵⁵ **SECTION 10. AMENDMENT.** Section 11-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

11-11.1-04. Tax levy for job development authorities.

The board of county commissioners of a county which has a job development authority or joint job development authority shall establish a job development authority fund and may levy a tax not exceeding the limitations in subsection 29 of section 57-15-06.7.

The county treasurer shall keep the job development authority fund separate from other money of the county. If directed by the board of county commissioners, the county treasurer shall keep a separate fund for the job development authority for the proceeds of any designated portion of the levy for promotion of tourism by the job development authority. The county treasurer shall transmit all funds received pursuant to this section within thirty days to the board of directors of the authority. The funds when paid to the authority must be deposited in a special account, or special accounts if the authority chooses to maintain a separate account for promotion of tourism, in which other revenues of the authority are deposited. Moneys received by the job development authority from any other source must also be deposited in the special accounts. The moneys in the special accounts may be expended by the authority as provided in sections 11-11.1-02 and 11-11.1-03.

⁵⁶ **SECTION 11. AMENDMENT.** Section 11-28-06 of the North Dakota Century Code is amended and reenacted as follows:

11-28-06. Tax levy by board of county commissioners.

At the time of levying taxes for other county purposes, the board of county commissioners shall consider the ~~certificate and budget statement and levy request~~ of the board of county park commissioners and ~~shall~~may levy each year upon all taxable property in the county a tax sufficient in amount to pay the actual necessary expenses and activities program of the board of county park commissioners, including construction, improvement, repair, operation, and maintenance of the park and recreational areas and their facilities under its control and those recreational activities of benefit to the general populace of the county which are under the control of a city or a city park district within the county, not exceeding the limitation in subsection 10 of section 57-15-06.7. No levy in excess of this limitation shall be made without approval of the eligible voters in the county at a special or general election.

The county auditor shall credit the proceeds of such tax to the separate fund of the board of county park commissioners. This levy shall not apply to cities that already have a park levy unless the governing body of the city by resolution consents to the levy.

⁵⁵ Section 11-11.1-04 was also amended by section 16 of Senate Bill No. 2144, chapter 439, and section 5 of Senate Bill No. 2217, chapter 92.

⁵⁶ Section 11-28-06 was also amended by section 17 of Senate Bill No. 2144, chapter 439, and section 7 of Senate Bill No. 2217, chapter 92.

⁵⁷ **SECTION 12. AMENDMENT.** Section 11-28-17 of the North Dakota Century Code is amended and reenacted as follows:

11-28-17. District budget - Tax levy - Election.

The board of joint park commissioners shall request the respective boards of county commissioners of the counties within the joint park district to submit to the electors of the joint county park district at any general election the question of a maximum tax levy therein for park purposes. The question shall be submitted as follows: Shall the board of county commissioners be authorized to levy a tax of not to exceed _____ mills for joint county park district purposes? The rate proposed shall in no event exceed three mills. If a majority of the vote cast thereon is favorable to such levy, the board of joint park commissioners shall meet annually during the month of July and at such meeting shall prepare a budget for the ensuing year, estimating and itemizing the expenses and obligations of the joint county park district. Upon completion and adoption of such budget, the board shall ~~make request from the~~ respective boards of county commissioners a tax levy in mills, within the limit of the authorization, to meet such budget. Such levy shall be in the form of a resolution adopted by a majority vote of the members of the board and thereafter prior to the first day of July of each year such levy shall be ~~certified~~ submitted to the county auditor of each county within the joint park district by the secretary of the board.

At the time of levying taxes for other county purposes, the respective boards of county commissioners of each county within the joint park district shall ~~may~~ certified requested levy the tax ~~certified requested~~ by the board of joint park commissioners upon all taxable property in the county in the same manner other taxes are levied. The question of the maximum levy may be submitted from time to time by the board of joint park commissioners.

⁵⁸ **SECTION 13. AMENDMENT.** Section 11-36-14 of the North Dakota Century Code is amended and reenacted as follows:

11-36-14. Tax levy may be ~~certified~~ certified requested by port authority or municipality.

The ~~A~~ port authority may ~~certify request~~ annually ~~to from~~ the governing bodies the amount of tax to be levied by each municipality participating in the creation of the port authority, and the municipality shall ~~may~~ certified approved, pursuant to provisions of law authorizing political subdivisions of this state to levy taxes for port purposes. The levy made may not exceed the maximum levy permitted by the laws of this state for port purposes.

The municipality shall collect the taxes ~~certified by~~ approved for a port authority in the same manner as other taxes are levied and collected. The proceeds of such taxes must be deposited in a special account or accounts in which other revenues of the port authority are deposited and may be expended by the port authority as provided in this chapter. Before issuance of bonds under section 11-36-10, the port authority or the municipality by resolution may covenant and agree that the total amount of the taxes then authorized by law, or such portion of the taxes as may be specified by the

⁵⁷ Section 11-28-17 was also amended by section 8 of Senate Bill No. 2217, chapter 92, and was repealed by section 104 of Senate Bill No. 2144, chapter 439.

⁵⁸ Chapter 11-36 was repealed by Section 104 of Senate Bill No. 2144 and Section 11-36-14 was also amended by section 10 of Senate Bill No. 2217, chapter 92.

resolution, will be certified, levied, and deposited annually until the bonds and interest are fully paid.

⁵⁹ **SECTION 14. AMENDMENT.** Section 11-37-13 of the North Dakota Century Code is amended and reenacted as follows:

11-37-13. Tax levy may be requested by political subdivision.

~~The~~A commerce authority may ~~certify~~request annually ~~to~~from the governing bodies the amount of tax requested to be levied by each political subdivision participating in the commerce authority. The governing body of each political subdivision shall consider the levy request of the commerce authority and determine the amount to be levied.

The levy may not exceed the maximum levy permitted for commerce authority purposes. Each political subdivision shall collect the taxes levied on behalf of a commerce authority in the same manner as other taxes are levied and collected. The proceeds of the taxes must be deposited in a special account or accounts in which other revenues of the commerce authority are deposited and may be expended by the commerce authority as provided in this chapter. Before issuance of bonds under section 11-37-09, the commerce authority by resolution may covenant and agree that the total amount of the taxes authorized by law, or the portion of the taxes specified by the resolution, will be certified and deposited annually until the bonds and interest are fully paid.

⁶⁰ **SECTION 15. AMENDMENT.** Section 23-18.2-12 of the North Dakota Century Code is amended and reenacted as follows:

23-18.2-12. Tax levy may be certifiedrequested by nursing home authority.

~~The~~A nursing home authority may ~~certify~~request annually ~~to~~from the board of county commissioners a tax not exceeding the limitation in subsection 13 of section 57-15-06.7 for a nursing home fund ~~which~~. Such tax may be levied by the board of county commissioners.

The proceeds of the tax collected in the nursing home fund must be used first for the payment of principal and interest on any bonds, issued under the provisions of this chapter, which may be due or about to become due. The remaining proceeds in the fund may also be used for any other corporate purpose of the authority, including, ~~but not limited to~~, costs of operation and costs of obligations entered into with private nursing homes.

⁶¹ **SECTION 16. AMENDMENT.** Section 23-24-09 of the North Dakota Century Code is amended and reenacted as follows:

23-24-09. DistrictVector control district budget - Tax levy by county.

⁵⁹ Section 11-37-13 was also amended by section 11 of Senate Bill No. 2217, chapter 92.

⁶⁰ Chapter 23-18.2 was repealed by Section 104 of Senate Bill No. 2144, chapter 439 and Section 23-18.2-12 was also amended by section 13 of Senate Bill No. 2217, chapter 92.

⁶¹ Section 23-24-09 was also amended by section 14 of Senate Bill No. 2217, chapter 92.

When a vector control district has been created and a board of commissioners has been organized, the board shall estimate the expenses of the district from the date of its establishment until the end of the ensuing fiscal year and before July first in each year and thereafter shall estimate district expenses for the fiscal year ensuing. Estimates of district expenses may include all outlays necessary to carry out the powers of the board herein provided for.

Upon ~~completion and adoption of a budget covering necessary expenses~~, the board of commissioners shall send a copy of such budget to the county auditor of each county in the district. If a district is situated in more than one county, the estimate must be apportioned to the counties affected. Such county auditor shall transmit the same to the board of commissioners of the auditor's county. The board of county commissioners of each county in which the district is situated shall ~~may~~ by resolution levy, authorize, and direct their county auditor to extend and spread upon the tax roll of the county a tax not exceeding the limitation in section 57-15-26.2. Funds produced each year by such tax levy must be available until expended and if such tax levy in any year will not produce sufficient revenue to cover district expenses a fund sufficient to pay the same may be accumulated.

⁶² **SECTION 17.** A new subsection to section 40-05-01 of the North Dakota Century Code is created and enacted as follows:

Appointed board budgets. To require that financial records, including all revenues, expenditures, fund balances, and complete budgets, be submitted to the governing body of the municipality at a time and in a format requested by that governing body by all boards, authorities, committees, and commissions with members appointed by the governing body before the governing body's approval of the budget and tax levy.

⁶³ **SECTION 18. AMENDMENT.** Section 40-38-02 of the North Dakota Century Code is amended and reenacted as follows:

40-38-02. Library fund - Levy - Kept separate - Exemption for city levying tax - Increasing levy.

1. For the purpose of establishing and maintaining public library service, the governing body of a municipality or county authorizing the same shall establish a library fund. The library fund shall consist of annually levying and causing to be collected as other taxes are collected a municipal or county tax not exceeding the limitations in subsection 15 of section 57-15-06.7 and subsection 5 of section 57-15-10 and any other moneys received for library purposes from federal, state, county, municipal, or private sources.
2. The city auditor or county treasurer shall establish and maintain the fund to account for library revenues and shall make payments from the fund for invoices that have been submitted and approved by the governing body of the library. In the case of a contract with another library for service delivery, the city auditor or county treasurer shall promptly transmit all funds received to the established library fund of the agency delivering service. On request of the city auditor or county treasurer and during an audit, the governing board of the library shall supply its records. The records must be provided on a timely

⁶² Section 40-05-01 was also amended by section 2 of House Bill No. 1376, chapter 89.

⁶³ Section 40-38-02 was also amended by section 44 of Senate Bill No. 2144, chapter 439, and section 17 of Senate Bill No. 2217, chapter 92.

basis. The fund may not revert to the governing body of the city or county at the end of any fiscal year. The fund must be used exclusively for the establishment and maintenance of public library service.

3. The governing board of the library may request annually from the governing body of a city or county a tax not exceeding the limitation in subsection 15 of section 57-15-06.7 and subsection 5 of section 57-15-10. Such tax may be levied by the governing body of a city or county.
4. Whenever a tax for county library service is levied, any city already levying a tax for public library service under the provisions of this section or other provisions of law shall, upon written application to the ~~county board of the~~ county board of county commissioners, be exempted from the county tax levy to the extent that the city making the application levies taxes for a library fund during the year for which the tax levy is made. If the city has been totally exempted from participation in any prospective county library program, the phrase "not less than fifty-one percent of the qualified electors of the city or county as determined by the total number of votes cast at the last general election" as stated in section 40-38-01 shall mean fifty-one percent of the total number of votes cast at the last general election in the county less the total number of votes cast at the last general election in the city. If an election on the question is held, the qualified electors of any city so exempted from the county library tax ~~shall~~ are not be entitled to vote on the establishment or discontinuance of the county library service.
- 4-5. Upon motion of the governing body or upon petition of not less than twenty-five percent of the qualified electors in the last general election of any city, school district, township, or county, filed not less than sixty days before the next election, the governing body shall submit to the qualified electors at the next election the question of whether the governing body shall increase the mill levy a specified amount for public library service above the mill levy limitation set out in this section. The governing body may call a special election at any time for the purpose of voting on the question, and the election shall be called, conducted, and certified as are other elections in that political subdivision. Upon approval by sixty percent of the qualified electors voting in the election, the governing body shall increase the levy for public library service in the amount approved by the qualified electors.

SECTION 19. AMENDMENT. Subsection 6 of section 40-57.4-03 of the North Dakota Century Code is amended and reenacted as follows:

6. To ~~certify~~ request a tax levy as provided in section 40-57.4-04 and to expend moneys raised by the tax for the purposes provided in this chapter.

⁶⁴ **SECTION 20. AMENDMENT.** Section 40-57.4-04 of the North Dakota Century Code is amended and reenacted as follows:

40-57.4-04. Tax levy for city job development authorities.

The governing body of a city which has a city job development authority shall establish a city job development authority fund and may levy a tax not exceeding the limitation in subsection 28 of section 57-15-10.

⁶⁴ Section 40-57.4-04 was also amended by section 57 of Senate Bill No. 2144, chapter 439, and section 18 of Senate Bill No. 2217, chapter 92.

The city auditor shall keep the job development authority fund separate from other money of the city and transmit all funds received under this section within thirty days to the board of directors of the city job development authority. The funds when paid to the city job development authority must be deposited in a special account in which other revenues of the city job development authority are deposited and may be expended by the city job development authority as provided in sections 40-57.4-02 and 40-57.4-03.

In lieu of establishing a job development authority, the governing body of a city where an active industrial development organization exists may levy a tax not exceeding the limitation in subsection 28 of section 57-15-10. The funds from the alternative levy may be used to enter into a contract with the industrial development organization for performance of the functions of a city job development authority.

⁶⁵ **SECTION 21. AMENDMENT.** Section 61-04.1-26 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-26. Tax may be certified requested by weather modification authority.

The weather modification authority may ~~certify~~request annually ~~to~~from the board of county commissioners a tax of not to exceed seven mills upon the taxable valuation of the property in the county for a weather modification fund. If weather modification services are not provided to the entire county, the ~~weather modification authority may certify annually to the board of county commissioners~~ may levy a tax for a weather modification fund of not to exceed seven mills upon the taxable valuation of the property in the county designated to receive weather modification services. The tax ~~shall~~may be levied by the board of county commissioners and may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes. The weather modification fund shall be used only for weather modification activities in conjunction with the state of North Dakota. The tax certified by the weather modification authority is limited to the period of existence of the weather modification authority as provided for in this chapter.

SECTION 22. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2015.

Approved March 23, 2015
Filed March 23, 2015

⁶⁵ Section 61-04.1-26 was also amended by section 101 of Senate Bill No. 2144, chapter 439, and section 22 of Senate Bill No. 2217, chapter 92.

CHAPTER 89**HOUSE BILL NO. 1376**

(Representatives J. Nelson, B. Anderson, Kempenich, Kreidt, Mooney, Pollert, Zubke)
(Senators Bowman, Robinson, Unruh)

AN ACT to create and enact a new subsection to section 11-11-14 and a new subsection to section 40-05-01 of the North Dakota Century Code, relating to county and city authority to donate funds to a nonprofit health care facility within its jurisdiction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁶ **SECTION 1.** A new subsection to section 11-11-14 of the North Dakota Century Code is created and enacted as follows:

To expend county funds as a donation for a capital improvement project to a nonprofit health care facility within the county.

⁶⁷ **SECTION 2.** A new subsection to section 40-05-01 of the North Dakota Century Code is created and enacted as follows:

To expend city funds as a donation for a capital improvement project to a nonprofit health care facility within the city.

Approved April 9, 2015
Filed April 9, 2015

⁶⁶ Section 11-11-14 was also amended by section 8 of Senate Bill No. 2056, chapter 88, and section 12 of Senate Bill No. 2144, chapter 439.

⁶⁷ Section 40-05-01 was also amended by section 17 of Senate Bill No. 2056, chapter 88.

CHAPTER 90

HOUSE BILL NO. 1182

(Representatives Mooney, Kelsh, J. Nelson, M. Nelson, Owens)
(Senators Bowman, Sinner, Sorvaag)

AN ACT to amend and reenact sections 11-11-26 and 11-11-27 of the North Dakota Century Code, relating to bidding requirements for public purchases; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-11-26 of the North Dakota Century Code is amended and reenacted as follows:

11-11-26. When board shall advertise for bids for fuel.

~~Except as provided in chapter 48-01.2, when the amount to be paid during the current year for the erection of county buildings or for election ballots and supplies exceeds ten thousand dollars, the board of county commissioners shall cause an advertisement for bids to be published at least once each week for two successive weeks in the official newspaper of the county and in such other newspapers as it shall deem advisable. The first publication shall be made at least fifteen days before the day set for the opening of the bids. For the purchase of fuel when the amount exceeds four thousand dollars, the board of county commissioners shall seek bids either by telephone solicitation from at least two suppliers, or by an advertisement for bids to be published at least once each week for two successive weeks in the official newspaper of the county and in other newspapers as the board deems advisable.~~

SECTION 2. AMENDMENT. Section 11-11-27 of the North Dakota Century Code is amended and reenacted as follows:

11-11-27. Contents of fuel bids advertisement - When bids may be opened - Lowest bidder accepted.

~~The advertisement shall~~must state what ~~supplies are~~type of fuel is required ~~or where the plans and specifications may be examined, the time allowed for the completion of the examination,~~ and when the bids will be opened and passed upon by the board of county commissioners. The bids may be opened and passed upon at a regular or adjourned session of the board, or at a meeting called by the county auditor as provided in section 11-11-05. The bid of the lowest responsible bidder ~~shall~~must be accepted, but the board ~~shall have power to~~may reject any or all bids.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying public improvement issues relating to use of multiple bids versus single prime bids, bidding thresholds, design services thresholds, and indemnification. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 91

HOUSE BILL NO. 1417

(Representative Louser)

AN ACT to amend and reenact section 11-11-50 of the North Dakota Century Code, relating to an armed services' room in courthouses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-11-50 of the North Dakota Century Code is amended and reenacted as follows:

11-11-50. Former members of armed services' room in courthouses.

The board of county commissioners shall equip and maintain an adequate roomsroom in the courthouse or county office building for the exclusivepriority preference use of former members of the armed services who served in any war in which of the United States has been engaged if the county seat has a population of over ten thousand inhabitants and a memorial building has not been erected in such municipality.

Approved April 9, 2015

Filed April 9, 2015

CHAPTER 92

SENATE BILL NO. 2217

(Senators Unruh, Cook, Dotzenrod)
(Representatives Dockter, Nathe, Streyle)

AN ACT to create and enact section 57-15-30.2 of the North Dakota Century Code, relating to financial reporting requirements for taxing entities authorized to levy property taxes; to amend and reenact sections 2-06-14, 4-02-27, 4.1-47-14, 4.1-47-25, 11--11.1-04, 11-11.1-06, 11-28-06, 11-28-17, 11-28.3-09, 11-36-14, 11-37-13, 18-10-07, 23-18.2-12, 23-24-09, 23-30-07, 23-35-07, 40-38-02, 40-57.4-04, 50-06.2-05, 57-15-26.3, 61-04.1-26, and 61-16.1-06 of the North Dakota Century Code, relating to the filing of a financial report with the county auditor showing the ending balances of each fund held by an unelected governing body seeking approval of a property tax levy; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁸ **SECTION 1. AMENDMENT.** Section 2-06-14 of the North Dakota Century Code is amended and reenacted as follows:

2-06-14. Tax levy may be certified by airport authority or municipality - Financial report.

The airport authority may certify annually to the governing bodies, the amount of tax to be levied by each municipality participating in the creation of the airport authority, and the municipality shall levy the amount certified, pursuant to provisions of law authorizing cities and other political subdivisions of this state to levy taxes for airport purposes. In the year for which the levy is sought, an airport authority that is not a city or county governing body and which is seeking approval of a property tax levy of a city or county governing body under this chapter must file with the auditor of each participating city or county, at a time and in a format prescribed by the auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the airport authority during that year. The levy made may not exceed the maximum levy permitted by the laws of this state for airport purposes. The municipality shall collect the taxes certified by an airport authority in the same manner as other taxes are levied and collected. The proceeds of such taxes must be deposited in a special account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided for in this chapter. Prior to the issuance of bonds under section 2-06-10 the airport authority or the municipality may by resolution covenant and agree that the total amount of such taxes then authorized by law, or such portion thereof as may be specified by the resolution, will be certified, levied, and deposited annually until the bonds and interest are fully paid.

⁶⁸ Section 2-06-14 was also amended by section 2 of Senate Bill No. 2056, chapter 88.

⁶⁹ **SECTION 2. AMENDMENT.** Section 4-02-27 of the North Dakota Century Code is amended and reenacted as follows:

4-02-27. Reports required of county fair associations - Tax levies for support thereof.

Any county fair association receiving the aid provided for in this chapter, at the regular meeting of the board of county commissioners held in the month of January following the holding of such county fair, shall make a full report to the board of all moneys received by it from all sources and of all disbursements. The report must show the amount of the debts and the amount of moneys in the treasury of the association, and the amount of any deficit after the payment of its expenses, and must contain an estimate of the amount, if any, which it will be necessary to raise above the estimated ordinary receipts of the association for the purposes of its fair for the ensuing year. The report and estimate must be verified by the oath of the president, or vice president, the secretary, treasurer, and a majority of the board of directors of the association. After the filing and approval of the report, the board of county commissioners shall levy a tax for the current year equal to the estimate contained in the association's report, if the report filed shows that the funds have been expended legally and if the levy has been approved by the voters or the board of county commissioners, as required by law. In the year for which the levy is sought, a county fair association seeking approval of a property tax levy under this chapter must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the association during that year. The tax levied for the current year may not exceed the limitation in section 57-15-06.7, and the amount levied must be paid to the association as provided in section 4-02-26.

⁷⁰ **SECTION 3. AMENDMENT.** Section 4.1-47-14 of the North Dakota Century Code is amended and reenacted as follows:

4.1-47-14. County noxious weed control program - Payment of expenses - Financial report - Mill levy authorization.

1. The board of county commissioners may pay the expenses of a county noxious weed control program authorized under this chapter from the county general fund, the noxious weed control fund, or both.
2. a. The county weed board may annually certify to the board of county commissioners a tax, not to exceed two mills on the taxable valuation of all property in the county, other than that which lies within the boundaries of a city having a noxious weed control program under this chapter. In the year for which the levy is sought, a county weed board seeking approval of a property tax levy under this chapter must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the county weed board during that year.
 - b. In addition to the levy authorized in subdivision a, the board of county commissioners may levy an amount not to exceed two mills per dollar on

⁶⁹ Section 4-02-27 was also amended by section 4 of Senate Bill No. 2056, chapter 88, and was repealed by section 104 of Senate Bill No. 2144, chapter 439.

⁷⁰ Section 4.1-47-14 was also amended by section 5 of Senate Bill No. 2056, chapter 88, and section 9 of Senate Bill No. 2144, chapter 439.

the taxable valuation of all property in the county, other than that which lies within the boundaries of a city having a noxious weed control program under this chapter.

- c. The board of county commissioners shall levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is used to pay the expenses of a county noxious weed control program.
 - d. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
3. For purposes of this section, the expenses of a county noxious weed control program include compensation for and the reimbursement of expenses incurred by the county weed board, the county weed control officer, and other employees of the board, and expenses incurred in the provision of noxious weed control, as authorized by this chapter.

⁷¹ **SECTION 4. AMENDMENT.** Section 4.1-47-25 of the North Dakota Century Code is amended and reenacted as follows:

4.1-47-25. City noxious weed control program - Payment of expenses - Financial report - Mill levy authorization.

1. The governing body of a city may pay the expenses of a city noxious weed control program authorized under this chapter from the city general fund, the noxious weed control fund, or both.
2.
 - a. The city weed board may annually certify to the governing body of a city a tax, not to exceed two mills on the taxable valuation of all property in the city. In the year for which the levy is sought, a city weed board seeking approval of a property tax levy under this chapter must file with the city auditor, at a time and in a format prescribed by the city auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the city weed board during that year.
 - b. In addition to the levy authorized in subdivision a, the governing body of a city may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the city.
 - c. The governing body of a city shall levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is used to pay the expenses of a city noxious weed control program.
 - d. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
3. For purposes of this section, the expenses of a city noxious weed control program include compensation for and the reimbursement of expenses incurred by the city weed board, the city weed control officer, and other employees of the board, and expenses incurred in the provision of noxious weed control, as authorized by this chapter.

⁷¹ Section 4.1-47-25 was also amended by section 6 of Senate Bill No. 2056, chapter 88, and section 11 of Senate Bill No. 2144, chapter 439.

⁷² **SECTION 5. AMENDMENT.** Section 11-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

11-11.1-04. Tax levy for job development authorities - Financial report.

The board of county commissioners of a county which has a job development authority or joint job development authority shall establish a job development authority fund and may levy a tax not exceeding the limitations in subsection 29 of section 57-15-06.7. In the year for which the levy is sought, a job development authority or joint job development authority seeking approval of a property tax levy under this chapter must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the job development authority or joint job development authority during that year. The county treasurer shall keep the job development authority fund separate from other money of the county. If directed by the board of county commissioners, the county treasurer shall keep a separate fund for the job development authority for the proceeds of any designated portion of the levy for promotion of tourism by the job development authority. The county treasurer shall transmit all funds received pursuant to this section within thirty days to the board of directors of the authority. The funds when paid to the authority must be deposited in a special account, or special accounts if the authority chooses to maintain a separate account for promotion of tourism, in which other revenues of the authority are deposited. Moneys received by the job development authority from any other source must also be deposited in the special accounts. The moneys in the special accounts may be expended by the authority as provided in sections 11-11.1-02 and 11-11.1-03.

⁷³ **SECTION 6. AMENDMENT.** Section 11-11.1-06 of the North Dakota Century Code is amended and reenacted as follows:

11-11.1-06. Alternative levy for industrial development organizations - Financial report.

In lieu of establishing a job development authority or joint job development authority as provided in sections 11-11.1-01 through 11-11.1-05, the board of county commissioners in a county where an active industrial development organization exists may levy a tax not exceeding the limitation in subsection 29 of section 57-15-06.7. In the year for which the levy is sought, an industrial development organization seeking approval of a property tax levy for funding a contract under this chapter must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the industrial development organization during that year. The funds from the levy may be used to enter into a contract with the industrial development organization for performance of the functions of a job development authority or joint job development authority as provided in sections 11-11.1-01 through 11-11.1-05.

⁷⁴ **SECTION 7. AMENDMENT.** Section 11-28-06 of the North Dakota Century Code is amended and reenacted as follows:

⁷² Section 11-11.1-04 was also amended by section 10 of Senate Bill No. 2056, chapter 88, and section 16 of Senate Bill No. 2144, chapter 439.

⁷³ Section 11-11.1-06 was repealed by section 104 of Senate Bill No. 2144, chapter 439.

⁷⁴ Section 11-28-06 was also amended by section 11 of Senate Bill No. 2056, chapter 88, and section 17 of Senate Bill No. 2144, chapter 439.

11-28-06. Tax levy by board of county commissioners - Financial report.

At the time of levying taxes for other county purposes, the board of county commissioners shall consider the certificate and budget statement of the board of county park commissioners and shall ~~may~~ levy each year upon all taxable property in the county a tax sufficient in amount to pay the actual necessary expenses and activities program of the board of county park commissioners, including construction, improvement, repair, operation, and maintenance of the park and recreational areas and their facilities under its control and those recreational activities of benefit to the general populace of the county which are under the control of a city or a city park district within the county, not exceeding the limitation in subsection 10 of section 57-15-06.7. No levy in excess of this limitation shall be made without approval of the eligible voters in the county at a special or general election. In the year for which the levy is sought, a board of county park commissioners seeking approval of a property tax levy under this chapter must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the board of county park commissioners during that year. The county auditor shall credit the proceeds of such tax to the separate fund of the board of county park commissioners. This levy shall not apply to cities that already have a park levy unless the governing body of the city by resolution consents to the levy.

⁷⁵ **SECTION 8. AMENDMENT.** Section 11-28-17 of the North Dakota Century Code is amended and reenacted as follows:

11-28-17. District budget - Financial report - Tax levy - Election.

The board of joint park commissioners shall request the respective boards of county commissioners of the counties within the joint park district to submit to the electors of the joint county park district at any general election the question of a maximum tax levy therein for park purposes. The question shall be submitted as follows: Shall the board of county commissioners be authorized to levy a tax of not to exceed _____ mills for joint county park district purposes? The rate proposed shall in no event exceed three mills. If a majority of the vote cast thereon is favorable to such levy, the board of joint park commissioners shall meet annually during the month of July and at such meeting shall prepare a budget for the ensuing year, estimating and itemizing the expenses and obligations of the joint county park district. Upon completion and adoption of such budget, the board shall make a tax levy in mills, within the limit of the authorization, to meet such budget. Such levy shall be in the form of a resolution adopted by a majority vote of the members of the board and thereafter prior to the first day of July of each year such levy shall be certified to the county auditor of each county within the joint park district by the secretary of the board. In the year for which the levy is sought, a board of joint park commissioners seeking approval of a property tax levy under this chapter must file with the county auditor of the counties within the joint park district, at a time and in a format prescribed by the county auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the board of joint park commissioners during that year. At the time of levying taxes for other county purposes, the respective boards of county commissioners of each county within the joint park district shall ~~may~~ levy the tax certified by the board of joint park commissioners upon all taxable property in the county in the same manner other

⁷⁵ Section 11-28-17 was also amended by section 12 of Senate Bill No. 2056, chapter 88, and was repealed by section 104 of Senate Bill No. 2144, chapter 439.

taxes are levied. The question of the maximum levy may be submitted from time to time by the board of joint park commissioners.

⁷⁶ **SECTION 9. AMENDMENT.** Section 11-28.3-09 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-09. Emergency medical service policy to be determined - Financial report.

The board of directors shall establish a general emergency medical service policy for the district and shall annually estimate the probable expense for carrying out that policy. The estimate shall be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. In the year for which the levy is sought, a board of directors of a rural ambulance service district seeking approval of a property tax levy under this chapter must file with the county auditor of the counties within the rural ambulance service district, at a time and in a format prescribed by the county auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the rural ambulance service district during that year. The auditor or auditors shall may levy a tax not to exceed ten mills upon the taxable property within the district for the maintenance of the ambulance service district for the fiscal year as provided by law. The tax shall be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural ambulance service district, who shall be bonded in the amount of at least five thousand dollars.
3. Deposited by the secretary-treasurer in a state or national bank in a district account.
4. Paid out upon warrants drawn upon the district account by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president.

In no case shall the amount of the tax levy exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year. The district may include in its operating budget no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated emergency medical services sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent emergency medical services sinking fund may be in addition to the actual annual operating budget, but the total of the annual operating budget and the annual ten percent emergency medical services sinking fund shall not exceed the approved mill levy.

⁷⁷ **SECTION 10. AMENDMENT.** Section 11-36-14 of the North Dakota Century Code is amended and reenacted as follows:

11-36-14. Tax levy may be certified by port authority or municipality - Financial report.

⁷⁶ Section 11-28.3-09 was also amended by section 19 of Senate Bill No. 2144, chapter 439.

⁷⁷ Section 11-36-14 was also amended by section 13 of Senate Bill No. 2056, chapter 88.

The port authority may certify annually to the governing bodies the amount of tax to be levied by each municipality participating in the creation of the port authority, and the municipality shall levy the amount certified, pursuant to provisions of law authorizing political subdivisions of this state to levy taxes for port purposes. The levy made may not exceed the maximum levy permitted by the laws of this state for port purposes. In the year for which the levy is sought, a port authority seeking approval of a property tax levy under this chapter must file with the auditor of each participating municipality, at a time and in a format prescribed by the auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the port authority during that year. The municipality shall collect the taxes certified by a port authority in the same manner as other taxes are levied and collected. The proceeds of such taxes must be deposited in a special account or accounts in which other revenues of the port authority are deposited and may be expended by the port authority as provided in this chapter. Before issuance of bonds under section 11-36-10, the port authority or the municipality by resolution may covenant and agree that the total amount of the taxes then authorized by law, or such portion of the taxes as may be specified by the resolution, will be certified, levied, and deposited annually until the bonds and interest are fully paid.

⁷⁸ **SECTION 11. AMENDMENT.** Section 11-37-13 of the North Dakota Century Code is amended and reenacted as follows:

11-37-13. Tax levy by political subdivision - Financial report.

The commerce authority may certify annually to the governing bodies the amount of tax requested to be levied by each political subdivision participating in the commerce authority. In the year for which the levy is sought, a commerce authority seeking approval of a property tax levy under this chapter must file with the auditor of each participating political subdivision, at a time and in a format prescribed by the auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the commerce authority during that year. The governing body of each political subdivision shall consider the levy request of the commerce authority and determine the amount to be levied. The levy may not exceed the maximum levy permitted for commerce authority purposes. Each political subdivision shall collect the taxes levied on behalf of a commerce authority in the same manner as other taxes are levied and collected. The proceeds of the taxes must be deposited in a special account or accounts in which other revenues of the commerce authority are deposited and may be expended by the commerce authority as provided in this chapter. Before issuance of bonds under section 11-37-09, the commerce authority by resolution may covenant and agree that the total amount of the taxes authorized by law, or the portion of the taxes specified by the resolution, will be certified and deposited annually until the bonds and interest are fully paid.

⁷⁹ **SECTION 12. AMENDMENT.** Section 18-10-07 of the North Dakota Century Code is amended and reenacted as follows:

18-10-07. Fire protection policy to be determined - Financial report - Tax levy.

⁷⁸ Section 11-37-13 was also amended by section 14 of Senate Bill No. 2056, chapter 88.

⁷⁹ Section 18-10-07 was also amended by section 1 of House Bill No. 1056, chapter 166, section 3 of House Bill No. 1059, chapter 433, and section 21 of Senate Bill No. 2144, chapter 439.

The board of directors shall determine a general fire protection policy for the district and shall annually estimate the probable expense for carrying out the contemplated program. The annual estimate of probable expense may include an amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year, who shall levy a tax upon the taxable property within the district for the maintenance of the fire protection district for the fiscal year as provided by law. In the year for which the levy is sought, a board of directors of a rural fire protection district seeking approval of a property tax levy under this chapter must file with the county auditor of the counties within the rural fire district, at a time and in a format prescribed by the county auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the rural fire protection district during that year. The tax may not exceed the limitation in section 57-15-26.3. No signature on the petition may be considered valid if made more than ninety days prior to receipt of the petition. The tax must be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural fire protection district, who shall have a surety bond in the amount of at least five thousand dollars.
3. Placed to the credit of the rural fire protection district so authorizing the same by its secretary-treasurer in a state or national bank, except amounts to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles may be invested to earn the maximum return available.
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the rural fire protection district.

The amount of tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year and including any amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles.

⁸⁰ **SECTION 13. AMENDMENT.** Section 23-18.2-12 of the North Dakota Century Code is amended and reenacted as follows:

23-18.2-12. Tax levy may be certified by nursing home authority - Financial report.

The nursing home authority may certify annually to the board of county commissioners a tax not exceeding the limitation in subsection 13 of section 57-15-06.7 for a nursing home fund which tax may be levied by the board of county commissioners. In the year for which the levy is sought, a nursing home authority seeking approval of a property tax levy under this chapter must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report

⁸⁰ Chapter 23-18.2 was repealed by Section 104 of Senate Bill No. 2144, Chapter 439 and Section 23-18.2-12 was also amended by section 15 of Senate Bill No. 2056, chapter 88.

for the preceding calendar year showing the ending balances of each fund held by the nursing home authority during that year. The proceeds of the tax collected in the fund must be used first for the payment of principal and interest on any bonds, issued under the provisions of this chapter, which may be due or about to become due. The remaining proceeds in the fund may also be used for any other corporate purpose of the authority, including, but not limited to, costs of operation and costs of obligations entered into with private nursing homes.

⁸¹ **SECTION 14. AMENDMENT.** Section 23-24-09 of the North Dakota Century Code is amended and reenacted as follows:

23-24-09. District budget - Financial report - Tax levy.

When a vector control district has been created and a board of commissioners has been organized, the board shall estimate the expenses of the district from the date of its establishment until the end of the ensuing fiscal year and before July first in each year and thereafter shall estimate district expenses for the fiscal year ensuing. Estimates of district expenses may include all outlays necessary to carry out the powers of the board herein provided for. Upon completion and adoption of a budget covering necessary expenses, the board of commissioners shall send a copy of such budget to the county auditor of each county in the district. If a district is situated in more than one county, the estimate must be apportioned to the counties affected. Such county auditor shall transmit the same to the board of commissioners of the auditor's county. In the year for which the levy is sought, a vector control district seeking approval of a property tax levy under this chapter must file with the county auditor of each county within the vector control district, at a time and in a format prescribed by the county auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the vector control district during that year. The board of county commissioners of each county in which the district is situated shall by resolution levy, authorize, and direct their county auditor to extend and spread upon the tax roll of the county a tax not exceeding the limitation in section 57-15-26.2. Funds produced each year by such tax levy must be available until expended and if such tax levy in any year will not produce sufficient revenue to cover district expenses a fund sufficient to pay the same may be accumulated.

⁸² **SECTION 15. AMENDMENT.** Section 23-30-07 of the North Dakota Century Code is amended and reenacted as follows:

23-30-07. Tax levy authorized - Financial report.

The board of directors shall annually estimate the probable expense for operating the hospital district. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. In the year for which the levy is sought, the board of directors of a hospital district seeking approval of a property tax levy under this chapter must file with the county auditor of each county within the hospital district, at a time and in a format prescribed by the county auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the hospital district during that year. The auditor or auditors ~~shall~~may levy a tax not exceeding the limitation in section 57-15-26.4 for the maintenance of the district for the fiscal year as provided by law. The tax must be:

⁸¹ Section 23-24-09 was also amended by section 16 of Senate Bill No. 2056, chapter 88.

⁸² Section 23-30-07 was also amended by section 28 of Senate Bill No. 2144, chapter 439.

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the district, who must have a surety bond set by the board of directors in the amount of at least five thousand dollars.
3. Placed to the credit of the district authorizing it by its secretary-treasurer in a state or national bank qualifying as a public depository.
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the district.

The amount of the tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense including the amount of principal and interest upon the indebtedness of the district for the ensuing year.

SECTION 16. AMENDMENT. Section 23-35-07 of the North Dakota Century Code is amended and reenacted as follows:

23-35-07. Health district funds - Financial report.

1. Except for a tribal health district, a district board of health shall prepare a budget for the next fiscal year at the time at which and in the manner in which a county budget is adopted and shall submit this budget to the joint board of county commissioners for approval. In the year for which the levy is sought, a district board of health, except for a tribal health district, seeking approval of a property tax levy under this chapter must file with the county auditor of each county within the health district, at a time and in a format prescribed by the county auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the health district during that year. The amount budgeted and approved must be prorated in health districts composed of more than one county among the various counties in the health district according to the taxable valuation of the respective counties in the health district. For the purpose of this section, "prorated" means that each member county's contribution must be based on an equalized mill levy throughout the district, except as otherwise permitted under subsection 3 of section 23-35-05. Within ten days after approval by the joint board of county commissioners, the district board of health shall certify the budget to the respective county auditors and the budget must be included in the levies of the counties. The budget, not including gifts, grants, donations, and contributions, may not exceed the amount that can be raised by a levy of five mills on the taxable valuation, subject to public hearing in each county in the health district at least fifteen days before an action taken by the joint board of county commissioners. Action taken by the joint board of county commissioners must be based on the record, including comments received at the public hearing. A levy under this section is not subject to the limitation on the county tax levy for general and special county purposes. The amount derived by a levy under this section must be placed in the health district fund. The health district fund must be deposited with and disbursed by the treasurer of the district board of health. Each county in a health district quarterly shall remit and make settlements with the treasurer. Any funds remaining in the fund at the end of any fiscal year may be carried over to the next fiscal year.

2. Except for a tribal health district, the district board of health, or the president and secretary of the board when authorized or delegated by the board, shall audit all claims against the health district fund. The treasurer shall pay all claims from the health district fund. The district board of health shall approve or ratify all claims at the board's quarterly meetings.

⁸³ **SECTION 17. AMENDMENT.** Section 40-38-02 of the North Dakota Century Code is amended and reenacted as follows:

40-38-02. Library fund - Financial report - Levy - Kept separate - Exemption for city levying tax - Increasing levy.

1. For the purpose of establishing and maintaining public library service, the governing body of a municipality or county authorizing the same shall establish a library fund. The library fund shall consist of annually levying and causing to be collected as other taxes are collected a municipal or county tax not exceeding the limitations in subsection 15 of section 57-15-06.7 and subsection 5 of section 57-15-10 and any other moneys received for library purposes from federal, state, county, municipal, or private sources. In the year for which the levy is sought, a library board seeking approval of a property tax levy under this chapter must file with the auditor of each participating municipality or county, at a time and in a format prescribed by the auditors, a financial report for the preceding calendar year showing the ending balances of each fund held for the library board during that year.
2. The city auditor or county treasurer shall establish and maintain the fund to account for library revenues and shall make payments from the fund for invoices that have been submitted and approved by the governing body of the library. In the case of a contract with another library for service delivery, the city auditor or county treasurer shall promptly transmit all funds received to the established library fund of the agency delivering service. On request of the city auditor or county treasurer and during an audit, the governing board of the library shall supply its records. The records must be provided on a timely basis. The fund may not revert to the governing body of the city or county at the end of any fiscal year. The fund must be used exclusively for the establishment and maintenance of public library service.
3. Whenever a tax for county library service is levied, any city already levying a tax for public library service under the provisions of this section or other provisions of law shall, upon written application to the county board of the county, be exempted from the county tax levy to the extent that the city making the application levies taxes for a library fund during the year for which the tax levy is made. If the city has been totally exempted from participation in any prospective county library program, the phrase "not less than fifty-one percent of the qualified electors of the city or county as determined by the total number of votes cast at the last general election" as stated in section 40-38-01 shall mean fifty-one percent of the total number of votes cast at the last general election in the county less the total number of votes cast at the last general election in the city. If an election on the question is held, the qualified electors of any city so exempted from the county library tax shall not be entitled to vote on the establishment or discontinuance of the county library service.

⁸³ Section 40-38-02 was also amended by section 18 of Senate Bill No. 2056, chapter 88, and section 44 of Senate Bill No. 2144, chapter 439.

4. Upon motion of the governing body or upon petition of not less than twenty-five percent of the qualified electors in the last general election of any city, school district, township, or county, filed not less than sixty days before the next election, the governing body shall submit to the qualified electors at the next election the question of whether the governing body shall increase the mill levy a specified amount for public library service above the mill levy limitation set out in this section. The governing body may call a special election at any time for the purpose of voting on the question, and the election shall be called, conducted, and certified as are other elections in that political subdivision. Upon approval by sixty percent of the qualified electors voting in the election, the governing body shall increase the levy for public library service in the amount approved by the qualified electors.

⁸⁴ **SECTION 18. AMENDMENT.** Section 40-57.4-04 of the North Dakota Century Code is amended and reenacted as follows:

40-57.4-04. Tax levy for city job development authorities - Financial report.

The governing body of a city which has a city job development authority shall establish a city job development authority fund and may levy a tax not exceeding the limitation in subsection 28 of section 57-15-10. In the year for which the levy is sought, a job development authority or industrial development organization seeking approval of a property tax levy under this chapter must file with the city auditor, at a time and in a format prescribed by the city auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the job development authority or industrial development organization during that year. The city auditor shall keep the fund separate from other money of the city and transmit all funds received under this section within thirty days to the board of directors of the city job development authority. The funds when paid to the city job development authority must be deposited in a special account in which other revenues of the city job development authority are deposited and may be expended by the city job development authority as provided in sections 40-57.4-02 and 40-57.4-03.

In lieu of establishing a job development authority, the governing body of a city where an active industrial development organization exists may levy a tax not exceeding the limitation in subsection 28 of section 57-15-10. The funds from the alternative levy may be used to enter into a contract with the industrial development organization for performance of the functions of a city job development authority.

⁸⁵ **SECTION 19. AMENDMENT.** Section 50-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-05. Appropriation of county funds - Financial report.

The board of county commissioners of each county shall annually appropriate and make available to the human services fund an amount sufficient to pay the local expenses of administration and provision of the human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by county agencies under the provisions of this title. In the year for which the levy is sought, a county social service board seeking approval of a property tax levy under this chapter must file with the county

⁸⁴ Section 40-57.4-04 was also amended by section 20 of Senate Bill No. 2056, chapter 88, and section 57 of Senate Bill No. 2144, chapter 439.

⁸⁵ Section 50-06.2-05 was also amended by section 66 of Senate Bill No. 2144, chapter 439.

auditor of each county within the health district, at a time and in a format prescribed by the county auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the board during that year. For purposes of this section, the board of county commissioners may levy an annual tax for human services purposes not exceeding the limitation in subsection 34 of section 57-15-06.7, and if this amount is not sufficient, may levy for deficiency purposes under chapter 50-03.

⁸⁶ **SECTION 20. AMENDMENT.** Section 57-15-26.3 of the North Dakota Century Code is amended and reenacted as follows:

57-15-26.3. General tax levy of fire protection districts - Financial report.

A rural fire protection district may levy a tax in accordance with chapter 18-10 not exceeding five mills on the taxable valuation of property in the district except upon resolution adopted by the board of directors after receipt of a petition by not less than twenty percent of the qualified electors residing within the district, the levy may be made in an amount not exceeding thirteen mills. In the year for which the levy is sought, a rural fire protection district seeking approval of a property tax levy under chapter 18-10 must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the rural fire protection district during that year.

SECTION 21. Section 57-15-30.2 of the North Dakota Century Code is created and enacted as follows:

57-15-30.2. Financial reporting requirements for taxing entities.

The governing body of any county, city, township, school district, park district, recreation service district, rural fire protection district, rural ambulance service district, soil conservation district, conservancy district, water authority, or any other taxing entity authorized to levy property taxes or have property taxes levied on its behalf, in the year for which the levy will apply, must file with the county auditor of each county in which the taxing entity is located, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund or account held by the taxing entity during that year.

⁸⁷ **SECTION 22. AMENDMENT.** Section 61-04.1-26 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-26. Tax may be certified by weather modification authority - Financial report.

The weather modification authority may certify annually to the board of county commissioners a tax of not to exceed seven mills upon the taxable valuation of the property in the county for a weather modification fund. If weather modification services are not provided to the entire county, the weather modification authority may certify annually to the board of county commissioners a tax for a weather modification fund of not to exceed seven mills upon the taxable valuation of the property in the county designated to receive weather modification services. In the year for which the levy is sought, the weather modification authority seeking approval of a property tax

⁸⁶ Section 57-15-26.3 was repealed by section 2 of House Bill No. 1056, chapter 166, and section 104 of Senate Bill No. 2144, chapter 439.

⁸⁷ Section 61-04.1-26 was also amended by section 21 of Senate Bill No. 2056, chapter 88, and section 101 of Senate Bill No. 2144, chapter 439.

levy under this chapter must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the authority during that year. The tax shall be levied by the board of county commissioners and may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes. The weather modification fund shall be used only for weather modification activities in conjunction with the state of North Dakota. The tax certified by the weather modification authority is limited to the period of existence of the weather modification authority as provided for in this chapter.

SECTION 23. AMENDMENT. Section 61-16.1-06 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-06. District budget - Financial report - Tax levy - Financing by special assessment.

The fiscal year of the district begins January first and ends December thirty-first. The water resource board shall estimate the expenses of the district before October first of each year. Estimates of district expenses may include costs of rights of way, easements, or other interests in property deemed necessary for the construction, operation, and maintenance of any projects. The district budget may also include an amount necessary for future projects which are part of a master plan. In the year for which the levy is sought, a water resource board seeking approval of a property tax levy under this chapter must file with the county auditor of each county in the district, at a time and in a format prescribed by the county auditors, a financial report for the preceding calendar year showing the ending balances of each fund held by the water resource district during that year. Upon completion and adoption of a budget covering necessary expenses, the board shall send a copy of the budget to the county auditor of each county in the district. Each county auditor shall transmit the same to the board of county commissioners of that county. The board of county commissioners shall either disapprove the budget, amend and approve the budget as amended, or approve the budget as submitted and, if approved as amended or as submitted, the board shall, by resolution, levy and authorize and direct the county auditor to extend and spread upon the tax roll of the county or portion of the county in the district a tax not exceeding the limitation in section 57-15-26.6 in the same manner, and with the same effect, as general property taxes are extended and spread. Funds produced each year by the tax levy shall be available until expended, and if the tax levy in any year will not produce sufficient revenue to cover district expenses, a fund sufficient to pay the district expenses may be accumulated. The acquisition of rights of way, easements, and the construction, operation, and maintenance of a project in a district may, in the discretion of the water resource board, be financed in whole or in part by special assessments against property benefited by such project, or from revenues realized from general tax collections, or from net revenues to be derived from service charges to be imposed and collected for the services of the project, or any combination of such sources.

SECTION 24. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2015.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 93

HOUSE BILL NO. 1169

(Representatives Klemin, Hanson, Kading, Louser)
(Senators Armstrong, Hogue)

AN ACT to create and enact subdivision m to subsection 7 of section 11-18-02.2 and subsection 7 to section 11-18-03 of the North Dakota Century Code, relating to the exemption of transfers on death deeds from required statements of full consideration and recording of transfers on death deeds without regard to taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subdivision m to subsection 7 of section 11-18-02.2 of the North Dakota Century Code is created and enacted as follows:

m. A transfer on death deed or revocation instrument authorized under chapter 30.1-32.1.

SECTION 2. Subsection 7 to section 11-18-03 of the North Dakota Century Code is created and enacted as follows:

7. A transfer on death deed or revocation instrument authorized under chapter 30.1-32.1.

Approved March 25, 2015
Filed March 25, 2014

CHAPTER 94**HOUSE BILL NO. 1363**

(Representatives Brabandt, Frantsvog, Froseth)
(Senator Larsen)

AN ACT to create and enact a new section to chapter 11-21 of the North Dakota Century Code, relating to liability risk coverage for public administrators; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 11-21 of the North Dakota Century Code is created and enacted as follows:

Liability coverage for public administrators.

The county in which a noncorporate public administrator is appointed must provide liability risk coverage for services provided by that public administrator while acting within the role of public administrator.

SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2017, and after that date is ineffective.

Approved March 25, 2015
Filed March 25, 2015

CORRECTIONS, PAROLE, AND PROBATION

CHAPTER 95

HOUSE BILL NO. 1118

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 12-59-20 of the North Dakota Century Code, relating to probation and parole officers as peace officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-59-20 of the North Dakota Century Code is amended and reenacted as follows:

12-59-20. Probation and parole officers as peace officers.

1. Probation and parole officers have the power of a peace officer ~~for:~~
 - a. ~~For the purpose of enforcing probation and parole laws;~~ and
 - b. To enforce the law, conduct investigations, and make arrests for violations of the law on or within any premises under the control of the department of corrections and rehabilitation.
2. Probation and parole officers shall provide assistance to and receive assistance from other law enforcement officers in securing and jailing probation and parole violators and other offenders and in preventing and controlling of criminal activity.
3. Probation and parole officers may supervise sexually dangerous individuals released to community placement on an outpatient basis in accordance with section 25-03.3-24.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 96

SENATE BILL NO. 2215

(Senators Casper, Nelson, Poolman)
(Representatives Delmore, Dockter, Karls)

AN ACT to amend and reenact sections 12-60-07.1, 12-60-16.1, 12-60-16.2, 12-60-16.6, and 12-60-16.9, subsection 1 of section 12-60-24, and subsection 7 of section 12.1-32-15 of the North Dakota Century Code, relating to criminal history record information and registration for offenders against children and sex offenders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-60-07.1 of the North Dakota Century Code is amended and reenacted as follows:

12-60-07.1. Automated fingerprintbiometric data identification system.

The bureau may establish and maintain an automated fingerprintbiometric data identification system for this state. The bureau may cooperate with other states for the operation of a regional automated fingerprintbiometric data identification system.

SECTION 2. AMENDMENT. Section 12-60-16.1 of the North Dakota Century Code is amended and reenacted as follows:

12-60-16.1. Definitions.

As used in ~~sections 12-60-16.1 through 12-60-16.10~~this chapter and in section 12.1-32-15, unless the context otherwise requires:

1. "Biometric data" includes fingerprints, palm prints, voice prints, retinal or iris images, facial recognition, and DNA profiles.
2. "Bureau" means the bureau of criminal investigation.
- 2-3. "Court" means the supreme court, district courts, and municipal courts of the North Dakota judicial system.
- 3-4. "Criminal history record" means the compilation of criminal history record information of a person reported to the bureau in accordance with this chapter.
- 4-5. "Criminal history record information" includes information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other criminal charges, any dispositions arising therefrom, sentencing, correctional supervision, and release.
- 5-6. "Criminal justice agency" means any government law enforcement agency or entity authorized by law to provide information regarding, or to exercise the powers of, arrest, detention, prosecution, correctional supervision,

rehabilitation, or release of persons suspected in, charged with, or convicted of, a crime.

6-7. "Disseminate" means to transmit criminal history record information in any oral or written form. The term does not include:

- a. The transmittal of the information within a criminal justice agency.
- b. The reporting of the information as required by section 12-60-16.2.
- c. The transmittal of the information between criminal justice agencies in order to permit the initiation of subsequent criminal justice proceedings against a person relating to the same offense.

7-8. "Noncriminal justice agency" means an entity that is not a criminal justice agency.

8-9. "Record subject" means the person who is the primary subject of a criminal history record. The term includes any representative designated by that person by power of attorney or notarized authorization. If the subject of the record is under legal disability, the term includes that person's parents or duly appointed legal representative.

9-10. "Reportable event" means an interaction with a criminal justice agency for which a report is required to be filed under section 12-60-16.2. The term includes only those events in which the subject of the event is an adult or a juvenile adjudicated as an adult.

SECTION 3. AMENDMENT. Section 12-60-16.2 of the North Dakota Century Code is amended and reenacted as follows:

12-60-16.2. Criminal history record information - Reportable events.

Except as otherwise provided in sections 12-60-16.1 through 12-60-16.10, each criminal justice agency shall report to the bureau the information described in this section for each felony and reportable offense so designated pursuant to section 12-60-16.4. The bureau may require the criminal justice agency to provide the information in a manner that the bureau determines to be the most efficient or accurate means of collection. The following criminal justice agencies shall perform the duties indicated:

1. Except as otherwise provided in this subsection, each criminal justice agency that makes an arrest for a reportable offense shall, with respect to that offense and the person arrested, furnish to the bureau the ~~fingerprints~~necessary biometric data, charges, and descriptions of the person arrested. If the arrest is made by a criminal justice agency that is a state law enforcement agency, then, on request of the arresting agency, a sheriff or jail administrator shall ~~take~~collect the ~~fingerprints~~necessary biometric data. The arresting agency shall then furnish the required information to the bureau. If a decision is made not to refer the arrest for prosecution, the criminal justice agency making that decision shall report the decision to the bureau. A criminal justice agency may make agreements with other criminal justice agencies for the purpose of furnishing to the bureau information required under this subsection.

2. The prosecuting attorney shall notify the bureau of all charges filed, including all those added after the filing of a criminal court case, and whether charges were not filed in criminal cases for which the bureau has a record of an arrest.
3. After the court pronounces sentence for a reportable offense, and if the necessary biometric data of the person being sentenced has not been fingerprinted/collected with respect to that case, the prosecuting attorney shall ask the court to order a law enforcement agency to fingerprint/collect the necessary biometric data from that person. If the court determines that the necessary biometric data of the person being so sentenced has not previously been fingerprinted/collected for the same case, the court shall order the fingerprints taken/necessary biometric data to be collected from that person. The law enforcement agency shall forward the fingerprints/necessary biometric data to the bureau.
4. The prosecuting attorney having jurisdiction over a reportable offense shall furnish the bureau all final dispositions of criminal cases for which the bureau has a record of an arrest or a record of fingerprints/biometric data reported under subsection 3. For each charge, this information must include at least the following:
 - a. Judgments of not guilty, judgments of guilty including the sentence pronounced by the court, discharges, and dismissals in the trial court;
 - b. Reviewing court orders filed with the clerk of the court which reverse or remand a reported conviction or which vacate or modify a sentence; and
 - c. Judgments terminating or revoking a sentence to probation and any resentencing after such a revocation.
5. The North Dakota state penitentiary department of corrections and rehabilitation, pardon clerk, parole board, and local correctional facility administrators shall furnish the bureau with all information concerning the receipt, escape, death, release, pardon, conditional pardon, reprieve, parole, commutation of sentence, or discharge of an individual who has been sentenced to that agency's custody for any reportable offense which is required to be collected, maintained, or disseminated by the bureau. In the case of an escape from custody or death while in custody, information concerning the receipt and escape or death must also be furnished.

SECTION 4. AMENDMENT. Section 12-60-16.6 of the North Dakota Century Code is amended and reenacted as follows:

12-60-16.6. Criminal history record information - Dissemination to parties not described in section 12-60-16.5.

Only the bureau may disseminate a criminal history record to parties not described in section 12-60-16.5. The dissemination may be made only if all the following requirements are met:

1. The criminal history record information has not been purged or sealed.
2. The criminal history record information is of a conviction, including a conviction for violating section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-06.1, or 12.1-20-11 notwithstanding any disposition following a

deferred imposition of sentence; or the criminal history record information is of a reportable event occurring within three years preceding the request.

3. The request is written and contains:
 - a. The name of the requester.
 - b. The ~~fingerprints~~biometric data of the record subject or, if the request is made without submitting the ~~fingerprints~~biometric data, the request must also include the name of the record subject and at least two items of information used by the bureau to retrieve criminal history records, including:
 - (1) The state identification number assigned to the record subject by the bureau.
 - (2) The social security number of the record subject.
 - (3) The date of birth of the record subject.
 - (4) A specific reportable event identified by date and either agency or court.
4. The identifying information supporting a request for a criminal history record does not match the record of more than one individual.

In order to confirm a record match, the bureau may contact the requester to collect additional information if a request contains an item of information that appears to be inaccurate or incomplete. This section does not prohibit the disclosure of a criminal history record by the requester or other persons after the dissemination of the record by the bureau to the requester.

SECTION 5. AMENDMENT. Section 12-60-16.9 of the North Dakota Century Code is amended and reenacted as follows:

12-60-16.9. Criminal history record information - Fee for record check.

The bureau shall impose a fee of fifteen dollars for each state record check. The bureau shall impose a fee of five dollars for each record check for a nonprofit organization that is organized and operated in this state exclusively for charitable purposes for the exclusive benefit of minors. The bureau shall impose a fee of five dollars for each record check conducted on a volunteer providing services for a nonprofit organization that is organized and operated in this state exclusively for charitable purposes for the exclusive benefit of vulnerable elderly adults. The bureau shall impose a fee of fifteen dollars for processing ~~fingerprints~~biometric data necessary for each nationwide criminal history record check. The bureau shall waive the fees for any criminal justice agency or court.

⁸⁸ **SECTION 6. AMENDMENT.** Subsection 1 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Each applicant, employee, or petitioner for adoption or name change who is subject to a criminal history record check under subsection 2 shall consent to a statewide and nationwide criminal history record check for the purpose of determining suitability or fitness for a permit, license, registration, employment, or adoption.
- b. Each applicant, employee, registrant, or petitioner for adoption or name change subject to a criminal history record check shall provide to the requesting agency or entity written consent to conduct the check and to release or disclose the information in accordance with state and federal law, two sets of fingerprints from a law enforcement agency or other local agency authorized to take fingerprints, any other identifying information requested, and a statement indicating whether the applicant or employee has ever been convicted of a crime.
- c. The agency, official, or entity shall submit these fingerprints to the bureau of criminal investigation for nationwide criminal history record information that includes resubmission of the fingerprints by the bureau of criminal investigation to the federal bureau of investigation. Except if otherwise provided by law, federal bureau of investigation criminal history record information obtained by an agency or entity is confidential. For a request for nationwide criminal history record information made under this section, the bureau of criminal investigation is the sole source to receive the fingerprint submissions and responses from the federal bureau of investigation. A person who takes fingerprints under this section may charge a reasonable fee to offset the cost of fingerprinting. Unless otherwise provided by law, the bureau of criminal investigation may charge appropriate fees for criminal history information.
- d. Fingerprints and any other identifying information the bureau has obtained under this section may be retained by the bureau and the federal bureau of investigation at the request of the agency, official, or entity submitting the fingerprints and any other identifying information for a statewide and nationwide criminal history record check. The subject of the records must be provided notice of the retention of the fingerprints and any other identifying information. The bureau may provide to each agency, official, or entity listed in subsection 2 of this section the response of the bureau and the federal bureau of investigation any any statewide criminal history record information that may lawfully be made available under this chapter.
- e. The bureau may provide the results of a criminal history background check made under subsection 2 of this section to another state's identification bureau or central repository for the collection, maintenance, and dissemination of criminal history record information when the other state's identification bureau or central repository has requested the results of the criminal history background check and the agency, official, or entity of the

⁸⁸ Section 12-60-24 was also amended by section 1 of House Bill No. 1105, chapter 97, and section 1 of House Bill No. 1125, chapter 98, and section 1 of Senate Bill No. 2077, chapter 99, and section 1 of Senate Bill No. 2085, chapter 302, section 1 of Senate Bill No. 2236, chapter 309, section 1 of House Bill No. 1153, chapter 297, section 3 of House Bill No. 1436, chapter 67, and section 1 of Senate Bill No. 2145, chapter 100.

other state has equivalent authority to subsection 2 of this section to request a statewide and nationwide criminal history check.

⁸⁹ **SECTION 7. AMENDMENT.** Subsection 7 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprintsbiometric data and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized database of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprintsbiometric data, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with which that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with which the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the fingerprintsbiometric data portion of the registration if that agency has a set of fingerprintsbiometric data on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

⁸⁹ Section 12.1-32-15 was also amended by section 1 of House Bill No. 1029, chapter 127, section 1 of House Bill No. 1407, chapter 115, and section 1 of Senate Bill No. 2107, chapter 117.

Approved March 27, 2015
Filed March 27, 2015

CHAPTER 97

HOUSE BILL NO. 1105

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks for the office of the adjutant general; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁰ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The office of the adjutant general for employees and volunteers working with the recruiting and retention, sexual assault, and youth programs.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 12, 2015

Filed March 12, 2015

⁹⁰ Section 12-60-24 was also amended by section 1 of House Bill No. 1125, chapter 98, and section 1 of Senate Bill No. 2077, chapter 99, and section 1 of Senate Bill No. 2085, chapter 302, section 1 of Senate Bill No. 2236, chapter 309, section 1 of House Bill No. 1153, chapter 297, section 3 of House Bill No. 1436, chapter 67, section 1 of Senate Bill No. 2145, chapter 100, and section 6 of Senate Bill No. 2215, chapter 96.

CHAPTER 98

HOUSE BILL NO. 1125

(Government and Veterans Affairs Committee)
(At the request of the Parks and Recreation Department)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks for parks and recreation department volunteers and final applicants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹¹ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The parks and recreation department for volunteers and final applicants for employment, as determined by the director of the parks and recreation department.

Approved March 16, 2015

Filed March 16, 2015

⁹¹ Section 12-60-24 was also amended by section 1 of House Bill No. 1105, chapter 97, and section 1 of Senate Bill No. 2077, chapter 99, and section 1 of Senate Bill No. 2085, chapter 302, section 1 of Senate Bill No. 2236, chapter 309, section 1 of House Bill No. 1153, chapter 297, section 3 of House Bill No. 1436, chapter 67, section 1 of Senate Bill No. 2145, chapter 100, and section 6 of Senate Bill No. 2215, chapter 96.

CHAPTER 99**SENATE BILL NO. 2077**

(Energy and Natural Resources Committee)
(At the request of the Game and Fish Department)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks for game and fish department volunteers and final applicants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹² **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The game and fish department for volunteers and final applicants for employment, as determined by the director of the game and fish department.

Approved April 6, 2015

Filed April 6, 2015

⁹² Section 12-60-24 was also amended by section 1 of House Bill No. 1105, chapter 97, and section 1 of House Bill No. 1125, chapter 98, and section 1 of Senate Bill No. 2085, chapter 302, section 1 of Senate Bill No. 2236, chapter 309, section 1 of House Bill No. 1153, chapter 297, section 3 of House Bill No. 1436, chapter 67, section 1 of Senate Bill No. 2145, chapter 100, and section 6 of Senate Bill No. 2215, chapter 96.

CHAPTER 100

SENATE BILL NO. 2145

(Senators Davison, Luick, Oban, Poolman)
(Representatives P. Anderson, Beadle)

AN ACT to amend and reenact subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹³ **SECTION 1. AMENDMENT.** Subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

2. The bureau of criminal investigation shall provide to each agency, official, or entity listed in this subsection who has requested a statewide and nationwide criminal history record check, the response of the federal bureau of investigation and any statewide criminal history record information that may lawfully be made available under this chapter:
 - a. The governing body of a city or a county, by ordinance or resolution, for a final applicant for a specified occupation with the city or county.
 - b. The agriculture commissioner for each applicant for a license to grow or process industrial hemp under section 4-41-02.
 - c. The education standards and practices board for initial, reentry, and reciprocal teacher licenses under sections 15.1-13-14 and 15.1-13-20 and school guidance and counseling services under section 15.1-13-23.
 - d. The medical examiners board for licenses or disciplinary investigations under section 43-17-07.1, except that criminal history record checks need not be made unless required by the board.
 - e. The private investigative and security board for licenses or registrations under section 43-30-06.
 - f. The department of human services for foster care licenses and approvals under chapter 50-11, appointments of legal guardians under chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those chapters. A criminal history record investigation completed under chapter 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements of a criminal history record investigation under either of the other two chapters.

⁹³ Section 12-60-24 was also amended by section 1 of House Bill No. 1105, chapter 97, and section 1 of House Bill No. 1125, chapter 98, and section 1 of Senate Bill No. 2077, chapter 99, and section 1 of Senate Bill No. 2085, chapter 302, section 1 of Senate Bill No. 2236, chapter 309, section 1 of House Bill No. 1153, chapter 297, section 3 of House Bill No. 1436, chapter 67, and section 6 of Senate Bill No. 2215, chapter 96.

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- g. The department of human services for criminal history record checks authorized under section 50-06-01.9.
 - h. The chief information officer of the information technology department for certain individuals under section 54-59-20.
 - i. A public peace officer training school that has been approved by the peace officer standards and training board for enrollees in the school. The school may only disclose the criminal history record information as authorized by law. The school shall pay the costs for securing the fingerprints, any criminal history record information made available under this chapter, and for the nationwide criminal history ~~background~~record check. This subdivision does not apply to the highway patrol law enforcement training center and enrollees who have a limited license under section 12-63-09.
 - j. The North Dakota public employees retirement board for individuals first employed by the public employees retirement board after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
 - k. The executive director of the retirement and investment office for individuals first employed by the retirement and investment office after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.
 - l. The Bank of North Dakota for a final applicant for a specified occupation with the Bank as designated by the president.
 - m. Job service North Dakota for a final applicant for a specified occupation with job service as designated by the executive director.
 - n. The state department of health for a final applicant for or an employee in a specified occupation with the department as designated by the state health officer; an individual being investigated by the department; or, when requested by the department, an applicant for registration, certification, or licensure by the department.
 - o. The state board of nursing for applicants, licensees, registrants, or disciplinary investigations under chapter 43-12.1, except that criminal history record checks need not be made unless required by the board.
 - p. The state board of pharmacy for applicants or disciplinary investigations under chapter 43-15 and registrations, or revocation or suspension of registrations, under chapter 19-03.1, except that criminal history record checks need not be made unless required by the board.
 - q. The state real estate commission for applicants, licensees, or investigations under chapter 43-23, except that criminal history record checks need not be made unless required by the commission.
 - r. The North Dakota board of social work examiners for applicants for initial licensure or licensees under chapter 43-41, except that criminal history

- record checks for licensees need not be made unless required by the board.
- s. All agencies, departments, bureaus, boards, commissions, or institutions of the state, including the North Dakota university system, for all employees or final applicants for employment as a security guard or to otherwise provide security.
 - t. The office of management and budget for each individual who has access to personal information as designated by the director.
 - u. The department of corrections and rehabilitation for all agents and employees and a final applicant for employment designated by the director and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the department who exercises direct authority over juveniles, inmates, probationers, or parolees.
 - v. A city, county, or combination of cities or counties that operates a correctional facility subject to chapter 12-44.1, for each agent and employee and a final applicant for employment of the correctional facility who has direct contact with or exercises direct authority over any juvenile or inmate of the correctional facility, and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the correctional facility who exercises direct authority over juveniles, inmates, probationers, or parolees.
 - w. The North Dakota university system for a final applicant for or employee in a specified position in the university system or a university system institution or for each student applying for or admitted to a specified program of study, as designated by the chancellor.
 - x.
 - (1) ~~The governing board of a public school or, for a nonpublic school, the superintendent of public instruction district, for employees designated by the governing board or nonpublic school. The governing board or the nonpublic school, provided the board is responsible for paying the costs associated with obtaining a background criminal history record check;~~
 - (2) The board of a multidistrict special education unit, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (3) The board of an area career and technology center, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
 - (4) The board of a regional education association, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and
 - (5) The superintendent of public instruction in the case of a nonpublic school, for employees designated by the nonpublic school, provided

the nonpublic school is responsible for paying the costs associated with obtaining a criminal history record check.

- y. (1) The governing board of a public school or, for a nonpublic school, the superintendent of public instruction district, for a final applicant seeking employment with the school district or otherwise providing services to the school district, if that individual has unsupervised contact with the students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
- (2) The board of a multidistrict special education unit, for a final applicant seeking employment with the unit or otherwise providing services to the unit, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
- (3) The board of an area career and technology center, for a final applicant seeking employment with the center or otherwise providing services to the center, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;
- (4) The board of a regional education association, for a final applicant seeking employment with the association or otherwise providing services to the association if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and
- (5) The superintendent of public instruction in the case of a nonpublic school, for a final applicant seeking employment with the school or otherwise providing services to the school, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check.
- (6) For purposes of this subdivision, "unsupervised contact" with students means being in proximity to one or more students, on school grounds or at school functions, outside the presence of an individual who has been subject to a criminal background history record check. The governing board or the nonpublic school is responsible for paying the costs associated with obtaining a background check.
- z. The racing commission for applicants for licenses under chapter 53-06.2, except that criminal history record checks need not be made unless required by the commission.
- aa. A district court for a petition to change a name under chapter 32-28.
- bb. The state board of pharmacy for a wholesale drug distributor seeking licensure under chapter 43-15.3.
- cc. The board of dental examiners for investigations of applicants or dentists under section 43-28-11.2, except that criminal history record checks need not be made unless required by the board.

- dd. The department of financial institutions for each applicant for a specified occupation with the department as specified by the commissioner and principal owners and managing officers of applicants for a license from the department of financial institutions.
- ee. The office of tax commissioner for a final applicant for a specified occupation with the tax commissioner as designated by the tax commissioner.
- ff. The state board of examiners for nursing home administrators for applicants for licensure or licensees under chapter 43-34, except that criminal history record checks for licensees need not be made unless required by the board.
- gg. The marriage and family therapy licensure board for applicants, licensees, or investigations under chapter 43-53, except that criminal history record checks need not be made unless required by the board.
- hh. The state board of chiropractic examiners for applicants, licensees, or investigations under chapter 43-06, except that criminal history record checks need not be made unless required by the board.
 - ii. Workforce safety and insurance for a final applicant for a specified occupation with workforce safety and insurance as designated by the director, or for contractors who may have access to confidential information as designated by the director.
- jj. The board of counselor examiners for applicants for licensure or licensees under chapter 43-47, except that criminal history record checks for licensees need not be made unless required by the board.
- kk. The state board of respiratory care for applicants, licensees, or investigations under chapter 43-42, except that criminal history record checks need not be made unless required by the board.
 - ll. The North Dakota real estate appraiser qualifications and ethics board for applicants for permits or registration or permittees, registrants, owners, or controlling persons under chapters 43-23.3 and 43-23.5, except that criminal history record checks for permittees, registrants, owners, or controlling persons need not be made unless required by the board.
- mm. The insurance department for criminal history record checks authorized under chapter 26.1-26.

Approved April 1, 2015

Filed April 1, 2015

CRIMINAL CODE

CHAPTER 101

HOUSE BILL NO. 1304

(Representatives K. Koppelman, Brabandt, Klemin, Olson, Paur)
(Senator Armstrong)

AN ACT create and enact a new section to chapter 12.1-01, a new section to chapter 14-10, and a new section to chapter 27-20 of the North Dakota Century Code, relating to the presumption of an individual's legal date of birth.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-01 of the North Dakota Century Code is created and enacted as follows:

Presumption of age.

1. In determining an individual's age for purposes of this title, the individual's date of birth as provided by any of the following is presumed to be the individual's legal date of birth:
 - a. A state government in the form of a birth certificate, other state-issued identification, or a certified copy of a birth certificate that includes the individual's date of birth;
 - b. The United States government in the form of a tribal identification document, military identification, passport, passport card, permanent resident card, certificate of United States citizenship, certificate of naturalization, border crossing card, visa, or other entry document that includes the individual's date of birth; or
 - c. A foreign government in the form of a passport, driver's license, or other foreign government-issued identity document that includes the individual's date of birth. If there is a conflict between government issued forms, a government issued birth certificate or a certified copy of a birth certificate takes precedence.
2. The presumption in subsection 1 may be rebutted by clear and convincing evidence to the contrary.

SECTION 2. A new section to chapter 14-10 of the North Dakota Century Code is created and enacted as follows:

Presumption of age.

1. In determining an individual's age for purposes of this chapter, the individual's date of birth as provided by any of the following is presumed to be the individual's legal date of birth:

- a. A state government in the form of a birth certificate, other state-issued identification, or a certified copy of a birth certificate that includes the individual's date of birth;
 - b. The United States government in the form of a tribal identification document, military identification, passport, passport card, permanent resident card, certificate of United States citizenship, certificate of naturalization, border crossing card, visa, or other entry document that includes the individual's date of birth; or
 - c. A foreign government in the form of a passport, driver's license, or other foreign government-issued identity document that includes the individual's date of birth. If there is a conflict between government issued forms, a government issued birth certificate or a certified copy of a birth certificate takes precedence.
2. The presumption in subsection 1 may be rebutted by clear and convincing evidence to the contrary.

SECTION 3. A new section to chapter 27-20 of the North Dakota Century Code is created and enacted as follows:

Presumption of age.

1. In determining an individual's age for purposes of this chapter, the individual's date of birth as provided by any of the following is presumed to be the individual's legal date of birth:
 - a. A state government in the form of a birth certificate, other state-issued identification, or a certified copy of a birth certificate that includes the individual's date of birth;
 - b. The United States government in the form of a tribal identification document, military identification, passport, passport card, permanent resident card, certificate of United States citizenship, certificate of naturalization, border crossing card, visa, or other entry document that includes the individual's date of birth; or
 - c. A foreign government in the form of a passport, driver's license, or other foreign government-issued identity document that includes the individual's date of birth. If there is a conflict between government issued forms, a government issued birth certificate or a certified copy of a birth certificate takes precedence.
2. The presumption in subsection 1 may be rebutted by clear and convincing evidence to the contrary.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 102**SENATE BILL NO. 2204**

(Senators Hogue, Armstrong, Nelson)
(Representatives Klemin, Larson, Wallman)

AN ACT to create and enact a new subsection to section 12.1-08-03 of the North Dakota Century Code, relating to the jurisdiction and venue of the crime of hindering law enforcement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 12.1-08-03 of the North Dakota Century Code is created and enacted as follows:

A person who commits the crime of hindering law enforcement is subject to prosecution in this state if the conduct interferes with or hinders an investigation of a crime occurring within this state. The venue of a criminal action involving the crime of hindering law enforcement is in any county in which the conduct of hindering is committed or in any county in which a criminal offense is being investigated which is hindered by the false information or other interfering conduct.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 103

HOUSE BILL NO. 1307

(Representatives K. Koppelman, Delmore, M. Johnson)
(Senator Luick)

AN ACT to amend and reenact section 12.1-12-06 of the North Dakota Century Code, relating to threatening of public servants; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-12-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-12-06. Threatening public servants.

1. A person is guilty of a class C felony if ~~he~~that person threatens harm to ~~another~~a public servant with intent to influence ~~his~~the public servant's official action as a public servant in a pending or prospective judicial or administrative proceeding held before ~~him~~the public servant, or with intent to influence ~~him~~the public servant to violate ~~his~~the public servant's duty as a public servant.
2. A person is guilty of a class C felony if, with intent to influence another's official action as a public servant, ~~he~~the person threatens:
 - a. To commit any crime or to do anything unlawful;
 - b. To accuse anyone of a crime; or
 - c. To expose a secret or publicize an asserted fact, whether true or false, tending to subject any ~~person~~individual, living or deceased, to hatred, contempt, or ridicule, or to impair another's credit or business repute.
3.
 - a. A person is guilty of an offense if the person files any lien or encumbrance against real or personal property of a public servant if that person knows or has reason to know the lien or encumbrance is false or contains any materially false or fraudulent statement or representation.
 - b. An offense under this subsection is a class A misdemeanor, unless the person previously pled guilty or had been convicted under this subsection on two or more occasions, in which event the offense is a class C felony.
4. It is ~~not~~a defense to a prosecution under this section that ~~a person~~an individual whom the actor sought to influence was not qualified to act in the desired way whether because ~~he~~the individual had not yet assumed office, or lacked jurisdiction, or for any other reason.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 104

SENATE BILL NO. 2192

(Senators Armstrong, Hogue)
(Representatives Delmore, Maragos)

AN ACT to amend and reenact sections 12.1-17-02 and 12.1-32-09.1 of the North Dakota Century Code, relating to the sentencing of offenders for aggravated assault.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-17-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-02. Aggravated assault.

1. ~~Except as provided in subsection 2, a person is guilty of a class C felony, except if the victim is under the age of twelve years or the victim suffers permanent loss or impairment of the function of a bodily member or organ in which case the offense is a class B felony, if that person:~~
 1. a. Willfully causes serious bodily injury to another human being;
 2. b. Knowingly causes bodily injury or substantial bodily injury to another human being with a dangerous weapon or other weapon, the possession of which under the circumstances indicates an intent or readiness to inflict serious bodily injury;
 3. c. Causes bodily injury or substantial bodily injury to another human being while attempting to inflict serious bodily injury on any human being; or
 4. d. Fires a firearm or hurls a destructive device at another human being.
2. The person is guilty of a class B felony if the person violates subsection 1 and the victim is under the age of twelve years or the victim suffers permanent loss or impairment of the function of a bodily member or organ.

SECTION 2. AMENDMENT. Section 12.1-32-09.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-09.1. Sentencing of violent offenders.

1. Except as provided under section 12-48.1-02 and pursuant to rules adopted by the department of corrections and rehabilitation, an offender who is convicted of a crime in violation of section 12.1-16-01, 12.1-16-02, subsection 2 of section 12.1-17-02, section 12.1-18-01, subdivision a of subsection 1 or subdivision b of subsection 2 of section 12.1-20-03, section 12.1-22-01, subdivision b of subsection 2 of section 12.1-22-02, or an attempt to commit the offenses, and who receives a sentence of imprisonment is not eligible for release from confinement on any basis until eighty-five percent of

the sentence imposed by the court has been served or the sentence is commuted.

2. In the case of an offender who is sentenced to a term of life imprisonment with opportunity for parole under subsection 1 of section 12.1-32-01, the term "sentence imposed" means the remaining life expectancy of the offender on the date of sentencing. The remaining life expectancy of the offender must be calculated on the date of sentencing, computed by reference to a recognized mortality table as established by rule by the supreme court.
3. Notwithstanding this section, an offender sentenced under subsection 1 of section 12.1-32-01 may not be eligible for parole until the requirements of that subsection have been met.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 105

HOUSE BILL NO. 1321

(Representatives Haak, Brabandt, Delmore, M. Johnson, Klemin)
(Senators Armstrong, Grabinger)

AN ACT to amend and reenact section 12.1-17-07.1 of the North Dakota Century Code, relating to stalking and the use of electronic communication.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-17-07.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-07.1. Stalking.

1. As used in this section:

- a. "Course of conduct" means a pattern of conduct consisting of two or more acts evidencing a continuity of purpose. The term does not include constitutionally protected activity.
- b. "Immediate family" means a spouse, parent, child, or sibling. The term also includes any other individual who regularly resides in the household or who within the prior six months regularly resided in the household.
- c. "Stalk" means ~~to engage~~:

(1) To engage in an intentional course of conduct directed at a specific person which frightens, intimidates, or harasses that person; and that which serves no legitimate purpose. The course of conduct may be directed toward that person or a member of that person's immediate family and must cause a reasonable person to experience fear, intimidation, or harassment; or

(2) The unauthorized tracking of the person's movements or location through the use of a global positioning system or other electronic means that would cause a reasonable person to be frightened, intimidated, or harassed and which serves no legitimate purpose.

2. ~~No~~ A person may not intentionally stalk another person.
3. In any prosecution under this section, it is not a defense that the actor was not given actual notice that the person did not want the actor to contact or follow the person; nor is it a defense that the actor did not intend to frighten, intimidate, or harass the person. An attempt to contact or follow a person after being given actual notice that the person does not want to be contacted or followed is prima facie evidence that the actor intends to stalk that person.
4. In any prosecution under this section, it is a defense that a private investigator licensed under chapter 43-30 or a peace officer licensed under chapter 12-63 was acting within the scope of employment.

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5. If a person claims to have been engaged in a constitutionally protected activity, the court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.
 6. a. A person who violates this section is guilty of a class C felony if:
 - (1) The person previously has been convicted of violating section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-04, 12.1-17-05, or 12.1-17-07, or a similar offense from another court in North Dakota, a court of record in the United States, or a tribal court, involving the victim of the stalking;
 - (2) The stalking violates a court order issued under chapter 14-07.1 protecting the victim of the stalking, if the person had notice of the court order; or
 - (3) The person previously has been convicted of violating this section.
 - b. If subdivision a does not apply, a person who violates this section is guilty of a class A misdemeanor.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 106

SENATE BILL NO. 2357

(Senators Schneider, Armstrong, Casper)
(Representatives Hanson, Kretschmar, Maragos)

AN ACT to create and enact section 12.1-17-07.2 and a new section to chapter 32-03 of the North Dakota Century Code, relating to the distribution of graphic or intimate images of someone without consent; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 12.1-17-07.2 of the North Dakota Century Code is created and enacted as follows:

12.1-17-07.2. Distribution of intimate images without or against consent - Penalty.

1. As used in this section:

- a. "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consideration.
- b. "Hosting company" means a person that provides services or facilities for storing or distributing content over the internet without editorial or creative alteration of the content.
- c. "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that depicts:
 - (1) Exposed human male or female genitals or pubic area, with less than an opaque covering;
 - (2) A female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or
 - (3) The individual engaged in any sexually explicit conduct.
- d. "Service provider" means an internet service provider, including a person who leases or rents a wire or cable for the transmission of data.
- e. "Sexually explicit conduct" means actual or simulated:
 - (1) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
 - (2) Masturbation;

- (3) Bestiality;
 - (4) Sadistic or masochistic activities;
 - (5) Exhibition of the genitals, pubic region, buttocks, or female breast of any individual;
 - (6) Visual depiction of nudity or partial nudity;
 - (7) Fondling or touching of the genitals, pubic region, buttocks, or female breast; or
 - (8) Explicit representation of the defecation or urination functions.
- f. "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.
2. A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual eighteen years of age or older, if:
- a. The person knows that the depicted individual has not given consent to the person to distribute the intimate image;
 - b. The intimate image was created by or provided to the person under circumstances in which the individual has a reasonable expectation of privacy; and
 - c. Actual emotional distress or harm is caused to the individual as a result of the distribution under this section.
3. This section does not apply to:
- a. Lawful practices of law enforcement agencies;
 - b. Prosecutorial agency functions;
 - c. The reporting of a criminal offense;
 - d. Court proceedings or any other judicial proceeding;
 - e. Lawful and generally accepted medical practices and procedures;
 - f. An intimate image if the individual portrayed in the image voluntarily allows public exposure of the image; or
 - g. An intimate image that is portrayed in a lawful commercial setting.
4. This section also does not apply to:
- a. An internet service provider or interactive computer service, as defined in 47 U.S.C. 230(f)(2);

- b. A provider of an electronic communications service, as defined in 18 U.S.C. 2510;
 - c. A telecommunications service, information service, or mobile service, as defined in 47 U.S.C. 153, including a commercial mobile service, as defined in 47 U.S.C. 332(d);
 - d. A cable operator, as defined in 47 U.S.C. 552, if:
 - (1) The distribution of an intimate image by the cable operator occurs only incidentally through the operator's function of:
 - (a) Transmitting or routing data from one person to another person; or
 - (b) Providing a connection between one person and another person;
 - (2) The operator does not intentionally aid or abet in the distribution of the intimate image; and
 - (3) The operator does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the operator, as a specific condition for permitting the person to distribute the intimate image; or
 - e. A hosting company, if:
 - (1) The distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;
 - (2) The hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and
 - (3) The hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.
5. Distribution of an intimate image is a class A misdemeanor.

SECTION 2. A new section to chapter 32-03 of the North Dakota Century Code is created and enacted as follows:

Distribution of intimate images without or against consent - Remedies.

An individual whose intimate image is distributed in violation of section 1 of this Act may maintain a private right of action against each person who has distributed that image in violation of section 1 of this Act, without regard to whether the defendant has been charged with, found guilty of, or pleaded guilty to that offense. An individual whose intimate image is distributed in violation of section 1 of this Act is entitled to pursue all of the economic, noneconomic, and exemplary or punitive damages and other remedies available by law and to obtain a temporary restraining order or a preliminary or permanent injunction ordering the person to cease distribution of the intimate image.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 107

HOUSE BILL NO. 1368

(Representatives Delmore, Keiser, Kretschmar, Oversen)
(Senators Carlisle, Casper, Grabinger, Poolman)

AN ACT to amend and reenact section 12.1-17-13 of the North Dakota Century Code, relating to mandated treatment of domestic violence offenders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-17-13 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-13. Mandated treatment of domestic violence offenders.

The sentence for an offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, or 12.1-17-05 against an actor's family or household member, as defined in subsection 4 of section 14-07.1-01, must include an order to complete a domestic violence offender treatment program. A court may not order the offender to attend anger management classes or individual counseling unless a domestic violence offender treatment program is not reasonably available to the defendant and the court makes written findings for the record explaining why such an order to complete a domestic violence offender treatment program would be inappropriate.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 108

SENATE BILL NO. 2266

(Senators Unruh, Campbell, Oban)
(Representatives Delmore, Kempenich, Rohr)

AN ACT to amend and reenact sections 12.1-27.2-01, 12.1-27.2-02, 12.1-27.2-03, 12.1-27.2-04, and 12.1-27.2-05 of the North Dakota Century Code, relating to the use of minors in sexual performances; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.2-01. Definitions.

As used in this chapter:

1. "Obscene sexual performance" means any performance which includes sexual conduct by a minor in any obscene material or obscene performance, as defined in section 12.1-27.1-01.
2. "Performance" means any play, motion picture, photograph, dance, or other visual representation, or any part of a performance.
3. "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, ship, transport, publish, distribute, circulate, disseminate, present, exhibit, or advertise.
4. "Sexual conduct" means actual or simulated sexual intercourse, sodomy, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the buttocks, breasts, or genitals, including the further definitions of sodomy and sadomasochistic abuse under section 12.1-27.1-01.
5. "Sexual performance" means any performance which includes sexual conduct by a minor.
6. "Simulated" means the explicit depiction of any of the conduct set forth in subsection 4 which creates the appearance of actual sexual conduct and which exhibits any nude or partially denuded human figure, as defined in section 12.1-27.1-03.1.

SECTION 2. AMENDMENT. Section 12.1-27.2-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.2-02. Use of a minor in a sexual performance.

1. A person is guilty of a class **BA** felony if, knowing the character and content of a performance, that person employs, authorizes, or induces a minor to engage in sexual conduct during a performance or, if being a parent, legal guardian, or

custodian of a minor, that person consents to the participation by the minor in sexual conduct during a performance.

2. An adult is guilty of a class A felony if, with the intent to persuade, induce, entice, or coerce a minor to engage in a sexual performance, the adult portrays the adult to be a minor.

SECTION 3. AMENDMENT. Section 12.1-27.2-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.2-03. Promoting or directing an obscene sexual performance by a minor.

A person is guilty of a class ~~BA~~ felony if, knowing the character and content of a performance, that person produces, directs, or promotes any obscene performance which includes sexual conduct by a person who was a minor at the time of the performance.

SECTION 4. AMENDMENT. Section 12.1-27.2-04 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.2-04. Promoting a sexual performance by a minor.

A person is guilty of a class ~~GB~~ felony if, knowing the character and content of a performance, that person produces, directs, or promotes any performance which includes sexual conduct by a person who was a minor at the time of the performance.

SECTION 5. AMENDMENT. Section 12.1-27.2-05 of the North Dakota Century Code is amended and reenacted as follows:

12.1-27.2-05. Sexual performance by a minor - Affirmative defenses.

It is an affirmative defense to a prosecution under this chapter that:

1. The defendant in good faith reasonably believed the person appearing in the performance was eighteen years of age or older, if the minor was in fact fifteen years of age or older; or
2. The material or performance involved was disseminated or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other appropriate purpose by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a similar interest in the material or performance.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 109

SENATE BILL NO. 2250

(Senators J. Lee, Bowman, Robinson)
(Representatives Dockter, Haak, M. Johnson)

AN ACT to amend and reenact sections 12.1-29-02 and 12.1-29-03 of the North Dakota Century Code, relating to facilitating prostitution.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-29-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-29-02. Facilitating prostitution.

1. A person is guilty of an offense if ~~he~~the person:
 - a. Knowingly solicits a person to patronize a prostitute;
 - b. Knowingly procures a prostitute for a patron;
 - c. Knowingly leases or otherwise permits a place controlled by the actor, alone or in association with others, to be regularly used for prostitution, promoting prostitution, or facilitating prostitution, or fails to make reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or taking other legally available means; or
 - d. Knowingly induces or otherwise intentionally causes another to remain a prostitute. A person who is supported in whole or substantial part by the proceeds of prostitution, other than the prostitute or the prostitute's minor child or a person whom the prostitute is required by law to support, is presumed to be knowingly inducing or intentionally causing another to remain a prostitute.
2. The offense is a class ~~GA~~ felony if the actor intentionally causes another to remain a prostitute by force, coercion, or threat, or deception, or the prostitute is the actor's spouse, child, or ward, or a person for whose care, protection, or support ~~he~~the actor is responsible, ~~or the prostitute is, in fact, less than sixteen years old.~~ Otherwise it is a class A misdemeanor C felony.

SECTION 2. AMENDMENT. Section 12.1-29-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-29-03. Prostitution.

An ~~individual~~adult is guilty of prostitution, a class B misdemeanor, if the ~~individual~~adult:

1. Is an inmate of a house of prostitution or is otherwise engaged in sexual activity as a business;

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2. Solicits another person with the intention of being hired to engage in sexual activity; or
 3. Agrees to engage in sexual activity with another for money or other items of pecuniary value.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 110

SENATE BILL NO. 2332

(Senators Schneider, Oban, Oehlke)
(Representatives Klemin, Larson, Maragos)

AN ACT to create and enact section 12.1-29-07 of the North Dakota Century Code, relating to an offender education program; to amend and reenact section 12.1-29-06 of the North Dakota Century Code, relating to hiring an individual to engage in sexual activity; to provide a penalty; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-29-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-29-06. Hiring an individual to engage in sexual activity.

An individual who hires or offers or agrees to hire another individual with the intention of engaging in sexual activity is guilty of a:

1. A class B misdemeanor for a first offense; and
2. A class A misdemeanor for a second or subsequent offense within ten years.

SECTION 2. Section 12.1-29-07 of the North Dakota Century Code is created and enacted as follows:

12.1-29-07. (Effective January 1, 2016 through July 31, 2017) Offender education program.

A sentence for an offense under section 12.1-29-06 may include an order for the offender to participate in an offender education program on the negative consequences of the commercial sex industry, including health and legal consequences and the impact on communities, survivors, spouses, and children. The court may order the offender to pay the cost of the offender education program.

SECTION 3. EFFECTIVE DATE - EXPIRATION DATE. Section 2 of this Act is effective from January 1, 2016, through July 31, 2017, and is thereafter ineffective.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 111

HOUSE BILL NO. 1186

(Representatives K. Koppelman, Delmore, Hogan, Kasper, Mock, Nathe, Sukut,
Thoreson)
(Senators Armstrong, Hogue, Nelson)

AN ACT to create and enact section 12.1-31-03.2 of the North Dakota Century Code, relating to child-resistant packaging for liquid nicotine containers; to amend and reenact sections 12.1-31-03, 12.1-31-03.1, subsection 19 of section 27-20-02, and section 51-32-01 of the North Dakota Century Code, relating to the sale to minors and use by minors of electronic smoking devices or alternative nicotine products; to provide a penalty; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-31-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-03. Sale of tobacco, electronic smoking devices, or alternative nicotine products to minors and use by minors prohibited.

1. a. It is an infraction for any person to sell or furnish to a minor, or procure for a minor, cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. As used in this subsection~~subdivision~~, "sell" includes dispensing from a vending machine under the control of the actor.
- b. It is an infraction for any person to display or offer for sale cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a self-service display. This subdivision does not apply to a:
 - (1) Vending machine or other coin-operated machine that is permitted under section 12.1-31-03.1; or
 - (2) Self-service display that is located in a tobacco specialty store.
2. It is a noncriminal offense for a minor to purchase, possess, smoke, or use cigarettes, cigars, cigarette papers, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products. However, an individual under eighteen years of age may purchase and possess tobacco, electronic smoking devices, or alternative nicotine products as part of a compliance survey program when acting with the permission of the individual's parent or guardian and while acting under the supervision of any law enforcement authority. A state agency, city, county, board of health, tobacco, electronic smoking devices, or alternative nicotine products retailer, or association of tobacco, electronic smoking devices, or alternative nicotine products retailers may also conduct

compliance surveys, after coordination with the appropriate local law enforcement authority.

3. It is a noncriminal offense for a minor to present or offer to another individual a purported proof of age which is false, fraudulent, or not actually the minor's own proof of age, for the purpose of attempting to purchase or possess cigarettes, cigars, cigarette papers, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products.
4. A city or county may adopt an ordinance or resolution regarding the sale of tobacco, electronic smoking devices, or alternative nicotine products to minors and use of tobacco, electronic smoking devices, or alternative nicotine products by minors which includes prohibitions in addition to those in subsection 1, 2, or 3. Any ordinance or resolution adopted must include provisions deeming a violation of subsection 2 or 3 a noncriminal violation and must provide for a fee of not less than twenty-five dollars for a minor fourteen years of age or older who has been charged with an offense under subsection 2 or 3. The failure to post a required bond or pay an assessed fee by an individual found to have violated the ordinance or resolution is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.
5. A minor fourteen years of age or older found to have violated subsection 2 or 3 must pay a fee of twenty-five dollars.
 - a. Any individual who has been cited for a violation of subsection 2 or 3 may appear before a court of competent jurisdiction and pay the fee by the time scheduled for a hearing, or if bond has been posted, may forfeit the bond by not appearing at the scheduled time. An individual appearing at the time scheduled in the citation may make a statement in explanation of that individual's action and the judge may waive, reduce, or suspend the fee or bond, or both. If the individual cited follows the procedures of this subdivision, that individual has admitted the violation and has waived the right to a hearing on the issue of commission of the violation. The bond required to secure appearance before the court must be identical to the fee. This subdivision does not allow a citing officer to receive the fee or bond.
 - b. If an individual cited for a violation of subsection 2 or 3 does not choose to follow the procedures provided under subdivision a, that individual may request a hearing on the issue of the commission of the violation cited. The hearing must be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance. At the time of a request for a hearing on the issue on commission of the violation, the individual cited shall deposit with the court an appearance bond equal to the fee for the violation cited.
 - c. The failure to post bond or to pay an assessed fee is punishable as a contempt of court, except a minor may not be imprisoned for the contempt.
6. The prosecution must prove the commission of a cited violation under subsection 2 or 3 by a preponderance of the evidence.

7. A law enforcement officer that cites a minor for violation of this section shall mail a notice of the violation to the parent or legal guardian of the minor within ten days of the citation.
8. A person adjudged guilty of contempt for failure to pay a fee or fine may be sentenced by the court to a sanction or order designed to ensure compliance with the payment of the fee or fine or to an alternative sentence or sanction including community service.
9. As used in this section:
 - a. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term does not include any cigarette, cigar, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, any electronic smoking device, or any product regulated as a drug or device by the United States Food and Drug Administration under chapter V of the federal Food, Drug, and Cosmetic Act [21 U.S.C 501 et seq.].
 - b. "Electronic smoking device" means any electronic product that delivers nicotine or other substances to the individual inhaling from the device, including, an electronic cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of such a product, whether or not sold separately. Electronic smoking device does not include drugs, devices, or combination products approved for sale by the United States food and drug administration, as those terms are defined in the federal Food, Drug and Cosmetic Act [52 Stat. 1040; 21 U.S.C. 301 et seq.].
 - c. "Self-service display" means a display that contains cigarettes, cigarette papers, cigars, snuff, tobacco in any other form which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products and is located in an area that is openly accessible to the retailer's customers, and from which customers can readily access those products without the assistance of a salesperson. A display case that holds those products behind locked doors does not constitute a self-service display.
 - d. "Tobacco specialty store" means a retail store that:
 - (1) Derives at least seventy-five percent of its revenue from the sale of cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products; and
 - (2) Does not permit minors to enter the premises unless accompanied by a parent or legal guardian.
 - e. "Vending machine" means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or other means of payment that is designed or used for vending purposes, including machines or devices that use remote control locking mechanisms.

SECTION 2. AMENDMENT. Section 12.1-31-03.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-03.1. Vending machines prohibited - Penalty.

1. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through a vending machine, except as provided in subsection 2.
2. Subsection 1 does not apply to:
 - a. A vending machine that is located in an area in which minors are not permitted access; or
 - b. A vending machine that dispenses cigarettes, cigarette papers, cigars, snuff, or tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through the operation of a device that requires a salesperson to control the dispensation of such product.
3. It is an infraction for any person to sell or furnish cigarettes, cigarette papers, cigars, snuff, tobacco in any other form in which it may be utilized for smoking or chewing, electronic smoking devices, or alternative nicotine products through any vending machine, if those products are placed together with any nontobacco product, other than matches, in the vending machine.
4. As used in this section, "electronic smoking devices" and "alternative nicotine products" have the same meaning as in section 12.1-31-03.

SECTION 3. Section 12.1-31-03.2 of the North Dakota Century Code is created and enacted as follows:

12.1-31-03.2. (Contingent expiration date - See note) Child-resistant packaging for liquid nicotine containers.

1. Any nicotine liquid container that is sold at retail in this state must satisfy the child-resistant effectiveness standards set forth in title 16, CFR, part 1700, section 15(b)(1), when tested in accordance with the method described in title 16, CFR, part 1700, section 20.
2. As used in this section, "nicotine liquid container" means a bottle or other container of a liquid or other substance containing nicotine in which the liquid or substance is sold, marketed, or intended for use in an electronic smoking device. The term does not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in an electronic smoking device, provided that the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.
3. Any person that engages in retail sales of liquid nicotine containers in violation of this section is subject to a civil penalty of not more than five hundred dollars for each separate violation of this section, to be recovered by any enforcement authority designated by the city or political subdivision in which the violation occurred.

⁹⁴ **SECTION 4. AMENDMENT.** Subsection 19 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

19. "Unruly child" means a child who:
 - a. Is habitually and without justification truant from school;
 - b. Is habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian and is ungovernable or who is willfully in a situation dangerous or injurious to the health, safety, or morals of the child or others;
 - c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution;
 - d. Has committed an offense in violation of section 5-01-08; or
 - e. Is under the age of fourteen years and has purchased, possessed, smoked, or used tobacco or tobacco-related products, electronic smoking devices, or alternative nicotine products in violation of subsection 2 of section 12.1-31-03; and
 - f. In any of the foregoing instances is in need of treatment or rehabilitation.
 - g. As used in this subsection, "electronic smoking devices" and "alternative nicotine products" have the same meaning as in section 12.1-31-03.

SECTION 5. AMENDMENT. Section 51-32-01 of the North Dakota Century Code is amended and reenacted as follows:

51-32-01. Prohibited acts regarding sale of tobacco products, electronic smoking devices, or alternative nicotine products to minors.

1. It is unlawful for any person in the business of selling tobacco products to take an order for a tobacco product, other than from a person who is in the business of selling tobacco products, through the mail or through any telecommunications means, including by telephone, facsimile, or the internet, if in providing for the sale or delivery of the product pursuant to the order, the person mails the product or ships the product by carrier, and the person fails to comply with each of the following procedures:
 4. a. Before mailing or shipping the product, the person receives from the individual who places the order the following:
 - a- (1) A copy of a valid government-issued document that provides the name, address, and date of birth of the individual; and
 - b- (2) A signed statement from the individual providing a certification that the individual:
 - (4) (a) Is a smoker of legal minimum purchase age in the state;

⁹⁴ Section 27-20-02 was also amended by section 4 of House Bill No. 1029, chapter 127, section 2 of House Bill No. 1347, chapter 112, and section 1 of Senate Bill No. 2064, chapter 229.

- (2) (b) Has selected an option on the statement as to whether the individual wants to receive mailings from a tobacco company; and
 - (3) (c) Understands that providing false information may constitute a violation of law.
2. b. Before mailing or shipping the product, the person:
 - a. (1) Verifies the date of birth or age of the individual against a commercially available database; or
 - b. (2) Obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the individual placing the order.
 3. c. Before mailing or shipping the product, the person provides to the prospective purchaser, by electronic mail or other means, a notice that meets the requirements of section ~~54-30-0451-32-04~~.
 4. d. In the case of an order for a product pursuant to an advertisement on the internet, the person receives payment by credit card, debit card, or check for the order before mailing or shipping the product.
 - 5.a.e. (1) The person employs a method of mailing or shipping the product requiring that the individual purchasing the product:
 - (1) (a) Be the addressee;
 - (2) (b) Have an individual of legal minimum purchase age sign for delivery of the package; and
 - (3) (c) If the individual appears to the carrier making the delivery to be under twenty-seven years of age, take delivery of the package only after producing valid government-issued identification that bears a photograph of the individual, indicates that the individual is not under the legal age to purchase cigarettes, and indicates that the individual is not younger than the age indicated on the government-issued document.
 - b. (2) The bill of lading clearly states the requirements in subdivision a and specifies that state law requires compliance with the requirements.
 6. f. The person notifies the carrier for the mailing or shipping, in writing, of the age of the addressee as indicated by the government-issued document.
2. It is unlawful for any person in the business of selling electronic smoking devices or alternative nicotine products to take an order for an electronic smoking device or alternative nicotine product, other than from a person who is in the business of selling electronic smoking devices or alternative nicotine products through the mail or through any telecommunications means, including by telephone, facsimile, or the internet, if in providing for the sale or delivery of the product pursuant to the order, the person mails the product or ships the product by carrier, and the person fails to comply with each of the following procedures:

- a. Before the sale of the electronic smoking device or alternative nicotine product verifies the purchaser is at least eighteen years of age through a commercially available database that is regularly used by business or governmental entities for the purpose of age and identity verification; and
 - b. Uses a method of mailing, shipping, or delivery which requires an individual of legal minimum purchase age to sign for delivery before the electronic smoking device or alternative nicotine product is released to the purchaser.
3. As used in subsection 2, "electronic smoking devices" and "alternative nicotine products" have the same meaning as in section 12.1-31-03.

SECTION 6. EXPIRATION DATE. Section 3 of this Act is effective until the date the attorney general certifies to the legislative council that final regulations issued by the United States food and drug administration or another federal agency are in effect which mandate child-resistant effectiveness standards for liquid nicotine containers, and after that date is ineffective.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 112

HOUSE BILL NO. 1347

(Representatives Meier, P. Anderson, Hawken)
(Senators Davison, Heckaman, Krebsbach)

AN ACT to amend and reenact subsection 1 of section 12.1-31.2-01 and subsection 8 of section 27-20-02 of the North Dakota Century Code, relating to the inclusion of human trafficking in the definition of disorderly conduct and the definition of a deprived child.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 12.1-31.2-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Disorderly conduct" means intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person. For the purposes of this section, disorderly conduct includes human trafficking or attempted human trafficking as defined in this title. Disorderly conduct does not include constitutionally protected activity.

⁹⁵ **SECTION 2. AMENDMENT.** Subsection 8 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

8. "Deprived child" means a child who:
 - a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
 - b. Has been placed for care or adoption in violation of law;
 - c. Has been abandoned by the child's parents, guardian, or other custodian;
 - d. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care is not due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;
 - e. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the juvenile court;

⁹⁵ Section 27-20-02 was also amended by section 4 of House Bill No. 1029, chapter 127, section 4 of House Bill No. 1186, chapter 111, and section 1 of Senate Bill No. 2064, chapter 229.

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- f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in chapter 19-03.1 in a manner not lawfully prescribed by a practitioner; or
 - g. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2; or
 - h. Is a victim of human trafficking as defined in title 12.1.

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 113

SENATE BILL NO. 2156

(Senators Armstrong, Casper)
(Representatives Delmore, Larson, Maragos)

AN ACT to amend and reenact section 12.1-32-02.1 of the North Dakota Century Code, relating to mandatory sentences for armed offenders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-32-02.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-02.1. Mandatory prison terms for armed offenders.

1. Notwithstanding any other provision of this title, a term of imprisonment must be imposed upon an offender and served without benefit of parole when:
 - a. In the course of committing an offense, the offender inflicts or attempts to inflict bodily injury upon another, threatens or menaces another with imminent bodily injury with a dangerous weapon, explosive, destructive device, or firearm; or
 - b. The offender possesses or has within immediate reach and control a dangerous weapon, explosive, destructive device, or firearm while in the course of committing any felony offense under subsection 1, 2, or ~~except for the simple possession of marijuana~~, 7 of section 19-03.1-23.
2. This requirement applies only when possession of a dangerous weapon, explosive, destructive device, or firearm has been charged and admitted or found to be true in the manner provided by law, and must be imposed as follows:
 - a. If the offense for which the offender is convicted is a class AA, class A, or class B felony, the court shall impose a minimum sentence of four years' imprisonment.
 - b. If the offense for which the offender is convicted is a class C felony, the court shall impose a minimum sentence of two years' imprisonment.
- ~~2.3.~~ This section applies even when being armed is an element of the offense for which the offender is convicted.
- ~~3.4.~~ An offender serving a sentence subject to this section may be eligible to participate in a release program under section 12-48.1-02 during the last six months of the offender's sentence.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 114

HOUSE BILL NO. 1367

(Representatives Brabandt, K. Koppelman, Louser)
(Senator Burckhard)

AN ACT to amend and reenact section 12.1-32-06.1, subsections 1 and 3 of section 12.1-32-07, subsection 2 of section 19-03.4-03, and section 29-01-20 of the North Dakota Century Code, relating to drug paraphernalia, custody and return of stolen property, and court authority to impose supervision, conditions, and additional periods of probation; to provide for a legislative management study; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-32-06.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-06.1. Length and termination of probation - Additional probation for violation of conditions - Penalty.

1. Except as provided in this section, the length of ~~the period of unsupervised~~ probation imposed in conjunction with a sentence to probation or a suspended execution or deferred imposition of sentence may not extend for more than five years for a felony and two years for a misdemeanor or infraction from the later of the date of:
 - a. The order imposing probation;
 - b. The defendant's release from incarceration; or
 - c. Termination of the defendant's parole.
2. Except as provided in this section, the length of supervised probation imposed in conjunction with a sentence of probation or a suspended execution or deferred imposition of sentence may not extend for more than five years for a felony offense subject to section 12.1-32-09.1, a felony offense subject to section 12.1-32-02.1, which involves the use of a firearm or dangerous weapon, a second or subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, or a violation of section 14-09-22; three years for any other felony offense; two years for a class A misdemeanor; and three hundred sixty days for a class B misdemeanor offense from the later of the date of:
 - a. The order imposing probation;
 - b. The defendant's release from incarceration; or
 - c. Termination of the defendant's parole.
- 2-3. If the defendant has pled or been found guilty of an offense for which the court imposes a sentence of restitution or reparation for damages resulting from the

commission of the offense, the court may, following a restitution hearing pursuant to section 12.1-32-08, impose an additional ~~period~~periods of unsupervised probation not to exceed five years for each additional period imposed.

- ~~3-4.~~ If the defendant has pled or been found guilty of a felony sexual offense in violation of chapter 12.1-20, the court shall impose at least five years but not more than ten years of supervised probation to be served after sentencing or incarceration. If the defendant has pled or been found guilty of a class AA felony sexual offense in violation of section 12.1-20-03 or 12.1-20-03.1, the court may impose lifetime supervised probation on the defendant. If the defendant has pled or been found guilty of a misdemeanor sexual offense in violation of chapter 12.1-20, the court may impose an additional ~~period~~periods of probation not to exceed two years for each additional period imposed. If the unserved portion of the defendant's maximum period of incarceration is less than one year, a violation of the probation imposed under this subsection is a class A misdemeanor.
- ~~4-5.~~ If the defendant has pled or been found guilty of abandonment or nonsupport of spouse or children, the period of probation may be continued for as long as responsibility for support continues.
- ~~5-6.~~ In felony and misdemeanor cases, in consequence of violation of probation conditions, the court may impose an additional ~~period of~~ probation not to exceed five years. ~~The additional period of probation may follow a period of incarceration if the defendant has not served the maximum period of incarceration available at the time of initial sentencing or deferment.~~if the defendant has not served the maximum sentence of imprisonment available to the court at the time of initial sentencing or deferment or the total time on probation authorized under this section.
- a. For class B and greater felony offenses, an offense subject to section 12.1-32-09.1, a felony offense subject to section 12.1-32-02.1, which involves the use of a firearm or dangerous weapon, a second or subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, or a violation of section 14-09-22, the total time on probation may not exceed ten years.
 - b. For all other felony offenses, the total time on probation may not exceed five years.
 - c. For misdemeanor cases, the total time on probation may not exceed three years.
 - d. The court shall allow the defendant credit for a sentence of probation from the date the defendant began probation until the date a petition to revoke probation was filed with the court. If the defendant is on supervised probation, the defendant is not entitled to credit for a sentence of probation for any period the defendant has absconded from supervision. The total amount of credit a defendant is entitled to for time spent on probation must be stated in the criminal judgment or order of revocation of probation.

- 6-7. The court may terminate a period of probation and discharge the defendant at any time earlier than that provided in subsection 1 if warranted by the conduct of the defendant and the ends of justice.
- 7-8. Notwithstanding the fact that a sentence to probation subsequently can be modified or revoked, a judgment that includes such a sentence constitutes a final judgment for all other purposes.

SECTION 2. AMENDMENT. Subsections 1 and 3 of section 12.1-32-07 of the North Dakota Century Code are amended and reenacted as follows:

1. ~~When the court imposes probation upon conviction for a felony offense subject to section 12.1-32-09.1 or 12.1-32-02.1, a second or subsequent violation of section 12.1-17-07.1, a second or subsequent violation of any domestic violence protection order, a violation of chapter 12.1-41, a violation of section 14-09-22, or a felony offense under chapter 39-08, the court shall place the defendant under the supervision and management of the department of corrections and rehabilitation. When the court imposes probation upon conviction or order of disposition in all other felony cases, the court may place the defendant under the supervision and management of the department of corrections and rehabilitation. In class A misdemeanor cases, the court may place the defendant under the supervision and management of the department of corrections and rehabilitation or other responsible party. In all other cases, the court may place the defendant under the supervision and management of a community corrections program other than the department of corrections and rehabilitation. If an appropriate community corrections program is not reasonably available, the court may place the defendant under the supervision and management of the department of corrections and rehabilitation. The department of corrections and rehabilitation may arrange for the supervision and management of the defendant by a community corrections program selected by the department of corrections and rehabilitation. A community corrections program means a program for the supervision of a defendant, including monitoring and enforcement of terms and conditions of probation set by the court or pursuant to a conditional release from the physical custody of a correctional facility or the department of corrections and rehabilitation.~~
3. The court shall provide as an explicit condition of every probation that the defendant may not possess a firearm, destructive device, or other dangerous weapon while the defendant is on probation. Except when the offense is a misdemeanor offense under section 12.1-17-01, 12.1-17-01.1, 12.1-17-05, or 12.1-17-07.1, or chapter 14-07.1, the court may waive this condition of probation if the defendant has pled guilty to, or has been found guilty of, a misdemeanor or infraction offense, the misdemeanor or infraction is the defendant's first offense, and the court has made a specific finding on the record before imposition of a sentence or a probation that there is good cause to waive the condition. The court may not waive this condition of probation if the court places the defendant under the supervision and management of the department of corrections and rehabilitation. The court shall provide as an explicit condition of probation that the defendant may not willfully defraud a urine test administered as a condition of probation. Unless waived on the record by the court, the court shall also provide as a condition of probation that the defendant undergo various agreed-to community constraints and conditions as intermediate measures of the department of corrections and rehabilitation to avoid revocation, which may include:

- a. Community service;
- b. Day reporting;
- c. Curfew;
- d. Home confinement;
- e. House arrest;
- f. Electronic monitoring;
- g. Residential halfway house;
- h. Intensive supervision program; or
- i. Up to five nonsuccessive periods of incarceration during any twelve-month period, each of which may not exceed forty-eight consecutive hours; or
- j. Participation in the twenty-four seven sobriety program.

⁹⁶ **SECTION 3. AMENDMENT.** Subsection 2 of section 19-03.4-03 of the North Dakota Century Code, as amended in section 1 of Senate Bill No. 2030, as approved by the sixty-fourth legislative assembly, is amended and reenacted as follows:

2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this ~~chapter title~~, other than an offense related to marijuana, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony.

SECTION 4. AMENDMENT. Section 29-01-20 of the North Dakota Century Code is amended and reenacted as follows:

29-01-20. Stolen property to be held by peace officer.

1. ~~When~~Except as provided in subsection 2, whenever property alleged to have been stolen or embezzled comes into the custody of a peace officer, the peace officer shall hold it subject to the order of the magistrate authorized by section 29-01-21 to direct the disposal thereof.
2. Subsection 1 does not apply to:
 - a. Consumer goods, as defined in section 41-09-02; and
 - b. Goods covered by a certificate of title if proof of certificate of title is presented to the peace officer.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY - SEIZED PROPERTY. During the 2015-16 interim, the legislative management shall consider studying the

⁹⁶ Section 19-03.4-03 was also amended by section 1 of Senate Bill No. 2030, chapter 173.

return of property that comes into the custody of or is seized by peace officers across North Dakota. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 23, 2015

Filed April 23, 2015

CHAPTER 115

HOUSE BILL NO. 1407

(Representatives Thoreson, Dockter, Kading, Kasper)
(Senators Carlisle, Flakoll, Poolman)

AN ACT to amend and reenact section 12.1-32-15 of the North Dakota Century Code, relating to the registration of sex offenders and offenders against children who are homeless; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁷ **SECTION 1. AMENDMENT.** Section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-15. Offenders against children and sexual offenders - Sexually violent predators - Registration requirement - Penalty.

1. As used in this section:

- a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or subsection 2 of section 14-09-22, labor trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
- b. "Department" means the department of corrections and rehabilitation.
- c. "Homeless" means an individual who is physically present in this state, but is living in a park, under a bridge, on the streets, in a vehicle or camper, or is otherwise without a traditional dwelling, and also one who resides in this state but does not maintain a permanent address. The term does not include individuals who are temporarily domiciled or individuals residing in public or private shelters that provide temporary living accommodations.
- d. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
- d-e. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

⁹⁷ Section 12.1-32-15 was also amended by section 1 of House Bill No. 1029, chapter 127, section 1 of Senate Bill No. 2107, chapter 117, and section 7 of Senate Bill No. 2215, chapter 96.

- e.f. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, sex trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.
- f.g. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.
- g.h. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.
2. The court shall impose, in addition to any penalty provided by law, a requirement that the individual register, within three days of coming into a county in which the individual resides, is homeless, or within the period identified in this section that the individual becomes temporarily domiciled. The individual must register with the chief of police of the city or the sheriff of the county if the individual resides, attends school, or is employed in an area other than a city. A homeless individual shall register every three days with the sheriff or chief of police of the jurisdiction in which the individual is physically present. The court shall require an individual to register by stating this requirement on the court records, if that individual:
- Has pled guilty or nolo contendere to, or been found guilty as a felonious sexual offender or an attempted felonious sexual offender, including juvenile delinquent adjudications of equivalent offenses unless the offense is listed in subdivision c.
 - Has pled guilty or nolo contendere to, or been found guilty as a sexual offender for, a misdemeanor or attempted misdemeanor. The court may deviate from requiring an individual to register if the court first finds the individual is no more than three years older than the victim if the victim is a minor, the individual has not previously been convicted as a sexual offender or of a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - Is a juvenile found delinquent under subdivision d of subsection 1 of section 12.1-20-03, subdivision a of subsection 2 of section 12.1-20-03, or as a sexual offender for a misdemeanor. The court may deviate from requiring the juvenile to register if the court first finds the juvenile has not previously been convicted as a sexual offender or for a crime against a child, and the juvenile did not exhibit mental abnormality or predatory conduct in the commission of the offense.
 - Has pled guilty or nolo contendere to, or been found guilty of, a crime against a child or an attempted crime against a child, including juvenile delinquent adjudications of equivalent offenses. Except if the offense is described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 and

- the person is not the parent of the victim, the court may deviate from requiring an individual to register if the court first finds the individual has not previously been convicted as a sexual offender or for a crime against a child, and the individual did not exhibit mental abnormality or predatory conduct in the commission of the offense.
- e. Has pled guilty or nolo contendere, been found guilty, or been adjudicated delinquent of any crime against another individual which is not otherwise specified in this section if the court determines that registration is warranted by the nature of the crime and therefore orders registration for the individual. If the court orders an individual to register as an offender under this section, the individual shall comply with all of the registration requirements in this chapter.
3. If a court has not ordered an individual to register in this state, an individual who resides is homeless, or is temporarily domiciled in this state shall register if the individual:
 - a. Is incarcerated or is on probation or parole after July 31, 1995, for a crime against a child described in section 12.1-29-02, or section 12.1-18-01 or 12.1-18-02 if the individual was not the parent of the victim, or as a sexual offender;
 - b. Has pled guilty or nolo contendere to, or been adjudicated for or found guilty of, an offense in a court of this state for which registration is mandatory under this section or an offense from another court in the United States, a tribal court, or court of another country equivalent to those offenses set forth in this section; or
 - c. Has pled guilty or nolo contendere to, or has been found guilty of, a crime against a child or as a sexual offender for which registration is mandatory under this section if the conviction occurred after July 31, 1985.
 4. In its consideration of mental abnormality or predatory conduct, the court shall consider the age of the offender, the age of the victim, the difference in ages of the victim and offender, the circumstances and motive of the crime, the relationship of the victim and offender, and the mental state of the offender. The court may order an offender to be evaluated by a qualified counselor, psychologist, or physician before sentencing. Except as provided under subdivision e of subsection 2, the court shall state on the record in open court its affirmative finding for not requiring an offender to register.
 5. When an individual is required to register under this section, the official in charge of a facility or institution where the individual required to register is confined, or the department, shall, before the discharge, parole, or release of that individual, inform the individual of the duty to register pursuant to this section. The official or the department shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register has been explained to that individual. The official in charge of the place of confinement, or the department, shall obtain the address where the individual expects to reside, attend school, or work upon discharge, parole, or release and shall report the address to the attorney general. The official in charge of the place of confinement, or the department, shall give three copies of the form to the individual and shall send three copies to the attorney general no later than forty-five days before the scheduled

release of that individual. The attorney general shall forward one copy to the law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release, one copy to the prosecutor who prosecuted the individual, and one copy to the court in which the individual was prosecuted. All forms must be transmitted and received by the law enforcement agency, prosecutor, and court thirty days before the discharge, parole, or release of the individual.

6. An individual who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine must, before the release or discharge, be informed of the duty to register under this section by the court in which that individual is convicted. The court shall require the individual to read and sign a form as required by the attorney general, stating that the duty of the individual to register under this section has been explained to that individual. The court shall obtain the address where the individual expects to reside, attend school, or work upon release or discharge and shall report the address to the attorney general within three days. The court shall give one copy of the form to the individual and shall send two copies to the attorney general. The attorney general shall forward one copy to the appropriate law enforcement agency having jurisdiction where the individual expects to reside, attend school, or work upon discharge, parole, or release.
7. Registration consists of a written statement signed by the individual, giving the information required by the attorney general, and the fingerprints and photograph of the individual. An individual who is not required to provide a sample of blood and other body fluids under section 31-13-03 or by the individual's state or court of conviction or adjudication shall submit a sample of blood and other body fluids for inclusion in a centralized database of DNA identification records under section 31-13-05. The collection, submission, testing and analysis of, and records produced from, samples of blood and other body fluids, are subject to chapter 31-13. Evidence of the DNA profile comparison is admissible in accordance with section 31-13-02. A report of the DNA analysis certified by the state crime laboratory is admissible in accordance with section 31-13-05. A district court shall order an individual who refuses to submit a sample of blood or other body fluids for registration purposes to show cause at a specified time and place why the individual should not be required to submit the sample required under this subsection. Within three days after registration, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the attorney general and shall submit the sample of the individual's blood and body fluids to the state crime laboratory. If an individual required to register under this section has a change in vehicle or computer online identity, the individual shall inform in writing, within three days after the change, the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity. If an individual required to register pursuant to this section has a change in name, school, or residence or employment address, that individual shall inform in writing, at least ten days before the change, the law enforcement agency with which that individual last registered of the individual's new name, school, residence address, or employment address. A change in school or employment address includes the termination of school or employment for which an individual required to register under this section shall inform in writing within five days of the termination the law enforcement agency with which the individual last registered. The law enforcement agency, within three days after receipt of the information, shall forward it to the attorney general. The attorney general shall forward the appropriate

registration data to the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. Upon a change of address, the individual required to register shall also register within three days at the law enforcement agency having local jurisdiction of the new place of residence, school, or employment. The individual registering under this section shall periodically confirm the information required under this subsection in a manner and at an interval determined by the attorney general. A law enforcement agency that has previously registered an offender may omit the fingerprint portion of the registration if that agency has a set of fingerprints on file for that individual and is personally familiar with and can visually identify the offender. These provisions also apply in any other state that requires registration.

8. An individual required to register under this section shall comply with the registration requirement for the longer of the following periods:
 - a. A period of fifteen years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later;
 - b. A period of twenty-five years after the date of sentence or order deferring or suspending sentence upon a plea or finding of guilt or after release from incarceration, whichever is later, if the offender is assigned a moderate risk by the attorney general as provided in subsection 12; or
 - c. For the life of the individual, if that individual:
 - (1) On two or more occasions has pled guilty or nolo contendere to, or been found guilty of a crime against a child or as a sexual offender. If all qualifying offenses are misdemeanors, this lifetime provision does not apply unless a qualifying offense was committed after August 1, 1999;
 - (2) Pleads guilty or nolo contendere to, or is found guilty of, an offense committed after August 1, 1999, which is described in subdivision a of subsection 1 of section 12.1-20-03, section 12.1-20-03.1, or subdivision d of subsection 1 of section 12.1-20-03 if the person is an adult and the victim is under age twelve, or section 12.1-18-01 if that individual is an adult other than a parent of the victim, or an equivalent offense from another court in the United States, a tribal court, or court of another country; or
 - (3) Is assigned a high risk by the attorney general as provided in subsection 12.
9. An individual required to register under this section who violates this section is guilty of a class C felony. The failure of a homeless individual to register as required in subsections 2 and 3 is prima facie evidence of a violation of this section. The clerk of court shall forward all warrants issued for a violation of this section to the county sheriff, who shall enter all such warrants into the national crime information center wanted person file. A court may not relieve an individual, other than a juvenile, who violates this section from serving a term of at least ninety days in jail and completing probation of one year.

10. When an individual is released on parole or probation and is required to register pursuant to this section, but fails to do so within the time prescribed, the court shall order the probation, or the parole board shall order the parole, of the individual revoked.
11. If an individual required to register pursuant to this section is temporarily sent outside the facility or institution where that individual is confined under conviction or sentence, the local law enforcement agency having jurisdiction over the place where that individual is being sent must be notified within a reasonable time period before that individual is released from the facility or institution. This subsection does not apply to any individual temporarily released under guard from the facility or institution in which that individual is confined.
12. The attorney general, with the assistance of the department and the juvenile courts, shall develop guidelines for the risk assessment of sexual offenders who are required to register, with a low-risk, moderate-risk, or high-risk level being assigned to each offender as follows:
 - a. The department shall conduct a risk assessment of sexual offenders who are incarcerated in institutions under the control of the department and sexual offenders who are on supervised probation. The department, in a timely manner, shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning individuals required to be registered under this section who are about to be released or placed into the community.
 - b. The attorney general shall conduct a risk assessment of sexual offenders who are not under the custody or supervision of the department. The attorney general may adopt a law enforcement agency's previous assignment of risk level for an individual if the assessment was conducted in a manner substantially similar to the guidelines developed under this subsection.
 - c. The juvenile courts or the agency having legal custody of a juvenile shall conduct a risk assessment of juvenile sexual offenders who are required to register under this section. The juvenile courts or the agency having legal custody of a juvenile shall provide the attorney general any information, including the offender's level of risk and supporting documentation, concerning juveniles required to register and who are about to be released or placed into the community.
 - d. The attorney general shall notify the offender of the risk level assigned to that offender. An offender may request a review of that determination with the attorney general's sexual offender risk assessment committee and may present any information that the offender believes may lower the assigned risk level.
13. Relevant and necessary conviction and registration information must be disclosed to the public by a law enforcement agency if the individual is a moderate or high risk and the agency determines that disclosure of the conviction and registration information is necessary for public protection. The attorney general shall develop guidelines for public disclosure of offender registration information. Public disclosure may include internet access if the offender:

- a. Is required to register for a lifetime under subsection 8;
- b. Has been determined to be a high risk to the public by the department, the attorney general, or the courts, according to guidelines developed by those agencies; or
- c. Has been determined to be a high risk to the public by an agency of another state or the federal government.

If the offender has been determined to be a moderate risk, public disclosure must include, at a minimum, notification of the offense to the victim registered under chapter 12.1-34 and to any agency, civic organization, or group of persons who have characteristics similar to those of a victim of the offender. Upon request, law enforcement agencies may release conviction and registration information regarding low-risk, moderate-risk, or high-risk offenders.

14. A state officer, law enforcement agency, or public school district or governing body of a nonpublic school or any appointee, officer, or employee of those entities is not subject to civil or criminal liability for making risk determinations, allowing a sexual offender to attend a school function under section 12.1-20-25, or for disclosing or for failing to disclose information as permitted by this section.
15. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.
16. If an individual has been required to register as a sexual offender or an offender against a child under section 12.1-32-15 or 27-20-52.1 before August 1, 1999, the individual may petition the court to be removed from the offender list if registration is no longer mandatory for that individual. In considering the petition, the court shall comply with the requirements of this section.
17. A sexual offender who is currently assigned a moderate or high-risk level by the attorney general may not use a state park of this state as a residence or residential address to comply with the registration requirements of this section. Before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate or high-risk level by the attorney general shall notify a parks and recreation department law enforcement officer at the state park where the sexual offender will be staying.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

CHAPTER 116

HOUSE BILL NO. 1030

(Legislative Management)
(Commission on Alternatives to Incarceration)

AN ACT to create and enact a new section to chapter 12.1-32 of the North Dakota Century Code, relating to exceptions from mandatory minimum sentences; to amend and reenact subsection 19 of section 12.1-01-04, subdivision a of subsection 3 of section 12.1-20-03, and subsection 2 of section 12.1-32-07.1 of the North Dakota Century Code, relating to the definition of manifest injustice.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 19 of section 12.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

19. Repealed by S.L. 1975, ch. 116, § 33 "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable individual, with due consideration of the totality of circumstances.

SECTION 2. AMENDMENT. Subdivision a of subsection 3 of section 12.1-20-03 of the North Dakota Century Code is amended and reenacted as follows:

- a. An offense under this section is a class AA felony if in the course of the offense the actor inflicts serious bodily injury upon the victim, if the actor's conduct violates subdivision a of subsection 1, or if the actor's conduct violates subdivision d of subsection 1 and the actor was at least twenty-two years of age at the time of the offense. For any conviction of a class AA felony under subdivision a of subsection 1, the court shall impose a minimum sentence of twenty years' imprisonment, with probation supervision to follow the incarceration. The court may deviate from the mandatory sentence if the court finds that the sentence would impose a manifest injustice ~~as defined in section 39-01-04~~ and the defendant has accepted responsibility for the crime or cooperated with law enforcement. However, a defendant convicted of a class AA felony under this section may not be sentenced to serve less than five years of incarceration.

SECTION 3. AMENDMENT. Subsection 2 of section 12.1-32-07.1 of the North Dakota Century Code is amended and reenacted as follows:

2. Whenever a person has been placed on probation pursuant to subsection 4 of section 12.1-32-02, the court at any time, when the ends of justice will be served, and when reformation of the probationer warrants, may terminate the period of probation and discharge the person so held. A person convicted of gross sexual imposition under subdivision a of subsection 1 of section 12.1-20-03 is not entitled to early termination of probation pursuant to this section, unless the court finds after at least eight years of supervised probation that further supervision would impose a manifest injustice ~~as defined in section 39-01-04~~. Every defendant who has fulfilled the conditions of probation for the entire period, or who has been discharged from probation

prior to termination of the probation period, may at any time be permitted in the discretion of the court to withdraw the defendant's plea of guilty. The court may in its discretion set aside the verdict of guilty. In either case, the court may dismiss the information or indictment against the defendant. The court may, upon its own motion or upon application by the defendant and before dismissing the information or indictment, reduce to a misdemeanor a felony conviction for which the plea of guilty has been withdrawn or set aside. The defendant must then be released from all penalties and disabilities resulting from the offense or crime of which the defendant has been convicted except as provided by sections 12.1-32-15 and 62.1-02-01.

SECTION 4. A new section to chapter 12.1-32 of the North Dakota Century Code is created and enacted as follows:

Mandatory sentences - Exceptions.

1. In addition to any other provision of law, when sentencing an individual convicted of a violation in chapter 19-03.1 for which there is a mandatory minimum sentence, the court may depart from the applicable mandatory minimum sentence if the court, in giving due regard to the nature of the crime, history and character of the defendant, and the defendant's chances of successful rehabilitation, finds a compelling reason on the record that imposition of the mandatory minimum sentence would result in manifest injustice to the defendant and that the mandatory minimum sentence is not necessary for the protection of the public.
2. Subsection 1 does not apply if the individual is sentenced under section 12.1-32-02.1.
3. Upon departing from a mandatory minimum sentence, a judge shall report to the state court administrator who shall make available in electronic form and on the world wide web an annual report by July 1 of each year on the total number of departures from mandatory minimum sentences.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 117

SENATE BILL NO. 2107

(Judiciary Committee)

(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact chapter 12.1-41 of the North Dakota Century Code, relating to the Uniform Act on Prevention of and Remedies for Human Trafficking; to amend and reenact subsection 1 of section 12.1-32-15 of the North Dakota Century Code, relating to definitions; to repeal chapter 12.1-40 of the North Dakota Century Code, relating to human trafficking; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁸ **SECTION 1. AMENDMENT.** Subsection 1 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

1. As used in this section:
 - a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or subsection 2 of section 14-09-22, ~~labor trafficking in violation of chapter 12.1-40~~ subsection 3 of section 12.1-41-02, subsection 3 of section 12.1-41-03, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.
 - b. "Department" means the department of corrections and rehabilitation.
 - c. "Mental abnormality" means a congenital or acquired condition of an individual that affects the emotional or volitional capacity of the individual in a manner that predisposes that individual to the commission of criminal sexual acts to a degree that makes the individual a menace to the health and safety of other individuals.
 - d. "Predatory" means an act directed at a stranger or at an individual with whom a relationship has been established or promoted for the primary purpose of victimization.
 - e. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-06.1, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, ~~or~~ subsection 2 of section 12.1-22-03.1, ~~sex trafficking in violation of chapter~~

⁹⁸ Section 12.1-32-15 was also amended by section 1 of House Bill No. 1029, chapter 127, section 1 of House Bill No. 1407, chapter 115, and section 7 of Senate Bill No. 2215, chapter 96.

12.1-40 subdivision b of subsection 1 of section 12.1-41-02, section 12.1-41-04, 12.1-41-05, or 12.1-41-06, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt or conspiracy to commit these offenses.

- f. "Sexually dangerous individual" means an individual who meets the definition specified in section 25-03.3-01.
- g. "Temporarily domiciled" means staying or being physically present in this state for more than thirty days in a calendar year or at a location for longer than ten consecutive days, attending school for longer than ten days, or maintaining employment in the jurisdiction for longer than ten days, regardless of the state of the residence.

SECTION 2. Chapter 12.1-41 of the North Dakota Century Code is created and enacted as follows:

12.1-41-01. Definitions.

In this chapter:

- 1. "Adult" means an individual eighteen years of age or older.
- 2. "Coercion" means:
 - a. The use or threat of force against, abduction of, serious harm to, or physical restraint of, an individual;
 - b. The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of, an individual;
 - c. The abuse or threatened abuse of law or legal process;
 - d. Controlling or threatening to control an individual's access to a controlled substance as defined in section 19-03.1-01;
 - e. The destruction or taking of or the threatened destruction or taking of an individual's identification document or other property;
 - f. The use of debt bondage;
 - g. The use of an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function; or
 - h. The commission of civil or criminal fraud.
- 3. "Commercial sexual activity" means sexual activity for which anything of value is given to, promised to, or received, by a person.
- 4. "Debt bondage" means inducing an individual to provide commercial sexual activity in payment toward or satisfaction of a real or purported debt or inducing an individual to provide labor or services in payment toward or satisfaction of a real or purported debt if the reasonable value of the labor or

services is not applied toward the liquidation of the debt or if the length of the labor or services is not limited and the nature of the labor or services is not defined. The term does not include an effort by a creditor to collect an enforceable obligation by means that are permitted under state or federal laws.

5. "Human trafficking" means the commission of an offense created by sections 12.1-41-02 through 12.1-41-06.
6. "Identification document" means a passport, driver's license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government.
7. "Labor or services" means activity having economic value.
8. "Minor" means an individual less than eighteen years of age.
9. "Serious harm" means harm, whether physical or nonphysical, including psychological, economic, or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.
10. "Sexual activity" means "sexual act" as defined in section 12.1-20-02. The term includes a sexually explicit performance.
11. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.
12. "Victim" means an individual who is subjected to human trafficking or to conduct that would have constituted human trafficking had this chapter been in effect when the conduct occurred, regardless of whether a perpetrator is identified, apprehended, prosecuted, or convicted.

12.1-41-02. Trafficking an individual.

1. A person commits the offense of trafficking an individual if the person knowingly recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices an individual in furtherance of:
 - a. Forced labor in violation of section 12.1-41-03; or
 - b. Sexual servitude in violation of section 12.1-41-04.
2. Trafficking an individual who is an adult is a class A felony.
3. Trafficking an individual who is a minor is a class AA felony.

12.1-41-03. Forced labor.

1. A person commits the offense of forced labor if the person knowingly uses coercion to compel an individual to provide labor or services, except when that conduct is permissible under federal law or law of this state other than this chapter.

2. Forced labor of an individual who is an adult is a class A felony.
3. Forced labor of an individual who is a minor is a class AA felony.

12.1-41-04. Sexual servitude.

1. A person commits the offense of sexual servitude if the person knowingly:
 - a. Maintains or makes available a minor for the purpose of engaging the minor in commercial sexual activity; or
 - b. Uses coercion or deception to compel an adult to engage in commercial sexual activity.
2. It is not a defense in a prosecution under subdivision a of subsection 1 that the minor consented to engage in commercial sexual activity or that the defendant believed the minor was an adult.
3. Sexual servitude under subdivision a of subsection 1 is a class AA felony.
4. Sexual servitude under subdivision b of subsection 1 is a class A felony.

12.1-41-05. Patronizing a victim of sexual servitude.

1. A person commits the offense of patronizing a victim of sexual servitude if the person knowingly gives, agrees to give, or offers to give anything of value so that an individual may engage in commercial sexual activity with another individual and the person knows that the other individual is a victim of sexual servitude.
2. Patronizing a victim of sexual servitude who is an adult is a class B felony.
3. Patronizing a victim of sexual servitude who is a minor is a class A felony.

12.1-41-06. Patronizing a minor for commercial sexual activity.

1. A person commits the offense of patronizing a minor for commercial sexual activity if:
 - a. With the intent that an individual engage in commercial sexual activity with a minor, the person gives, agrees to give, or offers to give anything of value to a minor or another person so that the individual may engage in commercial sexual activity with a minor; or
 - b. The person gives, agrees to give, or offers to give anything of value to a minor or another person so that an individual may engage in commercial sexual activity with a minor.
2. Patronizing a minor for commercial sexual activity under subdivision a of subsection 1 is a class A felony.
3. Patronizing a minor for commercial sexual activity under subdivision b of subsection 1 is a class B felony.

12.1-41-07. Business entity liability.

1. A person that is a business entity may be prosecuted for an offense under sections 12.1-41-02 through 12.1-41-06 as provided by chapter 12.1-03.
2. When a person that is a business entity is prosecuted for an offense under sections 12.1-41-02 through 12.1-41-06, the court may consider the severity of the entity's conduct and order penalties in addition to those otherwise provided for the offense, including:
 - a. A fine of not more than one million dollars per offense;
 - b. Disgorgement of profit from activity in violation of this chapter; and
 - c. Debarment from state and local government contracts.

12.1-41-08. Aggravating circumstance.

1. An aggravating circumstance during the commission of an offense under section 12.1-41-02, 12.1-41-03, or 12.1-41-04 occurs when the defendant recruited, enticed, or obtained the victim of the offense from a shelter that serves individuals subjected to human trafficking, domestic violence, or sexual assault, runaway youth, foster children, or the homeless.
2. If the trier of fact finds that an aggravating circumstance occurred during the commission of an offense under section 12.1-41-02, 12.1-41-03, or 12.1-41-04, the defendant may be imprisoned for up to five years in addition to the period of imprisonment prescribed for the offense.

12.1-41-09. Restitution.

1. The court shall order a person convicted of an offense under section 12.1-41-02, 12.1-41-03, or 12.1-41-04 to pay restitution to the victim of the offense for:
 - a. Expenses incurred or reasonably certain to be incurred by the victim as a result of the offense, including reasonable attorney's fees and costs; and
 - b. An amount equal to the greatest of the following, with no reduction for expenses the defendant incurred to maintain the victim:
 - (1) The gross income to the defendant for, or the value to the defendant of, the victim's labor or services or sexual activity;
 - (2) The amount the defendant contracted to pay the victim; or
 - (3) The value of the victim's labor or services or sexual activity, calculated under the minimum wage and overtime provisions of the Fair Labor Standards Act [29 U.S.C. 201 et seq.] or section 34-06-22, whichever is higher, even if the provisions do not apply to the victim's labor or services or sexual activity.
2. The court shall order restitution under subsection 1 even if the victim is unavailable to accept payment of restitution.

3. If the victim does not claim restitution ordered under subsection 1 for five years after entry of the order, the restitution must be paid to the crime victims restitution and gift fund under section 54-23.4-05.

12.1-41-10. Victim confidentiality.

In an investigation of or a prosecution for an offense under this chapter, a law enforcement agency and state's attorney shall keep confidential the identity, pictures, and images of the alleged victim and the family of the alleged victim, except to the extent that disclosure is:

1. Necessary for the purpose of investigation or prosecution;
2. Required by law or court order; or
3. Necessary to ensure provision of services or benefits for the victim or the victim's family.

12.1-41-11. Past sexual behavior of victim.

In a prosecution for an offense under this chapter or a civil action under section 12.1-41-15, evidence of a specific instance of the alleged victim's past sexual behavior or reputation or opinion evidence of past sexual behavior of the alleged victim is not admissible unless the evidence is:

1. Admitted in accordance with the North Dakota rules of evidence; or
2. Offered by the prosecution to prove a pattern of human trafficking by the defendant.

12.1-41-12. Immunity of minor.

1. If the individual was a minor at the time of the offense and committed the offense as a direct result of being a victim, the individual is not criminally liable or subject to a juvenile delinquency proceeding under chapter 27-20 for:
 - a. Prostitution under section 12.1-29-03;
 - b. Misdemeanor forgery under section 12.1-24-01;
 - c. Misdemeanor theft offenses under chapter 12.1-23;
 - d. Insufficient funds or credit offenses under section 6-08-16;
 - e. Manufacture or possession of a controlled or counterfeit substance offenses under section 19-03.1-23; and
 - f. Drug paraphernalia offenses under chapter 19-03.4.
2. It is an affirmative defense to felony forgery, felony theft, and felony drug distribution that the individual was a minor at the time of the offense and committed the offense as a direct result of being a victim as defined by this chapter.

3. An individual who has engaged in commercial sexual activity is not criminally liable or subject to a juvenile delinquency proceeding under chapter 27-20 for prostitution if the individual was a minor at the time of the offense.
4. A minor, who under subsection 1 or 3, is not subject to criminal liability or a juvenile delinquency proceeding is presumed to be a child in need of services under chapter 50-25.1.
5. This section does not apply in a prosecution or a juvenile delinquency proceeding for patronizing a prostitute.

12.1-41-13. Affirmative defense of victim.

An individual charged with prostitution, felony forgery, felony theft, felony drug distribution, or an offense listed in subsection 1 of section 12.1-41-12 which was committed as a direct result of being a victim may assert an affirmative defense that the individual is a victim.

12.1-41-14. Motion to vacate and expunge conviction.

1. An individual convicted of prostitution or an offense listed in subsection 1 of section 12.1-41-12 which was committed as a direct result of being a victim may apply by motion to the court to vacate the conviction and expunge the record of conviction. The court may grant the motion on a finding that the individual's participation in the offense was a direct result of being a victim.
2. Official determination or documentation is not required to grant a motion by an individual under subsection 1, but an official determination or documentation from a federal, state, local, or tribal agency that the individual was a victim at the time of the offense creates a presumption that the individual's participation was a direct result of being a victim.
3. A motion filed under subsection 1, any hearing conducted on the motion, and any relief granted are governed by chapter 29-32.1.

12.1-41-15. Civil action.

1. A victim may bring a civil action against a person that commits an offense against the victim under section 12.1-41-02, 12.1-41-03, or 12.1-41-04 for compensatory damages, exemplary or punitive damages, injunctive relief, and any other appropriate relief.
2. If a victim prevails in an action under this section, the court shall award the victim reasonable attorney's fees and costs.
3. An action under this section must be commenced not later than ten years after the later of the date on which the victim:
 - a. No longer was subject to human trafficking; or
 - b. Attained eighteen years of age.
4. Damages awarded to a victim under this section for an item must be offset by any restitution paid to the victim pursuant to Section 12.1-41-09 for the same item.

5. This section does not preclude any other remedy available to a victim under federal law or law of this state other than this chapter.

12.1-41-16. Display of public-awareness sign.

The department of transportation shall display in every transportation station, rest area, and welcome center in the state which is open to the public a public-awareness sign that contains any state or local human trafficking resource information and the National Human Trafficking Resource Center hotline information.

12.1-41-17. Eligibility for benefit or service.

1. A victim is eligible for a benefit or service available through the state, including compensation under chapter 54-23.4, regardless of immigration status.
2. A minor who has engaged in commercial sexual activity is eligible for a benefit or service available through the state, regardless of immigration status.
3. As soon as practicable after a first encounter with an individual who reasonably appears to law enforcement to be a victim or a minor who has engaged in commercial sexual activity, the law enforcement agency shall notify the victim services division of the department of corrections and rehabilitation that the individual may be eligible for a benefit or service under the law of this state.
4. For purposes of this section, "a benefit or service available through the state" does not include a benefit or service of a program administered by the department of human services using federal or special funds, if the victim or minor does not meet program eligibility requirements including an eligibility requirement that is based on immigration status.

12.1-41-18. Law enforcement protocol.

1. On request from an individual whom a law enforcement officer reasonably believes is a victim who is or has been subjected to a severe form of trafficking or criminal offense required for the individual to qualify for a nonimmigrant T or U visa under 8 U.S.C. 1101(a)(15)(T) or 8 U.S.C. 1101(a)(15)(U), or for continued presence under 22 U.S.C. 7105(c)(3), the law enforcement officer, as soon as practicable after receiving the request, shall complete, sign, and give to the individual the form I-914B or form I-918B provided by the United States citizenship and immigration services on its internet website and ask a federal law enforcement officer to request continued presence.
2. If the law enforcement agency determines that an individual does not meet the requirements for the law enforcement agency to comply with subsection 1, the law enforcement agency shall inform the individual of the reason and that the individual may make another request under subsection 1 and submit additional evidence satisfying the requirements.

12.1-41-19. Grant to or contract with service provider.

1. The attorney general may make a grant to or contract with a unit of state or local government, tribal government, or nongovernmental victims service organization to develop or expand service programs for victims.

2. A recipient of a grant or contract under subsection 1 shall report annually to the attorney general the number and demographic information of all victims receiving services under the grant or contract.

12.1-41-20. Use of public funds for abortions prohibited.

Except as provided by federal law, funds of this state or a political subdivision of this state and federal funds passing through the state treasury or a state agency to provide treatment and support services for victims of human trafficking may be used to refer for or counsel for family planning services, but may not be used to perform, refer for, or encourage abortion.

SECTION 3. REPEAL. Chapter 12.1-40 of the North Dakota Century Code is repealed.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 118

SENATE BILL NO. 2275

(Senators Luick, Burckhard, Laffen, Larsen, Miller)
(Representative Ruby)

AN ACT create and enact a new section to chapter 12.1-41 of the North Dakota Century Code, as created by section 2 of Senate Bill No. 2107, as approved by the sixty-fourth legislative assembly, relating to a forced or coerced abortion performed on a victim of human trafficking; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 12.1-41 of the North Dakota Century Code, as created by section 2 of Senate Bill No. 2107, as approved by the sixty-fourth legislative assembly, is created and enacted as follows:

Forced or coerced abortion.

1. As used in this section:

- a. "Forces or coerces" means committing, attempting to commit, or threatening to commit physical harm to the woman, the unborn child, or another individual intended to compel a victim of an offense under section 12.1-41-02, 12.1-41-03, or 12.1-41-04 to have an abortion performed against her will.
- b. "Threat" means at least one statement, or a course of conduct by the defendant, which places one in reasonable apprehension that the individual will follow through with the statement or act as implied by the defendant's course of conduct. The term does not include constitutionally protected speech or any generalized statement regarding a lawful pregnancy option.

2. A forced or coerced abortion during the commission of an offense under section 12.1-41-02, 12.1-41-03, or 12.1-41-04 occurs when the defendant forces or coerces a victim of the offense to have an abortion against her will.
3. Upon the request of the victim, a law enforcement agency investigating a violation of this section shall notify the victim not less than twenty-four hours before initially contacting the individual alleged to have committed a violation of this section.
4. If the trier of fact finds that a forced or coerced abortion occurred during the commission of an offense under section 12.1-41-02, 12.1-41-03, or 12.1-41-04, the court may sentence the defendant to be imprisoned for up to five years in addition to the period of imprisonment prescribed for the offense.

Approved April 20, 2015
Filed April 20, 2015

DEBTOR AND CREDITOR RELATIONSHIPS

CHAPTER 119

HOUSE BILL NO. 1135

(Judiciary Committee)
(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact sections 13-02.1-11, 13-02.1-12, and 13-02.1-13 of the North Dakota Century Code, relating to the Uniform Voidable Transactions Act; to amend and reenact sections 13-02.1-01, 13-02.1-02, 13-02.1-04, 13-02.1-05, 13-02.1-06, 13-02.1-07, 13-02.1-08, and 13-02.1-09 of the North Dakota Century Code, relating to renaming the Uniform Fraudulent Transfers Act the Uniform Voidable Transactions Act and making revisions; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 13-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

13-02.1-01. Definitions.

As used in this chapter:

1. "Affiliate" means:

- a. A person ~~whethat~~ directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person ~~whethat~~ holds the securities as:
 - (1) As a fiduciary or agent without sole discretionary power to vote the securities; or ~~solely~~
 - (2) Solely to secure a debt, if the person has not in fact exercised the power to vote;
- b. A corporation or a limited liability company twenty percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by a person ~~whethat~~ directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person ~~whethat~~ holds the securities as:
 - (1) As a fiduciary or agent without sole discretionary power to vote the securities; or ~~solely~~
 - (2) Solely to secure a debt, if the person has not in fact exercised the power to vote;

- c. A person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or
 - d. A person ~~who~~that operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.
2. "Asset" means property of a debtor, excluding property to the extent it is encumbered by a valid lien, property to the extent it is generally exempt under nonbankruptcy law, or an interest in property held in tenancy by the entirety to the extent it is not subject to process by a creditor holding a claim against only one tenant.
 3. "Claim", except as used in "claim for relief", means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.
 4. "Creditor" means a person ~~who~~that has a claim.
 5. "Debt" means liability on a claim.
 6. "Debtor" means a person ~~who~~that is liable on a claim.
 7. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
 8. "Insider" ~~means~~includes:
 - a. If the debtor is an individual, ~~an "insider" includes a~~:
 - (1) ~~A~~ relative of the debtor or of a general partner of the debtor, ~~a~~;
 - (2) ~~A~~ partnership in which the debtor is a general partner, ~~a~~;
 - (3) ~~A~~ general partner in a partnership ~~in which the debtor is a general partner, as described in paragraph 2; or~~
 - (4) ~~A~~ corporation of which the debtor is a director, officer, or person in control, or a limited liability company of which the debtor is a governor, manager, or person in control, ~~;~~
 - b. If the debtor is a corporation, ~~an "insider" includes a~~:
 - (1) ~~A~~ director of the debtor, ~~an~~;
 - (2) ~~An~~ officer of the debtor, ~~a~~;
 - (3) ~~A~~ person in control of the debtor, ~~a~~;
 - (4) ~~A~~ partnership in which the debtor is a general partner, ~~a~~;
 - (5) ~~A~~ general partner in a partnership ~~in which the debtor is a general partner, described in paragraph 4; or a~~

- (6) ~~A relative of a general partner, director, officer, or person in control of the debtor;~~
- c. If the debtor is a partnership, ~~an "insider" includes a:~~
- (1) ~~A general partner in the debtor;~~
 - (2) ~~A relative of a general partner in, of a general partner of, or of a person in control of the debtor;~~
 - (3) ~~Another partnership in which the debtor is a general partner;~~
 - (4) ~~A general partner in a partnership in which the debtor is a general partner;~~
 - (5) ~~A person in control of the debtor;~~
- d. If the debtor is a limited liability company, ~~an "insider" includes a:~~
- (1) ~~A governor of the debtor;~~
 - (2) ~~A manager of the debtor;~~
 - (3) ~~A person in control of the debtor;~~
 - (4) ~~A partnership in which the debtor is a general partner;~~
 - (5) ~~A general partner in a partnership in which the debtor is a general partner;~~
 - (6) ~~A relative of a general partner, governor, manager, or person in control of the debtor;~~
- e. An "insider" also includes an affiliate, or an insider of an affiliate as if the affiliate were the debtor, and a managing agent of the debtor.
- 8-9. "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien, a common-law lien, or a statutory lien.
10. "Organization" means a person other than an individual.
- 9-11. "Person" means an individual, ~~partnership, corporation, limited liability company, association, organization, state, business or nonprofit entity, public corporation, government or governmental subdivision or agency, business trust, estate, trust or instrumentality, or any other legal or commercial entity.~~
- 10-12. "Property" means anything that may be the subject of ownership.
13. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- 11-14. "Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

15. "Sign" means, with present intent to authenticate or adopt a record:

- a. To execute or adopt a tangible symbol; or
- b. To attach to or logically associate with the record an electronic symbol, sound, or process.

12-16. "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, license, and creation of a lien or other encumbrance.

13-17. "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal process or proceedings.

SECTION 2. AMENDMENT. Section 13-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

13-02.1-02. Insolvency.

1. A debtor is insolvent if, at a fair valuation, the sum of the debtor's debts is greater than ~~all~~the sum of the debtor's assets ~~at a fair valuation~~.
2. A debtor ~~who~~that is generally not paying the debtor's debts as they become due ~~other than as a result of a bona fide dispute~~ is presumed to be insolvent. ~~A partnership is insolvent if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts. The presumption imposes on the party against which the presumption is directed the burden of proving that the nonexistence of insolvency is more probable than its existence.~~
- ~~2-3.~~ Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this chapter.
- ~~3-4.~~ Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

SECTION 3. AMENDMENT. Section 13-02.1-04 of the North Dakota Century Code is amended and reenacted as follows:

13-02.1-04. ~~Transfers fraudulent~~Transfer or obligation voidable as to present and/or future creditors~~creditor~~.

1. A transfer made or obligation incurred by a debtor is ~~fraudulent~~voidable as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:
 - a. With actual intent to hinder, delay, or defraud any creditor of the debtor; or
 - b. Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor was engaged or was about to engage in a business or a transaction for which the remaining assets of

- the debtor were unreasonably small in relation to the business or transaction or the debtor intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.
2. In determining actual intent under subdivision a of subsection 1, consideration may be given, among other factors, to whether:
 - a. The transfer or obligation was to an insider;
 - b. The debtor retained possession or control of the property transferred after the transfer;
 - c. The transfer or obligation was disclosed or concealed;
 - d. Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;
 - e. The transfer was of substantially all the debtor's assets;
 - f. The debtor absconded;
 - g. The debtor removed or concealed assets;
 - h. The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;
 - i. The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;
 - j. The transfer occurred shortly before or shortly after a substantial debt was incurred; and
 - k. The debtor transferred the essential assets of the business to a lienor ~~whethat~~ transferred the assets to an insider of the debtor.
 3. A creditor making a claim for relief under subsection 1 has the burden of proving the elements of the claim for relief by a preponderance of the evidence.

SECTION 4. AMENDMENT. Section 13-02.1-05 of the North Dakota Century Code is amended and reenacted as follows:

13-02.1-05. ~~Transfers fraudulent~~Transfer or obligation voidable as to present creditorscreditor.

1. A transfer made or obligation incurred by a debtor is ~~fraudulent~~voidable as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.
2. A transfer made by a debtor is ~~fraudulent~~voidable as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for

an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

3. Subject to subsection 2 of section 13-02.1-02, a creditor making a claim for relief under subsection 1 or 2 has the burden of proving the elements of the claim for relief by a preponderance of the evidence.

SECTION 5. AMENDMENT. Section 13-02.1-06 of the North Dakota Century Code is amended and reenacted as follows:

13-02.1-06. When transfer is made or obligation is incurred.

For the purposes of this chapter:

1. A transfer is made with respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against ~~whom~~which applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee. A transfer is made with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under this chapter that is superior to the interest of the transferee.
2. If applicable law permits the transfer to be perfected as provided in subsection 1 and the transfer is not so perfected before the commencement of an action for relief under this chapter, the transfer is deemed to have been made immediately before the commencement of the action.
3. If applicable law does not permit the transfer to be perfected as provided in subsection 1, the transfer is made when it becomes effective between the debtor and the transferee.
4. A transfer is not made until the debtor has acquired rights in the asset transferred.
5. An oral obligation is incurred when it becomes effective between the parties. An obligation evidenced by a ~~writing~~record is incurred when the ~~writing~~executed record signed by the obligor is delivered to or for the benefit of the obligee.

SECTION 6. AMENDMENT. Section 13-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

13-02.1-07. Remedies of ~~creditors~~creditor.

1. In an action for relief against a transfer or obligation under this chapter, a creditor, subject to the limitations in section 13-02.1-08, may obtain:
 - a. Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;
 - b. Attachment or other provisional remedy against the asset transferred or other property of the transferee ~~in accordance with the procedure prescribed by chapter 32-08.1~~if available under applicable law; or

- c. Subject to applicable principles of equity and in accordance with applicable rules of civil procedure, ~~an~~:
- (1) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property, ~~an appointment~~;
 - (2) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee, ~~or any~~
 - (3) Any other relief the circumstances may require.
2. If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

SECTION 7. AMENDMENT. Section 13-02.1-08 of the North Dakota Century Code is amended and reenacted as follows:

13-02.1-08. Defenses - Liability - Protection of transferee or obligee.

1. A transfer or obligation is not voidable under subdivision a of subsection 1 of section 13-02.1-04 against a person ~~whethat~~ took in good faith and for a reasonably equivalent value given the debtor or against any subsequent transferee or obligee.
2. To the extent a transfer is avoidable in an action by the creditor under subdivision a of subsection 1 of section 13-02.1-07, the following rules apply:
 - a. ~~Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under subdivision a of subsection 1 of section 13-02.1-07, the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection 3, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against the:~~
 - (1) The first transferee of the asset or the person for whose benefit the transfer was made, ~~or any subsequent transferee~~
 - (2) An immediate or mediate transferee of the first transferee, other than a:
 - (a) A good-faith transferee ~~whethat~~ took for value, ~~or from any subsequent transferee~~
 - (b) An immediate or mediate good-faith transferee of a person described in subparagraph a.
 - b. Recovery pursuant to subdivision a of subsection 1 of section 13-02.1-07 or subsection 2 of section 13-02.1-07 of or from the asset transferred or its proceeds, by levy or otherwise, is available only against a person described in paragraph 1 or 2 of subdivision a.
3. If the judgment under subsection 2 is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

4. Notwithstanding voidability of a transfer or an obligation under this chapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to a:
 - a. A lien on or a right to retain anyan interest in the asset transferred, enforcement;
 - b. Enforcement of anyan obligation incurred; or a
 - c. A reduction in the amount of the liability on the judgment.
5. A transfer is not voidable under subdivision b of subsection 1 of section 13-02.1-04 or section 13-02.1-05 if the transfer results from termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law or enforcement of a security interest in compliance with chapter 41-09, other than acceptance of collateral in full or partial satisfaction of the obligation it secures.
6. A transfer is not voidable under subsection 2 of section 13-02.1-05:
 - a. To the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless, except to the extent the new value was secured by a valid lien;
 - b. If made in the ordinary course of business or financial affairs of the debtor and the insider; or
 - c. If made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.
7. The following rules determine the burden of proving matters referred to in this section:
 - a. A party that seeks to invoke subsection 1, 4, 5, or 6 has the burden of proving the applicability of that subsection.
 - b. Except as otherwise provided in subdivision c or d, the creditor has the burden of proving each applicable element of subsection 2 or 3.
 - c. The transferee has the burden of proving the applicability to the transferee of subparagraph a or b of paragraph 2 of subdivision a of subsection 2.
 - d. A party that seeks adjustment under subsection 3 has the burden of proving the adjustment.
8. The standard of proof required to establish matters referred to in this section is preponderance of the evidence.

SECTION 8. AMENDMENT. Section 13-02.1-09 of the North Dakota Century Code is amended and reenacted as follows:

13-02.1-09. Extinguishment of claim for relief.

A claim for relief with respect to a fraudulent transfer or obligation under this chapter is extinguished unless action is brought:

1. Under subdivision a of subsection 1 of section 13-02.1-04, ~~within not later than~~ four years after the transfer was made or the obligation was incurred or, if later, ~~within not later than~~ one year after the transfer or obligation was or could reasonably have been discovered by the claimant;
2. Under subdivision b of subsection 1 of section 13-02.1-04 or subsection 1 of section 13-02.1-05, ~~within not later than~~ four years after the transfer was made or the obligation was incurred; or
3. Under subsection 2 of section 13-02.1-05, ~~within not later than~~ one year after the transfer was made ~~or the obligation was incurred~~.

SECTION 9. Section 13-02.1-11 of the North Dakota Century Code is created and enacted as follows:

13-02.1-11. Governing law.

1. In this section, the following rules determine a debtor's location:
 - a. A debtor who is an individual is located at the individual's principal residence.
 - b. A debtor that is an organization and has only one place of business is located at its place of business.
 - c. A debtor that is an organization and has more than one place of business is located at its chief executive office.
2. A claim for relief in the nature of a claim for relief under this chapter is governed by the local law of the jurisdiction in which the debtor is located when the transfer is made or the obligation is incurred.

SECTION 10. Section 13-02.1-12 of the North Dakota Century Code is created and enacted as follows:

13-02.1-12. Application to series organization.

1. In this section:
 - a. "Protected series" means an arrangement, however denominated, created by a series organization that, pursuant to the law under which the series organization is organized, has the characteristics set forth in subdivision b.
 - b. "Series organization" means an organization that, pursuant to the law under which it is organized, has the following characteristics:
 - (1) The organic record of the organization provides for creation by the organization of one or more protected series, however denominated, with respect to specified property of the organization, and for records to be maintained for each protected series that identify the property of or associated with the protected series.
 - (2) Debt incurred or existing with respect to the activities of, or property of or associated with, a particular protected series is enforceable against the property of or associated with the protected series only, and not

against the property of or associated with the organization or other protected series of the organization.

(3) Debt incurred or existing with respect to the activities or property of the organization is enforceable against the property of the organization only, and not against the property of or associated with a protected series of the organization.

2. A series organization and each protected series of the organization is a separate person for purposes of this chapter, even if for other purposes a protected series is not a person separate from the organization or other protected series of the organization.

SECTION 11. Section 13-02.1-13 of the North Dakota Century Code is created and enacted as follows:

13-02.1-13. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modified, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act [Pub. L. 106-229; 114 Stat. 464; 15 U.S.C. 7001 et seq.], but does not modify, limit, or supersede section 101(c) of that Act [15 U.S.C. 7001(c)], or authorize electronic delivery of any of the notices described in section 103(b) of that Act [15 U.S.C. 7003(b)].

SECTION 12. APPLICATION. This Act applies to a transfer made or obligation incurred on or after the effective date of this Act. This Act does not apply to a transfer made or obligation incurred before the effective date of this Act. This Act does not apply to a right of action that has accrued before the effective date of this Act. For the foregoing purposes a transfer is made and an obligation is incurred at the time provided in section 5 of this Act.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 120

HOUSE BILL NO. 1101

(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to create and enact sections 13-04.1-18, 13-08-16, and 13-11-31 of the North Dakota Century Code, relating to the customer information of money brokers, deferred presentment service providers, and debt-settlement providers; to amend and reenact sections 13-04.1-01.1, 13-04.1-02.1, 13-04.1-04, 13-04.1-09, 13-04.1-15, 13-05-04, and 13-05-05.1, subsection 13 of section 13-09-02, sections 13-09-03 and 13-09-07.1, and subsections 1 and 2 of section 13-10-03 of the North Dakota Century Code, relating to money brokers, collection agencies, money transmitters, and mortgage loan originators; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 13-04.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-01.1. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Borrower" means a person or entity that seeks out, or is solicited by a money broker for the purpose of money brokering.
2. "Commissioner" means the commissioner of financial institutions.
3. "Money broker" means a person or entity who, in the ordinary course of business, engages in money brokering.
4. "Money brokering" means the act of arranging or providing loans or leases as a form of financing, or advertising or soliciting either in print, by letter, in person, or otherwise, the right to find lenders or provide loans or leases for persons or businesses desirous of obtaining funds for any purposes.
5. "Net branch" means an office at which a licensed money broker allows a separate person that does not hold a valid North Dakota money brokers license to originate loans under the license of the money broker.
6. "Net branch arrangement" means an arrangement under which a licensed money broker enters an agreement whereby its designated branch manager has the appearance of ownership of the licensee by, among other things, sharing in the profits or losses, establishing, leasing, or renting the branch premises, entering other contractual relationships with vendors such as for telephones, utilities, and advertising, having control of a corporate checkbook, or exercising control of personnel through the power to hire or fire such individuals. A person may be considered to be utilizing a net branch if the net branch agreement requires the branch manager to indemnify the licensee for damages from any apparent, express, or implied agency representation by or

through the branch's actions or if the agreement requires the branch manager to issue a personal check to cover operating expenses whether or not funds are available from an operating account of the licensee.

7. "Precomputed loan" means a loan that is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance.

SECTION 2. AMENDMENT. Section 13-04.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-02.1. Entities exempted from licensing requirements.

This chapter does not apply to:

1. Banks;
2. Credit unions;
3. Savings and loan associations;
4. Insurance companies;
5. Individuals licensed under chapter 13-10;
6. State or federal agencies and their employees;
7. Institutions chartered by the farm credit administration;
8. Trust companies;
9. Any other person or business regulated and licensed to lend money by the state of North Dakota;
10. A real estate broker, broker, or a real estate salesperson as defined in section 43-23-06.1 in the brokering of loans to assist a person in obtaining financing for real estate sold by the real estate broker, broker, or real estate salesperson; or
11. Any person, retail seller, or manufacturer providing lease financing for its own property or inventory held as a normal course of business, or to leases on any real property.

SECTION 3. AMENDMENT. Section 13-04.1-04 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-04. Fee to accompany application for money broker license.

The application for license must be in writing, under oath, and in the form prescribed by the commissioner. The application must give the location where the business is to be conducted and must contain any further information the commissioner requires, including the names and addresses of the partners, officers, directors, trustees, and the principal owners or members, as will provide the basis for the investigation and findings contemplated by section 13-04.1-03. At the time of making such application, the applicant shall include payment in the sum of four hundred dollars, which is not subject to refund, as a fee for investigating the application, and the sum of four hundred dollars for the annual license fee. In

addition, the applicant must pay a fifty dollar annual fee for each branch location ~~within the registered to engage in money brokering in this state~~. Fees must be deposited in the financial institutions regulatory fund.

SECTION 4. AMENDMENT. Section 13-04.1-09 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-09. Prohibited acts and practices.

It is a violation of this chapter for a person subject to this chapter to knowingly:

1. Make or cause to be made any material false statement or representation in any application or other document or statement required to be filed under any provision of this chapter, or to omit to state any material statement or fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.
2. Directly or indirectly, employ any device, scheme, or artifice to defraud or mislead borrowers or lenders to defraud any person.
3. Directly or indirectly, make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading in connection with the procurement or promise of procurement of any lender or loan funds.
4. Engage in any unfair or deceptive practice toward any person.
5. Obtain property by fraud or misrepresentation.
6. Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting.
7. Conduct any business covered by this chapter without holding a valid license as required under this chapter, or assist or aid and abet any person in the conduct of business under this chapter without a valid license as required under this chapter.
8. Fail to make disclosures as required by this chapter and any other applicable state or federal law and regulations.
9. Fail to comply with this chapter or rules adopted under this chapter, or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under this chapter.
10. Make, in any manner, any false or deceptive statement or representation, including, with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising.
11. Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the nationwide mortgage licensing system and

registry or in connection with any investigation conducted by the commissioner or another governmental agency.

12. Make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a loan or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property.
13. Collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by this chapter.
14. Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer.
15. Fail to truthfully account for moneys belonging to a party to a loan transaction.
16. Conduct another business within the same office, suite, room, or place of business at which the licensee engages in money broker business unless the commissioner provides written authorization after a determination the other business is not contrary to the best interests of any borrower or potential borrower.
17. Enter any agreement that constitutes a precomputed loan.

SECTION 5. AMENDMENT. Section 13-04.1-15 of the North Dakota Century Code is amended and reenacted as follows:

13-04.1-15. Change of name or address.

A licensee is required to submit within twenty business days of the date of change notification of a change of name or change of address. The notification must be in the form prescribed by the commissioner. ~~In addition, the licensee shall submit the original license certificate for reissue.~~

SECTION 6. Section 13-04.1-18 of the North Dakota Century Code is created and enacted as follows:

13-04.1-18. Disclosure of customer information.

Except for provisions of chapter 6-08.1 which are inconsistent with this chapter, chapter 6-08.1 applies to all money brokers licensed under this chapter.

SECTION 7. AMENDMENT. Section 13-05-04 of the North Dakota Century Code is amended and reenacted as follows:

13-05-04. Application requirements - Fee to accompany application for collection agency license.

The application for a collection agency license must be in writing, under oath, and in the form prescribed by the commissioner. The application must give the location where the business is to be conducted and must contain any further information the commissioner requires, including the names and addresses of the partners, officers, directors, trustees, and the principal owners or members as will provide the basis for the investigation and findings contemplated by section 13-05-03. At the time of

making such application, the applicant shall include payment in the sum of four hundred dollars, which is not subject to refund, as a fee for investigating the application, and the sum of ~~three~~four hundred dollars for the annual license. In addition, the applicant shall pay a fifty dollar annual fee for each branch location. Fees must be deposited in the financial institutions regulatory fund.

SECTION 8. AMENDMENT. Section 13-05-05.1 of the North Dakota Century Code is amended and reenacted as follows:

13-05-05.1. Change of name or address.

A licensee is required to submit within twenty business days of the date of change, notification of a change of name or change of address. The notification must be in the form prescribed by the commissioner. ~~In addition, the licensee shall submit the original license certificate for reissue.~~

SECTION 9. Section 13-08-16 of the North Dakota Century Code is created and enacted as follows:

13-08-16. Disclosure of customer information.

Except for provisions of chapter 6-08.1 which are inconsistent with this chapter, chapter 6-08.1 applies to all persons licensed under this chapter.

SECTION 10. AMENDMENT. Subsection 13 of section 13-09-02 of the North Dakota Century Code is amended and reenacted as follows:

13. "Money transmission" means to engage in the business of the sale or issuance of payment instruments, stored value, or of receiving money or monetary value for transmission to a location within or outside the United States by any and all means, including wire, facsimile, or electronic transfer. Notwithstanding any other provision of law, "money transmission" also includes bill payment services not limited to the right to receive payment of any claim for another, but does not include payment processing activities conducted for a merchant under an agency relationship.

SECTION 11. AMENDMENT. Section 13-09-03 of the North Dakota Century Code is amended and reenacted as follows:

13-09-03. Exclusions.

This chapter does not apply to:

1. The United States or any department, agency, or instrumentality thereof;
2. The United States post office;
3. The state or any political subdivisions thereof;
4. Banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, or savings banks or mutual banks organized under the laws of any state or the United States, provided that they do not issue or sell payment instruments through authorized delegates who are not banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks, or mutual banks~~but this exemption does not extend to any other person acting on behalf of any such excluded entity;~~

5. The provision of electronic transfer of government benefits for any federal, state, or county governmental agency as defined in federal reserve board regulation E, by a contractor for and on behalf of the United States or any department, agency, or instrumentality thereof, or any state or any political subdivisions thereof; and
6. Authorized delegates of a licensee, acting within the scope of authority conferred by a written contract as described in section 13-09-15.

SECTION 12. AMENDMENT. Section 13-09-07.1 of the North Dakota Century Code is amended and reenacted as follows:

13-09-07.1. Change of name or address.

A licensee is required to submit within twenty business days of the date of change notification of a change of name or change of address. The notification must be in the form prescribed by the commissioner. ~~In addition, the licensee shall submit the original license certificate for reissue.~~

SECTION 13. AMENDMENT. Subsections 1 and 2 of section 13-10-03 of the North Dakota Century Code are amended and reenacted as follows:

1. An individual, unless specifically exempted from this chapter under subsection 3~~2~~, shall not engage in the business of a mortgage loan originator with respect to any dwelling located in this state without first obtaining and maintaining annually a license under this chapter. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry.
2. The following are exempt from this chapter:
 - a. Registered mortgage loan originators, when acting for an entity described in subdivision a of subsection 11 of section 13-10-02 are exempt from this chapter.
 - b. Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.
 - c. Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence.
 - d. A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator.
 - e. An individual who is an employee of a federal, state, or local government agency or housing finance agency and who acts as a loan originator solely pursuant to that individual's official duties as an employee of the federal, state, or local government agency or housing finance agency in compliance with title 12, Code of Federal Regulations, part 1008, section 1008.103(e)(6).
 - f. An individual who is an employee of a bona fide nonprofit organization who acts as a loan originator solely with respect to that individual's work

duties to the bona fide nonprofit organization, and who acts as a loan originator solely with respect to residential mortgage loans with terms that are favorable to the borrower in compliance with title 12, Code of Federal Regulations, part 1008, section 1008.103(e)(7).

SECTION 14. Section 13-11-31 of the North Dakota Century Code is created and enacted as follows:

13-11-31. Disclosure of customer information.

Except for provisions of chapter 6-08.1 which are inconsistent with this chapter, chapter 6-08.1 applies to all debt-settlement providers licensed under this chapter.

SECTION 15. EMERGENCY. Section 13 of this Act is declared to be an emergency measure.

Approved April 9, 2015
Filed April 9, 2015

DOMESTIC RELATIONS AND PERSONS

CHAPTER 121

HOUSE BILL NO. 1463

(Representatives Muscha, Beadle, Mitskog, Mooney, Oversen, Schneider, Toman,
Wallman)
(Senators Dotzenrod, Oban)

AN ACT to amend and reenact section 14-02.4-03 of the North Dakota Century Code, relating to reasonable accommodations in the workplace for pregnancy.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.4-03 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-03. Employer's discriminatory practices.

1. It is a discriminatory practice for an employer to fail or refuse to hire a ~~person~~personan individual; to discharge an employee; or to accord adverse or unequal treatment to a ~~person~~personan individual or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, or a term, privilege, or condition of employment, because of race, color, religion, sex, national origin, age, physical or mental disability, status with respect to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer.
2. It is a discriminatory practice for an employer to fail or refuse to make reasonable accommodations for an otherwise qualified ~~person~~personan individual with a physical or mental disability, because that individual is pregnant, or because of that ~~person's~~personan individual's religion. An employer is not required to provide an accommodation that would disrupt or interfere with the employer's normal business operations; threaten an individual's health or safety; contradict a business necessity of the employer; or impose an undue hardship on the employer, taking into consideration the size of the employer's business, the type of business, the financial resources of the employer, and the estimated cost and extent of the accommodation.
3. This chapter does not prohibit compulsory retirement of any employee who has attained sixty-five years of age, but not seventy years of age, and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policymaking position, if the employee is entitled to an immediate nonforfeiture annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of those plans, of the employer of the employee, which equal, in the aggregate, at least forty-four thousand dollars.

Approved April 6, 2015
Filed April 6, 2015

CHAPTER 122

HOUSE BILL NO. 1217

(Representatives Delmore, Kretschmar, Wallman)
(Senators Armstrong, J. Lee, Nelson)

AN ACT to amend and reenact sections 14-02.5-02 and 47-16-17.1 of the North Dakota Century Code, relating to the rental of a dwelling to a victim of domestic violence.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.5-02 of the North Dakota Century Code is amended and reenacted as follows:

14-02.5-02. Sale or rental.

1. A person may not refuse to sell or rent, after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or in any other manner make unavailable or deny a dwelling to an individual because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
2. A person may not discriminate against an individual in the terms, conditions, or privileges of sale or rental of a dwelling or in providing services or facilities in connection with a sale or rental of a dwelling because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
3. An applicant for or tenant of housing that is part of a state housing program may not be denied admission to, denied assistance under, terminated from participating in, or evicted from housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.
4. This section does not prohibit discrimination against an individual because the individual has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.
- 4-5. Nothing in this chapter prevents a person from refusing to rent a dwelling to two unrelated individuals of opposite gender who are not married to each other.

SECTION 2. AMENDMENT. Section 47-16-17.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-17.1. Termination due to domestic abuse.

1. A tenant to a residential lease who is a victim of domestic violence as defined in section 14-07.1-01 or fears imminent domestic violence against the tenant or the tenant's minor children if the tenant or the tenant's minor children

remain in the leased premises may terminate a lease agreement, as provided in this section, without penalty or liability.

2. The tenant must provide advance written notice to the landlord stating ~~that the:~~
 - a. ~~The tenant fears imminent domestic violence from a person named in a protection order after a hearing under section 14-07.1-02 or an order prohibiting contact thea court order, protection order under section 14-07.1-02, ex parte temporary protection order, order prohibiting contact, restraining order, or other record filed with a court;~~
 - b. ~~The tenant needs to terminate the tenancy;~~ and
 - c. ~~The specific date the tenancy will terminate.~~
3. The notice must be delivered by mail, facsimile communication, or in person before the termination of the tenancy, ~~and be accompanied by the protection order or the order prohibiting contact.~~
- ~~3-4.~~ A landlord may not disclose information provided to the landlord by a tenant documenting domestic violence under this section. The information may not be entered into any shared database or provided to any person, but may be used as evidence in an eviction proceeding, in a claim for unpaid rent or damages arising out of the tenancy, or as otherwise required by law.
- ~~4-5.~~ A tenant terminating a lease under this section is responsible for the rent payment for the full month in which the tenancy terminates and an additional amount equal to one month's rent, subject to the landlord's duty to mitigate. The tenant is relieved of any other contractual obligation for payment of rent or any other charges for the remaining term of the lease, except as provided in this section.
- ~~5-6.~~ This section does not affect a tenant's liability for delinquent, unpaid rent, or other amounts owed to the landlord before the lease was terminated by the tenant under this section.
- ~~6-7.~~ The tenancy terminates, including the right of possession of the premises, on the termination date stated in the notice under subsection 2. The amount equal to one month's rent must be paid on or before the termination of the tenancy for the tenant to be relieved of the contractual obligations for the remaining term of the lease as provided in this section.
- ~~7-8.~~ For purposes of this section, timing for the payment of the lessee's security deposit under section 47-16-07.1 is triggered by either of the following:
 - a. If the only tenant, including the tenant's minor children, is the tenant who is the victim of domestic violence, upon the first day of the month following the date the tenant vacates the premises.
 - b. If there are additional tenants bound by the lease, upon the expiration of the lease.
- ~~8-9.~~ Notwithstanding the release of a tenant from a lease agreement under this section, the tenancy continues for any remaining tenants.

9-10. A person may not refuse to rent, refuse to negotiate for the rental of, or in any other manner make unavailable or deny a dwelling to an individual, or otherwise retaliate in the rental of a dwelling solely because a tenant or applicant or a household member of the tenant or applicant exercised the right to terminate a lease under this section.

~~40-11.~~ In an action for a violation of this section, the court may award statutory damages of one thousand dollars. The court also may award actual damages, reasonable attorney's fees, costs, and disbursements.

Approved April 28, 2015
Filed April 28, 2015

CHAPTER 123

HOUSE BILL NO. 1183

(Representatives Beadle, Meier, Oversen, Strinden)
(Senators J. Lee, Miller, Unruh)

AN ACT to amend and reenact section 14-03-20.2 of the North Dakota Century Code, relating to middle name options on a marriage license application or marriage license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-03-20.2 of the North Dakota Century Code is amended and reenacted as follows:

14-03-20.2. Middle name options.

1. One party or both parties to a marriage may elect to change the middle name by which that individual wishes to be known after the solemnization of the marriage by entering the new middle name in the space provided on the marriage license application. If an individual elects to change that individual's middle name, the middle name entry on the marriage license application or marriage license must consist of ~~the~~
 - a. The premarriage surname or former surname of that individual;
 - b. The premarriage middle name and the premarriage surname or former surname of that individual; or
 - c. A hyphenated combination of the premarriage middle name and the premarriage surname or former surname of that individual.
2. Compliance with the middle name provisions of this section is sufficient to meet the satisfactory evidence requirements of section 39-06-07.1.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 124

HOUSE BILL NO. 1399

(Representatives Looyesen, Beadle, Brabandt, Dockter, Kading, Klemin, Maragos,
Ruby, Steiner)
(Senators Casper, Larsen)

AN ACT to amend and reenact section 14-05-24.1 of the North Dakota Century Code, relating to termination of spousal support; to provide for a legislative management study; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-05-24.1 of the North Dakota Century Code is amended and reenacted as follows:

14-05-24.1. Spousal support.

1. Taking into consideration the circumstances of the parties, the court may require one party to pay spousal support to the other party for any limited period of time in accordance with this section. The court may modify its spousal support orders.
2. Unless otherwise agreed to by the parties in writing, spousal support is terminated upon the remarriage of the spouse receiving support. Immediately upon remarriage, the spouse receiving support shall provide notice of the remarriage to the payor spouse at the last known address of the payor spouse.
3. Unless otherwise agreed to by the parties in writing, upon an order of the court based upon a preponderance of the evidence that the spouse receiving support has been habitually cohabiting with another individual in a relationship analogous to a marriage for one year or more, the court shall terminate spousal support.
4. Subsections 2 and 3 do not apply to rehabilitative spousal support.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - SPOUSAL SUPPORT.

During the 2015-16 interim, the legislative management shall consider studying the types of spousal support ordered by the district courts and the desirability of providing statutory guidance for awards of spousal support. The legislative management shall report its findings and recommendations, together with any proposed legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 3. APPLICATION. Subsection 2 of section 1 of this Act applies to any spousal support order, regardless of date of issuance, but applies only to spousal support payments accruing after the effective date of this Act. Subsection 3 of section 1 of this Act applies to any spousal support order, regardless of the date of issuance, but applies only to spousal support payments accruing after a court order for termination of spousal support.

Approved April 27, 2015
Filed April 27, 2015

CHAPTER 125

HOUSE BILL NO. 1338

(Representatives Thoreson, Muscha, Seibel)
(Senators J. Lee, Nelson, Poolman)

AN ACT to amend and reenact subsections 3 and 4 of section 14-07.1-20 of the North Dakota Century Code, relating to required disclosure of records to the domestic violence fatality review commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 3 and 4 of section 14-07.1-20 of the North Dakota Century Code are amended and reenacted as follows:

3. The commission may investigate and review the facts and circumstances of all deaths that occur in the state as a result of domestic violence.
 - a. The review may include necessary and appropriate information, including current laws and policies, actions taken by agencies and persons related to or involved with the incident, criminal justice data collection and analysis, and other information the commission determines to be relevant to the review.
 - b. The confidential and other appropriate records of a department or agency of the state, county, or municipality relating to the domestic violence incident may be examined by the commission. Upon request or investigative demand from a representative of the commission, any hospital, physician, medical professional, medical facility, mental health professional, or mental health facility shall disclose all records of that person with respect to any death that has occurred as a result of domestic violence, as determined by the commission. The domestic violence fatality review commission and each member of the commission shall preserve the confidentiality of any records examined.
4. The domestic violence fatality review commission shall report its findings and recommendations from the previous calendar year to the attorney general before ~~December~~March thirty-first of each year.

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 126

HOUSE BILL NO. 1111

(Judiciary Committee)

(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to the person who is allowed to claim the tax deduction for a child under a child support order; to amend and reenact section 14-09-08.2, subsections 1 and 3 of section 14-09-08.4, sections 14-09-08.5, 14-09-08.6, 14-09-08.7, 14-09-08.11, 14-09-08.13, 14-09-09.30, 35-34-04, 35-34-06, and 50-09-06.1 of the North Dakota Century Code, and section 73 of chapter 152 of the 2009 Session Laws, relating to child support; to repeal section 14-09-08.8 of the North Dakota Century Code, relating to motions to amend child support; to provide for a report to the legislative management; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-08.2 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.2. Support for children after majority - Retroactive application.

1. A judgment or order requiring the payment of child support until the child attains majority continues as to the child until the end of the month during which the child is graduated from high school or attains the age of nineteen years, whichever occurs first, if:
 - a. The child is enrolled and attending high school and is eighteen years of age prior to the date the child is expected to be graduated; and
 - b. The child resides with the person to whom the duty of support is owed.
2. A judgment or order may require payment of child support after majority under substantially the circumstances described in subsection 1.
3. The person to whom the duty of support is owed under either subsection 1 or 2 may file an affidavit with the district court stating that the requirements of subsection 1 are met, the school in which the child is enrolled, and the anticipated date of the child's graduation. Upon filing of the affidavit, the child support resumes pursuant to subsection 1 or pursuant to the terms of a judgment or order described in subsection 2. A fee may not be charged for filing such an affidavit.
4. The clerk of court shall serve the affidavit by first-class mail upon the person owing the duty of support. If at any time thereafter the person owing the duty of support files a motion with the court, supported by that person's affidavit that the child is no longer enrolled in or attending high school, the court shall determine if the child is enrolled in and attending high school and shall enter an order accordingly.

5. This section applies to child support orders concerning children described in subsection 1 or 2, regardless of the date of entry of the order.
6. This section does not preclude the entry of an order for child support which continues after the child reaches age eighteen, if the parties agree, or if the court determines the support to be appropriate.
7. For purposes of this section,
 - a. A child is treated as being in school during summer vacation if the child was enrolled in and attending school and did not graduate from high school at the end of the school period immediately preceding the summer vacation; and
 - b. A child who is currently enrolled in school is not considered to have graduated, even if all required coursework and examinations have been completed, until the ceremony is held by the school to commemorate the child's graduation.

SECTION 2. AMENDMENT. Subsections 1 and 3 of section 14-09-08.4 of the North Dakota Century Code are amended and reenacted as follows:

1. Each child support order being enforced by the child support agency must be reviewed by the child support agency no less frequently than thirty-six months after the establishment of the order or the most recent amendment or review of the order by the court or child support agency unless:
 - a. In the case of an order with respect to which there is in effect an assignment under chapter 50-09, the child support agency has determined that a review is not in the best interests of the child and neither the obligor nor the obligee has requested review; or
 - b. In the case of any other order neither the obligor nor the obligee has requested review; or
 - c. In the case of a review requested by the obligor, the obligor failed to provide information required under subsection 1 of section 14-09-08.6 with the request for review.
3. If, upon review, the child support agency determines that the order provides for child support payments in an amount that is inconsistent with the amount that would be required by the child support guidelines established under subsection 1 of section 14-09-09.7, the child support agency may seek an amendment of the order. If the order provides for child support payments in an amount less than eighty-five percent or more than one hundred fifteen percent of the amount that would be required by those guidelines, the child support agency shall seek an amendment of the order.

SECTION 3. AMENDMENT. Section 14-09-08.5 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.5. Notice of periodic review of child support orders.

1. The child support agency shall provide written notice, including notice through electronic means, to the obligee and the obligor that a child support order being enforced by the child support agency may be subject to review under

~~section 14-09-08.4. The notice may be sent by first class mail to the obligor and the obligee, at the addresses they have most recently provided to the child support agency, at least thirty-five days before the commencement of the review is commencing.~~

- ~~2. Unless sufficient information was previously provided by the obligor with a request for review, the notice to the obligor must inform the obligor of the duty to furnish the information required by section 14-09-08.6 and that a failure to furnish the required information may result in the entry of an order compelling the furnishing of the information. The notice must also inform the obligor that the review determination will be mailed to the obligor following the review. The notice must be accompanied by an income report form, together with instructions for the accurate completion of the income report form.~~

SECTION 4. AMENDMENT. Section 14-09-08.6 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.6. Obligor's duties upon review - Failure to provide information.

~~4. Unless sufficient information was previously provided by the obligor with a request for review, the obligor shall provide information to the child support agency concerning the obligor's income, which is sufficient to accomplish the review, no later than five working days before the date of review by the date required by the child support agency. The information must be furnished by providing an:~~

- ~~1. An~~ income report, in the form and manner required by the child support agency, accurately completed and attested to by the obligor; ~~earnings;~~
- ~~2. Earnings~~ statements secured from the obligor's current income payer if the obligor changed employment after the end of the latest income tax year for which the obligor filed a return; ~~and providing; and~~
- ~~a-3.~~ A verified copy of the latest income tax return, filed with the internal revenue service or any state official administering a state income tax, which accurately reports the obligor's income for a fiscal year ending no more than seventeen months prior to the date of the review; ~~or~~
 - ~~b. A written authorization by which the child support agency may secure a verified copy of the latest income tax return filed with the tax commissioner, which accurately reports the obligor's income for a fiscal year ending no more than seventeen months prior to the date of review.~~
- ~~2. If the obligor has not produced information under subsection 1 concerning the obligor's income, sufficient to accomplish the review, the child support agency may base its review determination on the assumption that the obligor's income has increased at the rate of ten percent per year since the child support order under review was entered or last modified.~~

SECTION 5. AMENDMENT. Section 14-09-08.7 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.7. Notice of review determination.

- ~~1. Following review, the child support agency shall promptly provide written notice of its review determination on review. The notice may be sent by~~

first-class mail to the obligor and the obligee, at the addresses they have most recently provided to the child support agency.

2. If the child support agency has made a determination ~~that not to seek an~~ amendment to the amount of child support ~~should be sought~~, the notice must inform the obligor and the obligee of the right of each to challenge that determination by seeking an amendment to the amount of child support, from the court, at any time before the termination of the support order.
3. If the child support agency has made a determination to seek an amendment ~~into~~ the amount of child support, the notice ~~must be mailed at least thirty-five days before the date of a hearing on a motion for amendment made by the child support agency under section 14-09-08.4 and must inform the obligor and the obligee of the opportunity of each to consent to the proposed amendment and the right of each to challenge that determination by opposing that amendment before the court. The notice to the obligor must be accompanied by:~~
 - a. ~~A proposed modification of the child support order to provide for payment of child support in the amount required under the child support guidelines;~~
 - b. ~~A document by which the obligor may consent to the proposed modification; and~~
 - c. ~~An address and telephone number that the obligor may use to receive information from or schedule a meeting with representatives of the child support agency.~~

SECTION 6. AMENDMENT. Section 14-09-08.11 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.11. (Contingent effective date - See note) Eligible child - Employer to permit enrollment - Employer duties and liabilities - Obligor contest.

1. When an obligor is required to cover a child as a beneficiary under section 14-09-08.10, the child is eligible for health insurance coverage as a dependent of the obligor. If health insurance coverage required under section 14-09-08.10 is available through an employer, the employer must:
 - a. Permit the obligor to enroll under family coverage any child who is otherwise eligible for coverage without regard to any open enrollment restrictions;
 - b. If the obligor is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application by the obligee;
 - c. Upon receipt of the national medical support notice issued under section 14-09-08.20:
 - (1) Comply with the provisions of the national medical support notice; and
 - (2) Transfer the national medical support notice to the insurer that provides any such health insurance coverage for which the child is eligible, within twenty business days after the date of the national medical support notice;

-
- d. Not disenroll or eliminate coverage for any child unless the employer has eliminated family health coverage for all of its employees or the employer is provided satisfactory written evidence that:
 - (1) The order issued under section 14-09-08.10 is no longer in effect; or
 - (2) The child is or will be enrolled in comparable coverage that will take effect no later than the effective date of disenrollment;
 - e. Withhold from the obligor's compensation the obligor's share, if any, of premiums for health insurance coverage and pay this amount to the insurer;
 - f. If the amount required to be withheld under subdivision e, either alone or when added to the total of any withholding required by an order issued under section 14-09-09.15, exceeds fifty percent of the obligor's disposable income, withhold fifty percent of the obligor's disposable income;
 - g. In the case of an obligor contest under subsection 2, initiate and continue withholding until the employer receives notice that the contest is resolved; and
 - h. Promptly notify the child support agency, in the same manner as required under subsection 9 of section 14-09-09.16, whenever the obligor's employment is terminated.
2. The obligor may contest the withholding provided for in subdivision e of subsection 1 by filing a request for a hearing within ten days of the date of the national medical support notice issued under section 14-09-08.20. If the obligor contests that withholding, the court shall:
 - a. Hold a hearing within ten working days after the date of the request; and
 - b. Confirm the withholding in the absence of a finding:
 - (1) Of a mistake of fact; or
 - (2) That the obligee is required to provide health insurance coverage pursuant to section 14-09-08.10.
3. ~~Withholding~~The withholding provided in subdivision e of subsection 1 has priority over any other legal process against the same income except that withholding required by an order issued under section 14-09-09.15 must be satisfied before any payment is made to the insurer. If the amount remaining is insufficient to pay the obligor's share of premiums for health insurance coverage, the obligor may authorize additional withholding to pay the obligor's share. If the obligor does not authorize additional withholding, and the health insurance coverage will lapse as a result, the employer must promptly inform the child support agency of the insufficiency.
 4. An employer receiving a national medical support notice under this section is subject to the same duties and liabilities as an income payer under section 14-09-09.3 unless the context indicates otherwise.

5. For purposes of this section:

- a. "Employer" means an entity or individual who would be determined to be an employer under section 3401(d) of the Internal Revenue Code of 1986, as amended [26 U.S.C. 3401(d)], and includes any governmental entity and any labor organization; and
- b. "Insurer" has the meaning provided in section 26.1-36.5-01.

(Contingent effective date - See note) Eligible child - Employer to permit enrollment - Employer duties and liabilities - Obligor contest.

1. When an obligor is required to cover a child as a beneficiary under section 14-09-08.10, the child is eligible for health insurance coverage as a dependent of the obligor. If health insurance coverage required under section 14-09-08.10 is available through an employer, the employer must:
 - a. Permit the obligor to enroll under family coverage any child who is otherwise eligible for coverage without regard to any open enrollment restrictions;
 - b. If the obligor is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application by the obligee;
 - c. Upon receipt of the national medical support notice issued under section 14-09-08.20:
 - (1) Comply with the provisions of the national medical support notice; and
 - (2) Transfer the national medical support notice to the insurer that provides any such health insurance coverage for which the child is eligible, within twenty business days after the date of the national medical support notice;
 - d. Not disenroll or eliminate coverage for any child unless the employer has eliminated family health coverage for all of its employees or the employer is provided satisfactory written evidence that:
 - (1) The order issued under section 14-09-08.10 is no longer in effect; or
 - (2) The child is or will be enrolled in comparable coverage that will take effect no later than the effective date of disenrollment;
 - e. Withhold from the obligor's compensation the obligor's share, if any, of premiums for health insurance coverage and pay this amount to the insurer;
 - f. If the amount required to be withheld under subdivision e, either alone or when added to the total of any withholding required by an order issued under section 14-09-09.15, exceeds fifty percent of the obligor's disposable income, withhold fifty percent of the obligor's disposable income;

- g. In the case of an obligor contest under subsection 2, initiate and continue withholding until the employer receives notice that the contest is resolved; and
 - h. Promptly notify the child support agency, in the same manner as required under subsection 9 of section 14-09-09.16, whenever the obligor's employment is terminated.
2. The obligor may contest the withholding provided for in subdivision e of subsection 1 by filing a request for a hearing within ten days of the date of the national medical support notice issued under section 14-09-08.20. If the obligor contests that withholding, the court shall:
 - a. Hold a hearing within ten working days after the date of the request; and
 - b. Confirm the withholding in the absence of a finding:
 - (1) Of a mistake of fact; or
 - (2) That the obligee is required to provide health insurance coverage pursuant to section 14-09-08.10.
 3. Unless otherwise provided by the child support agency in compliance with rules promulgated by the secretary of the United States department of health and human services, the withholding provided in subdivision e of subsection 1 has priority over any other legal process against the same income, except that withholding required by an order issued under section 14-09-09.15 must be satisfied before any payment is made to the insurer. If the amount remaining is insufficient to pay the obligor's share of premiums for health insurance coverage, the obligor may authorize additional withholding to pay the obligor's share. If the obligor does not authorize additional withholding, and the health insurance coverage will lapse as a result, the employer must promptly inform the child support agency of the insufficiency.
 4. An employer receiving a national medical support notice under this section is subject to the same duties and liabilities as an income payer under section 14-09-09.3 unless the context indicates otherwise.
 5. For purposes of this section:
 - a. "Employer" means an entity or individual who would be determined to be an employer under section 3401(d) of the Internal Revenue Code of 1986, as amended [26 U.S.C. 3401(d)], and includes any governmental entity and any labor organization; and
 - b. "Insurer" has the meaning provided in section 26.1-36.5-01.

SECTION 7. AMENDMENT. Section 14-09-08.13 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.13. Application for service.

The child support agency shall take ~~necessary~~the appropriate steps to implement, modify, and enforce an order for dependent health insurance or other medical support whenever the children receive benefits through temporary assistance for needy families or foster care under chapter 50-09 or medical assistance under chapter

~~50-24.1, or upon whenever application of the obligee to the child support agency and payment by the obligee of any required application fees made and accepted for services provided by the child support agency.~~

SECTION 8. AMENDMENT. Section 14-09-09.30 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.30. Monthly amount due.

1. If there is a current monthly support obligation, the total amount of child support due in each month for purposes of income withholding is the sum of the obligor's current monthly support obligation; and
 - a. The amount the obligor is ordered to pay toward any outstanding arrearage; or
 - b. If no order to repay an arrearage exists, an amount for application to any arrearage equal to twenty percent of the obligor's current monthly support obligation; or
2. If there is no current monthly support obligation, the total amount of child support due in each month for purposes of income withholding is:
 - a. ~~An~~Unless either subdivision b or c applies, an amount equal to the greater of:
 - (1) The amount the obligor is ordered to pay toward any outstanding arrearage; or
 - (2) The sum of the obligor's most recent monthly support obligation and twenty percent of the obligor's most recent monthly support obligation;
 - b. An amount the obligor is ordered to pay toward an arrearage ~~during periods when~~ or, if no order to repay an arrearage exists, an amount equal to twenty percent of the obligor's most recent monthly support obligation, if the supported child resides with the obligor pursuant to a court order; or
 - c. An amount the obligor is ordered to pay toward an arrearage if that amount is included in an order issued when there is no current monthly support obligation.
3. The total amount of child support due in each month under this section for purposes of income withholding may be increased at the request of the obligor to repay an arrearage or by agreement with the child support agency.

SECTION 9. A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

Allocation of tax exemption for the child.

Each order entered under this code for the support of a minor child or the support of a child after majority under section 14-09-08.2 must identify the person who is authorized to claim the child as a dependent for purposes of filing an income tax return.

⁹⁹ **SECTION 10. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

35-34-04. (Effective through July 31, 2015, or see note) Vessel lien.

1. In the case of a vessel, the child support agency may file a notice of lien with the secretary of state if the value of the vessel is estimated to be at least twice the cost of establishing the lien. The notice must contain a description of the make, model designation, and serial number of the vessel, including its identification or registration number, if any, and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed by the secretary of state in the central indexing system and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.
3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the recorder.
4. The child support agency may file an amendment to correct the spelling of the obligor's name or to correct or change the address of the obligor.

(Effective after July 31, 2015, or see note) Vessel lien.

1. In the case of a vessel, the child support agency may ~~file~~establish a lien by filing electronically a notice of lien in the central indexing system if the value of the vessel is estimated to be at least twice the cost of establishing the lien. The notice must contain a description of the make, model designation, and serial number of the vessel, including its identification or registration number, if any, and the name, social security number, and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed in the central indexing system and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.
3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the recorder.
4. A lien under this section is perfected when notice of the lien is filed with the secretary of state.
5. The child support agency may file electronically an amendment to correct the spelling of the obligor's name, to correct the obligor's social security number, or to correct or change the address of the obligor.

⁹⁹ Section 35-34-04 was also amended by section 1 of House Bill No. 1330, chapter 372.

¹⁰⁰ **SECTION 11. AMENDMENT.** Section 35-34-06 of the North Dakota Century Code is amended and reenacted as follows:

35-34-06. (Effective through July 31, 2015, or see note) Lien on other personal property.

1. In the case of untitled personal property other than an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing a notice of lien with the office of the recorder in the county in which the personal property may be found, with the secretary of state, or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. The information filed with a recorder or with the secretary of state under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central indexing system.
3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

(Effective after July 31, 2015, or see note) Lien on other personal property.

1. In the case of untitled personal property other than a vessel or an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing electronically a notice of lien in the central indexing system or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. The information filed under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central indexing system.
3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

SECTION 12. AMENDMENT. Section 50-09-06.1 of the North Dakota Century Code is amended and reenacted as follows:

¹⁰⁰ Section 35-34-06 was also amended by section 1 of House Bill No. 1330, chapter 372.

50-09-06.1. Assignment of support rights.

An application under this chapter is deemed to create and effect an assignment of all rights to support, which a family member or foster child may have or come to have, to the state agency. The assignment:

1. Is effective as to all current ~~and accrued~~ support obligations and periods of eligibility;
2. Is effective as to all accrued support obligations with respect to a foster care child;
3. Is limited to the total cost of benefits provided to the family or foster child;
- ~~3.4.~~ Terminates when eligibility ceases, except with respect to any support obligation unpaid at that time; and
- ~~4.5.~~ Is not effective as to any child subject to a benefit cap imposed under section 50-09-29.

¹⁰¹ **SECTION 13. AMENDMENT.** Section 73 of chapter 152 of the 2009 Session Laws is amended and reenacted as follows:

SECTION 73. CONTINGENT EFFECTIVE DATE. This Act becomes effective on the ~~date the department of human services certifies to the legislative council that the Hague convention on the international recovery of child support and other forms of family maintenance is ratified and that the United States deposited its instrument of ratification~~ July 1, 2015.

SECTION 14. REPEAL. Section 14-09-08.8 of the North Dakota Century Code is repealed.

SECTION 15. DEPARTMENT OF HUMAN SERVICES REPORT TO LEGISLATIVE MANAGEMENT. The department of human services shall provide a report to the legislative management before July 1, 2016, regarding the number of revoked obligor driver's licenses, the duration and effectiveness of revocations, including a comparison of the state's driver's license revocation with other rural states; and shall present a specific proposal that may limit the use of revocation of driver's licenses as a tool of enforcement.

¹⁰¹ Section 14-12.2-47.1 was also amended by section 1 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.2 was also amended by section 2 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.4 was also amended by section 3 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.5 was also amended by section 4 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.6 was also amended by section 5 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.7 was also amended by section 6 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.8 was also amended by section 7 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.9 was also amended by section 8 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.10 was also amended by section 9 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.11 was also amended by section 10 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.13 was also amended by section 11 of Senate Bill No. 2053, chapter 62.

SECTION 16. EMERGENCY. Section 13 of this Act is declared to be an emergency measure.

Approved April 15, 2015

Filed April 15, 2015

CHAPTER 127

HOUSE BILL NO. 1029

(Legislative Management)
(Commission on Alternatives to Incarceration)

AN ACT to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to neglect of a child; to amend and reenact subdivision a of subsection 1 of section 12.1-32-15, section 14-09-22, paragraph 1 of subdivision d of subsection 3 of section 27-20-02, and subsection 3 of section 50-25.1-02 of the North Dakota Century Code, relating to abuse of a child; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰² **SECTION 1. AMENDMENT.** Subdivision a of subsection 1 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

- a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or ~~subdivision a of subsection 1 or subsection 2 of section 14-09-22~~, labor trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.

SECTION 2. AMENDMENT. Section 14-09-22 of the North Dakota Century Code is amended and reenacted as follows:

14-09-22. Abuse or neglect of child - Penalty.

1. Except as provided in subsection 2 or 3, a parent, adult family or household member, guardian, or other custodian of any child, who willfully ~~commits any of the following offenses~~ inflicts or allows to be inflicted upon the child mental injury or bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04 is guilty of a class C felony except if the victim of an offense under ~~subdivision a~~ this section is under the age of six years in which case the offense is a class B felony:
 - a. ~~Inflicts, or allows to be inflicted, upon the child, bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04 or mental injury.~~
 - b. ~~Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals.~~

¹⁰² Section 12.1-32-15 was also amended by section 1 of House Bill No. 1407, chapter 115, section 1 of Senate Bill No. 2107, chapter 117, and section 7 of Senate Bill No. 2215, chapter 96.

- e. ~~Permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a disreputable place or associating with vagrants or vicious or immoral persons.~~
- d. ~~Permits the child to engage in, or fails to exercise reasonable diligence in preventing the child from engaging in, an occupation forbidden by the laws of this state or an occupation injurious to the child's health or morals or the health or morals of others.~~
2. A person who provides care, supervision, education, or guidance for a child unaccompanied by the child's parent, adult family or household member, guardian, or custodian in exchange for money, goods, or other services and who while providing such services commits an offense under ~~subdivision a of subsection 1~~ this section is guilty of a class B felony. Any such person ~~who~~that commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties provided in that chapter.
3. A person ~~who~~that commits an offense under ~~subdivision a of subsection 1~~this section is guilty of a class B felony if the victim suffers permanent loss or impairment of the function of a bodily member or organ, except if the victim of the offense is under the age of six years in which case the offense is a class A felony.

SECTION 3. A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

Neglect of child - Penalty.

A parent, adult family or household member, guardian, or other custodian of any child, who willfully commits any of the following offenses is guilty of a class C felony:

1. Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals.
2. Permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a disreputable place or associating with vagrants or vicious or immoral persons.
3. Permits the child to engage in, or fails to exercise reasonable diligence in preventing the child from engaging in, an occupation forbidden by the laws of this state or an occupation injurious to the child's health or morals or the health or morals of others.

¹⁰³ **SECTION 4. AMENDMENT.** Paragraph 1 of subdivision d of subsection 3 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

- (1) A violation of section 12.1-16-01, 12.1-16-02, ~~or~~ 12.1-16-03, or ~~subdivision a of subsection 1 of section 14-09-22~~ in which the victim is another child of the parent;

¹⁰³ Section 27-20-02 was also amended by section 4 of House Bill No. 1186, chapter 111, section 2 of House Bill No. 1347, chapter 112, and section 1 of Senate Bill No. 2064, chapter 229.

SECTION 5. AMENDMENT. Subsection 3 of section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in ~~subdivision a of subsection 1 of section 14-09-22~~ caused by a person responsible for the child's welfare and "sexually abused child" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual who acts in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 128

HOUSE BILL NO. 1314

(Representatives Delmore, Hawken, Maragos)
(Senators Luick, Nelson, Oban)

AN ACT to amend and reenact section 14-10-17.1 of the North Dakota Century Code, relating to consent for emergency medical care for a minor who has been sexually assaulted.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-10-17.1 of the North Dakota Century Code is amended and reenacted as follows:

14-10-17.1. Minor's emergency care.

1. A minor may contract for and receive emergency examination, care, or treatment in a life-threatening situation without the consent of the minor's parent or guardian. If a minor has an emergency medical condition or the potential for an emergency medical condition, consent to emergency examination, care, or treatment of the minor is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful. This ~~section~~subsection does not authorize a minor to withhold consent to emergency examination, care, or treatment.
2. A physician or other health care provider may provide emergency medical care or forensic services to a minor who is a victim of sexual assault without the consent of the minor's parent or guardian. Reasonable steps must be made to notify the minor's parent or guardian of the care provided.

Approved April 2, 2015
Filed April 2, 2015

EDUCATION

CHAPTER 129

HOUSE BILL NO. 1127

(Education Committee)
(At the request of the State Board of Higher Education)

AN ACT to amend and reenact section 15-10-19.1 of the North Dakota Century Code, relating to resident students for tuition purposes; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-19.1 of the North Dakota Century Code is amended and reenacted as follows:

15-10-19.1. Nonresident and resident student for tuition purposes defined.

1. A "nonresident student" for tuition purposes means any student other than a resident student.
2. A "resident student" for tuition purposes means:
 - a. An individual whose guardian, custodial parent, or parents are legal residents of this state and have resided in this state for twelve months, or a dependent child whose custodial parent moved into the state with the intent to establish legal residency for a period of years within the last twelve months immediately prior to the beginning of the academic term;
 - b. An individual of age eighteen or over who is a legal resident of this state and has resided in this state after reaching age eighteen for twelve months immediately prior to the beginning of the academic term;
 - c. An individual who graduated from a North Dakota high school;
 - d. (1) A full-time active duty member of the armed forces;
(2) A member of the North Dakota national guard;
(3) A member of the armed forces reserve component stationed in this state; or
(4) A veteran, as defined in section 37-01-40;
 - e. A benefited employee of the North Dakota university system;
 - f. The spouse of:
 - (1) A full-time active duty member of the armed forces;

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- (2) A member of the North Dakota national guard;
 - (3) A member of the armed forces reserve component stationed in this state;
 - (4) A veteran, as defined in section 37-01-40, provided the veteran is eligible to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [38 U.S.C. 3301];
 - (5) A benefited employee of the North Dakota university system; or
 - (6) Any other individual who is a resident for tuition purposes;
- g. A dependent of:
- (1) A full-time active duty member of the armed forces;
 - (2) A member of the North Dakota national guard;
 - (3) A member of the armed forces reserve component stationed in this state;
 - (4) A veteran, as defined in section 37-01-40, provided the veteran is eligible to transfer entitlement under the Post 9-11 Veterans Educational Assistance Act of 2008 [38 U.S.C. 3301]; or
 - (5) A benefited employee of the North Dakota university system;
- h. An individual who was a legal resident of this state for at least three consecutive years within six years of the beginning of the academic term; or
- i. A child, widow, or widower of a veteran as defined in section 37-01-40 who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.
- j. A covered individual as defined by section 702 of Public Law No. 113-146 [128 Stat. 1797; 38 U.S.C. 3679].
3. A temporary absence from the state for vacation or other special or temporary purposes may not be considered an abandonment of residency in this state, provided a residence is maintained in this state during the temporary absence. However, a student who leaves the state and resides in another state for a period of months is not considered a resident of this state during those months if the student does not maintain a place of residence in this state during the student's absence.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 130

HOUSE BILL NO. 1051

(Legislative Management)
(Information Technology Committee)

AN ACT to create and enact two new subdivisions to subsection 1 of section 15-10-44 of the North Dakota Century Code, relating to electronic mail services and retention for institutions of higher education; to amend and reenact subsection 1 of section 54-46-02 of the North Dakota Century Code, relating to records management; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new subdivisions to subsection 1 of section 15-10-44 of the North Dakota Century Code are created and enacted as follows:

Requiring utilization by each institution under the control and supervision of the board of systemwide electronic mail services provided by the board for all public business electronic correspondence.

Development and implementation of an electronic mail retention policy for the board and institutions under the supervision and control of the board which requires retention of nonstudent employee electronic mail messages for at least two years after the creation or receipt of the message.

SECTION 2. AMENDMENT. Subsection 1 of section 54-46-02 of the North Dakota Century Code is amended and reenacted as follows:

1. "Agency" means any department, office, commission, board, or other unit, however designated, of the executive branch of state government, including the state board of higher education and the entities under the control of the state board of higher education.

SECTION 3. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$350,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of defraying expenses related to the retention of nonstudent employee electronic mail messages, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

Approved April 15, 2015

Filed April 15, 2015

CHAPTER 131

HOUSE BILL NO. 1151

(Representatives Nathe, Beadle, Dockter, Dosch, Owens)
(Senators Armstrong, Flakoll, Holmberg)

AN ACT to amend and reenact sections 15-10-48, 15-10-49, 15-10-50, 15-10-51, 15-10-52, and 15-10-53 of the North Dakota Century Code, relating to matching grants for the advancement of academics at institutions of higher education; to provide for a legislative management study; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-48 of the North Dakota Century Code is amended and reenacted as follows:

15-10-48. (~~Effective through June 30, 2015~~) Advancement of academics - Matching grants - University of North Dakota and North Dakota state university.

1. a. During the period beginning July 1, ~~2013~~2015, and ending December 31, ~~2014~~2016, the state board of higher education shall award one dollar in matching grants for every two dollars raised by the institutional foundations of the university of North Dakota and North Dakota state university for projects dedicated exclusively to the advancement of academics.
- b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least fifty thousand dollars in cash or monetary pledges for a qualifying project; and
 - (2) The project has been approved by the grant review committee established in section 15-10-51.
- c. The board may award up to ~~ten~~seven million dollars in matching grants to each institution. The first two million dollars in matching grants awarded to each institution must be used for student scholarships that comply with section 15-10-53.
2. a. If any available dollars have not been awarded by the board before January 1, ~~2015~~2017, in accordance with subsection 1, either the university of North Dakota or North Dakota state university may apply for an additional matching grant.
- b. An application submitted under this subsection must meet the same criteria as an original application.
- c. The board shall consider each application submitted under this subsection in chronological order.
- d. If the remaining dollars are insufficient to provide a matching grant in the amount of one dollar for every two dollars raised by the institutional foundation, the board shall award a lesser amount.

3. The state board of higher education shall retain up to one-quarter of one percent of any grant awarded under this section to assist with administrative expenses incurred in the grant review process.

SECTION 2. AMENDMENT. Section 15-10-49 of the North Dakota Century Code is amended and reenacted as follows:

15-10-49. (~~Effective through June 30, 2015~~) Advancement of academics - Matching grants - Two-year and four-year institutions of higher education.

1. a. During the period beginning July 1, ~~2013~~2015, and ending December 31, ~~2014~~2016, the state board of higher education shall award one dollar in matching grants for every two dollars raised by the institutional foundations of Bismarck state college, Dakota college at Bottineau, Dickinson state university, Lake Region state college, Mayville state university, Minot state university, North Dakota state college of science, Valley City state university, and Williston state college for projects dedicated exclusively to the advancement of academics.
 - b. To be eligible for a matching grant, an institution must demonstrate that:
 - (1) Its foundation has raised at least twenty-five thousand dollars in cash or monetary pledges for a qualifying project; and
 - (2) The project has been approved by the grant review committee established in section 15-10-51.
 - c. The board may award up to one million dollars in matching grants to each institution.
2. a. If any available dollars have not been awarded by the board before January 1, ~~2015~~2017, in accordance with subsection 1, any institution listed in subsection 1 may apply for an additional matching grant.
 - b. An application submitted under this subsection must meet the same criteria as an original application.
 - c. The board shall consider each application submitted under this subsection in chronological order.
 - d. If the remaining dollars are insufficient to provide a matching grant in the amount of one dollar for every two dollars raised by the institutional foundation, the board shall award a lesser amount.
3. a. The board may award an additional five hundred thousand dollars in matching grants to institutions that have been awarded one million dollars in matching grants under subsection 1 and apply for an additional matching grant.
 - b. An application submitted under this subsection must meet the same criteria as an original application.
 - c. The board shall consider each application submitted under this subsection in chronological order.

- d. If the funding provided under this subsection is insufficient to provide a matching grant in the amount of one dollar for every two dollars raised by the institutional foundation, the board shall award a lesser amount.
4. The state board of higher education shall retain up to one-quarter of one percent of any grant awarded under this section to assist with administrative expenses incurred in the grant review process.

SECTION 3. AMENDMENT. Section 15-10-50 of the North Dakota Century Code is amended and reenacted as follows:

15-10-50. (Effective through June 30, 2015) Liability for pledged amount.

If in accordance with section 15-10-48 or 15-10-49, the state board of higher education provides grant funds under sections 15-10-48 through 15-10-53 to an institution, on the basis of a monetary pledge, and if the amount forthcoming is less than the amount pledged, the institutional foundation is liable to the institution for any shortfall.

SECTION 4. AMENDMENT. Section 15-10-51 of the North Dakota Century Code is amended and reenacted as follows:

15-10-51. (Effective through June 30, 2015) Grant review committee.

1. There is created a grant review committee consisting of:
 - a. The governor, or the governor's designee, who shall serve as the chairman;
 - b. Two members of the house of representatives appropriations committee, selected by the majority leader of the house of representatives;
 - c. Two members of the senate appropriations committee, selected by the majority leader of the senate;
 - d. Two members appointed by the governor, with the consent of the legislative management; and
 - e. Two members appointed by the state board of higher education, with the consent of the legislative management.
2. The gubernatorial appointees must have an understanding of higher education's role in advancing agriculture, the arts, commerce and finance, manufacturing, mineral extraction, natural resources, and the professions.
3. The grant review committee shall establish its rules of operation and procedure and shall develop and publish the criteria upon which all requests for matching grants will be reviewed.
4. a. A request for a matching grant ~~must~~may be presented to the committee by the:
 - (1) ~~The president of the institution.~~ The president; or
 - (2) A designee of the president.

- b. Either presenter may be accompanied by other individuals having an expertise with respect to the project.
- c. If the request is to be presented by a designee of a president, the designee must provide to the committee a written statement signed by the president and certifying that the president has full knowledge of all aspects of the request, as it is presented.

SECTION 5. AMENDMENT. Section 15-10-52 of the North Dakota Century Code is amended and reenacted as follows:

15-10-52. (Effective through June 30, 2015) Grant review committee - Compensation.

Each member of the grant review committee is entitled to receive compensation in the amount of one hundred thirty-five dollars per day plus reimbursement for expenses as provided by law for state officers if the member is attending meetings or performing duties directed by the committee. The compensation provided for in this section may not be paid to any member of the committee who receives a salary or other compensation as an employee or official of this state if the individual is serving on the committee by virtue of the individual's state office or state employment.

SECTION 6. AMENDMENT. Section 15-10-53 of the North Dakota Century Code is amended and reenacted as follows:

15-10-53. (Effective through June 30, 2015) Definition.

For purposes of sections 15-10-48 through 15-10-52, projects dedicated to the advancement of enhanced academics include investments in research, scholarships, technology, endowed chairs, and investments in educational infrastructure, including but exclude scholarships intended solely for the benefit of athletics, campus facility repair projects, and new capital construction projects that conform with the university system campus master plan and space utilization study.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - HIGHER EDUCATION MATCHING GRANTS. During the 2015-16 interim, the legislative management shall consider studying the provision of matching grants to institutions of higher education, as set forth in sections 15-10-48 through 15-10-53, for the purposes of ensuring that the statutory parameters provide sufficient direction, provide flexibility to accommodate changing circumstances and needs, and ultimately enable the delivery of the greatest possible benefits to the students attending institutions of higher education in this state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 8. APPROPRIATION - STATE BOARD OF HIGHER EDUCATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$21,000,000, or so much of the sum as may be necessary, and out of any moneys in the student loan trust fund in the state treasury, not otherwise appropriated, the sum of \$2,500,000, or so much of the sum as may be necessary, to the state board of higher education for the purpose of awarding matching grants for the advancement of academics at institutions of higher education under the control of the board, for the biennium beginning July 1, 2015, and ending June 30, 2017. The funding provided in this section is considered a one-time funding item.

CHAPTER 132

SENATE BILL NO. 2159

(Senators Wardner, Armstrong)
(Representatives Fehr, Lefor, Schatz, Steiner)

AN ACT to authorize the state board of higher education and the state board of agricultural research and education to convey certain real property in Stark County owned by the state of North Dakota; to authorize the state board of higher education and the state board of agricultural research and education to acquire certain real property in Stark County; to provide a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. CONVEYANCE OF LAND AUTHORIZED - ACQUISITION OF LAND AUTHORIZED - CONTINUING APPROPRIATION.

1. The state of North Dakota, by and through the state board of higher education and the state board of agricultural research and education, may convey certain real property used for the purposes of the Dickinson research extension center in Stark County for the price and on the terms as determined by the state board of higher education. Sections 54-01-05.2 and 54-01-05.5 do not apply to a conveyance authorized by this subsection.
 - a. The state board of agricultural research and education may convey the following parcels of land consisting of approximately 30 acres to the Dickinson school district:

The east 20 acres of the northwest $\frac{1}{4}$ of the northwest $\frac{1}{4}$ of section 32 of township 140 north, range 96 west.

The west 10 acres of the northeast $\frac{1}{4}$ of the northwest $\frac{1}{4}$ of section 32 of township 140 north, range 96 west.
 - b. The state board of agricultural research and education may grant the Dickinson school district a right of first refusal for the purchase of the following parcels of land within five years of the effective date of this Act:

The east 30 acres of the northeast $\frac{1}{4}$ of the northwest $\frac{1}{4}$ of section 32 of township 140 north, range 96 west.

The west 20 acres of the northwest $\frac{1}{4}$ of the northwest $\frac{1}{4}$ of section 32 of township 140 north, range 96 west.
 - c. If the Dickinson school district does not exercise the right to purchase the 50 acres described in subdivision b or any portion of those parcels, the state board of agricultural research and education may convey that land to another purchaser at fair market value.

- d. The state board of agricultural research and education may convey the following parcel of land consisting of approximately 160 acres at public auction:

The southwest quarter of section 29 of township 140 north, range 96 west.

2. The state of North Dakota, by and through the state board of higher education and the state board of agricultural research and education, may acquire certain real property in Stark County to be used for the purposes of the Dickinson research extension center on the terms and for a price as approved by the state board of higher education, but not to exceed \$2,602,000. The state board of agricultural research and education shall use any funds received under the conveyance of state land under subsection 1 for the purchase of the following parcels of land:

The west $\frac{1}{2}$ of section 30 of township 139 north, range 91 west.

The west $\frac{1}{2}$ of section 31 of township 139 north, range 91 west.

The south $\frac{1}{2}$ of section 25 of township 139 north, range 92 west.

The southeast $\frac{1}{4}$ of section 26 of township 139 north, range 92 west.

The north $\frac{1}{2}$ of section 36 of township 139 north, range 92 west.

The north $\frac{1}{2}$ of the south $\frac{1}{2}$ of section 36 of township 139 north, range 92 west.

The south $\frac{1}{2}$ of the southeast quarter of section 36 of township 139 north, range 92 west.

3. Any funds received as a result of a conveyance under subsection 1 are appropriated on a continuing basis and may be used by the state board of agricultural research and education for acquiring the property described in subsection 2. Any funds received as a result of a conveyance under subsection 1 which exceed the amount necessary to acquire the property described in subsection 2 must be deposited in a special fund that may be used by the state board of agricultural research and education solely for agricultural research purposes at the Dickinson research extension center and those funds are appropriated on a continuing basis for that purpose.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved February 26, 2015
Filed February 26, 2015

CHAPTER 133

HOUSE BILL NO. 1471

(Representatives Looyesen, Rick C. Becker, Haak, Mock)
(Senators Grabinger, Luick)

AN ACT to create and enact a new section to chapters 15-10 and 15.1-06 of the North Dakota Century Code, relating to freedom of expression rights of students of public institutions of higher education and public schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Student journalists - Freedom of expression - Civil remedy.

1. As used in this section:
 - a. "School-sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at an institution under the supervision of the state board of higher education, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser. The term does not include any media intended for distribution or transmission solely in the classroom in which the media is produced.
 - b. "Student journalist" means a student of an institution under the supervision of the state board of higher education who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.
 - c. "Student media adviser" means an individual employed, appointed, or designated by an institution under the supervision of the state board of higher education to supervise or provide instruction relating to school-sponsored media.
2. Except as provided in subsection 3, a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the media is supported financially by the institution or by use of facilities of the institution or produced in conjunction with a class in which the student is enrolled. Subject to subsection 3, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection may not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists.
3. This section does not authorize or protect expression by a student that:
 - a. Is libelous or slanderous;
 - b. Constitutes an unwarranted invasion of privacy;

- c. Violates federal or state law; or
- d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of institution or state board of higher education policies, or the material and substantial disruption of the orderly operation of the institution.

SECTION 2. A new section to chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

Student journalists - Freedom of expression - Civil remedy.

1. As used in this section:
 - a. "School-sponsored media" means any material that is prepared, substantially written, published, or broadcast by a student journalist at a public school, distributed or generally made available to members of the student body, and prepared under the direction of a student media adviser. The term does not include any media intended for distribution or transmission solely in the classroom in which the media is produced.
 - b. "Student journalist" means a public school student who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.
 - c. "Student media adviser" means an individual employed, appointed, or designated by a school district to supervise or provide instruction relating to school-sponsored media.
2. Except as provided in subsection 3, a student journalist has the right to exercise freedom of speech and of the press in school-sponsored media, regardless of whether the media is supported financially by the school district, by use of facilities of the school district, or produced in conjunction with a class in which the student is enrolled. Subject to subsection 3, a student journalist is responsible for determining the news, opinion, feature, and advertising content of school-sponsored media. This subsection may not be construed to prevent a student media adviser from teaching professional standards of English and journalism to student journalists.
3. This section does not authorize or protect expression by a student that:
 - a. Is libelous or slanderous;
 - b. Constitutes an unwarranted invasion of privacy;
 - c. Violates federal or state law; or
 - d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of school district policy, or the material and substantial disruption of the orderly operation of the school.
4. A school district may not authorize any prior restraint of any school-sponsored media except when the media:
 - a. Is libelous or slanderous;

-
- b. Constitutes an unwarranted invasion of privacy;
 - c. Violates federal or state law; or
 - d. So incites students as to create a clear and present danger of the commission of an unlawful act, the violation of school district policies, or the material and substantial disruption of the orderly operation of the school.
5. A school district may not sanction a student operating as an independent journalist.
6. Each school district shall adopt a written student freedom of expression policy in accordance with this section. The policy must include reasonable provisions for the time, place, and manner of student expression. The policy may also include limitations to language that may be defined as profane, harassing, threatening, or intimidating.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 134

SENATE BILL NO. 2150

(Senators Holmberg, Armstrong, Casper)
(Representatives Delmore, M. Johnson, Larson)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to student and student organization disciplinary proceedings at institutions under the control of the state board of higher education; to provide for the development of a uniform policy; and to provide for a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Disciplinary proceedings - Right to counsel for students and organizations - Appeals.

1. Any student enrolled at an institution under the control of the state board of higher education has the right to be represented, at the student's expense, by the student's choice of either an attorney or a nonattorney advocate, who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by that institution to address an alleged violation of the institution's rules or policies. This right applies to both the student who has been accused of the alleged violation and to the student who is the accuser or victim. This right only applies if the disciplinary proceeding involves a violation that could result in a suspension or expulsion from the institution. This right does not apply to matters involving academic misconduct. Before the disciplinary proceeding is scheduled, the institution shall inform the students in writing of the students' rights under this section.
2. Any student organization officially recognized by an institution under the control of the state board of higher education has the right to be represented, at the student organization's expense, by the student organization's choice of either an attorney or nonattorney advocate, who may fully participate during any disciplinary proceeding or during any other procedure adopted and used by the institution to address an alleged violation of the institution's rules or policies. This right only applies if the disciplinary proceeding involves a violation that could result in the suspension or the removal of the student organization from the institution. This right applies to both the student organization that has been accused of the alleged violation and to the accuser or victim.
3. a. Any student who is suspended or expelled from an institution under the control of the state board of higher education for a violation of the rules or policies of that institution and any student organization that is found to be in violation of the rules or policies of that institution must be afforded an opportunity to appeal the institution's initial decision to an institutional administrator or body that did not make the initial decision for a period of one year after receiving final notice of the institution's decision. The right to

- appeal the result of the institution's disciplinary proceeding also applies to the student who is the accuser or victim.
- b. The right of the student or the student organization under subsection 1 or 2 to be represented, at the student's or the student organization's expense, by the student's or the student organization's choice of either an attorney or a nonattorney advocate, also applies to the appeal.
 - c. The issues that may be raised on appeal include new evidence, contradictory evidence, and evidence that the student or student organization was not afforded due process. The institutional body considering the appeal may consider police reports, transcripts, and the outcome of any civil or criminal proceeding directly related to the appeal.
4. Upon consideration of the evidence, the institutional body considering the appeal may grant the appeal, deny the appeal, order a new hearing, or reduce or modify the suspension or expulsion. If the appeal results in the reversal of the decision or a lessening of the sanction, the institution may reimburse the student for any tuition and fees paid to the institution for the period of suspension or expulsion which had not been previously refunded.
 5. For purposes of this section, "fully participate" includes the opportunity to make opening and closing statements, to examine and cross-examine witnesses, and to provide the accuser or accused with support, guidance, and advice. This section does not require an institution to use formal rules of evidence in institutional disciplinary proceedings. The institution, however, shall make good faith efforts to include relevant evidence and exclude evidence which is neither relevant or probative.
 6. This section does not affect the obligation of an institution to provide equivalent rights to a student who is the accuser or victim in the disciplinary proceeding under this section, including equivalent opportunities to have others present during any institutional disciplinary proceeding, to not limit the choice of attorney or nonattorney advocate in any meeting or institutional disciplinary proceeding, and to provide simultaneous notification of the institution's procedures for the accused and the accuser or victim to appeal the result of the institutional disciplinary proceeding.

SECTION 2. STATE BOARD OF HIGHER EDUCATION TO DEVELOP POLICY - REPORT TO LEGISLATIVE MANAGEMENT. The state board of higher education shall develop and implement a procedure for student and student organization disciplinary proceedings which is applied uniformly to all institutions under the control of the state board of higher education. Before July 1, 2016, the state board of higher education shall report to the legislative management on the status of the implementation of the uniform procedure.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 135

HOUSE BILL NO. 1045

(Legislative Management)
(Higher Education Funding Committee)

AN ACT to create and enact a new section to chapter 15-18.1 and a new section to chapter 15-20.4 of the North Dakota Century Code, relating to postsecondary educational institution and postsecondary career school course and program compliance with professional registration and certification requirements; and to amend and reenact sections 15-18.1-05 and 15-20.4-04 of the North Dakota Century Code, relating to minimum standards to operate postsecondary education institutions and postsecondary career schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-18.1-05 of the North Dakota Century Code is amended and reenacted as follows:

15-18.1-05. Minimum standards.

All postsecondary educational institutions must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary educational institution operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the institution becomes eligible for accreditation by a recognized accrediting agency. Institutions issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon accreditation may an institution become eligible for a regular authorization to operate. An institution shall give written notification to the board within thirty days of any change to the institution's accreditation status.

SECTION 2. A new section to chapter 15-18.1 of the North Dakota Century Code is created and enacted as follows:

Compliance with professional board registration and certification requirements.

A postsecondary educational institution shall give written notification to potential students applying for enrollment in a course or program that customarily leads to professional registration or certification of the status of the course or program compliance with the registration or certification requirements of the appropriate professional board in the state. A postsecondary educational institution shall give written notification to all students enrolled in a program or course that customarily leads to professional registration or certification of any change in the status of the course or program compliance with the registration or certification requirements of the appropriate professional board in the state.

SECTION 3. AMENDMENT. Section 15-20.4-04 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-04. Minimum standards - Exceptions.

1. All postsecondary career schools must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary career school operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the school becomes eligible for accreditation by a recognized accrediting agency. Schools issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon accreditation shall a school become eligible for a regular authorization to operate. A school shall give written notification to the board within thirty days of any change to the school's accreditation status.
2. This section does not apply to postsecondary career schools operating in this state that do not grant degrees and that offer mainly hands-on training in low census occupations, as determined by the board. "Degree" as used in this subsection means a document that provides evidence or demonstrates completion of a course of instruction that results in the attainment of a rank or level of associate or higher.

SECTION 4. A new section to chapter 15-20.4 of the North Dakota Century Code is created and enacted as follows:

Compliance with professional board registration and certification requirements.

A postsecondary career school shall give written notification to potential students applying for enrollment in a course or program that customarily leads to professional registration or certification of the status of the course or program compliance with the registration or certification requirements of the appropriate professional board in the state. A postsecondary career school shall give written notification to all students enrolled in a program or course that customarily leads to professional registration or certification of any change in the status of the course or program compliance with the registration or certification requirements of the appropriate professional board in the state.

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 136

HOUSE BILL NO. 1064

(Government and Veterans Affairs Committee)
(At the request of the Teachers' Fund for Retirement)

AN ACT to amend and reenact subsection 10 of section 15-39.1-04, subsection 4 of section 15-39.1-10, sections 15-39.1-10.6 and 15-39.1-20, subsections 8 and 11 of section 15-39.1-24, and section 15-39.1-34 of the North Dakota Century Code, relating to the incorporation of federal law changes for the definition of salary, eligibility for normal retirement benefits, benefit limitations, and withdrawal from the fund under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 10 of section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

10. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a plan year reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 132(f), 401(k), 403(b), 414(h), or 457 ~~in effect on August 1, 2013, as amended.~~ "Salary" includes amounts paid to members for performance of duties, unless amounts are conditioned on or made in anticipation of an individual member's retirement or termination. The annual salary of each member taken into account in determining benefit accruals and contributions may not exceed the annual compensation limits established under 26 U.S.C. 401(a)(17)(B) ~~in effect on August 1, 2013, as amended,~~ as adjusted for increases in the cost of living in accordance with 26 U.S.C. 401(a)(17)(B) ~~in effect on August 1, 2013, as amended.~~ A salary maximum is not applicable to members whose participation began before July 1, 1996. "Salary" does not include:
 - a. Fringe benefits or side, nonwage, benefits that accompany or are in addition to a member's employment, including insurance programs, annuities, transportation allowances, housing allowances, meals, lodging, or expense allowances, or other benefits provided by a member's employer.
 - b. Insurance programs, including medical, dental, vision, disability, life, long-term care, workforce safety and insurance, or other insurance premiums or benefits.
 - c. Payments for unused sick leave, personal leave, vacation leave, or other unused leave.
 - d. Early retirement incentive pay, severance pay, or other payments conditioned on or made in anticipation of retirement or termination.
 - e. Teacher's aide pay, referee pay, busdriver pay, or janitorial pay.

- f. Amounts received by a member in lieu of previously employer-provided benefits or payments that are made on an individual selection basis.
- g. Signing bonuses as defined under section 15.1-09-33.1.
- h. Other benefits or payments not defined in this section which the board determines to be ineligible teachers' fund for retirement salary.

SECTION 2. AMENDMENT. Subsection 4 of section 15-39.1-10 of the North Dakota Century Code is amended and reenacted as follows:

4. Retirement benefits must begin no later than April first of the calendar year following the year the member attains age seventy and one-half or April first of the calendar year following the year the member terminates covered employment, whichever is later. Payments must be made over a period of time which does not exceed the life expectancy of the member or the joint life expectancy of the member and the beneficiary. Payment of minimum distributions must be made in accordance with section 401(a)(9) of the Internal Revenue Code ~~in effect on August 1, 2013, as amended,~~ and the regulations issued under that section, as applicable to governmental plans.

SECTION 3. AMENDMENT. Section 15-39.1-10.6 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-10.6. Benefit limitations.

Benefits with respect to a member participating under former chapter 15-39 or chapter 15-39.1 or 15-39.2 may not exceed the maximum benefits specified under section 415 of the Internal Revenue Code [26 U.S.C. 415] ~~in effect on August 1, 2013, as amended,~~ for governmental plans. The maximum dollar benefit applicable under section 415(b)(1)(A) of the Internal Revenue Code must reflect any increases in this amount provided under section 415(d) of the Internal Revenue Code ~~subsequent to August 1, 2013, as amended.~~ If a member's benefit is limited by these provisions at the time of retirement or termination of employment, or in any subsequent year, the benefit paid in any following calendar year may be increased to reflect all cumulative increases in the maximum dollar limit provided under section 415(d) of the Internal Revenue Code for years after the year employment terminated or payments commenced, but not to more than would have been payable in the absence of the limits under section 415 of the Internal Revenue Code. If an annuitant's benefit is increased by a plan amendment, after the commencement of payments, the member's benefit may not exceed the maximum dollar benefit under section 415(b)(1)(A) of the Internal Revenue Code, adjusted for the commencement age and form of payment, increased as provided by section 415(d) of the Internal Revenue Code. If this plan must be aggregated with another plan to determine the effect of section 415 of the Internal Revenue Code on a member's benefit, and if the benefit must be reduced to comply with section 415 of the Internal Revenue Code, then the reduction must be made pro rata between the two plans, in proportion to the member's service in each plan.

SECTION 4. AMENDMENT. Section 15-39.1-20 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-20. Withdrawal from fund.

When a member of the fund ceases to be eligible under the terms of this chapter to participate in the fund, the member may, after a period of one hundred twenty days,

withdraw from the fund and is then entitled to receive a refund of assessments accumulated with interest. The one-hundred-twenty-day requirement may be waived by the board when it has evidence the teacher will not be returning to teach in North Dakota. The refund is in lieu of any other benefits to which the member may be entitled under the terms of this chapter, and by accepting the refund, the member is waiving any right to participate in the fund under the same provisions that existed at the time the refund was accepted regardless of whether the member later repurchases refunded service credit. A member or a beneficiary of a member may elect, at the time and under rules adopted by the board, to have any portion of an eligible rollover distribution paid directly in a direct rollover to an eligible retirement plan specified by the member or the beneficiary to the extent permitted by section 401(a)(31) of the Internal Revenue Code in effect on August 1, 2011, as amended.

¹⁰⁴ **SECTION 5. AMENDMENT.** Subsection 8 of section 15-39.1-24 of the North Dakota Century Code is amended and reenacted as follows:

8. A teacher who has at least five years of teaching service credit in the fund may purchase credit not based on service for use toward retirement eligibility and benefits. The purchase of service credit for such nonqualified service as defined under section 415(n) of the Internal Revenue Code, as amended, is limited to an aggregate of five years.

¹⁰⁵ **SECTION 6. AMENDMENT.** Subsection 11 of section 15-39.1-24 of the North Dakota Century Code is amended and reenacted as follows:

11. The fund may accept eligible rollovers, direct rollovers, and trustee-to-trustee transfers from eligible retirement plans specified under Internal Revenue Code section 402(c)(8)(B), as amended, to purchase refunded service credit under section 15-39.1-15 and to purchase additional service credit under section 15-39.1-24. The board shall adopt rules to ensure that the rollovers and transfers comply with the requirements of the Internal Revenue Code and internal revenue service regulations. The total amount rolled over or transferred into the fund may not exceed the amount due to purchase service credit.

SECTION 7. AMENDMENT. Section 15-39.1-34 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-34. Internal Revenue Code compliance.

The board shall administer the plan in compliance with section 415, section 401(a)(9), section 401(a)(17), and section 401(a)(31) of the Internal Revenue Code, as amended, and regulations adopted pursuant to those provisions as they apply to governmental plans.

Approved March 26, 2015

Filed March 26, 2015

¹⁰⁴ Section 15-39.1-24 was also amended by section 6 of House Bill No. 1064, chapter 136.

¹⁰⁵ Section 15-39.1-24 was also amended by section 5 of House Bill No. 1064, chapter 136.

ELEMENTARY AND SECONDARY EDUCATION

CHAPTER 137

SENATE BILL NO. 2031

(Legislative Management)
(Education Funding Committee)

AN ACT to create and enact a new section to chapter 15.1-06, a new section to chapter 15.1-13, and section 15.1-09.1-02.2 of the North Dakota Century Code, relating to school district calendars, regional education associations, and the education standards and practices board; to amend and reenact sections 15-39.1-28, 15.1-06-04, 15.1-09-47, 15.1-09-48, 15.1-27-03.1, 15.1-27-03.2, 15.1-27-04.1, 15.1-27-04.2, 15.1-27-23, 15.1-27-35.3, 15.1-27-45, 15.1-30-04, 15.1-36-02, 40-55-08, 40-55-09, 57-15-01.1, 57-15-14, 57-15-14.2, 57-15-17, 57-15-31, 57-19-01, 57-19-02, and 57-19-09 of the North Dakota Century Code, relating to the determination of state aid payable to school districts; to repeal sections 15.1-27-04, 15.1-27-07.2, 15.1-27-11, 15.1-27-22.1, 15.1-27-42, 15.1-27-43, 15.1-27-44, 15.1-32-20, 57-15-14.4, 57-15-14.5, 57-15-17.1, and 57-19-04 and chapter 57-64 of the North Dakota Century Code, relating to the determination of state aid payable to school districts, school district levies, and mill levy reduction grants; to provide for a school district reporting review committee study; to provide for legislative management studies; to provide grants; to provide exemptions; to provide for contingent funding; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-39.1-28 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-28. ~~(Effective for the first two taxable years beginning after December 31, 2012) Tax levy for teachers' retirement.~~

Any school district by a resolution of its school board may use the proceeds of levies, as permitted by section 57-15-14.2, for the purposes of meeting the district's contribution to the fund arising under this chapter and to provide the district's share, if any, of contribution to the fund for contracted employees of either a multidistrict special education board or another school district where the contracted employees are also providing services to the taxing school district.

~~(Effective after the first two taxable years beginning after December 31, 2012) Tax levy for teachers' retirement.~~ Any school district by a resolution of its school board may levy a tax pursuant to subdivision b of subsection 1 of section 57-15-14.2, the proceeds to be used for the purposes of meeting the district's contribution to the fund arising under this chapter and to provide the district's share, if any, of contribution to the fund for contracted employees of either a multidistrict

special education board or another school district where the contracted employees are also providing services to the taxing school district.

SECTION 2. AMENDMENT. Section 15.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-04. School calendar - Length.

1. ~~During the 2009-10 school year, a school district shall provide for a school calendar of at least one hundred eighty days:~~
 - a. ~~One hundred seventy-three days must be used for instruction;~~
 - b. ~~Three days must be used for holidays, as selected by the school board in consultation with district teachers from the list provided for in subdivisions b through j of subsection 1 of section 15.1-06-02;~~
 - c. ~~Up to two days must be used for:~~
 - (1) ~~Parent teacher conferences; or~~
 - (2) ~~Compensatory time for parent teacher conferences held outside regular school hours; and~~
 - d. ~~Two days must be used for professional development.~~
2. ~~During the 2010-11 school year, a school district shall provide for a school calendar of at least one hundred eighty-one days:~~
 - a. ~~One hundred seventy-four days must be used for instruction;~~
 - b. ~~Three days must be used for holidays, as selected by the board in consultation with district teachers from the list provided for in subdivisions b through j of subsection 1 of section 15.1-06-02;~~
 - c. ~~Up to two days must be used for:~~
 - (1) ~~Parent teacher conferences; or~~
 - (2) ~~Compensatory time for parent teacher conferences held outside of regular school hours; and~~
 - d. ~~Two days must be used for professional development.~~
3. ~~Beginning with the 2011-12 school year, a~~
 1. ~~A school district shall provide for a school calendar of at least one hundred eighty-two days that includes:~~
 - a. ~~One~~At least one ~~hundred seventy-five days must be used for~~of instruction;
 - b. ~~Three days must be used for holidays, as selected by the board in consultation with district teachers from the list provided for in subdivisions b through j of subsection 1 of section 15.1-06-02;~~
 - c. ~~Up to~~No more than ~~two days must be used for:~~

- (1) Parent-teacher conferences; or
 - (2) Compensatory time for parent-teacher conferences held outside of regular school hours; and
- d. ~~Two days must be used for~~ At least two days of professional development.
- 4-2. a. A day ~~for~~ of professional development must consist of:
- a- (1) Six hours of professional development, exclusive of meals and other breaks, conducted within a single day; ~~or~~
 - b- (2) Six hours of cumulative professional development conducted under the auspices of a professional learning community; or
 - (3) Two four-hour periods of professional development, exclusive of meals and other breaks, conducted over two days.
5. b. If a school district offers a four-hour period of professional development, as permitted in ~~subdivision b of this subsection 4,~~ the school district may schedule instruction during other available hours on that same day and be credited with providing one-half day of instruction to students. This ~~subsection~~ subdivision does not apply unless the one-half day of instruction equals at least one-half of the time required for a full day of instruction, as defined in this section.
6. a. ~~In meeting the requirements for two days of professional development under this section, a school district may require that its teachers attend the North Dakota education association instructional conference and may pay teachers for attending the conference, provided their attendance is verified.~~
- b. ~~In meeting the requirements for two days of professional development under this section, a school district may consider attendance at the North Dakota education association instructional conference to be optional, elect not to pay teachers for attending the instructional conference, and instead direct any resulting savings toward providing alternate professional development opportunities.~~
- e. ~~A school district may not require the attendance of teachers in school or at any school-sponsored, school-directed, school-sanctioned, or school-related activities and may not schedule classroom instruction time nor alternate professional development activities on any day that conflicts with the North Dakota education association instructional conference.~~
7. Beginning with the 2010-11 school year, if a school district elects to provide an optional third day of professional development, the school district shall do so by:
- a. Meeting the requirements for a day of professional development as set forth in subsection 4; ~~or~~
 - b. Shortening four instructional days, for the purpose of providing for two-hour periods of professional development, provided:

- (1) Each instructional day on which such professional development occurs includes at least four hours of instruction for kindergarten and elementary students and four and one-half hours for high school students;
- (2) The instructional time for each course normally scheduled on that day is reduced proportionately or the daily schedule is reconfigured to ensure that the same course is not subject to early dismissal more than one time per school calendar, as a result of this subdivision; and
- (3) All teachers having a class dismissed as a result of this subdivision are required to be in attendance and participate in the professional development.
8. a. If a school's calendar provides for an extension of each schoolday beyond the statutorily required minimum number of hours, and if the extensions when aggregated over an entire school year amount to more than eighty-four hours of additional classroom instruction during the school year, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. In order to make up lost classroom instruction time beyond the six hours, the school must extend its normal school calendar day by at least thirty minutes.
- b. A school that does not qualify under the provisions of this subsection must extend its normal schoolday by at least thirty minutes to make up classroom instruction time lost as a result of weather-related closure.
- e.3. If because of weather a school must dismiss before completing a full day of instruction, the school is responsible for making up only those hours and portions of an hour between the time of early dismissal and the conclusion of a full day of classroom instruction.
- 9.4. For purposes of this section, a full day of instruction consists of:
- a. At least five and one-half hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
- b. At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.

SECTION 3. A new section to chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

School district calendar - Limitation.

1. A school district may not schedule school-sponsored, school-directed, or school-related activities, including instructional time, during any day that the superintendent of public instruction declares is in conflict with a professional development conference directed toward all teachers or all administrators and hosted by an educational organization in this state.
2. The declaration permitted by subsection 1 is limited to two days during a school year.

SECTION 4. AMENDMENT. Section 15.1-09-47 of the North Dakota Century Code is amended and reenacted as follows:

~~15.1-09-47. (Effective for the first two taxable years beginning after December 31, 2012) Board of education of city of Fargo - Taxing authority.~~

The board of education of the city of Fargo may levy taxes within the requirements or limitations of this title and title 57.

~~(Effective after the first two taxable years beginning after December 31, 2012) Board of education of city of Fargo - Taxing authority.~~

- ~~1. The board of education of the city of Fargo may levy taxes, as necessary for any of the following purposes:
 - a. To purchase, exchange, lease, or improve sites for schools.
 - b. To build, purchase, lease, enlarge, alter, improve, and repair schools and their appurtenances.
 - c. To procure, exchange, improve, and repair school apparatus, books, furniture, and appendages, but not the furnishing of textbooks to any student whose parent is unable to furnish the same.
 - d. To provide fuel.
 - e. To defray the contingent expenses of the board, including the compensation of employees.
 - f. To pay teacher salaries after the application of public moneys, which may by law be appropriated and provided for that purpose.~~
- ~~2. The question of authorizing or discontinuing the unlimited taxing authority of the board of education of the city of Fargo must be submitted to the qualified electors of the Fargo school district at the next regular election upon resolution of the board of education or upon filing with the board a petition containing the signatures of qualified electors of the district equal in number to twenty percent of the individuals enumerated in the most recent school district census. However, if the electors approve a discontinuation of the unlimited taxing authority, their approval of the discontinuation may not affect the tax levy effective for the calendar year in which the election is held. In addition, the minimum levy may not be less than the levy that was in force at the time of the election. The board may increase its levy in accordance with section 57-15-01. If the district experiences growing enrollment, the board may increase the levy by an amount equal to the amount levied the preceding year per student times the number of additional students enrolled during the new year.~~

SECTION 5. AMENDMENT. Section 15.1-09-48 of the North Dakota Century Code is amended and reenacted as follows:

~~15.1-09-48. (Effective for the first two taxable years beginning after December 31, 2012) Board of education of city of Fargo - Tax collection.~~

- ~~1. The board of education of the city of Fargo may levy taxes within the boundaries of the Fargo public school district and cause the taxes to be~~

collected in the same manner as other city taxes, provided the taxes meet the requirements or limitations of this title and title 57. The business manager of the board of education shall certify the rate for each purpose to the city auditor in time to be added to the annual tax list of the city.

2. The city auditor shall calculate and extend upon the annual assessment roll and tax list any tax levied by the board of education. The tax must be collected in the same manner as other city taxes.
3. If the city council fails to levy any tax for city purposes or fails to cause an assessment roll or tax list to be made, the board of education may make an assessment roll and tax list and submit the roll to the city auditor with a warrant for the collection of the tax. The board of education may cause the tax to be collected in the same manner as other city taxes are collected or as otherwise provided by resolution of the board.

~~(Effective after the first two taxable years beginning after December 31, 2012) Board of education of city of Fargo – Tax collection. The board of education of the city of Fargo has the power to levy taxes within the boundaries of the Fargo public school district and to cause such taxes to be collected in the same manner as other city taxes. The board of education shall cause the rate for each purpose to be certified by the business manager to the city auditor in time to be added to the annual tax list of the city. It is the duty of the city auditor to calculate and extend upon the annual assessment roll and tax list any tax levied by the board of education. The tax must be collected as other city taxes are collected. If the city council fails to levy any tax for city purposes or fails to cause an assessment roll or tax list to be made, the board of education may cause an assessment roll and tax list to be made and submit the roll to the city auditor with a warrant for the collection of the tax. The board of education may cause the tax to be collected in the same manner as other city taxes are collected or as otherwise provided by resolution of the board.~~

SECTION 6. Section 15.1-09.1-02.2 of the North Dakota Century Code is created and enacted as follows:

15.1-09.1-02.2. Regional education association - Review process.

In order to be eligible for state funding, a regional education association shall participate in and meet the requirements of a review process that is:

1. Designed to raise the quality of services offered by a regional education association to its members, in accordance with this chapter, through a continuous cycle of improvement; and
2. Approved by the superintendent of public instruction.

SECTION 7. A new section to chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

Satisfaction survey - Development - Utilization - Report to legislative management.

1. a. The superintendent of public instruction shall develop an electronic survey instrument that the education standards and practices board shall utilize at the conclusion of all interactions with individuals seeking information or services from the board.

- b. The survey instrument must include references to quality; timeliness; the availability, courtesy, knowledge, and responsiveness of staff; the ease of obtaining information or services; and the cost and value of the interaction.
 - c. The education standards and practices board shall begin to utilize the survey no later than June 1, 2015.
2. The education standards and practices board shall compile the responses and provide reports regarding the results to an interim committee designated by the legislative management at the times and in the manner requested by the committee.
 3. Any expenses incurred by the superintendent of public instruction in developing the survey instrument are the responsibility of the education standards and practices board.

¹⁰⁶ **SECTION 8. AMENDMENT.** Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-03.1. (~~Effective July 1, 2013, through June 30, 2015~~) Weighted average daily membership - Determination.

1. For each school district, the superintendent of public instruction shall multiply by:
 - a. ~~1.00 the number of full-time equivalent students enrolled in a migrant summer program;~~
 - b-a. 1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;
 - e-b. 0.60 the number of full-time equivalent students enrolled in a summer education program, including a migrant summer education program;
 - d. ~~0.20 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;~~
 - e-c. ~~0.30~~0.33 the number of full-time equivalent students who:
 - (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and placed in the first of six categories of proficiency; and
 - (2) Are enrolled in a program of instruction for English language learners;
 - f-d. 0.25 the number of full-time equivalent students under the age of twenty-one enrolled in grades nine through twelve in an alternative high school;
 - g. ~~0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-04;~~

¹⁰⁶ Section 15.1-27-03.1 was also amended by section 9 of Senate Bill No. 2031, chapter 137.

h-e. 0-200.22 the number of full-time equivalent students who:

(1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and

(2) Are enrolled in a program of instruction for English language learners;

i-f. 0.20 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;

g. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;

j-h. 0.15 the number of full-time equivalent students in grades six through eight enrolled in an alternative education program for at least an average of fifteen hours per week;

k-i. 0.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;

t-j. 0.082 the number of students enrolled in average daily membership, in order to support the provision of special education services;

m-k. 0.07 the number of full-time equivalent students who:

(1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the second of six categories of proficiency and therefore placed in the third of six categories of proficiency;

(2) Are enrolled in a program of instruction for English language learners; and

(3) Have not been in the third of six categories of proficiency for more than three years;

n-l. 0.025 the number of students representing that percentage of the total number of students in average daily membership which is equivalent to the three-year average percentage of students in grades three through eight who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.];

o. 0-003 the number of students enrolled in average daily membership in each public school in the district that:

- ~~(1) Has acquired and is utilizing the PowerSchool student information system;~~
- ~~(2) Has acquired and is in the process of implementing the PowerSchool student information system; or~~
- ~~(3) Will acquire the PowerSchool student information system during the current school year, provided the acquisition is contractually demonstrated; and~~

~~p.m.~~ 0.002 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1.

- 2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.

~~(Effective after June 30, 2015) Weighted average daily membership -- Determination.~~

- 1. ~~For each school district, the superintendent of public instruction shall multiply by:~~
 - a. ~~1.00 the number of full-time equivalent students enrolled in a migrant summer program;~~
 - b. ~~1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;~~
 - c. ~~0.60 the number of full-time equivalent students enrolled in a summer education program;~~
 - d. ~~0.50 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;~~
 - e. ~~0.30 the number of full-time equivalent students who:~~
 - ~~(1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and placed in the first of six categories of proficiency; and~~
 - ~~(2) Are enrolled in a program of instruction for English language learners;~~
 - f. ~~0.25 the number of full-time equivalent students enrolled in an alternative high school;~~
 - g. ~~0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;~~
 - h. ~~0.20 the number of full-time equivalent students who:~~
 - ~~(1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the first of six categories of~~

proficiency and therefore placed in the second of six categories of proficiency; and

- (2) Are enrolled in a program of instruction for English language learners;
- i. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;
- j. 0.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;
- k. 0.082 the number of students enrolled in average daily membership, in order to support the provision of special education services;
- l. 0.07 the number of full-time equivalent students who:
- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the second of six categories of proficiency and therefore placed in the third of six categories of proficiency;
- (2) Are enrolled in a program of instruction for English language learners; and
- (3) Have not been in the third of six categories of proficiency for more than three years;
- m. 0.025 the number of students representing that percentage of the total number of students in average daily membership which is equivalent to the three-year average percentage of students in grades three through eight who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.];
- n. 0.006 the number of students enrolled in average daily membership in each public school in the district that:
- (1) Has acquired and is utilizing the PowerSchool student information system;
- (2) Has acquired and is in the process of implementing the PowerSchool student information system; or
- (3) Will acquire the PowerSchool student information system during the current school year, provided the acquisition is contractually demonstrated; and

- e. ~~0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1.~~
- 2. ~~The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.~~

¹⁰⁷ **SECTION 9. AMENDMENT.** Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-03.1. (~~Effective July 1, 2013, through June 30, 2015~~) Weighted average daily membership - Determination.

1. For each school district, the superintendent of public instruction shall multiply by:
 - a. ~~1.00 the number of full-time equivalent students enrolled in a migrant summer program;~~
 - b.a. 1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;
 - e.b. 0.60 the number of full-time equivalent students enrolled in a summer education program, including a migrant summer education program;
 - d. ~~0.20 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;~~
 - e.c. ~~0.30~~ 0.40 the number of full-time equivalent students who:
 - (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and
 - (2) Are enrolled in a program of instruction for English language learners;
 - d. 0.28 the number of full-time equivalent students who:
 - (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and
 - (2) Are enrolled in a program of instruction for English language learners;
 - f.e. 0.25 the number of full-time equivalent students under the age of twenty-one enrolled in grades nine through twelve in an alternative high school;

¹⁰⁷ Section 15.1-27-03.1 was also amended by section 8 of Senate Bill No. 2031, chapter 137.

- ~~g.~~ 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-04;
- ~~h.~~ 0.20 the number of full-time equivalent students who:
- ~~(1)~~ (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and
 - ~~(2)~~ (2) Are enrolled in a program of instruction for English language learners;
- ~~f.~~ 0.20 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;
- ~~i-g.~~ 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;
- ~~j-h.~~ 0.15 the number of full-time equivalent students in grades six through eight enrolled in an alternative education program for at least an average of fifteen hours per week;
- ~~k-i.~~ 0.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;
- ~~l-j.~~ 0.082 the number of students enrolled in average daily membership, in order to support the provision of special education services;
- ~~m-k.~~ 0.07 the number of full-time equivalent students who:
- ~~(1)~~ (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the second of six categories of proficiency and therefore placed in the third of six categories of proficiency;
 - ~~(2)~~ (2) Are enrolled in a program of instruction for English language learners; and
 - ~~(3)~~ (3) Have not been in the third of six categories of proficiency for more than three years;
- ~~n-l.~~ 0.025 the number of students representing that percentage of the total number of students in average daily membership which is equivalent to the three-year average percentage of students in grades three through eight who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.];

- ~~o. 0.003 the number of students enrolled in average daily membership in each public school in the district that:~~
- ~~(1) Has acquired and is utilizing the PowerSchool student information system;~~
 - ~~(2) Has acquired and is in the process of implementing the PowerSchool student information system; or~~
 - ~~(3) Will acquire the PowerSchool student information system during the current school year, provided the acquisition is contractually demonstrated; and~~
- ~~p.m. 0.002 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1.~~
2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.

~~(Effective after June 30, 2015) Weighted average daily membership Determination.~~

1. For each school district, the superintendent of public instruction shall multiply by:
 - ~~a. 1.00 the number of full-time equivalent students enrolled in a migrant summer program;~~
 - ~~b. 1.00 the number of full-time equivalent students enrolled in an extended educational program in accordance with section 15.1-32-17;~~
 - ~~c. 0.60 the number of full-time equivalent students enrolled in a summer education program;~~
 - ~~d. 0.50 the number of full-time equivalent students enrolled in a home-based education program and monitored by the school district under chapter 15.1-23;~~
 - ~~e. 0.30 the number of full-time equivalent students who:

 - ~~(1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be least proficient and placed in the first of six categories of proficiency; and~~
 - ~~(2) Are enrolled in a program of instruction for English language learners;~~~~
 - ~~f. 0.25 the number of full-time equivalent students enrolled in an alternative high school;~~
 - ~~g. 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-04;~~
 - ~~h. 0.20 the number of full-time equivalent students who:~~

- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the first of six categories of proficiency and therefore placed in the second of six categories of proficiency; and
- (2) Are enrolled in a program of instruction for English language learners;
- i. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;
- j. 0.10 the number of students enrolled in average daily membership, if the district has fewer than one hundred students enrolled in average daily membership and the district consists of an area greater than two hundred seventy-five square miles [19424.9 hectares], provided that any school district consisting of an area greater than six hundred square miles [155399 hectares] and enrolling fewer than fifty students in average daily membership must be deemed to have an enrollment equal to fifty students in average daily membership;
- k. 0.082 the number of students enrolled in average daily membership, in order to support the provision of special education services;
- l. 0.07 the number of full-time equivalent students who:
- (1) On a test of English language proficiency approved by the superintendent of public instruction are determined to be more proficient than students placed in the second of six categories of proficiency and therefore placed in the third of six categories of proficiency;
- (2) Are enrolled in a program of instruction for English language learners; and
- (3) Have not been in the third of six categories of proficiency for more than three years;
- m. 0.025 the number of students representing that percentage of the total number of students in average daily membership which is equivalent to the three-year average percentage of students in grades three through eight who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.];
- n. 0.006 the number of students enrolled in average daily membership in each public school in the district that:
- (1) Has acquired and is utilizing the PowerSchool student information system;
- (2) Has acquired and is in the process of implementing the PowerSchool student information system; or
- (3) Will acquire the PowerSchool student information system during the current school year, provided the acquisition is contractually demonstrated; and

- ~~e. 0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1.~~
2. ~~The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.~~

SECTION 10. AMENDMENT. Section 15.1-27-03.2 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-03.2. (~~Effective through June 30, 2015~~) School district size weighting factor - Weighted student units.

1. For each high school district in the state, the superintendent of public instruction shall assign a school district size weighting factor of:
- a. 1.36 if the students in average daily membership number fewer than 110;
 - b. 1.35 if the students in average daily membership number at least 110 but fewer than 125;
 - ~~b-c.~~ 1.34 if the students in average daily membership number at least 125 but fewer than 130;
 - ~~c-d.~~ 1.33 if the students in average daily membership number at least 130 but fewer than 135;
 - ~~d-e.~~ 1.32 if the students in average daily membership number at least 135 but fewer than 140;
 - ~~e-f.~~ 1.31 if the students in average daily membership number at least 140 but fewer than 145;
 - ~~f-g.~~ 1.30 if the students in average daily membership number at least 145 but fewer than 150;
 - ~~g-h.~~ 1.29 if the students in average daily membership number at least 150 but fewer than 155;
 - ~~h-i.~~ 1.28 if the students in average daily membership number at least 155 but fewer than 160;
 - ~~i-j.~~ 1.27 if the students in average daily membership number at least 160 but fewer than 165;
 - ~~j-k.~~ 1.26 if the students in average daily membership number at least 165 but fewer than 175;
 - ~~k-l.~~ 1.25 if the students in average daily membership number at least 175 but fewer than 185;
 - ~~l-m.~~ 1.24 if the students in average daily membership number at least 185 but fewer than 200;

- m-n. 1.23 if the students in average daily membership number at least 200 but fewer than 215;
- n-o. 1.22 if the students in average daily membership number at least 215 but fewer than 230;
- o-p. 1.21 if the students in average daily membership number at least 230 but fewer than 245;
- p-q. 1.20 if the students in average daily membership number at least 245 but fewer than 260;
- q-r. 1.19 if the students in average daily membership number at least 260 but fewer than 270;
- r-s. 1.18 if the students in average daily membership number at least 270 but fewer than 275;
- s-t. 1.17 if the students in average daily membership number at least 275 but fewer than 280;
- t-u. 1.16 if the students in average daily membership number at least 280 but fewer than 285;
- u-v. 1.15 if the students in average daily membership number at least 285 but fewer than 290;
- v-w. 1.14 if the students in average daily membership number at least 290 but fewer than 295;
- w-x. 1.13 if the students in average daily membership number at least 295 but fewer than 300;
- x-y. 1.12 if the students in average daily membership number at least 300 but fewer than 305;
- y-z. 1.11 if the students in average daily membership number at least 305 but fewer than 310;
- z-aa. 1.10 if the students in average daily membership number at least 310 but fewer than 320;
- aa-bb. 1.09 if the students in average daily membership number at least 320 but fewer than 335;
- bb-cc. 1.08 if the students in average daily membership number at least 335 but fewer than 350;
- cc-dd. 1.07 if the students in average daily membership number at least 350 but fewer than 360;
- dd-ee. 1.06 if the students in average daily membership number at least 360 but fewer than 370;
- ee-ff. 1.05 if the students in average daily membership number at least 370 but fewer than 380;

- ~~ff-gg.~~ 1.04 if the students in average daily membership number at least 380 but fewer than 390;
 - ~~gg-hh.~~ 1.03 if the students in average daily membership number at least 390 but fewer than 400;
 - ~~hh-ii.~~ 1.02 if the students in average daily membership number at least 400 but fewer than 600;
 - ~~ii-jj.~~ 1.01 if the students in average daily membership number at least 600 but fewer than 900; and
 - ~~jj-kk.~~ 1.00 if the students in average daily membership number at least 900.
2. For each elementary district in the state, the superintendent of public instruction shall assign a weighting factor of:
 - a. 1.25 if the students in average daily membership number fewer than 125;
 - b. 1.17 if the students in average daily membership number at least 125 but fewer than 200; and
 - c. 1.00 if the students in average daily membership number at least 200.
 3. The school district size weighting factor determined under this section and multiplied by a school district's weighted average daily membership equals the district's weighted student units.
 4. Notwithstanding the provisions of this section, the school district size weighting factor assigned to a district may not be less than the factor arrived at when the highest number of students possible in average daily membership is multiplied by the school district size weighting factor for the subdivision immediately preceding the district's actual subdivision and then divided by the district's average daily membership.

~~(Effective after June 30, 2015) School district size weighting factor --
Weighted student units.~~

- ~~1. For each high school district in the state, the superintendent of public instruction shall assign a school district size weighting factor of:~~
 - ~~a. 1.25 if the students in average daily membership number fewer than 185;~~
 - ~~b. 1.24 if the students in average daily membership number at least 185 but fewer than 200;~~
 - ~~c. 1.23 if the students in average daily membership number at least 200 but fewer than 215;~~
 - ~~d. 1.22 if the students in average daily membership number at least 215 but fewer than 230;~~
 - ~~e. 1.21 if the students in average daily membership number at least 230 but fewer than 245;~~

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- f. 1.20 if the students in average daily membership number at least 245 but fewer than 260;
 - g. 1.19 if the students in average daily membership number at least 260 but fewer than 270;
 - h. 1.18 if the students in average daily membership number at least 270 but fewer than 275;
 - i. 1.17 if the students in average daily membership number at least 275 but fewer than 280;
 - j. 1.16 if the students in average daily membership number at least 280 but fewer than 285;
 - k. 1.15 if the students in average daily membership number at least 285 but fewer than 290;
 - l. 1.14 if the students in average daily membership number at least 290 but fewer than 295;
 - m. 1.13 if the students in average daily membership number at least 295 but fewer than 300;
 - n. 1.12 if the students in average daily membership number at least 300 but fewer than 305;
 - o. 1.11 if the students in average daily membership number at least 305 but fewer than 310;
 - p. 1.10 if the students in average daily membership number at least 310 but fewer than 320;
 - q. 1.09 if the students in average daily membership number at least 320 but fewer than 335;
 - r. 1.08 if the students in average daily membership number at least 335 but fewer than 350;
 - s. 1.07 if the students in average daily membership number at least 350 but fewer than 360;
 - t. 1.06 if the students in average daily membership number at least 360 but fewer than 370;
 - u. 1.05 if the students in average daily membership number at least 370 but fewer than 380;
 - v. 1.04 if the students in average daily membership number at least 380 but fewer than 390;
 - w. 1.03 if the students in average daily membership number at least 390 but fewer than 400;
 - x. 1.02 if the students in average daily membership number at least 400 but fewer than 600;

- y. ~~1.01 if the students in average daily membership number at least 600 but fewer than 900; and~~
- z. ~~1.00 if the students in average daily membership number at least 900.~~
- 2. ~~For each elementary district in the state, the superintendent of public instruction shall assign a weighting factor of:~~
 - a. ~~1.25 if the students in average daily membership number fewer than 125;~~
 - b. ~~1.17 if the students in average daily membership number at least 125 but fewer than 200; and~~
 - c. ~~1.00 if the students in average daily membership number at least 200.~~
- 3. ~~The school district size weighting factor determined under this section and multiplied by a school district's weighted average daily membership equals the district's weighted student units.~~
- 4. ~~Notwithstanding the provisions of this section, the school district size weighting factor assigned to a district may not be less than the factor arrived at when the highest number of students possible in average daily membership is multiplied by the school district size weighting factor for the subdivision immediately preceding the district's actual subdivision and then divided by the district's average daily membership.~~

SECTION 11. AMENDMENT. Section 15.1-27-04.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-04.1. (~~Effective through June 30, 2015~~) Baseline funding - Establishment - Determination of state aid.

- 1. In order to determine the amount of state aid payable to each district, the superintendent of public instruction shall establish each district's baseline funding. A district's baseline funding consists of:
 - a. All state aid received by the district in accordance with chapter 15.1-27 during the 2012-13 school year;
 - b. The district's 2012-13 mill levy reduction grant, as determined in accordance with chapter 57-64, as it existed on June 30, 2013;
 - c. An amount equal to that raised by the district's 2012 general fund levy or that raised by one hundred ten mills of the district's 2012 general fund levy, whichever is less;
 - d. An amount equal to that raised by the district's 2012 long-distance learning and educational technology levy;
 - e. An amount equal to that raised by the district's 2012 alternative education program levy; and
 - f. An amount equal to:
 - (1) Seventy-five percent of all revenue received by the school district and reported under code 2000 of the North Dakota school district financial

- accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
- (2) Seventy-five percent of all mineral revenue received by the school district through direct allocation from the state treasurer and not reported under code 2000 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08;
 - (3) Seventy-five percent of all tuition received by the school district and reported under code 1300 of the North Dakota school district financial accounting and reporting manual, as developed by the superintendent of public instruction in accordance with section 15.1-02-08, with the exception of revenue received specifically for the operation of an educational program provided at a residential treatment facility and tuition received for the provision of an adult farm management program;
 - (4) Seventy-five percent of all revenue received by the school district from payments in lieu of taxes on the distribution and transmission of electric power;
 - (5) Seventy-five percent of all revenue received by the school district from payments in lieu of taxes on electricity generated from sources other than coal;
 - (6) All revenue received by the school district from mobile home taxes;
 - (7) Seventy-five percent of all revenue received by the school district from the leasing of land acquired by the United States for which compensation is allocated to the state under 33 U.S.C. 701(c)(3);
 - (8) All telecommunications tax revenue received by the school district; and
 - (9) All revenue received by the school district from payments in lieu of taxes and state reimbursement of the homestead credit and disabled veterans credit.
2. The superintendent shall divide the district's total baseline funding by the district's 2012-13 weighted student units in order to determine the district's baseline funding per weighted student unit.
 3. a. ~~In 2013-14, the superintendent shall multiply the district's weighted student units by eight thousand eight hundred ten dollars.~~
 - (1) ~~The superintendent shall adjust the product to ensure that the product is at least equal to the greater of:~~
 - (a) ~~One hundred two percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's 2013-14 weighted student units; or~~
 - (b) ~~One hundred percent of the district's baseline funding as established in subsection 1.~~

- (2) ~~The superintendent shall also adjust the product to ensure that the product does not exceed one hundred ten percent of the district's baseline funding per weighted student unit multiplied by the district's 2013-14 weighted student units, as established in subsection 2.~~
- b. ~~In 2014-15, the superintendent shall multiply the district's weighted student units by nine thousand ninety-two dollars.~~
- (1) ~~The superintendent shall adjust the product to ensure that the product is at least equal to the greater of:~~
- (a) ~~One hundred four percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's 2014-15 weighted student units; or~~
- (b) ~~One hundred percent of the district's baseline funding as established in subsection 1.~~
- (2) ~~The superintendent shall also adjust the product to ensure that the product does not exceed one hundred twenty percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's 2014-15 weighted student units.~~
3. a. In 2015-16, the superintendent shall multiply the district's weighted student units by nine thousand three hundred sixty-five dollars.
- (1) The superintendent shall adjust the product to ensure that the product is at least equal to the greater of:
- (a) One hundred six percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's 2013-14 weighted student units; or
- (b) One hundred percent of the district's baseline funding as established in subsection 1.
- (2) The superintendent shall also adjust the product to ensure that the product does not exceed one hundred thirty percent of the district's baseline funding per weighted student unit multiplied by the district's 2013-14 weighted student units, as established in subsection 2.
- b. In 2016-17, the superintendent shall multiply the district's weighted student units by nine thousand six hundred forty-six dollars.
- (1) The superintendent shall adjust the product to ensure that the product is at least equal to the greater of:
- (a) One hundred eight percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's 2014-15 weighted student units; or
- (b) One hundred percent of the district's baseline funding as established in subsection 1.

- (2) The superintendent shall also adjust the product to ensure that the product does not exceed one hundred forty percent of the district's baseline funding per weighted student unit, as established in subsection 2, multiplied by the district's 2014-15 weighted student units.
4. After determining the product in accordance with subsection 3, the superintendent of public instruction shall:
 - a. Subtract an amount equal to sixty mills multiplied by the taxable valuation of the school district, provided that after 2013, the amount in dollars subtracted for purposes of this subdivision may not exceed the previous year's amount in dollars subtracted for purposes of this subdivision by more than twelve percent; and
 - b. Subtract an amount equal to seventy-five percent of all revenues listed in paragraphs 1 through 5, and 7 of subdivision f of subsection 1 and one hundred percent of all revenues listed in paragraphs 6, 8, and 9 of subdivision f of subsection 1.
 5. The amount remaining after the computation required under subsection 4 is the amount of state aid to which a school district is entitled, subject to any other statutory requirements or limitations.

SECTION 12. AMENDMENT. Section 15.1-27-04.2 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-04.2. (Effective through June 30, 2015) State aid - Minimum local effort - Determination.

If a district's taxable valuation per student is less than twenty percent of the state average valuation per student, the superintendent of public instruction, for purposes of determining state aid in accordance with section 15.1-27-04.1, shall utilize an amount equal to sixty mills times twenty percent of the state average valuation per student multiplied by the number of weighted student units in the district.

SECTION 13. AMENDMENT. Section 15.1-27-23 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-23. Weather or other emergency conditions - Closure of schools - State aid payments to school districts.

1. ~~If because of severe weather or other emergency conditions a public school or school district remains closed or provides less than a full day of instruction, The board of each school district shall include in the school calendar days that may be used for the rescheduling of instructional time lost as a result of severe weather or other emergency conditions.~~
2.
 - a. The number of days required under subsection 1 must equal the average number of days per school year, as calculated using the previous five school years, during which the school district remained closed or provided less than a full day of instruction because of severe weather or other emergency conditions.
 - b. The number of days determined under subdivision a may be included within the calendar no earlier than the month of January.

3. If the number of days during which a public school or school district is closed or provides less than a full day of instruction exceeds the number of days determined under subdivision a of subsection 2, the public school or school district shall make every effort to reschedule the remaining classes, so that students receive at least the number of full instructional days required by section 15.1-06-04 or an equivalent period of instructional time, as determined by the superintendent of public instruction.
- 2.4. Any public school or school district for which the rescheduling of classes would create undue hardship may request that, for purposes of calculating state aid payments to the school district, the governor waive the rescheduling in whole or in part.
- 3.5. The governor may not grant a waiver for less than a full day of instruction. However, if a public school or school district closes for only a portion of its regular schoolday, the hours during which the school or school district is closed may be added together to determine the number of additional full days of instruction that may be waived under this section.

SECTION 14. AMENDMENT. Section 15.1-27-35.3 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-35.3. (~~Effective through June 30, 2015~~) Payments to school districts - Unobligated general fund balance.

1. a. The superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is ~~in excess of forty-five percent of its actual expenditures, plus twenty thousand dollars.~~
 - b. ~~Beginning July 1, 2015, the superintendent of public instruction shall determine the amount of payments due to a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of forty percent of its actual expenditures, plus twenty thousand dollars.~~
 - e.b. Beginning July 1, 2017, the superintendent of public instruction shall determine the amount of payments due to a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of thirty-five percent of its actual expenditures, plus twenty thousand dollars.
2. ~~In making the determination required by subsection 1, the superintendent of public instruction may not include in a district's unobligated general fund balance any moneys that were received by the district from the federal education jobs fund program.~~
- 3.2. For purposes of this section, a district's unobligated general fund balance includes all moneys in the district's miscellaneous fund, as established under section 57-15-14.2.

(~~Effective after June 30, 2015~~) Payments to school districts -- Unobligated general fund balance.

1. ~~The superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of forty five percent of its actual expenditures, plus twenty thousand dollars.~~
2. ~~In making the determination required by subsection 1, the superintendent of public instruction may not include in a district's unobligated general fund balance any moneys that were received by the district from the federal education jobs fund program.~~

¹⁰⁸ **SECTION 15. AMENDMENT.** Section 15.1-27-45 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-45. (Effective through June 30, 2015) Property tax relief fund.

1. a. ~~The property tax relief fund is a special fund in the state treasury. On July 1, 2013, the state treasurer shall change the name of the property tax relief sustainability fund established under section 57-64-05 to the property tax relief fund, as established by this section, and any unobligated balance in the property tax relief sustainability fund must be retained in the property tax relief fund.~~
- b. ~~The legislative council shall change the name of the property tax relief sustainability fund to the property tax relief fund in the North Dakota Century Code, in its supplements, and in all statutory compilations generated as a result of action by the sixty third legislative assembly.~~
2. Moneys in the property tax relief fund may be expended pursuant to legislative appropriations for property tax relief programs.
3. On or before the third Monday in each January, February, March, April, August, September, October, November, and December, the office of management and budget shall certify to the superintendent of public instruction the amount of the property tax relief fund. The superintendent shall include the amount certified in determining the state aid payments to which each school district is entitled under chapter 15.1-27.

SECTION 16. AMENDMENT. Section 15.1-30-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-30-04. (Effective for the first two taxable years beginning after December 31, 2012) Provision of meals and lodging for high school students - Payment permitted.

Instead of providing transportation so that an eligible high school student residing in the district can attend school in another district, a school board may pay a reasonable allowance to the student's parent for costs incurred in the provision of meals and lodging for the student at a location other than the student's residence.

~~(Effective after the first two taxable years beginning after December 31, 2012) Provision of meals and lodging for high school students - Payment permitted - Levy.~~ Instead of providing transportation so that an eligible high school

¹⁰⁸ Section 15.1-27-45 was repealed by section 7 of House Bill No. 1377, chapter 467.

~~student residing in the district can attend school in another district, a school board may pay a reasonable allowance to the student's parent for costs incurred in the provision of meals and lodging for the student at a location other than the student's residence. A school district that furnishes either transportation or an allowance for the provision of meals and lodging for a student under this section may levy a tax pursuant to subdivision a of subsection 1 of section 57-15-14.2 for this purpose.~~

¹⁰⁹ **SECTION 17. AMENDMENT.** Section 15.1-36-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-02. (Effective through June 30, 2015) School construction projects - Loans.

1. In order to provide school construction loans, the board of university and school lands may authorize the use of:
 - a. Fifty million dollars, or so much of that amount as may be necessary, from the coal development trust fund, established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02; and
 - b. One hundred fifty million dollars from the strategic investment and improvements fund, established pursuant to section 15-08.1-08, for the period ending June 30, 2015.
2. In order to be eligible for a loan under this section, the board of a school district shall:
 - a. Propose a construction project with a cost of at least one million dollars and an expected utilization of at least thirty years;
 - b. Obtain the approval of the superintendent of public instruction for the construction project under section 15.1-36-01; and
 - c. Submit to the superintendent of public instruction an application containing all information deemed necessary by the superintendent, including potential alternative sources or methods of financing the construction project.
3. If an eligible school district's taxable valuation per student is less than eighty percent of the state average taxable valuation per student, the district is entitled to receive:
 - a. A school construction loan equal to the lesser of twenty million dollars or ninety percent of the actual project cost;
 - b. An interest rate discount equal to at least one hundred but not more than four hundred basis points below the prevailing tax-free bond rates; and
 - c. A term of repayment that may extend up to twenty years.

¹⁰⁹ Section 15.1-36-02 was also amended by section 4 of Senate Bill No. 2039, chapter 153.

4. If an eligible school district's taxable valuation per student is equal to at least eighty percent but less than ninety percent of the state average taxable valuation per student, the district is entitled to receive:
 - a. A school construction loan equal to the lesser of fifteen million dollars or eighty percent of the actual project cost;
 - b. An interest rate buydown equal to at least one hundred but not more than three hundred fifty basis points below the prevailing tax-free bond rates; and
 - c. A term of repayment that may extend up to twenty years.
5. If an eligible school district's taxable valuation per student is equal to at least ninety percent of the state average taxable valuation per student, the district is entitled to receive:
 - a. A school construction loan equal to the lesser of ten million dollars or seventy percent of the actual project cost;
 - b. An interest rate discount equal to at least one hundred but not more than three hundred basis points below the prevailing tax-free bond rates; and
 - c. A term of repayment that may extend up to twenty years.
6. The board of a school district may submit its loan application to the superintendent of public instruction before or after receiving authorization of a bond issue in accordance with chapter 21-03. If the vote to authorize a bond issue precedes the application for a loan, the application must be acted upon by the superintendent expeditiously but no later than one hundred eighty days from the date it is received by the superintendent.
7. The superintendent of public instruction shall consider each loan application in the order it received approval under section 15.1-36-01.
8. If the superintendent of public instruction approves the loan, the superintendent may determine the loan amount, the term of the loan, and the interest rate, in accordance with the requirements of this section. A school district's interest rate may not be less than one percent, regardless of any rate discount for which the district might otherwise qualify under this section.
9.
 - a. If a school district seeking a loan under this section received an allocation of the oil and gas gross production tax during the previous fiscal year in accordance with chapter 57-51, the board of the district shall provide to the board of university and school lands, and to the state treasurer, its evidence of indebtedness indicating that the loan originated under this section.
 - b. If the evidence of indebtedness is payable solely from the school district's allocation of the oil and gas gross production tax in accordance with section 57-51-15, the loan does not constitute a general obligation of the school district and may not be considered a debt of the district.
 - c. If a loan made to a school district is payable solely from the district's allocation of the oil and gas gross production tax in accordance with

section 57-51-15, the terms of the loan must require that the state treasurer withhold the dollar amount or percentage specified in the loan agreement, from each of the district's oil and gas gross production tax allocations, in order to repay the principal and interest of the evidence of indebtedness. The state treasurer shall deposit the amount withheld into the fund from which the loan originated.

- d. Any evidence of indebtedness executed by the board of a school district under this subsection is a negotiable instrument and not subject to taxation by the state or any political subdivision of the state.
10. For purposes of this section, a "construction project" means the purchase, lease, erection, or improvement of any structure or facility by a school board, provided the acquisition or activity is within a school board's authority.

(Effective after June 30, 2015) School construction projects – Loans.

- ~~1. The board of university and school lands may authorize the use of moneys in the coal development trust fund established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02 to provide school construction loans, as described in this chapter. The outstanding principal balance of loans under this chapter may not exceed fifty million dollars. The board may adopt policies and rules governing school construction loans.~~
- ~~2. In order to be eligible for a loan under this section, the board of a school district shall:~~
 - ~~a. Propose a construction project with a cost of at least one million dollars and an expected utilization of at least thirty years;~~
 - ~~b. Obtain the approval of the superintendent of public instruction for the construction project under section 15.1-36-01; and~~
 - ~~c. Submit to the superintendent of public instruction an application containing all information deemed necessary by the superintendent, including potential alternative sources or methods of financing the construction project.~~
- ~~3. The superintendent of public instruction shall give priority to any district that meets the requirements for receipt of an equity payment under section 15.1-27-11.~~
- ~~4. If an eligible school district's imputed taxable valuation per student is less than eighty percent of the state average imputed valuation per student, the district is entitled to receive:~~
 - ~~a. A school construction loan equal to the lesser of twelve million dollars or eighty percent of the actual project cost;~~
 - ~~b. An interest rate discount equal to at least one hundred but not more than two hundred fifty basis points below the prevailing tax-free bond rates; and~~
 - ~~c. A term of repayment that may extend up to twenty years.~~

5. If an eligible school district's imputed taxable valuation per student is equal to at least eighty percent but less than ninety percent of the state average imputed taxable valuation per student, the district is entitled to receive:
 - a. A school construction loan equal to the lesser of ten million dollars or seventy percent of the actual project cost;
 - b. An interest rate buydown equal to at least one hundred but not more than two hundred fifty basis points below the prevailing tax-free bond rates; and
 - c. A term of repayment that may extend up to twenty years.
6. If an eligible school district's imputed taxable valuation per student is equal to at least ninety percent of the state average imputed taxable valuation per student, the district is entitled to receive:
 - a. A school construction loan equal to the lesser of four million dollars or thirty percent of the actual project cost;
 - b. An interest rate discount equal to at least one hundred but not more than two hundred fifty basis points below the prevailing tax-free bond rates; and
 - c. A term of repayment that may extend up to twenty years.
7. The board of a school district may submit its loan application to the superintendent of public instruction before or after receiving authorization of a bond issue in accordance with chapter 21-03. If the vote to authorize a bond issue precedes the application for a loan, the application must be acted upon by the superintendent expeditiously but no later than one hundred eighty days from the date it is received by the superintendent.
8. The superintendent of public instruction shall consider each loan application in the order it received approval under section 15.1-36-01.
9. If the superintendent of public instruction approves the loan, the superintendent may determine the loan amount, the term of the loan, and the interest rate, in accordance with the requirements of this section.
10. The superintendent of public instruction may adopt rules governing school construction loans.
11. For purposes of this section, a construction project means the purchase, lease, erection, or improvement of any structure or facility by a school board, provided the acquisition or activity is within a school board's authority.

¹¹⁰ **SECTION 18. AMENDMENT.** Section 40-55-08 of the North Dakota Century Code is amended and reenacted as follows:

40-55-08. (Effective for the first two taxable years beginning after December 31, 2012) Election to determine desirability of establishing recreation system - How called.

¹¹⁰ Section 40-55-08 was also amended by section 54 of Senate Bill No. 2144, chapter 439.

1. The governing body of any municipality, school district, or park district to which this chapter is applicable, may and upon receipt of a petition signed by at least ten qualified electors but not less than five percent of those qualified electors who voted at the last general election of the municipality, school district, or park district, shall submit to the qualified electors the question of the establishment, maintenance, and conduct of a public recreation system, and except in the case of a school district, the levying of an annual tax for the conduct and maintenance thereof of not more than two and five-tenths mills on each dollar of taxable valuation of all taxable property within the corporate limits or boundaries of such municipality or park district, to be voted upon at the next general election or special municipal election; ~~provided, however, that such~~.
2. ~~The questions referenced in subsection 1 may not be voted upon at the next general election unless such action of the governing body shall be taken, or such a petition to submit such the question shall be filed, thirty days prior to the date of such the election.~~
3. A school district may provide for the establishment, maintenance, and conduct of a public recreation system using the proceeds of levies, as permitted by section 57-15-14.2.

~~(Effective after the first two taxable years beginning after December 31, 2012) Election to determine desirability of establishing recreation system - How called.~~ The governing body of any municipality, school district, or park district to which this chapter is applicable, may and upon receipt of a petition signed by at least ten qualified electors but not less than five percent of those qualified electors who voted at the last general election of the municipality, school district, or park district, shall submit to the qualified electors the question of the establishment, maintenance, and conduct of a public recreation system, and except in the case of a school district, the levying of an annual tax for the conduct and maintenance thereof of not more than two and five-tenths mills on each dollar of taxable valuation of all taxable property within the corporate limits or boundaries of such municipality or park district, to be voted upon at the next general election or special municipal election; ~~provided, however, that such questions may not be voted upon at the next general election unless such action of the governing body shall be taken, or such petition to submit such question shall be filed thirty days prior to the date of such election.~~ A school district may levy a tax for the establishment, maintenance, and conduct of a public recreation system pursuant to subdivision q of subsection 1 of section 57-15-14.2.

¹¹¹ **SECTION 19. AMENDMENT.** Section 40-55-09 of the North Dakota Century Code is amended and reenacted as follows:

40-55-09. (Effective for the first two taxable years beginning after December 31, 2012) Favorable vote at election - Procedure.

1. Except in the case of a school district or park district, upon adoption of the public recreation system proposition at an election, by a majority of the votes cast upon the proposition, the governing body of the municipality, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, ~~and~~.

¹¹¹ Section 40-55-09 was also amended by section 55 of Senate Bill No. 2144, chapter 439.

2. The governing body of the municipality shall thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than eight and five-tenths mills if authorized as provided by this section, on each dollar of the taxable valuation of all taxable property within the corporate limits or boundaries of the municipality. This tax is in addition to the maximum of taxes permitted to be levied in such the municipality.
3. The mill levy authorized by this section may be raised to not more than eight and five-tenths mills when the increase is approved by the citizens of the municipality, after submission of the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system.
4. The governing body of the municipality shall continue to levy the tax annually for public recreation purposes, until the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy.
5. The governing body of the municipality may appropriate additional funds for the operation of the public recreation system if, in the opinion of the governing body, additional funds are needed for the efficient operation thereof of the system.
6. This chapter does not limit the power of any municipality, school district, or park district to appropriate, on its own initiative, general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center, or character-building facility.
7. A park district may levy a tax annually within the general fund levy authority of section 57-15-12 for the conduct and maintenance of a public recreation system.

~~**(Effective after the first two taxable years beginning after December 31, 2012) Favorable vote at election – Procedure.** Except in the case of a school district or park district, upon adoption of the public recreation system proposition at an election by a majority of the votes cast upon the proposition, the governing body of the municipality, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than eight and five-tenths mills if authorized as provided by this section, on each dollar of the taxable valuation of all taxable property within the corporate limits or boundaries of the municipality. This tax is in addition to the maximum of taxes permitted to be levied in such municipality. The mill levy authorized by this section may be raised to not more than eight and five-tenths mills when the increase is approved by the citizens of the municipality after submission of the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system. The governing body of the municipality shall continue to levy the tax annually for public recreation purposes until the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of the municipality may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. This chapter does not limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center, or character-building facility. A school district may levy a tax annually for the conduct and maintenance of a public recreation system pursuant to subdivision q of subsection 1 of section 57-15-14.2. A park district~~

~~may levy a tax annually within the general fund levy authority of section 57-15-12 for the conduct and maintenance of a public recreation system.~~

¹¹² **SECTION 20. AMENDMENT.** Section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-01.1. (~~Effective for the first two taxable years beginning after December 31, 2012~~) Protection of taxpayers and taxing districts.

Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
 - a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund, the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;
 - b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
 - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
 - d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:

¹¹² Section 57-15-01.1 was also amended by section 67 of Senate Bill No. 2144, chapter 439, and section 9 of Senate Bill No. 2206, chapter 329.

- a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
 - d. If the base year is a taxable year before 2013, reduced by the amount of state aid under chapter 15.1-27, which is determined by multiplying the budget year taxable valuation of the school district by the lesser of:
 - (1) The base year mill rate of the school district minus sixty mills; or
 - (2) Fifty mills.
4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
 5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
 6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.

7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

~~(Effective after the first two taxable years beginning after December 31, 2012) Protection of taxpayers and taxing districts.~~ Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
 - a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund, the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12-1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;
 - b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
 - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
 - d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
 - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.

- ~~b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.~~
 - ~~c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.~~
 - ~~d. Increased, for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the base year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year.~~
 - ~~e. Reduced for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the budget year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the base year.~~
- ~~4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.~~
- ~~5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - ~~a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.~~
 - ~~b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.~~~~
- ~~6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.~~
- ~~7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.~~

SECTION 21. AMENDMENT. Section 57-15-14 of the North Dakota Century Code is amended and reenacted as follows:

57-15-14. (~~Effective for the first two taxable years beginning after December 31, 2012~~) Voter approval of excess levies in school districts.

1. Unless authorized by the electors of the school district in accordance with this section, a school district may not impose greater levies than those permitted under section 57-15-14.2.
 - a. In any school district having a total population in excess of four thousand according to the last federal decennial census there may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the qualified electors voting upon the question at any regular or special school district election.
 - b. In any school district having a total population of fewer than four thousand, there may be levied any specific number of mills that upon resolution of the school board has been approved by fifty-five percent of the qualified electors voting upon the question at any regular or special school election.
 - c. After June 30, 2009, in any school district election for approval by electors of increased levy authority under subsection 1 or 2, the ballot must specify the number of mills proposed for approval, and the number of taxable years for which that approval is to apply. After June 30, 2009, approval by electors of increased levy authority under subsection 1 or 2 may not be effective for more than ten taxable years.
 - d. The authority for a levy of up to a specific number of mills under this section approved by electors of a school district before July 1, 2009, is terminated effective for taxable years after 2015. If the electors of a school district subject to this subsection have not approved a levy for taxable years after 2015 of up to a specific number of mills under this section by December 31, 2015, the school district levy limitation for subsequent years is subject to the limitations under section 57-15-01.1 or this section.
 - e. For taxable years beginning after 2012:
 - (1) The authority for a levy of up to a specific number of mills, approved by electors of a school district for any period of time that includes a taxable year before 2009, must be reduced by one hundred fifteen mills as a precondition of receiving state aid in accordance with chapter 15.1-27.
 - (2) The authority for a levy of up to a specific number of mills, approved by electors of a school district for any period of time that does not include a taxable year before 2009, must be reduced by forty mills as a precondition of receiving state aid in accordance with chapter 15.1-27.
 - (3) The authority for a levy of up to a specific number of mills, placed on the ballot in a school district election for electoral approval of increased levy authority under subdivision a or b, after June 30, 2013, must be stated as a specific number of mills of general fund levy authority and must include a statement that the statutory school district general fund levy limitation is seventy mills on the dollar of the taxable valuation of the school district.

- f. The authority for an unlimited levy approved by electors of a school district before July 1, 2009, is terminated effective for taxable years after 2015. If the electors of a school district subject to this subsection have not approved a levy of up to a specific number of mills under this section by December 31, 2015, the school district levy limitation for subsequent years is subject to the limitations under section 57-15-01.1 or this section.
2. a. The question of authorizing or discontinuing such specific number of mills authority in any school district must be submitted to the qualified electors at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of qualified electors of the district equal in number to ten percent of the number of electors who cast votes in the most recent election in the school district. No fewer than twenty-five signatures are required.
 - b. The approval of discontinuing such authority does not affect the tax levy in the calendar year in which the election is held.
 - c. The election must be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.

~~(Effective after the first two taxable years beginning after December 31, 2012) General fund levy limitations in school districts.~~ The aggregate amount levied each year for the purposes listed in section 57-15-14.2 by any school district, except the Fargo school district, may not exceed the amount in dollars which the school district levied for the prior school year plus twelve percent up to a general fund levy of one hundred eighty-five mills on the dollar of the taxable valuation of the district, except that:

1. ~~In any school district having a total population in excess of four thousand according to the last federal decennial census there may be levied any specific number of mills that upon resolution of the school board has been submitted to and approved by a majority of the qualified electors voting upon the question at any regular or special school district election.~~
2. ~~In any school district having a total population of fewer than four thousand, there may be levied any specific number of mills that upon resolution of the school board has been approved by fifty-five percent of the qualified electors voting upon the question at any regular or special school election.~~
3. ~~After June 30, 2009, in any school district election for approval by electors of increased levy authority under subsection 1 or 2, the ballot must specify the number of mills proposed for approval, and the number of taxable years for which that approval is to apply. After June 30, 2009, approval by electors of increased levy authority under subsection 1 or 2 may not be effective for more than ten taxable years.~~
4. ~~The authority for a levy of up to a specific number of mills under this section approved by electors of a school district before July 1, 2009, is terminated effective for taxable years after 2015. If the electors of a school district subject to this subsection have not approved a levy for taxable years after 2015 of up to a specific number of mills under this section by December 31, 2015, the school district levy limitation for subsequent years is subject to the limitations under section 57-15-01.1 or this section.~~

5. ~~The authority for an unlimited levy approved by electors of a school district before July 1, 2009, is terminated effective for taxable years after 2015. If the electors of a school district subject to this subsection have not approved a levy of up to a specific number of mills under this section by December 31, 2015, the school district levy limitation for subsequent years is subject to the limitations under section 57-15-01.1 or this section.~~

~~The question of authorizing or discontinuing such specific number of mills authority in any school district must be submitted to the qualified electors at the next regular election upon resolution of the school board or upon the filing with the school board of a petition containing the signatures of qualified electors of the district equal in number to ten percent of the number of electors who cast votes in the most recent election in the school district. However, not fewer than twenty-five signatures are required. However, the approval of discontinuing such authority does not affect the tax levy in the calendar year in which the election is held. The election must be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing the mill levy.~~

SECTION 22. AMENDMENT. Section 57-15-14.2 of the North Dakota Century Code is amended and reenacted as follows:

57-15-14.2. (~~Effective for the first two taxable years beginning after December 31, 2012~~) School district levies.

1. For taxable years after 2013, the board of a school district may levy a tax not exceeding the amount in dollars that the school district levied for the prior year, plus twelve percent, up to a levy of seventy mills on the taxable valuation of the district, for any purpose related to the provision of educational services. The proceeds of this levy must be deposited into the school district's general fund and used in accordance with this subsection. The proceeds may not be transferred into any other fund.
2. For taxable years after 2013, the board of a school district may levy no more than twelve mills on the taxable valuation of the district, for miscellaneous purposes and expenses. The proceeds of this levy must be deposited into a special fund known as the miscellaneous fund and used in accordance with this subsection. The proceeds may not be transferred into any other fund.
3. The board of a school district may levy no more than three mills on the taxable valuation of the district for deposit into a special reserve fund, in accordance with chapter 57-19.
4. The board of a school district may levy no more than the number of mills necessary, on the taxable valuation of the district, for the payment of tuition, in accordance with section 15.1-29-15. The proceeds of this levy must be deposited into a special fund known as the tuition fund and used in accordance with this subsection. The proceeds may not be transferred into any other fund.
5. Nothing in this section limits the board of a school district from levying:
 - a. Mills for a building fund, as permitted in sections 15.1-09-49 and 57-15-16; and

- b. Mills necessary to pay principal and interest on the bonded debt of the district, including the mills necessary to pay principal and interest on any bonded debt incurred under section 57-15-17.1 before July 1, 2013.
6. ~~For the taxable year 2013 only, the board of a school district may levy, for the purposes described in subsections 1 and 2, a tax not exceeding the amount in dollars determined under this subsection, plus twelve percent, up to a combined levy of eighty-two mills. For purposes of this subsection, the allowable increase in dollars is determined by multiplying the 2013 taxable valuation of the district by the sum of sixty mills plus the number of mills levied in 2012 for miscellaneous expenses under sections 57-15-14.5 and 57-15-17.1.~~

~~(Effective after the first two taxable years beginning after December 31, 2012) Mill levies requiring board action – Proceeds to general fund account:~~

- 1. ~~A school board of any school district may levy an amount sufficient to cover general expenses, including the costs of the following:~~
 - a. ~~Board and lodging for high school students as provided in section 15.1-30-04.~~
 - b. ~~The teachers' retirement fund as provided in section 15-39.1-28.~~
 - c. ~~Tuition for students in grades seven through twelve as provided in section 15.1-29-15.~~
 - d. ~~Special education program as provided in section 15.1-32-20.~~
 - e. ~~The establishment and maintenance of an insurance reserve fund for insurance purposes as provided in section 32-12.1-08.~~
 - f. ~~A final judgment obtained against a school district.~~
 - g. ~~The district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund as provided by chapter 52-09 and to provide the district's share of contribution to the old-age survivors' fund and matching contribution for the social security fund for contracted employees of a multidistrict special education board.~~
 - h. ~~The rental or leasing of buildings, property, or classroom space. Minimum state standards for health and safety applicable to school building construction shall apply to any rented or leased buildings, property, or classroom space.~~
 - i. ~~Unemployment compensation benefits.~~
 - j. ~~The removal of asbestos substances from school buildings or the abatement of asbestos substances in school buildings under any method approved by the United States environmental protection agency and any repair, replacement, or remodeling that results from such removal or abatement, any remodeling required to meet specifications set by the Americans with Disabilities Act accessibility guidelines for buildings and facilities as contained in the appendix to 28 CFR 36, any remodeling required to meet requirements set by the state fire marshal during the~~

- inspection of a public school, and for providing an alternative education program as provided in section 57-15-17.1.
- k. ~~Participating in cooperative career and technical education programs approved by the state board.~~
 - l. ~~Maintaining a career and technical education program approved by the state board and established only for that school district.~~
 - m. ~~Paying the cost of purchasing, contracting, operating, and maintaining schoolbuses.~~
 - n. ~~Establishing and maintaining school library services.~~
 - o. ~~Equipping schoolbuses with two-way communications and central station equipment and providing for the installation and maintenance of such equipment.~~
 - p. ~~Establishing free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term.~~
 - q. ~~Establishing, maintaining, and conducting a public recreation system.~~
 - r. ~~The district's share of contribution to finance an interdistrict cooperative agreement authorized by section 15.1-09-40.~~
2. ~~This limitation does not apply to mill levies pursuant to subdivisions a, c, f, and j of subsection 1. If a school district maintained a levy to finance either its participation in a cooperative career and technical education program or its sponsorship of single-district career and technical education programs prior to July 1, 1983, and the district discontinues its participation in or sponsorship of those career and technical education programs, that district must reduce the proposed aggregated expenditure amount for which its general fund levy is used by the dollar amount raised by its prior levy for the funding of those programs.~~
 3. ~~All proceeds of any levy established pursuant to this section must be placed in the school district's general fund account and may be expended to achieve the purposes for which the taxes authorized by this section are levied. Proceeds from levies established pursuant to this section and funds provided to school districts pursuant to chapter 15.1-27 may not be transferred to the building fund within the school district.~~

SECTION 23. AMENDMENT. Section 57-15-17 of the North Dakota Century Code is amended and reenacted as follows:

57-15-17. (Effective through June 30, 2015) Disposition of building fund tax.

Revenue raised for building purposes shall be disposed of as follows:

1. a. All revenue accruing from appropriations or tax levies for a school district building fund, together with ~~such amounts~~any amount as may be realized for building purposes from all other sources, must be placed in a separate fund known as a school building fund and must be:

- (1) ~~Be~~ deposited, held, or invested in the same manner as the sinking funds of such school district; or in
 - (2) ~~Be used for~~ the purchase of shares or securities of federal or state-chartered savings and loan associations, within the limits of federal insurance.
- b. ~~The funds~~ Moneys in the building fund may only be used for the following purposes:
- (1) The construction of school district buildings and facilities;
 - (2) The renovation, repair, or expansion of school district buildings and facilities;
 - (3) The improvement of school district buildings, facilities, and real property;
 - (4) The leasing of buildings and facilities;
 - (5) The payment of rentals upon contracts with the state board of public school education;
 - (6) The payment of rentals upon contracts with municipalities for career and technical education facilities financed pursuant to chapter 40-57; and
 - (7) The payment of principal, premiums, and interest on bonds issued in accordance with subsection 7 of section 21-03-07.
- c. The custodian of the funds may pay out the funds only upon order of the school board, signed by the president and the business manager of the school district. The order must recite upon its face the purpose for which payment is made.
2. Any moneys remaining in a ~~school~~ building fund after the completion of the payments for any school building project ~~which that~~ has cost seventy-five percent or more of the amount in ~~such the~~ building fund at the time of letting the contracts ~~therefor shall, must~~ be returned to the general fund of the school district, upon the order of the school board.
 3. ~~The governing body of any board of a~~ school district may pay into the general fund of the school district any moneys ~~which that~~ have remained in the ~~school~~ building fund for a period of ten years or more, ~~and such district may include the same as a. The board may include this amount as~~ part of its cash on hand in making up its budget for the ensuing year. In determining what amounts have remained in ~~said the~~ fund for ten years or more, all payments ~~which that~~ have been paid ~~from the school, made from the~~ building fund for building purposes ~~shall must~~ be considered as having been paid from the funds first acquired.
 4. a. ~~Whenever~~ if collections from the taxes levied for the current budget and other income are insufficient to meet the requirements for general operating expenses, ~~a majority of the governing body, the board~~ of a school district may transfer unobligated funds from the ~~school~~ building fund into

the general fund of the school district if, provided the school district has issued certificates of indebtedness equal to fifty percent of the outstanding uncollected general fund property tax. ~~No school district~~

- b. A board may not transfer funds from the school building fund into the general fund for more than two years.

~~(Effective after June 30, 2015) Disposition of building fund tax.~~ Revenue raised for building purposes shall be disposed of as follows:

1. a. ~~All revenue accruing from appropriations or tax levies for a school building fund together with such amounts as may be realized for building purposes from all other sources must be placed in a separate fund known as a school building fund and must be deposited, held, or invested in the same manner as the sinking funds of such school district or in the purchase of shares or securities of federal or state chartered savings and loan associations within the limits of federal insurance.~~
- b. ~~The funds may only be used for the following purposes:~~
 - (1) ~~The erection of new school buildings or facilities, or additions to old school buildings or facilities, or the making of major repairs to existing buildings or facilities, or improvements to school land and site. For purposes of this paragraph, facilities may include parking lots, athletic complexes, or any other real property owned by the school district.~~
 - (2) ~~The payment of rentals upon contracts with the state board of public school education.~~
 - (3) ~~The payment of rentals upon contracts with municipalities for career and technical education facilities financed pursuant to chapter 40-57.~~
 - (4) ~~Within the limitations of school plans as provided in subsection 2 of section 57-15-16.~~
 - (5) ~~The payment of principal, premium, if any, and interest on bonds issued pursuant to subsection 7 of section 21-03-07.~~
 - (6) ~~The payment of premiums for fire and allied lines, liability, and multiple peril insurance on any building and its use, occupancy, fixtures, and contents.~~
- c. ~~The custodian of the funds may pay out the funds only upon order of the school board, signed by the president and the business manager of the school district. The order must recite upon its face the purpose for which payment is made.~~
2. ~~Any moneys remaining in a school building fund after the completion of the payments for any school building project which has cost seventy-five percent or more of the amount in such building fund at the time of letting the contracts therefor shall be returned to the general fund of the school district upon the order of the school board.~~
3. ~~The governing body of any school district may pay into the general fund of the school district any moneys which have remained in the school building fund for a period of ten years or more, and such district may include the same as a~~

~~part of its cash on hand in making up its budget for the ensuing year. In determining what amounts have remained in said fund for ten years or more, all payments which have been paid from the school building fund for building purposes shall be considered as having been paid from the funds first acquired.~~

4. ~~Whenever collections from the taxes levied for the current budget and other income are insufficient to meet the requirements for general operating expenses, a majority of the governing body of a school district may transfer unobligated funds from the school building fund into the general fund of the school district the school district has issued certificates of indebtedness equal to fifty percent of the outstanding uncollected general fund property tax. No school district may transfer funds from the school building fund into the general fund for more than two years.~~

SECTION 24. AMENDMENT. Section 57-15-31 of the North Dakota Century Code is amended and reenacted as follows:

57-15-31. (~~Effective for the first two taxable years beginning after December 31, 2012~~) Determination of levy.

1. The amount to be levied by any county, city, township, school district, park district, or other municipality authorized to levy taxes ~~shall~~must be computed by deducting from the amount of estimated expenditures for the current fiscal year as finally determined, plus the required reserve fund determined upon by the governing board from the past experience of the taxing district, the total of the following items:
 1. a. The available surplus consisting of the free and unencumbered cash balance.;
 2. b. Estimated revenues from sources other than direct property taxes.;
 3. c. The total estimated collections from tax levies for previous years.;
 4. d. ~~Such expenditures as are to~~Expenditures that must be made from bond sources.;
 5. e. The amount of distributions received from an economic growth increment pool under section 57-15-61.;
 6. f. The estimated amount to be received from payments in lieu of taxes on a project under section 40-57.1-03.
2. Allowance may be made for a permanent delinquency or loss in tax collection not to exceed five percent of the amount of the levy.

~~(Effective after the first two taxable years beginning after December 31, 2012) Determination of levy.~~ The amount to be levied by any county, city, township, school district, park district, or other municipality authorized to levy taxes shall be computed by deducting from the amount of estimated expenditures for the current fiscal year as finally determined, plus the required reserve fund determined upon by the governing board from the past experience of the taxing district, the total of the following items:

1. The available surplus consisting of the free and unencumbered cash balance.

2. ~~Estimated revenues from sources other than direct property taxes.~~
3. ~~The total estimated collections from tax levies for previous years.~~
4. ~~Such expenditures as are to be made from bond sources.~~
5. ~~The amount of distributions received from an economic growth increment pool under section 57-15-61.~~
6. ~~The estimated amount to be received from payments in lieu of taxes on a project under section 40-57.1-03.~~
7. ~~The amount reported to a school district by the superintendent of public instruction as the school district's mill levy reduction grant for the year under section 57-64-02.~~

~~Allowance may be made for a permanent delinquency or loss in tax collection not to exceed five percent of the amount of the levy.~~

SECTION 25. AMENDMENT. Section 57-19-01 of the North Dakota Century Code is amended and reenacted as follows:

57-19-01. (Effective through June 30, 2015) School district may establish Establishment of special reserve fund.

Each school district in this state may establish and maintain a special reserve fund, ~~subject to the limitations in section 57-15-14.2.~~ The balance of moneys in the fund may not exceed that which could be produced by a levy of fifteen mills in that district for that year.

~~**(Effective after June 30, 2015) School district may establish special reserve fund.** Each school district in this state may establish and maintain a special reserve fund which must be separate and distinct from all other funds now authorized by law and which may not exceed in amount at any one time the sum which could be produced by a levy of the maximum mill levy allowed by law in that district for that year.~~

SECTION 26. AMENDMENT. Section 57-19-02 of the North Dakota Century Code is amended and reenacted as follows:

57-19-02. (Effective through June 30, 2015) Special reserve fund - Separate trust fundTransfer.

1. Moneys in the special reserve fund may be deposited, held, or invested in the same manner as the sinking fund of the district or in the purchase of shares or securities of federal savings and loan associations or state-chartered building and loan associations, within the limits of federal insurance.
2. Each July first, the board of the school district shall transfer from the special reserve fund to the district's general fund any amount that exceeds the limitation in section 57-19-01.

~~**(Effective after June 30, 2015) Special reserve fund – Separate trust fund.** The special reserve fund is a separate trust fund for the use and benefit of the school district, to be drawn upon as provided in this chapter. Moneys in the fund may be deposited, held, or invested in the same manner as the sinking fund of the district or in the purchase of shares or securities of federal savings and loan associations or~~

state-chartered building and loan associations, within the limits of federal insurance. The school district business manager shall annually, upon a resolution of the school board, transfer to the school district general fund any part or all of the investment income or interest earned by the principal amount of the school district's special reserve fund.

SECTION 27. AMENDMENT. Section 57-19-09 of the North Dakota Century Code is amended and reenacted as follows:

57-19-09. (Effective through June 30, 2015) When Special reserve fund may be transferred- Correction of error.

Any if a school district which has heretofore by mistake, or for any other reason, considered all or any part of a its special reserve fund, as provided for in chapter 57-19, in determining the its budget for the school district which has and deducted all or any part of the funds in such its special reserve fund from the amount necessary to be levied for any school a fiscal year, the district may transfer from the its special reserve fund into the its general fund all or any part of such amounts which have been the amount that was so considered, contrary to the provisions of section 57-19-05.

(Effective after June 30, 2015) When fund may be transferred. Any school district which has heretofore by mistake, or for any other reason, considered all or any part of a special reserve fund, as provided for in chapter 57-19, in determining the budget for the school district which has deducted all or any part of the funds in such special reserve fund from the amount necessary to be levied for any school fiscal year, may transfer from the special reserve fund into the general fund all or any part of such amounts which have been so considered contrary to the provisions of section 57-19-05. Any school district special reserve fund and the tax levy therefor may be discontinued by a vote of sixty percent of the electors of the school district voting upon the question at any special or general election. Any moneys remaining unexpended in such special reserve fund must be transferred to the building or general fund of the school district. The discontinuance of a special reserve fund shall not decrease the school district tax levies otherwise provided for by law by more than twenty percent. A special reserve fund and the tax levy therefor which has been discontinued may be reinstated by a vote of sixty percent of the electors of the school district voting upon the question at any special or general election.

SECTION 28. SCHOOL DISTRICT REPORTING REVIEW COMMITTEE - STUDY.

1. The superintendent of public instruction shall serve as the chairman of the school district reporting review committee. During the 2015-16 interim, the committee shall review statutory and regulatory reporting requirements imposed upon school districts, with a view toward eliminating reporting requirements that are duplicative or unnecessary and streamlining the reporting process.
2. The school district reporting review committee consists of:
 - a. Six individuals, selected by the superintendent of public instruction and representing small, medium, and large school districts, provided each individual must be a school district superintendent or a business manager;
 - b. Four staff members from the department of public instruction, who are familiar with state and federal school district reporting requirements;

- c. The chairman of the senate education committee or the chairman's designee;
 - d. The chairman of the house education committee or the chairman's designee; and
 - e. One member of the legislative assembly from the minority party, appointed by the chairman of the legislative management.
3. Members of the legislative assembly serving on the committee are entitled to compensation at the rate provided for in accordance with section 54-03-20 and to reimbursement for expenses, as provided by law for state officers, if the members are attending meetings or performing duties required by the appointment.
 4. Before July 1, 2016, the superintendent of public instruction shall report the committee's findings and recommendations to the legislative management.

SECTION 29. LEGISLATIVE MANAGEMENT STUDY - KINDERGARTEN THROUGH GRADE TWELVE CONTENT STANDARDS AND ASSESSMENTS. The legislative management shall study content standards and assessments.

1. The study must:
 - a. Provide for a review of the content standards applicable to all grade levels in this state, from kindergarten through grade twelve, in the areas of English language arts and mathematics;
 - b. Compare the content standards of this state to those of other states that are recognized as having high academic achievement levels; and
 - c. Review the standards development process.
2. The study must:
 - a. Review the purpose of general and alternate student assessments;
 - b. Examine the availability of existing and proposed assessment models; and
 - c. Examine the assessments utilized by other states that are recognized as having high academic achievement levels.
3. The study must review those sections of the Elementary and Secondary Education Act [20 U.S.C. 6301, et seq.] that address standards, assessments, accountability, and local flexibility, and any recent pertinent regulatory changes or policy statements issued by the United States department of education.
4. The legislative council may seek assistance from individuals who are content specialists at the higher education level, individuals who are content and assessment specialists at the elementary or high school level, and other professionals, as necessary, to complete the directives of this section.
5. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 30. ENGLISH LANGUAGE LEARNER GRANTS.

1. During the 2015-17 biennium, the superintendent of public instruction shall expend up to \$1,000,000 from the grants - other grants line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-fourth legislative assembly, for the purpose of providing grants to the four school districts that serve the largest number of first and second level English language learners in kindergarten through grade twelve.
2. In order to determine the amount that a school district may receive under this section, the superintendent of public instruction shall provide a pro rata share of the available grant dollars to each eligible district based upon the total number of first and second level English language learners enrolled in the four districts.
3. A district may expend moneys received under this section only for the purpose of enhancing services to first and second level English language learners. Permissible purposes include the hiring of additional teachers, interpreters, and social workers for first and second level English language learners and the provision of other ancillary support services and programs, approved by the superintendent of public instruction.
4. The superintendent of public instruction may not award more than fifty percent of the funds available under this section during the first year of the biennium.

SECTION 31. EXEMPTION - AUTISM SPECTRUM DISORDER - TECHNOLOGY GRANT. The unexpended amount remaining from the transfer of \$250,000, as permitted in section 61 of chapter 13 of the 2013 Session Laws, is not subject to the provisions of section 54-44.1-11 at the end of the 2013-15 biennium and may be continued into the 2015-17 biennium, for the purpose of continuing the grant to an institution implementing a certificate program that prepares individuals with autism spectrum disorder for employment in the technology sector.

SECTION 32. EXEMPTION - CONTINGENT FUNDING - 2013-15 BIENNIUM - ADVANCED PLACEMENT COURSES - DELIVERY AND PARTICIPATION. Notwithstanding section 54-44.1-11, if any moneys remain in the integrated formula payments line item after the superintendent of public instruction complies with all statutory payment obligations imposed for the 2013-15 biennium, the superintendent shall firstly use \$1,252,627, or so much of that amount as may be necessary, for the purpose of enhancing the delivery and the participation of students and teachers in advanced placement courses, for the biennium beginning with the effective date of this Act and ending June 30, 2017.

SECTION 33. EXEMPTION - CONTINGENT FUNDING - 2013-15 BIENNIUM - EARLY CHILDHOOD EDUCATION IMPACT STUDY. Notwithstanding section 54-44.1-11, if any moneys remain in the integrated formula payments line item after the superintendent of public instruction complies with all statutory payment obligations imposed for the 2013-15 biennium, the superintendent shall secondly use \$200,000, or so much of the sum as may be necessary, for the purpose of contracting with a research institution in this state to study the impact of early childhood education provider grants, for the biennium beginning with the effective date of this Act and ending June 30, 2017.

SECTION 34. EXEMPTION - CONTINGENT FUNDING - 2013-15 BIENNIUM - REGIONAL EDUCATION ASSOCIATIONS - REVIEW PROCESS. Notwithstanding section 54-44.1-11, if any moneys remain in the integrated formula payments line item

after the superintendent of public instruction complies with all statutory payment obligations imposed for the 2013-15 biennium, the superintendent shall thirdly use \$50,000, or so much of that amount as may be necessary, for the purpose of providing a review process for regional education associations, for the biennium beginning with the effective date of this Act and ending June 30, 2017.

SECTION 35. EXEMPTION - CONTINGENT FUNDING - 2013-15 BIENNIUM - OPEN EDUCATIONAL RESOURCES. Notwithstanding section 54-44.1-11, if any moneys remain in the integrated formula payments line item after the superintendent of public instruction complies with all statutory payment obligations imposed for the 2013-15 biennium, the superintendent shall fourthly use \$100,000, or so much of the sum as may be necessary, for the purpose of providing grants to foster the creation of open curricular and instructional materials, including textbooks utilized in required course offerings as set forth in section 15.1-21-02, and in particular textbooks utilized in advanced placement and dual credit courses, in order to reduce the related acquisition costs, for the biennium beginning with the effective date of this Act and ending June 30, 2017. Any instructional materials, including textbooks, developed in whole or in part with a grant awarded under this section, must be made available, free of charge, to all school districts in this state.

SECTION 36. LEGISLATIVE MANAGEMENT STUDY - CAREER AND TECHNICAL EDUCATION. During the 2015-16 interim, the legislative management shall consider studying the nature and scope of career and technical education opportunities available to students in this state, the manner in which such opportunities are financially supported, and the manner in which such opportunities are monitored to ensure that they provide students with twenty-first century technical skills that are aligned to industry standards, in addition to providing appropriate academic foundations. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 37. LEGISLATIVE MANAGEMENT STUDY - TEACHER PREPARATION PROGRAMS. During the 2015-16 interim, the legislative management shall consider studying teacher training programs in this state, including requirements for admission into a program, the requisite course of study, student teaching opportunities, and mentoring for new teachers. The study should also include an examination of collaborative efforts between schools of education and school districts in this state, and a comparative review of teacher training programs in other jurisdictions. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 38. REPEAL. Sections 15.1-27-04, 15.1-27-07.2, 15.1-27-11, 15.1-27-22.1, 15.1-27-42, 15.1-27-43, 15.1-27-44, 15.1-32-20, 57-15-14.4, 57-15-14.5, 57-15-17.1, and 57-19-04 and chapter 57-64 of the North Dakota Century Code are repealed.

SECTION 39. EFFECTIVE DATE. Section 9 of this Act becomes effective on July 1, 2017.

SECTION 40. EMERGENCY. Sections 7 and 17 and sections 31 through 35 of this Act are declared to be an emergency measure.

Approved May 12, 2015
Filed May 13, 2015

CHAPTER 138

HOUSE BILL NO. 1470

(Representative Kelsh)

AN ACT to amend and reenact section 15.1-07-20 of the North Dakota Century Code, relating to physicals for school vehicle drivers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-07-20 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-20. School vehicle driver - Requirements.

1. a. Except as otherwise provided in this subsection, if an individual transports students or other passengers in a school vehicle for which a commercial driver's license is not required, the individual must:
 - (1) Hold a North Dakota driver's license;
 - (2) Be free from communicable diseases;
 - (3) Be in good physical health and have normal use of both hands, both feet, both eyes, and both ears;
 - (4) Be of sound mental health;
 - (5) Pass any drug and alcohol screening tests required by the school board; and
 - (6) Be at least twenty-one years of age, unless the board of a school district determines that an individual not meeting this requirement can safely and adequately perform the required duties.
- b. If the vehicle being used to transport students or other passengers under this subsection is a school vehicle for which a commercial driver's license is not required, but which is designed to seat ten to fifteen passengers, the individual must:
 - (1) Hold a North Dakota driver's license;
 - (2) Meet the physical and medical requirements established for commercial vehicle drivers;
 - (3) Complete any annual training required by the superintendent of public instruction; and
 - (4) Be at least twenty-one years of age, unless the board of a school district determines that an individual not meeting this requirement can safely and adequately perform the required duties.

2.
 - a. The board of a school district may request, at any time, that a health care professional designated by the board examine an individual to determine if the individual meets the physical and medical requirements of subsection 1.
 - b. The health care professional conducting the examination shall forward any charges to the individual's insurance carrier for payment. Any examination costs that remain after application of the individual's insurance coverage are the responsibility of the board.

Approved March 16, 2015

Filed March 16, 2015

CHAPTER 139

SENATE BILL NO. 2048

(Legislative Management)
(Human Services Committee)

AN ACT to create and enact new sections to chapter 15.1-07 and 15.1-13 of the North Dakota Century Code, relating to teacher licensure requirements and mental health training provided by school districts; to provide appropriations to the department of human services for improving behavioral health services and for substance abuse treatment services; to provide for reports to the legislative management; to provide for legislative management studies; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

Teacher licensure requirement - Youth mental health competency.

1. The board shall ensure a candidate for teacher licensure demonstrates competencies in youth mental health. Competencies must include:
 - a. An understanding of the prevalence and impact of youth mental health disorders on family structure, education, juvenile services, law enforcement, and health care and treatment providers;
 - b. Knowledge of mental health symptoms, social stigmas, risks, and protective factors; and
 - c. Awareness of referral sources and strategies for appropriate interventions.
2. A teacher licensure candidate satisfies the requirements of this section if the candidate demonstrates the candidate has received training in competencies related to youth mental health from an accredited or approved youth mental health education provider. The board may issue a provisional license for up to two years to a teacher licensure candidate that does not meet the requirements of this section.

SECTION 2. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

Provision of youth mental health training to teachers, administrators, and ancillary staff.

1. Once every two years, each school district shall provide a minimum of eight hours of training on youth mental health to elementary, middle, and high school teachers and administrators. Each school district shall encourage ancillary and support staff to participate in the training. The training must include:

- a. Understanding of the prevalence and impact of youth mental health disorders on family structure, education, juvenile services, law enforcement, and health care and treatment providers;
 - b. Knowledge of mental health symptoms, social stigmas, risks, and protective factors; and
 - c. Awareness of referral sources and strategies for appropriate interventions.
2. Each school district shall report the outcome of the training to the department of public instruction.
 3. The superintendent of public instruction shall collaborate with regional education associations to disseminate information, training materials, and notice of training opportunities to school districts and nonpublic schools.

SECTION 3. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - BEHAVIORAL HEALTH SERVICES FACILITATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$150,000, or so much of the sum as may be necessary, to the department of human services for the purpose of facilitating the behavioral health services authorized by the sixty-fourth legislative assembly, including developing formal discharge planning protocols for discharge or release of individuals with behavioral health issues and designing a resource support network to provide family support, assessment, and stabilization services that are accessible by families and custodial agencies, for the biennium beginning July 1, 2015, and ending June 30, 2017. The development of discharge planning protocols must involve law enforcement, health care providers, and other related organizations. The protocols must include outcome measures.

SECTION 4. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - REPORT TO THE LEGISLATIVE MANAGEMENT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$750,000, or so much of the sum as may be necessary, to the department of human services for the purpose of establishing and administering a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in the payment of addiction treatment services provided by private licensed substance abuse treatment programs, for the period beginning July 1, 2016, and ending June 30, 2017. Services eligible for the voucher program include only those levels of care recognized by the American society of addiction medicine, with particular emphasis given to underserved areas and programs. The department of human services shall ensure that a private licensed substance abuse treatment program accepting vouchers under this Act collects and reports process and outcome measures. The department of human services shall develop requirements and provide training and technical assistance to a private licensed substance abuse treatment program accepting vouchers under this Act. A private licensed substance abuse treatment program accepting vouchers under this Act shall provide evidence-based services. Before July 1, 2016, the department of human services shall provide a report to the legislative management regarding the rules adopted to establish and administer the voucher system to assist in the payment of addiction treatment services provided by private licensed substance abuse treatment programs.

SECTION 5. DEPARTMENT OF PUBLIC INSTRUCTION - REPORT TO THE LEGISLATIVE MANAGEMENT. During the 2015-16 interim, the department of public instruction shall compile information on mental health training provided by school

districts and determine the feasibility and effect of the youth mental health training required in section 2 of this Act. Before July 1, 2016, the department of public instruction shall provide a report to the legislative management regarding mental health training provided by school districts.

SECTION 6. LEGISLATIVE MANAGEMENT STUDY - MENTAL HEALTH RESOURCES. During the 2015-16 interim, the legislative management shall consider studying mental health resources for youth and adults. The study must identify the populations that may benefit from a mental health resource network, the challenges and any deficiencies that may exist, and alternative resource delivery frameworks, and must provide details of how resource networks may be integrated into the existing mental health delivery system. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - BEHAVIORAL HEALTH NEEDS OF YOUTH AND ADULTS. During the 2015-16 interim, the legislative management shall consider studying behavioral health needs. The study must include consideration of behavioral health needs of youth and adults and access, availability, and delivery of services. The study must include input from stakeholders, including representatives of law enforcement, social and clinical service providers, education, medical providers, mental health advocacy organizations, emergency medical service providers, juvenile court, tribal government, and state and local agencies and institutions. The study must also include the monitoring and reviewing of strategies to improve behavioral health services implemented pursuant to legislation enacted by the sixty-fourth legislative assembly and other behavioral health-related recommendations presented to the 2013-14 interim human services committee. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 8. EFFECTIVE DATE. Section 1 of this Act becomes effective on August 1, 2016.

Approved April 27, 2015
Filed April 27, 2015

CHAPTER 140

SENATE BILL NO. 2181

(Senators Rust, Luick, Marcellais)
(Representatives Kelsh, B. Koppelman, J. Nelson)

AN ACT to create and enact a new section to chapter 15.1-07 and section 15.1-07-20.1 of the North Dakota Century Code, relating to the retention of school district records and the employment of a school district business manager; to amend and reenact section 15.1-07-14 of the North Dakota Century Code, relating to school district business managers; and to repeal sections 21-06-05 and 21-06-06 of the North Dakota Century Code, relating to the destruction of school district documents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-07-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-14. Qualified elector.

1. An individual who is a qualified elector of this state may:
 - a. Vote to elect board members for the school district in which the individual resides;
 - b. Serve as a board member for the school district in which the individual resides; and
 - c. Serve as a judge or clerk of election for the school district in which the individual resides.
 - d. ~~Serve as the business manager of a school district.~~
2. For the purposes of elections held under this chapter, an individual residing on a military installation is deemed to be a resident of a school district if the school district admits students from the military installation pursuant to a contract and receives impact aid pursuant to Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.], as amended.

SECTION 2. Section 15.1-07-20.1 of the North Dakota Century Code is created and enacted as follows:

School district business manager - Employment - Oversight - Reports to board.

1. All decisions regarding the selection and employment of a school district business manager and all decisions regarding the suspension and dismissal of a school district business manager belong to the board of a school district, as set forth in section 15.1-09-33.

2. The board shall exercise administrative oversight with respect to the school district business manager unless the board has established an alternate supervisory structure that is clearly defined in the board's policy and is represented in the school district's organizational chart, and through board action delegates to the superintendent supervisory responsibility of the business manager's daily operations.
3. All financial reports, whether statutorily mandated or requested by the board, and whether written or oral, must be personally presented to the board by the school district business manager.

SECTION 3. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

School district records - Retention.

1. A school district shall permanently retain the minutes of each school board meeting.
2. Unless otherwise provided by law, a school district shall retain payroll records and records of revenues and expenditures for a period of five years.
3. A school district may consult with the state archivist before disposing of records in order to determine whether the records may have any archival value.

SECTION 4. REPEAL. Sections 21-06-05 and 21-06-06 of the North Dakota Century Code are repealed.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 141

SENATE BILL NO. 2326

(Senators Poolman, Dever, Schaible)
(Representatives Nathe, Rohr, Schatz)

AN ACT to create and enact a new section to chapter 15.1-07 and seven new sections to chapter 54-59 of the North Dakota Century Code, relating to reportable data fields and the statewide longitudinal data system; to repeal sections 15.1-02-18, 15.1-02-18.1, and 15.1-02-18.2 of the North Dakota Century Code, relating to the statewide longitudinal data system; and to provide for a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

Protection of student data - School district policy.

1. The board of each school district shall adopt a policy regarding the protection of student data.
2. The policy must require that permission be obtained from the board before any student data is shared with an individual who is not a school district employee or shared with any other entity. This provision does not apply to the sharing of data with a student's parent or to the sharing of data, if required by law.
3. The policy must require the school district superintendent to compile:
 - a. A list of all individuals with whom, and entities with which, student data is shared; and
 - b. A list, by title, of all school district personnel who have access to student data.
4. A school district shall make copies of the policy available upon request.

SECTION 2. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Statewide longitudinal data system committee - Membership.

1. The statewide longitudinal data system committee consists of:
 - a. The commissioner of the board of higher education or the commissioner's designee;
 - b. The superintendent of public instruction or the superintendent's designee;
 - c. The chief information officer or the officer's designee;

- d. The director of the department of career and technical education or the director's designee;
- e. The director of job service North Dakota or the director's designee;
- f. The commissioner of commerce or the commissioner's designee;
- g. The director of the department of human services or the director's designee;
- h. The director of the North Dakota educational technology council;
- i. The executive director of the North Dakota council of educational leaders or the executive director's designee;
- j. The director of the North Dakota workforce development council or the director's designee; and
- k. Two members of the legislative assembly appointed by the chairman of the legislative management.

2. The governor shall designate the chairman of the committee.

SECTION 3. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Statewide longitudinal data system committee - Duties.

1. The statewide longitudinal data system committee shall manage a statewide longitudinal data system that:
 - a. Provides for the dissemination of management information to stakeholders and partners of state education, training, and employment systems; and
 - b. Uses data from educational and workforce systems as central sources of statewide longitudinal data.
2. The statewide longitudinal data system committee shall establish policies and adopt rules addressing access to and the collection, storage, and sharing of information and the systems necessary to perform those functions, subject to applicable federal and state privacy laws and interagency agreements and restrictions relating to confidential information required to conform to applicable federal and state privacy laws.
3. The statewide longitudinal data system committee shall provide operational oversight for information sharing activities and make recommendations for and provide oversight of information sharing budgets.
4. The statewide longitudinal data system committee in consultation with the information technology department shall:
 - a. Establish the terms and conditions under which a person may be authorized to access data through the statewide longitudinal data system;
 - b. Direct that all statewide longitudinal data system administrators implement approved data protection practices to ensure the security of electronic and

- physical data, provided that the practices include requirements for encryption and staff training;
- c. Provide for biennial privacy and security audits of the statewide longitudinal data system;
 - d. Establish protocols, including procedures, for the notification of students and parents in the event of a data breach involving the statewide longitudinal data system;
 - e. Require that data retention and disposition by the statewide longitudinal data system be governed by the same policies as those instituted for the information technology department; and
 - f. Require the provision of annual training regarding data protection to any individuals who have access to the statewide longitudinal data system, including school district employees, employees of the North Dakota university system office and institutions under the control of the state board of higher education, and elected or appointed state or local governmental officials.

SECTION 4. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Statewide longitudinal data system committee - Powers.

1. The statewide longitudinal data system committee may authorize studies to benefit and improve workforce training and education.
2. The statewide longitudinal data system committee may appoint additional work groups and task forces to serve in an advisory capacity.

SECTION 5. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Statewide longitudinal data system committee - Report to legislative management.

During each interim the statewide longitudinal data system committee shall provide a report regarding the statewide longitudinal data system to one or more committees designated by the legislative management and shall provide recommendations for further development, cost proposals, proposals for legislation, and recommendations for data sharing governance.

SECTION 6. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Statewide longitudinal data system committee - Continuing appropriation.

The statewide longitudinal data system committee may solicit and receive gifts, grants, and donations from public and private sources. Any moneys received in accordance with this section are appropriated on a continuing basis for the support of the statewide longitudinal data system.

SECTION 7. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Statewide longitudinal data system committee - Information technology department.

1. The information technology department, at the direction of the statewide longitudinal data system committee, shall maintain a statewide longitudinal data system among education, workforce, and training entities.
2. The information technology department and the statewide longitudinal data system committee may, subject to federal and state privacy laws, enter interagency agreements, including agreements designating authorized representatives of the educational agencies participating in the system, pursuant to the Family Educational Rights and Privacy Act [20 U.S.C. 1232G; 34 CFR 99].
3. The information technology department shall staff and provide other necessary support to the statewide longitudinal data system committee.

¹¹³ **SECTION 8.** A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

State agencies - Mandatory provision of information - Confidentiality.

1. The information technology department may request from any state agency:
 - a. All information required by 20 U.S.C. 9871(e)(2)(D); and
 - b. Any other educational information the statewide longitudinal data system committee determines is required for a longitudinal data system to comply with state or federal law.
2. Subject to applicable restrictions on the use and disclosure of confidential information required to comply with federal and state privacy laws, any state agency receiving a request for information under subsection 1 shall provide the information at the time and in the manner required by the information technology department.

SECTION 9. REPEAL. Sections 15.1-02-18, 15.1-02-18.1, and 15.1-02-18.2 of the North Dakota Century Code are repealed.

Approved April 20, 2015
Filed April 20, 2015

¹¹³ Section 54-59-39 was also amended by section 6 of House Bill No. 1021, chapter 21.

CHAPTER 142

SENATE BILL NO. 2229

(Senators Davison, Casper, Sorvaag)
(Representatives Boehning, Kading)

AN ACT to amend and reenact section 15.1-09-01 of the North Dakota Century Code, relating to the membership of the board of education of the city of Fargo.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-01. School board membership - Size and term adjustments.

1. The board of a school district must be composed of five, seven, or nine members.
2. The size of a school board may be increased to seven or nine members or decreased to seven or five members if a petition is signed by qualified electors of the school district equal in number to at least one-third of those who voted at the most recent annual school district election and the change is approved by a majority of the qualified electors of the school district voting on the question at a special election called for that purpose.
3. If a majority of the qualified voters in a school district elect to increase the size of the school board, the additional members must be elected to the board at the next annual school district election in the same manner as other board members.
 - a. If the total number of board members after approval of the increase is seven, the terms of three members extend until the first annual election, the terms of two members extend until the second annual election, and the terms of the remaining two members extend until the third annual election.
 - b. If the total number of board members after approval of the increase is nine, the terms of three members extend until the first annual election, the terms of three members extend until the second annual election, and the terms of the remaining three members extend until the third annual election.
 - c. The length of the terms specified in this subsection must be determined by lot.
 - d. All board members shall serve for the terms specified in this subsection and until their successors are elected and qualified.
 - e. The length of any term in existence before the increase in board membership and held by a board member who is duly qualified may not be modified.

- f. Terms subsequent to the first term are for the normal period of three years and extend until a successor is elected and qualified.
- ~~4. If on July 1, 2005, the board of any school district contains only three members, the board must be increased to five members and the additional members must be elected at the next annual school district election, in the same manner as other board members. The initial term of one additional member must be one year and the initial term of the other additional member must be two years. The length of the terms specified in this subsection must be determined by lot. Thereafter, the size of the board may be increased in accordance with subsections 2 and 3.~~
5. The voters of a school district shall elect school board members at large. If, however, the district has been reorganized, board members may be elected at large, by geographical area, or at large by geographical area.
- ~~6.5.~~ An election on a reorganization proposal takes the place of the petition and election requirements of this section. Approval of the reorganization proposal has the same effect as if the approval were by the election provided for in this section.
- ~~7.6.~~ If the qualified electors of a district approve a reduction in the size of the school board, the excess number of members will serve out existing terms until the number approved by the electors has been reached.
- ~~8.7.~~ If the board of a school district has elected to convert its members' terms to four years and has also increased the number of its board members, the board by lot or by some other random selection method shall provide for a combination of initial terms of office not to exceed four years for the new members. The combination must equalize to the greatest extent possible the number and length of terms for old board members and for new members to be elected during the next three election years. The members' terms must be staggered and must expire in even-numbered years.
9. ~~Notwithstanding the provisions of this section, the board of education of the city of Fargo consists of nine members.~~

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 143

SENATE BILL NO. 2152

(Senators Schaible, Luick, Rust)
(Representatives B. Koppelman, Meier, Rohr)

AN ACT to amend and reenact sections 15.1-09-33 and 15.1-15-09 of the North Dakota Century Code, relating to the suspension of school district personnel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-33 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-33. School board - Powers.

The board of a school district may:

1. Establish a system of free public schools for all children of legal school age residing within the district.
2. Organize, establish, operate, and maintain elementary, middle, and high schools.
3. Have custody and control of all school district property and, in the case of the board of education of the city of Fargo, have custody and control of all public school property within the boundaries of the Fargo public school district and to manage and control all school matters.
4. Acquire real property and construct school buildings and other facilities.
5. Relocate or discontinue schools and liquidate the assets of the district as required by law; provided no site may be acquired or building constructed, or no school may be organized, established, operated, maintained, discontinued, or changed in location without the approval of the state board of public school education if outside the boundary of the district.
6. Purchase, sell, exchange, and improve real property.
7. Lease real property for a maximum of one year except in the case of a career and technical education facility constructed in whole or in part with financing acquired under chapter 40-57, which may be leased for up to twenty years.
8. Subject to chapter 32-15, exercise the power of eminent domain to acquire real property for school purposes.
9. Purchase, sell, exchange, improve, and lease for up to one year equipment, furniture, supplies, and textbooks.
10. Recruit or contract with others to recruit homes and facilities which provide boarding care for special education students.

11. Provide dormitories for the boarding care of special education students.
12. Insure school district property.
13. Independently or jointly with other school districts, purchase telecommunications equipment or lease a telecommunications system or network.
14. Provide for the education of students by another school district.
15. Contract with federal officials for the education of students in a federal school.
16. Prescribe courses of study in addition to those prescribed by the superintendent of public instruction or by law.
17. Adopt rules regarding the instruction of students, including their admission, transfer, organization, grading, and government.
18. Join the North Dakota high school activities association and pay membership fees.
19. Adopt alternative curricula for high school seniors who require fewer than four academic units.
20. Contract with, employ, and compensate school district personnel.
21. Contract with and provide reimbursement for the provision of teaching services by an individual certified as an instructor in the areas of North Dakota American Indian languages and culture by the education standards and practices board.
22.
 - a. Suspend school district personnel;
 - b. Delegate to the superintendent of the district the authority to suspend school district personnel, except as provided for in section 15.1-15-10; or
 - c. In the case of a district that does not employ a superintendent, delegate to the individual charged with administering the district the authority to suspend school district personnel, except as provided for in section 15.1-15-10.
23. Dismiss school district personnel.
24. Participate in group insurance plans and pay all or part of the insurance premiums.
25. Contract for the services of a district superintendent, provided that the contract, which may be renewed, does not exceed a period of three years.
26. Contract for the services of a principal.
27. Employ an individual to serve as the school district business manager or contract with any person to perform the duties assigned to a school district business manager by law.

28. ~~Suspend or dismiss~~Dismiss a school district business manager for cause without prior notice.
29. ~~Suspend or dismiss~~Dismiss a school district business manager without cause with thirty days' written notice.
30. Defray the necessary and contingent expenses of the board.
31. Levy a tax upon property in the district for school purposes, as permitted in accordance with chapter 57-15.
32. Amend and certify budgets and tax levies, as provided in title 57.
33. Pay dues allowing for the board to hold membership in city, county, state, and national organizations and associations.
34. Designate, at its annual meeting, a newspaper of general circulation as the official newspaper of the district.

SECTION 2. AMENDMENT. Section 15.1-15-09 of the North Dakota Century Code is amended and reenacted as follows:

15.1-15-09. Alleged child abuse - Discharge - Nonrenewal of contract - Limitations.

1. The board of a school district may not discharge or refuse to renew the contract of a teacher, a principal, or an assistant or associate superintendent solely because a report of suspected child abuse or neglect under section 50-25.1-05 alleges participation by the individual.
2. If a report of suspected child abuse or neglect under section 50-25.1-05 alleges participation by a teacher, a principal, or an assistant or associate superintendent, ~~the board of a school district may suspend the individual~~ may be suspended pending the outcome of the case by:
 - a. The board of the employing school district;
 - b. The superintendent of the employing school district, if authorized in accordance with subdivision b of subsection 22 of section 15.1-09-33; or
 - c. An individual charged with administering the district, if authorized in accordance with subdivision c of subsection 22 of section 15.1-09-33.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 144

SENATE BILL NO. 2092

(Education Committee)

(At the request of the Superintendent of Public Instruction)

AN ACT to amend and reenact subsection 1 of section 15.1-12-10 and section 15.1-12-14 of the North Dakota Century Code, relating to the content of a school district reorganization plan and school board authority following approval of a reorganization plan.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15.1-12-10 of the North Dakota Century Code is amended and reenacted as follows:

1. The reorganization plan required by section 15.1-12-09 must:
 - a. Include a map showing the boundaries of each participating district and of the proposed new district;
 - b. Include the number of students enrolled in each participating district during the current school year and during the ten preceding school years;
 - c. Include projected student enrollments for the ensuing ten years;
 - d. Include the location and condition of all school buildings and facilities in each participating district and intended uses for the buildings and facilities;
 - e. Address planned construction, modification, or improvement of school buildings and facilities located within the boundaries of the new district;
 - f. Address planned course offerings by the new district;
 - g. Include the planned administrative structure of the new district and the number of full-time equivalent personnel to be employed by the new district;
 - h. Include the planned number of members who will constitute the board of the new district and the manner in which the members are to be elected;
 - i. Address plans regarding student transportation;
 - j. Identify other governmental entities, including multidistrict special education units and area career and technology centers, which may provide services to the new district;
 - k. Include the taxable valuation and per student valuation of each participating district and the taxable valuation and per student valuation of the new district;

- l. Include the amount of all bonded and other indebtedness incurred by each participating district;
- m. Include the current budget for each participating school district together with:
 - (1) The district's estimated ending fund balance; and
 - (2) A list of the district's anticipated expenditures for goods and services, whether in a single transaction or in multiple transactions, if the total value of the goods or services exceeds three thousand dollars, provided the requirements of this paragraph do not extend to salaries, benefits, or other compensation paid or payable to school district personnel;
- n. Address the planned disposition of all property, assets, debts, and liabilities of each participating district, taking into consideration section 15.1-12-18;
- n-o. Include a proposed budget for the new district and a proposed general fund levy and any other levies, provided that tax levies submitted to and approved by the state board as part of a reorganization plan are not subject to mill levy limitations otherwise provided by law;
- o-p. Include the official name of the new district, which must include the phrase "school district" or "public school district" and which may include no more than two additional words;
- p-q. Include the number of the new district, as assigned by the superintendent of public instruction; and
- q-r. Include any other information that the participating school districts wish to have considered by the county committee or the state board.

SECTION 2. AMENDMENT. Section 15.1-12-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-14. School district reorganization - School boards - Assumption of duties - Approval of expenditures - Contracts.

1. Upon approval of a reorganization plan by the electors, in accordance with section 15.1-12-11, a school board for the reorganized district must be elected at the next regular school district election or at a special election called by the county superintendent of schools for that purpose. The first school board election in a newly reorganized district is governed by chapter 15.1-09.
2. Members of newly formed school boards representing reorganized districts may not enter upon the duties of office until the time specified in section 15.1-12-18, except as provided in sections 15.1-12-15 and 15.1-12-16. ~~Before the completion of a reorganization, the board of an existing district may not contract or obligate the district, except with the approval of the county committee or unless authorized by law.~~
3. Unless otherwise directed by law or by the reorganization plan, between the date on which the reorganization is approved and the date on which the reorganization becomes effective, the board of a school district participating in

the reorganization must obtain written consent from the board of every other school district participating in the reorganization before it:

- a. Enters into any new contract, whether oral or written, which financially obligates the district;
- b. Renews any existing contract, whether oral or written, which financially obligates the district; or
- c. Purchases any goods or services, whether in a single or in multiple transaction, if the total value of the goods or services exceeds three thousand dollars, provided the requirements of this subdivision do not extend to salaries, benefits, or other compensation paid or payable to school district personnel.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 145

HOUSE BILL NO. 1316

(Representatives Monson, Nathe)
(Senator Luick)

AN ACT to create and enact section 15.1-14-03.1 and a new section to chapter 15.1-15 of the North Dakota Century Code, relating to the evaluation and nonrenewal of principals and school district superintendents; and to amend and reenact sections 15.1-14-03 and 15.1-14-12 of the North Dakota Century Code, relating to the evaluation and nonrenewal of school district superintendents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-14-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-14-03. School district superintendent - Evaluation.

1. a. ~~Before December~~ On or before November fifteenth of each year, the board of a school district shall conduct a ~~formative~~ ean evaluation of the superintendent's performance.
2. b. ~~Before~~ On or before March fifteenth of each year, the board shall conduct a ~~formal~~ second evaluation of the superintendent's performance.
 - c. ~~The board shall place a copy of the evaluation report in the superintendent's file and shall provide a copy of the~~ each evaluation report required by this subsection to the superintendent and shall place a copy of each report in the superintendent's personnel file.
3. 2. If the board finds the superintendent's performance to be unsatisfactory in any area, the board shall detail its findings regarding the superintendent's performance in the report and shall make recommendations.
4. 3. Upon receiving ~~the~~ an evaluation report, the superintendent may provide a written response to the board. The board shall place the superintendent's written response in the superintendent's personnel file.
5. 4. The board shall meet with the superintendent to discuss the evaluation.

SECTION 2. Section 15.1-14-03.1 of the North Dakota Century Code is created and enacted as follows:

15.1-14-03.1. Individual functioning as a principal and a superintendent - Treatment.

Notwithstanding the provisions of chapter 15.1-15, if an individual is employed by the board of a school district to function as both a school principal and a school district superintendent, that individual must be treated as a school district superintendent for all purposes related to the individual's evaluation, discharge, and nonrenewal, as set forth in accordance with sections 15.1-14-03 through 15.1-14-12.

SECTION 3. AMENDMENT. Section 15.1-14-12 of the North Dakota Century Code is amended and reenacted as follows:

15.1-14-12. School district superintendent - Employed for less than two years - Notification of nonrenewal.

1. If the board of a school district elects not to renew the contract of a superintendent who has been employed by the board in that position for less than two years, the board shall provide written notice of the nonrenewal to the superintendent before May first. At the request of the superintendent, the board shall meet with the superintendent, in executive session, to convey the reasons for the nonrenewal.
2. No claim for libel or slander may be brought regarding any communication made at an executive session held in accordance with this section.

SECTION 4. A new section to chapter 15.1-15 of the North Dakota Century Code is created and enacted as follows:

Principal - Employed for less than two years - Notification of nonrenewal.

1. If the board of a school district elects not to renew the contract of a principal, an assistant superintendent, or an associate superintendent, who has been employed by the board in that position for less than two years, the board shall provide written notice of the nonrenewal to the individual before May first. At the request of the individual, the board shall meet with the individual, in executive session, to convey the reasons for the nonrenewal.
2. No claim for libel or slander may be brought regarding any communication made at an executive session held in accordance with this section.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 146

HOUSE BILL NO. 1174

(Representatives Lefor, Bellew, Fehr, Schatz)
(Senators Burckhard, Davison, Krebsbach, Unruh)

AN ACT to amend and reenact section 15.1-16-03 of the North Dakota Century Code, relating to education factfinding commission compensation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-16-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-16-03. Education factfinding commission - Compensation.

Each member of the commission is entitled to receive compensation at the rate of one hundred ten dollars per dayset for a member of the legislative assembly under subsection 1 of section 54-03-20 and reimbursement for expenses, as provided by law for state officers, for attending commission meetings or performing duties directed by the commission.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 147

HOUSE BILL NO. 1251

(Representatives Monson, D. Johnson)
(Senators Luick, Rust)

AN ACT to create and enact a new section to chapter 15.1-16 of the North Dakota Century Code, relating to school district negotiations; and to amend and reenact sections 15.1-15-04 and 15.1-16-13 of the North Dakota Century Code, relating to school district contract renewals and negotiations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-15-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-15-04. Contracts - Renewals - Notice.

1. a. If the board of a school district elects not to renew the contract of a teacher, a principal, or an assistant or associate superintendent for the ensuing school year, the board shall provide written notification of the decision to the individual.
 - b. The board may not notify the individual under this section earlier than March first nor later than May first of the school year in which the individual has been employed.
 - c. The failure of a board to provide written notice under this subsection constitutes an offer to renew the individual's contract for the ensuing school year, under the same terms and conditions as the individual's current contract.
2. a. No earlier than March first nor later than May first, the board of a school district shall ~~notify~~provide to each individual offered ~~a contract renewal of a contract notification~~ of the date by which the individual must accept or reject the contract.
 - b. ~~At least thirtyfourteen~~ calendar days must pass between the notification of ~~each individual, as required by this subsection,~~ and the date by which the individual must accept or reject the contract.
3. a. In order to accept an offer to renew a contract, including an offer generated by the failure of a board to provide written notice as required by subsection 1, an individual shall provide written notification of acceptance to the board on or before the date required by the board or ~~June first~~May fifteenth, whichever is earlier. An individual accepting an offer to renew a contract is entitled to a written contract for the ensuing school year.
 - b. In order to reject an offer to renew a contract, including an offer generated by the failure of a board to provide written notice as required by subsection 1, an individual shall provide written notification of rejection to

the board on or before the date required by the board or ~~June first~~May fifteenth, whichever is earlier.

- c. If an individual fails to provide notification of acceptance or rejection of an offer to renew a contract, the board is relieved of any continuing contract provisions.
4.
 - a. If negotiations are being carried on pursuant to chapter 15.1-16, the provisions of this section requiring the board of a school district to give an individual notice and requiring that the individual respond to the notice are suspended until the negotiations are completed.
 - b. If negotiations do not begin as required by subsection 5 of section 15.1-16-13, the board of a school district may provide notification to each individual offered a contract renewal.

SECTION 2. AMENDMENT. Section 15.1-16-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-16-13. Good-faith negotiations.

1. The board of a school district or its representatives and the representative organization or its representatives shall, if requested by either entity, meet at reasonable times and negotiate in good faith regarding:
 - a. The terms and conditions of employment.
 - b. Employer-employee relations.
 - c. Formation of a contract, which may contain a provision for binding arbitration.
 - d. The interpretation of an existing contract.
2. The board of a school district and the representative organization, at the request of either party, shall execute a written contract incorporating any agreement reached.
3. Either the board of a school district or the representative organization may modify or terminate the contract on its annual anniversary date by giving notice of its desire to modify or terminate the contract to the other party not less than sixty days before the annual anniversary date.
4. Nothing in this section compels either the board of a school district or a representative organization to agree to a proposal or to make a concession.
5. Good-faith negotiations must begin no later than the thirtieth day after the representative organization is recognized by the board of the school district, in accordance with section 15.1-16-11, unless otherwise agreed to by the board of the school district and the representative organization.

SECTION 3. A new section to chapter 15.1-16 of the North Dakota Century Code is created and enacted as follows:

Negotiation strategy and instructions - Executive session.

The board of a school district, or any authorized subcommittee of the board, may hold an executive session under section 44-04-19.2 to discuss negotiating strategies or to provide to its representative negotiating instructions, which are applicable to anticipated or pending:

1. Litigation;
2. Adversarial administrative proceedings; or
3. Contracts.

Approved March 27, 2015
Filed March 27, 2015

CHAPTER 148

SENATE BILL NO. 2209

(Senators Heckaman, Axness, Flakoll, Marcellais)
(Representatives Hunskor, Monson)

AN ACT to amend and reenact section 15.1-19-24 of the North Dakota Century Code, relating to youth suicide prevention training.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-19-24 of the North Dakota Century Code is amended and reenacted as follows:

15.1-19-24. Youth suicide prevention - Training.

1. ~~Once every two years~~ Annually, each school district shall provide to middle school and high school instructional staff, teachers, and administrators, at least two hours of professional development relating to youth suicide risk indicators, appropriate ~~staff~~ responses, and referral sources.
2. The superintendent of public instruction shall collaborate with the state department of health to obtain and disseminate to school districts and nonpublic schools, free of charge, information and training materials, including those available through the Jason foundation.

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 149

SENATE BILL NO. 2089

(Education Committee)

(At the request of the Superintendent of Public Instruction)

AN ACT to amend and reenact section 15.1-21-02.5 of the North Dakota Century Code, relating to eligibility for a North Dakota academic scholarship.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-21-02.5 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.5. North Dakota academic scholarship.

Any resident student who graduates from a high school during or after the 2010-11 school year and any resident student who completes a program of home education supervised in accordance with chapter 15.1-23 during or after the 2012-13 school year is eligible to receive a North Dakota academic scholarship provided the student:

1. Completed four units of English language arts from a sequence that includes literature, composition, and speech;
2. Completed three units of mathematics, including:
 - a. One unit of algebra II, as defined by the superintendent of public instruction; and
 - b. One unit of mathematics for which algebra II, as defined by the superintendent of public instruction, is a prerequisite;
3. Completed three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Completed three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and

- c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
- 5. a. Completed one unit of physical education; or
 - b. One-half unit of physical education and one-half unit of health;
- 6. a. Completed two units of:
 - (1) The same foreign language;
 - (2) The same native American language;
 - (3) American sign language; or
 - (4) Career and technical education from a coordinated plan of study recommended by the department of career and technical education and approved by the superintendent of public instruction; and
 - b. One unit selected from:
 - (1) Foreign languages;
 - (2) Native American languages;
 - (3) American sign language;
 - (4) Fine arts; or
 - (5) Career and technical education;
- 7. Completed any five additional units;
- 8. a. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based on all high school units in which the student was enrolled; and
 - (2) Obtained a grade of at least "C" in each unit or one-half unit; or
 - b. (1) Obtained a cumulative grade point average of at least 3.0 on a 4.0 grading scale, as determined by the superintendent of public instruction, based only on the units required by subsections 1 through 7; and
 - (2) Obtained a grade of at least "C" in each unit or one-half unit;
- 9. Received a composite score of at least twenty-four on an ACT; and
- 10. a. Fulfilled any one unit requirement set forth in subsections 1 through 7 by means of an advanced placement course and examination;
 - b. Fulfilled any one unit requirement set forth in subsections 1 through 4 or 6 by completion, through an early entrance program, of a nonremedial

postsecondary course offered for credit at an accredited institution of higher education which has a physical presence in this state; or

- b-c. Fulfilled any one-half unit requirement set forth in subsections 1 through 7 by means of a dual-credit course.

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 150

SENATE BILL NO. 2074

(Senators Heckaman, Sorvaag, Flakoll)
(Representatives Delmore, Hanson, Dosch)

AN ACT to amend and reenact section 15.1-21-02.6 of the North Dakota Century Code, relating to the scholarship eligibility of students enrolled in external experiences.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁴ **SECTION 1. AMENDMENT.** Section 15.1-21-02.6 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.6. North Dakota scholarship - Amount - Applicability.

1. a. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction either a North Dakota academic scholarship or a North Dakota career and technical education scholarship in the amount of seven hundred fifty dollars for each semester during which the student is enrolled full time at an accredited institution of higher education in this state and maintains a cumulative grade point average of 2.75.
- b. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction either a North Dakota academic scholarship or a North Dakota career and technical education scholarship in the amount of five hundred dollars for each quarter during which the student is enrolled full time at an accredited institution of higher education in this state and maintains a cumulative grade point average of 2.75.
2. The state board shall monitor each scholarship recipient to ensure that the student meets the academic and other requirements of this section. Upon determining that a recipient student has failed to meet the requirements of this section, the board shall provide notification to the student within ten days.
3. A student is not entitled to receive more than six thousand dollars under this section.
4. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
5. a. (1) This section does not require a student to be enrolled in consecutive semesters.
- (2) This section does not require a student to be enrolled in consecutive quarters.

¹¹⁴ Section 15.1-21-02.6 was also amended by section 1 of Senate Bill No. 2075, chapter 151.

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- b. However, a scholarship under this section is valid only for six academic years after the student's graduation from high school and may not be applied to graduate programs.
6. A scholarship under this section is available to any eligible resident student who fulfills the requirements of section 15.1-21-02.4 or 15.1-21-02.5 and who:
 - a. Graduates from a high school in this state;
 - b. Graduates from a high school in a bordering state under chapter 15.1-29;
 - c. Graduates from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
 - d. Completes a program of home education supervised in accordance with chapter 15.1-23.
 7. a. For purposes of North Dakota scholarship eligibility under this section, "full-time" means enrollment in at least twelve credits during a student's first two semesters and enrollment in at least fifteen credits during each semester thereafter or enrollment in the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
 - b. (1) If a student requires fewer than fifteen credits to graduate, the student may retain scholarship eligibility by enrolling in fewer than fifteen but at least twelve credits during the semester, or the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
 - (2) Students who graduated from high school during the 2009-10 or the 2010-11 school year and who have completed six semesters may retain scholarship eligibility by enrolling in only twelve credits during each of the student's final two semesters, or the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
 - (3) The requirement that a student be enrolled in at least fifteen credits, as set forth in subdivision a, does not apply in the case of a student participating in a clinical, practicum, internship, cooperative program, or similar external experience, provided the:
 - (a) The external experience is equivalent to at least ~~twelve units~~ six credits, or such similar amount as determined by the state board of higher education, with respect to students in a quarter system, and considered to be a "full time" placement for purposes of meeting graduation requirements; and
 - (b) The credits for the external experience, together with any other credits in which the student is enrolled, total at least twelve.

CHAPTER 151

SENATE BILL NO. 2075

(Senators Heckaman, Sorvaag, Flakoll)
(Representatives Delmore, Hanson, Dosch)

AN ACT to amend and reenact section 15.1-21-02.6 of the North Dakota Century Code, relating to the North Dakota scholarship eligibility of students in accelerated programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁵ **SECTION 1. AMENDMENT.** Section 15.1-21-02.6 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.6. North Dakota scholarship - Amount - Applicability.

1. a. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction either a North Dakota academic scholarship or a North Dakota career and technical education scholarship in the amount of seven hundred fifty dollars for each semester during which the student is enrolled full time at an accredited institution of higher education in this state and maintains a cumulative grade point average of 2.75.
- b. The state board of higher education shall provide to any student certified as being eligible by the superintendent of public instruction either a North Dakota academic scholarship or a North Dakota career and technical education scholarship in the amount of five hundred dollars for each quarter during which the student is enrolled full time at an accredited institution of higher education in this state and maintains a cumulative grade point average of 2.75.
2. The state board shall monitor each scholarship recipient to ensure that the student meets the academic and other requirements of this section. Upon determining that a recipient student has failed to meet the requirements of this section, the board shall provide notification to the student within ten days.
3. A student is not entitled to receive more than six thousand dollars under this section.
4. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
5. a. (1) This section does not require a student to be enrolled in consecutive semesters.
- (2) This section does not require a student to be enrolled in consecutive quarters.

¹¹⁵ Section 15.1-21-02.6 was also amended by section 1 of Senate Bill No. 2074, chapter 150.

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- b. ~~However, a~~ scholarship under this section is valid only for six academic years after the student's graduation from high school and may ~~not~~ be applied to a graduate programs program.
6. A scholarship under this section is available to any eligible resident student who fulfills the requirements of section 15.1-21-02.4 or 15.1-21-02.5 and who:
 - a. Graduates from a high school in this state;
 - b. Graduates from a high school in a bordering state under chapter 15.1-29;
 - c. Graduates from a nonpublic high school in a bordering state while residing with a custodial parent in this state; or
 - d. Completes a program of home education supervised in accordance with chapter 15.1-23.
 7. a. For purposes of North Dakota scholarship eligibility under this section, "full-time" means enrollment in at least twelve credits during a student's first two semesters and enrollment in at least fifteen credits during each semester thereafter or enrollment in the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
 - b. (1) If a student requires fewer than fifteen credits to graduate, the student may retain scholarship eligibility by enrolling in fewer than fifteen but at least twelve credits during the semester, or the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
 - (2) Students who graduated from high school during the 2009-10 or the 2010-11 school year and who have completed six semesters may retain scholarship eligibility by enrolling in only twelve credits during each of the student's final two semesters, or the equivalent number of credits, as determined by the state board of higher education, with respect to students in a quarter system.
 - (3) The requirement that a student be enrolled in at least fifteen credits, as set forth in subdivision a, does not apply in the case of a student participating in a clinical, practicum, internship, cooperative program, or similar external experience, provided the external experience is equivalent to at least twelve units, or such similar amount as determined by the state board of higher education, with respect to students in a quarter system, and considered to be a "full time" placement for purposes of meeting graduation requirements.

Approved April 20, 2015

Filed April 20, 2015

CHAPTER 152

HOUSE BILL NO. 1087

(Representatives Nathe, Larson, Schatz, Sanford, Carlson, Hunsakor)
(Senators Heckaman, Flakoll, Wardner)

AN ACT to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to the demonstration of proficiency in civics as a condition of high school graduation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

High school graduation requirement - Civics test.

1. For purposes of this section, "civics test" means the one hundred questions that, as of January 1, 2015, officers of the United States citizenship and immigration services use as the basis for selecting the questions posed to applicants for naturalization, in order that the applicants can demonstrate a knowledge and understanding of the fundamentals of United States history and the principles and form of United States government, as required by 8 U.S.C. 1423.
2.
 - a. If a student is enrolled in the twelfth grade during the 2016-17 school year, that student must, as a condition of receiving a high school diploma, correctly answer at least sixty percent of the questions on the civics test.
 - b. Before any other student may be awarded a high school diploma, that student must correctly answer at least seventy percent of the questions on the civics test.
3.
 - a. The requirement set forth in this section applies to each student who is:
 - (1) Enrolled in a public school district;
 - (2) Enrolled in a nonpublic school;
 - (3) Enrolled in the center for distance education;
 - (4) Receiving home education if the student is to be issued a high school diploma in accordance with subsection 1 of section 15.1-23-17; or
 - (5) Pursuing a general equivalency diploma.
 - b. A student may be exempted from the requirement of this section by the provisions of the student's individualized education program plan.
4. The superintendent of public instruction shall, upon request, provide to the person administering the civics test the correct answer or acceptable answers to each question.

5. A student may take the test, in whole or in part, at any time after enrolling in grade seven and may repeat the test, or any portion thereof, as often as necessary to demonstrate proficiency.
6. Neither the superintendent of public instruction nor a school district may impose or collect any fees or charges in connection with this section.
7. This section is applicable to any student who graduates from high school during or after the 2016-17 school year.

Approved January 30, 2015
Filed January 30, 2015

CHAPTER 153

SENATE BILL NO. 2039

(Legislative Management)
(Government Finance Committee)

AN ACT to create and enact a new section to chapter 15-10, a new section to chapter 15.1-27, and two new sections to chapter 15.1-36 of the North Dakota Century Code, relating to a scholarship endowment fund, uses of the foundation aid stabilization fund, a school construction assistance loan fund, and school construction loans; to amend and reenact section 15.1-36-01, subsection 1 of section 15.1-36-02, section 16.1-01-11, and subsection 1 of section 57-62-02 of the North Dakota Century Code, relating to school construction approval and loans, bond elections, and the coal development trust fund; to provide a continuing appropriation; to provide for transfers; to provide for a contingent effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Scholarship endowment fund - Rules.

1. The scholarship endowment fund is a special fund in the state treasury. Moneys deposited in the fund must remain in the fund on a permanent basis.
2. All interest and other earnings of the fund are dedicated to the awarding of scholarships to residents of this state attending institutions of higher education in the state.
3. Scholarships may be awarded only from the interest or other earnings of the fund and not from the fund's principal.

SECTION 2. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

Uses of the foundation aid stabilization fund.

Any accessible funds that remain in the foundation aid stabilization fund, after completion of the required transfers to other funds, must be used for educationally-related purposes, including state aid to school districts and educationally-related property tax relief to school district patrons.

¹¹⁶ **SECTION 3. AMENDMENT.** Section 15.1-36-01 of the North Dakota Century Code is amended and reenacted as follows:

¹¹⁶ Section 15.1-36-01 was also amended by section 1 of House Bill No. 1426, chapter 154, and section 1 of Senate Bill No. 2178, chapter 155.

15.1-36-01. School construction projects - Approval.

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred thousand dollars.
 2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
 - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
 - b. ~~In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population~~
 - (1) Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or to increase during the ensuing five school years; or
 - (2) Demonstrates by clear and convincing evidence that, despite a declining student population, there are no feasible alternatives to the proposed project; and
 - c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
 3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
 - (1) The need for the project;
 - (2) The educational utility of the project;
 - (3) The potential use of the project by a future reorganized school district;
 - (4) The capacity of the district to pay for the project; and
 - (5) Any other objective factors relative to the appeal.
 - b. The decision of the state board is final.
4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.

5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

¹¹⁷ **SECTION 4. AMENDMENT.** Subsection 1 of section 15.1-36-02 of the North Dakota Century Code is amended and reenacted as follows:

1. In order to provide school construction loans, the board of university and school lands may authorize the use of:
 - a. Fifty million dollars, or so much of that amount as may be necessary, from the coal development trust fund, established pursuant to section 21 of article X of the Constitution of North Dakota and subsection 1 of section 57-62-02; and
 - b. One hundred fifty million dollars from the strategic investment and improvements fund, established pursuant to section 15-08.1-08, for the period ending June 30, 2015.

SECTION 5. A new section to chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

School construction loans - Bank of North Dakota.

1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota may provide up to two hundred million dollars from the school construction assistance loan fund to eligible school districts for school construction loans, except that the total of all loans provided under this section prior to July 1, 2018, may not exceed fifty percent of the total amount authorized under this subsection.
2. To be eligible for a loan under this section, the board of a school district shall:
 - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
 - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
 - c. (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;

(2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;

¹¹⁷ Section 15.1-36-02 was also amended by section 17 of Senate Bill No. 2031, chapter 137.

- (3) Publish in the official newspaper of the district the information from the statements required by this subdivision with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and
- (4) Post on the school district's website the information from the statements preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
- d. Receive authorization for a bond issuance in accordance with chapter 21-03; and
- e. Submit a completed application to the Bank of North Dakota.
- 3. With the advice and consent of the superintendent of public instruction, the Bank of North Dakota shall award the loans in accordance with a prioritization system that is based on a review of all applications filed during the twelve-month period preceding April first and gives consideration to:

 - a. Student occupancy and academic needs in the district;
 - b. The age of existing structures to be replaced or remodeled;
 - c. Building design proposals that are based on safety and vulnerability assessments;
 - d. Community support;
 - e. Cost; and
 - f. Any other criteria established in rule by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
- 4. The term of a loan under this section is twenty years, unless a shorter term is requested by the board of a school district in its application.
- 5. The interest rate on a loan under this section may not exceed two percent. The legislative assembly shall, however, conduct a biennial review of interest rates applicable to new loans.
- 6. If a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which that district is entitled under this section may not exceed eighty percent of the project's cost.
- 7. The maximum loan amount to which a school district is entitled under this section is twenty million dollars.
- 8. a. The Bank of North Dakota shall manage and service each loan under this section and shall execute all necessary loan instruments. The Bank may charge a school district a fee for managing and servicing the loan.

- b. The Bank shall receive payments of principal and interest from school districts and shall deposit such payments in the school construction assistance loan fund.

***SECTION 6.** A new section to chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

School construction assistance loan fund - Continuing appropriation.

1. The school construction assistance loan fund is a special revolving loan fund in the state treasury. The fund consists of:
 - a. All moneys appropriated or transferred to the fund by the legislative assembly;
 - b. One hundred fifty million dollars from the strategic investment and improvements fund, which had been allocated by the sixty-third legislative assembly for school construction loans in accordance with section 15.1-36-02;
 - c. The income, including interest payments on loans from the coal development trust fund, as authorized in accordance with section 57-62-02; and
 - d. All interest or other earnings of the fund, and all repayments of loans made from the fund.
2. Moneys in the fund are appropriated on a continuing basis for the purpose of providing low-interest school construction loans, in accordance with this chapter.

¹¹⁸ **SECTION 7. AMENDMENT.** Section 16.1-01-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-11. Certain questions not to be voted upon for three months.

1. Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote until a period of at least three months has expired, ~~and in no event may more.~~
2.
 - a. More than two elections on the same general matter may not be held within twelve consecutive calendar months.
 - b. If the matter to be placed before the electors for a third or subsequent time involves authorization for a school construction bond issuance in accordance with chapter 21-03, the board of the school district shall resubmit its school construction proposal to the superintendent of public instruction for the purpose of obtaining the superintendent's approval, in the same manner as required for an initial approval in accordance with section 15.1-36-01.

¹¹⁸ Section 16.1-01-11 was also amended by section 3 of Senate Bill No. 2178, chapter 155.

SECTION 8. AMENDMENT. Subsection 1 of section 57-62-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Thirty percent must be deposited in a permanent trust fund in the state treasury, to be known as the coal development trust fund, pursuant to section 21 of article X of the Constitution of North Dakota. Those funds held in trust and administered by the board of university and school lands on March 5, 1981, pursuant to section 12, chapter 563, 1975 Session Laws; section 12, chapter 560, 1977 Session Laws; or section 13, chapter 626, 1979 Session Laws must also be deposited in the trust fund created pursuant to this subsection. The fund must be held in trust and administered by the board of university and school lands for loans to coal-impacted counties, cities, and school districts as provided in section 57-62-03 and for loans to school districts pursuant to chapter 15.1-36. The board of university and school lands may invest such funds as are not loaned out as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from the trust must be used first to replace uncollectible loans made from the fund and the balance must be deposited in the ~~state's general~~ school construction assistance loan fund. Loan principal payments must be redeposited in the trust fund. The trust fund must be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter and chapter 15.1-36.

SECTION 9. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOOL CONSTRUCTION ASSISTANCE LOAN FUND. During the period beginning with the effective date of this section, and ending June 30, 2017, the office of management and budget shall transfer an amount equal to the lesser of \$200,000,000 or fifty percent of the balance of the foundation aid stabilization fund on December 1, 2016, from the foundation aid stabilization fund to the school construction assistance loan fund.

SECTION 10. TRANSFER - FOUNDATION AID STABILIZATION FUND TO SCHOLARSHIP ENDOWMENT FUND. During the period beginning with the effective date of this section, and ending June 30, 2017, the office of management and budget shall transfer an amount equal to the lesser of \$200,000,000 or fifty percent of the balance of the foundation aid stabilization fund on December 1, 2016, from the foundation aid stabilization fund to the scholarship endowment fund.

SECTION 11. CONTINGENT EFFECTIVE DATE. Sections 2, 5, 9, and 10 of this Act are contingent on the passage of Senate Concurrent Resolution No. 4003 by the sixty-fourth legislative assembly and approval of that measure by the voters of this state. If sections 2, 5, 9, and 10 of this Act take effect, the sections become effective on December 1, 2016.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure.

Approved May 13, 2015
Filed May 14, 2015

* Section 6 of Senate Bill No. 2039 was vetoed, see chapter 489.

CHAPTER 154

HOUSE BILL NO. 1426

(Representatives Steiner, Rick C. Becker, Devlin, Trottier)

AN ACT to amend and reenact subsection 1 of section 15.1-36-01 and sections 43-19.1-28 and 48-01.2-02.1 of the North Dakota Century Code, relating to approval of school construction projects by the superintendent of public instruction and bids and plans and specifications for public improvements; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁹ **SECTION 1. AMENDMENT.** Subsection 1 of section 15.1-36-01 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred fifty thousand dollars.

SECTION 2. AMENDMENT. Section 43-19.1-28 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-28. Public works.

Except as otherwise provided by law, the state and its political subdivisions may not engage in the construction of public works involving the practice of professional engineering when the contemplated expenditure for the project exceeds the sum of one hundred fifty thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction administration and construction observation services are executed under the supervision of, a registered professional engineer. Any engineering contract executed in violation of this section is void.

SECTION 3. AMENDMENT. Section 48-01.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-02.1. Public improvement construction threshold.

The threshold for bidding construction of a public improvement is one hundred thousand dollars. The threshold for procuring plans, drawings, and specifications from an architect or engineer for construction of a public improvement is one hundred fifty thousand dollars.

SECTION 4. APPLICATION. Sections 2 and 3 of this Act apply to any public improvement project for which a contract or agreement for plans, drawings, or specifications is executed after the effective date of this Act.

Approved March 25, 2015
Filed March 25, 2015

¹¹⁹ Section 15.1-36-01 was also amended by section 3 of Senate Bill No. 2039, chapter 153, and section 1 of Senate Bill No. 2178, chapter 155.

CHAPTER 155

SENATE BILL NO. 2178

(Senators Schaible, Heckaman, G. Lee, Rust)
(Representatives Kempenich, Rohr)

AN ACT to create and enact a new section to chapter 15.1-36 and a new section to chapter 26.1-22 of the North Dakota Century Code, relating to school construction loans and insurance coverage for real property and improvements leased by a school district; to amend and reenact sections 15.1-36-01 and 16.1-01-11 of the North Dakota Century Code, relating to the approval of school construction projects and to bond elections; to provide for a transfer; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁰ **SECTION 1. AMENDMENT.** Section 15.1-36-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-01. School construction projects - Approval.

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred thousand dollars.
2. The superintendent of public instruction may not approve a project unless the school district proposing the project:
 - a. Demonstrates the need for the project and the educational utility of the project or demonstrates potential utilization of the project by a future reorganized school district;
 - b. ~~In the case of new construction or a renovation affecting more than fifty percent of an existing structure's square footage, demonstrates that circumstances within the district are likely to result in a stable or increasing student population~~
 - (1) Demonstrates that the student population has been stable or has increased during the preceding five school years and is expected to be stable or to increase during the ensuing five school years; or
 - (2) Demonstrates by clear and convincing evidence that, despite a declining student population, there are no feasible alternatives to the proposed project; and

¹²⁰ Section 15.1-36-01 was also amended by section 1 of House Bill No. 1426, chapter 154, and section 3 of Senate Bill No. 2039, chapter 153.

- c. Demonstrates the capacity to pay for the project under rules adopted by the superintendent of public instruction pursuant to chapter 28-32.
3. a. If the superintendent of public instruction denies the project, the school board may appeal the superintendent's decision to the state board of public school education. In considering the appeal, the state board shall review:
 - (1) The need for the project;
 - (2) The educational utility of the project;
 - (3) The potential use of the project by a future reorganized school district;
 - (4) The capacity of the district to pay for the project; and
 - (5) Any other objective factors relative to the appeal.
 - b. The decision of the state board is final.
4. This section is applicable to any construction, purchase, repair, improvement, renovation, or modernization, even if the school board pays for the project in whole or in part with moneys received on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3 or in accordance with moneys received under the American Recovery and Reinvestment Act of 2009.
 5. For purposes of this chapter, "facility" includes a public school parking lot, public school athletic complex, or any other improvement to real property owned by the school district.

SECTION 2. A new section to chapter 15.1-36 of the North Dakota Century Code is created and enacted as follows:

School construction loans - Bank of North Dakota.

1. In addition to any construction loans made available under section 15.1-36-02, the Bank of North Dakota may provide up to two hundred fifty million dollars to eligible school districts for school construction loans, except that the total of all loans provided under this section during the first year of the 2015-17 biennium may not exceed fifty percent of the total amount authorized under this subsection.
2. To be eligible for a loan under this section, the board of a school district shall:
 - a. Propose a new construction or remodeling project with a cost of at least one million dollars and an expected utilization of at least thirty years;
 - b. Obtain the approval of the superintendent of public instruction for the project under section 15.1-36-01;
 - c. (1) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to a residential parcel of average true and full value within the county in which the school district is headquartered, if a loan under this section

- and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
- (2) Request from the tax commissioner a statement of the estimated tax increase, in mills and dollars, which would be applicable to an acre of cropland and to an acre of noncropland, of average true and full value within the county in which the school district is headquartered, if a loan under this section and any associated school construction bond issue were to be authorized in accordance with chapter 21-03;
 - (3) Publish in the official newspaper of the district the information from the statements required by this subdivision with the notice of the election to authorize the school construction bond issuance in accordance with section 21-03-12; and
 - (4) Post on the school district's website the information from the statements preceding the date of the election to authorize the school construction bond issuance in accordance with chapter 21-03;
- d. Receive authorization for a bond issue in accordance with chapter 21-03; and
 - e. Submit a completed application to the Bank of North Dakota.
3. With the advice and consent of the superintendent of public instruction, the Bank of North Dakota shall award the loans in accordance with a prioritization system that is based on a review of all applications filed during the twelve-month period preceding April first and gives consideration to:
- a. Student occupancy and academic needs in the district;
 - b. The age of existing structures to be replaced or remodeled;
 - c. Building design proposals that are based on safety and vulnerability assessments;
 - d. Community support;
 - e. Cost; and
 - f. Any other criteria established in rule by the superintendent of public instruction, after consultation with an interim committee appointed by the legislative management.
4. The term of a loan under this section is twenty years, unless a shorter term is requested by the board of a school district in its application.
5. The interest rate on a loan under this section may not exceed two percent, until July 1, 2025. Thereafter, the interest rate on the remainder of a loan under this section:
- a. May not exceed the Bank of North Dakota's base rate; or
 - b. May be a fixed rate.

6. If a school district's unobligated general fund balance on the preceding June thirtieth exceeds the limitation set forth under section 15.1-27-35.3, the loan amount to which that district is entitled under this section may not exceed eighty percent of the project's cost.
7. The maximum loan amount to which a school district is entitled under this section is twenty million dollars.

¹²¹ **SECTION 3. AMENDMENT.** Section 16.1-01-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-11. Certain questions not to be voted upon for three months.

1. Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter may not again be submitted to a vote until a period of at least three months has expired, ~~and in no event may more.~~
2.
 - a. More than two elections on the same general matter may not be held within twelve consecutive calendar months.
 - b. If the matter to be placed before the electors for a third or subsequent time involves authorization for a school construction bond issuance in accordance with chapter 21-03, the board of the school district shall resubmit its school construction proposal to the superintendent of public instruction for the purpose of obtaining the superintendent's approval, in the same manner as required for an initial approval in accordance with section 15.1-36-01.

SECTION 4. A new section to chapter 26.1-22 of the North Dakota Century Code is created and enacted as follows:

School district - Leased property - Insurability.

1. Notwithstanding any other provision of law, if the board of a school district entered a contract with a nonprofit corporation in this state during the period beginning November 1, 2013, and ending December 31, 2013, and if in accordance with the terms of that contract the nonprofit corporation acquired and constructed a school facility that the nonprofit corporation in turn leases back to the district for use in the provision of educational services, that facility is designated as a public facility owned by the school district for purposes of insurability under this chapter.
2. For purposes of this section, "school facility" means the real property referenced in the contract and all buildings, improvements, and fixtures on the real property.

SECTION 5. TRANSFER. There is transferred from the Bank of North Dakota's current earnings and undivided profits the sum of \$7,875,000, or so much of the sum as may be necessary, to the Bank of North Dakota for the purpose of providing interest rate buydowns on construction loans awarded to school districts under section 2 of this Act, for the biennium beginning July 1, 2015, and ending June 30, 2017.

¹²¹ Section 16.1-01-11 was also amended by section 7 of Senate Bill No. 2039, chapter 153.

SECTION 6. EXPIRATION DATE. Section 4 of this Act is effective through June 30, 2017, and after that date is ineffective.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 28, 2015
Filed April 28, 2015

CHAPTER 156

SENATE BILL NO. 2151

(Senators Flakoll, Heckaman, Poolman)
(Representatives Dosch, Nathe, Vigesaa)

AN ACT to create and enact four new sections to chapter 15.1-37 of the North Dakota Century Code, relating to early childhood education provider grants; to amend and reenact section 15.1-37-01 of the North Dakota Century Code, relating to early childhood education program approval; to provide for a superintendent of public instruction study and report to the legislative management; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-37-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-37-01. Early childhood education program - Approval.

1. Any person or school district operating an early childhood education program may request approval of the program from the superintendent of public instruction. The superintendent shall approve an early childhood education program if the program:
 - a. Is taught by individuals who are licensed to teach in early childhood education by the education standards and practices board or approved to teach in early childhood education by the education standards and practices board;
 - b. Follows ~~a developmentally appropriate curriculum~~ educational standards approved by the superintendent of public instruction;
 - c. Is in compliance with all municipal and state health, fire, and safety requirements; and
 - d. Limits its enrollment to children who have reached the age of four before August first in the year of enrollment.
2. In determining the state aid payments to which a school district is entitled, the superintendent of public instruction may not count any student enrolled in a regular early childhood education program.

SECTION 2. A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

Early childhood education providers - Coalition - Eligibility.

1. The superintendent of a school district shall invite all public and private providers of early childhood education services within the district to meet, in order to:

- a. Initiate the identification of all available options for cost-effectively maximizing the provision of early childhood education services within the district;
 - b. Address the coordinated utilization of facilities, personnel, and transportation, for the provision of early childhood education services within the district; and
 - c. (1) Form a coalition of early childhood education service providers; and
(2) Provide for the selection of a coalition governing board.
2. The board of the school district in which the coalition of service providers is located shall provide advice and guidance to the coalition in all matters pertaining to this Act.
 3. Any early childhood service provider who agrees to participate in the coalition or on its governing board may submit an application to the department of commerce for a grant under this section, provided the governing board certifies to the department that the provider:
 - a. Is a participating member in the coalition or on the governing board.
 - b. Operates an early childhood education program that:
 - (1) Is approved in accordance with section 15.1-37-01; and
 - (2) Incorporates within its curriculum at least ten hours of research-based parental involvement.
 - c. Has documented the provider's willingness to admit children of all learning abilities into the early childhood education program.

SECTION 3. A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

Receipt and distribution of grants - Notification.

1. The department of commerce shall receive applications for and distribute grants under this section to eligible members, including governing board members, of a consortium formed in accordance with section 2 of this Act, in the amount of two thousand dollars for each child enrolled in a program of early childhood education, if the child is eligible for free lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751, et seq.] and one thousand dollars for each child enrolled in a program of early childhood education, if the child is eligible for reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751, et seq.], provided:
 - a. The child is a resident of this state; and
 - b. The program has a duration of at least four hundred hours over a period of thirty-two consecutive weeks.
2. a. Once each calendar quarter, at the time and in the manner required by the department of commerce, any provider receiving a grant under this section shall forward to the parent of each child receiving services a notice

indicating the total amount of the grant that was awarded to the provider for the quarter, the pro rata amount attributable to the parent's child, and the source of the grant. The department of commerce shall standardize the notification required by this subdivision.

- b. If a provider fails to meet the notification requirements of this subsection, the department of commerce shall reduce the amount of the provider's next grant payment by fifty percent. If a provider fails to meet the notification requirements of this section a second time, the department of commerce shall determine that the provider is ineligible to participate in the grant program for a period of one year.

SECTION 4. A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

Acceptance of children into program - Requirements - Limitations.

1. If a provider is unable to accommodate all children seeking placement in the provider's program, the provider shall accept children in accordance with a chronologically-based application process or a lottery-based application process, under which children of all learning abilities are equally eligible.
2. The number of children accepted into a program may be limited by considerations regarding space, safety, and availability of personnel.

SECTION 5. A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

Data collection - Requirements.

The superintendent of public instruction, with the advice and consent of the department of commerce, shall implement a uniform system for the accounting, budgeting, and reporting of data by any early childhood education provider to whom or to which grants are distributed in accordance with section 3 of this Act. Grants may be withheld or forfeited, in whole or in part, if information required in accordance with this section is not submitted at the time or in the manner requested by the superintendent.

SECTION 6. SUPERINTENDENT OF PUBLIC INSTRUCTION STUDY - REPORT TO THE LEGISLATIVE MANAGEMENT. During the 2015-16 interim, the superintendent of public instruction shall study the implementation of a uniform system for the accounting, budgeting, and reporting of data by an early childhood education provider who has received a grant distributed in accordance with section 3 of this Act. The superintendent of public instruction shall report its findings to the legislative management by August 1, 2016.

SECTION 7. APPROPRIATION.

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of providing early childhood education grants, for the biennium beginning July 1, 2015, and ending June 30, 2017.
2. If the amount appropriated in this section is insufficient to provide grants to all eligible providers, the department of commerce shall award the grants on a

chronological basis in accordance with the date on which a completed application is received.

SECTION 8. EFFECTIVE DATE. Sections 3 through 5 of this Act become effective on July 1, 2016.

Approved April 17, 2015

Filed April 17, 2015

ELECTIONS

CHAPTER 157

HOUSE BILL NO. 1333

(Representatives Boehning, Rick C. Becker, Kasper)
(Senators Heckaman, Laffen, Larsen, J. Lee)

AN ACT to amend and reenact sections 16.1-01-04, 16.1-05-07, and 16.1-07-06 of the North Dakota Century Code, relating to voting requirements, qualifications of electors, and voter identification.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-04. Qualifications of electors - Voting requirements.

1. Every citizen of the United States who is eighteen years or older; a resident of this state; and has resided in the precinct at least thirty days next preceding any election, except as otherwise provided in regard to residency in chapter 16.1-14, is a qualified elector.
2. For the purposes of this title, every qualified elector may have only one residence, shown by an actual fixed permanent dwelling, establishment, or any other abode.
3. Except as otherwise provided in this section, an individual's residence must be determined in accordance with the rules for determining residency as provided in section 54-01-26.
4. Pursuant to section 2 of article II of the Constitution of North Dakota, voting by individuals convicted and sentenced for a felony must be limited according to chapter 12.1-33.
5. For the purposes of this title, an individual may not be deemed to have gained or lost a residence solely by reason of the individual's presence or absence while enrolled as a student at a college, university, or other postsecondary institution of learning in this state.
6. For the purposes of this title, a member of the armed forces of the United States may not be deemed to have gained or lost a residence in this state solely by reason of the member being stationed on duty in this state.
7. For the purposes of this title, an individual may not be deemed to have lost residence in the individual's precinct or in the state by reason of the individual engaging in temporary government service or private employment outside the individual's precinct or outside the state.

8. For purposes of this title, a qualified elector may not authorize an attorney in fact, guardian, or other individual to apply for any ballot or to vote in any election on behalf of or in the place of the qualified elector.
9. For purposes of this title, an elector seeking to vote in an election must meet the identification requirements specified in sections 16.1-05-07 and 16.1-07-06.

SECTION 2. AMENDMENT. Section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook.

1. Before delivering a ballot to an individual according to section 16.1-13-22, the poll clerks shall require the individual to show identification, which includes the individual's residential address and date of birth. The valid forms of identification may include:
 - a. A current driver's license or nondriver identification card issued by the department of transportation ~~or other official form of identification issued by the state;~~
 - b. An official form of identification issued by a tribal government;
 - c. ~~An alternative form of identification~~A long-term care certificate prescribed by the secretary of state, if the individual does not possess an official form of identification provided for under subdivision a or b; or
 - d. ~~A combination of any of the forms of identification under subdivisions a through e~~For a uniformed service member or a qualifying family member temporarily stationed away from the individual's residence in the state or a qualified elector temporarily living outside the country, a current military identification card or passport if the individual does not possess an official form of identification provided for under subdivision a or b.
2.
 - a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
 - b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
 - c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
3. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct or who does not meet the thirty-day residency requirement to the proper precinct and voting location.

SECTION 3. AMENDMENT. Section 16.1-07-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-06. Application form.

1. Application for an absent voter's ballot must be made on a form, prescribed by the secretary of state, to be furnished by the proper officer of the county, city, or school district in which the applicant is an elector, on any form, approved by the secretary of state, or any blank containing the following:
 - a. The applicant's name.
 - b. The applicant's current or most recent North Dakota residential address.
 - c. The applicant's mailing address.
 - d. The applicant's current contact telephone number.
 - e. The election for which the ballot is being requested.
 - f. The date of the request.
 - g. An affirmation that the applicant has resided, or will reside, in the precinct for at least thirty days next preceding the election and will be a qualified elector of the precinct.
 - h. The applicant's signature.
 - i. A space for the voter to indicate the voter's status as a citizen living outside the United States, a uniformed service member living away from the voter's North Dakota residence, or a family member of the uniformed service member living away from the voter's North Dakota residence.
 - j. The applicant's birth date and year.
 - k. ~~The applicant's motor vehicle operator's license or nondriver identification number or tribalAs provided in subsection 1 of section 16.1-05-07, the identification number from one of the applicant's valid forms of identification or a copy of the voter's alternate form of identification approved by the secretary of state under subdivision c of subsection 1 of section 16.1-05-07~~applicant's long-term care certificate.
2. If the applicant is unable to sign the applicant's name to the application, the applicant shall mark (X) or use the applicant's signature stamp on the application in the presence of a disinterested individual. The disinterested individual shall print the name of the individual marking the X or using the signature stamp below the X or signature stamp and shall sign the disinterested individual's own name following the printed name together with the notation "witness to the mark".
3. If the applicant does not possess or cannot secure an approved form of identification as provided for under subsection 1 of section 16.1-05-07 due to a disability with which the individual lives and which prevents the individual from traveling to obtain, the application also must be signed by another qualified elector who, by signing, certifies that the applicant is a qualified elector. The secretary of state shall prescribe the form of the certification

required under this subsection. An individual may not certify the qualifications of more than four applicants in an election.

4. The application for a qualified elector serving on active duty as a uniformed service member or a family member who is a qualified elector and stationed at a location other than that individual's voting residential address must include the following additional information if the voter desires to vote by facsimile or electronic mail:
 - a. Facsimile telephone number; or
 - b. Electronic mail address.
5. The application for a qualified elector living outside the United States must include a facsimile telephone number or electronic mail address if the voter desires to vote by facsimile or electronic mail.
6. Except for the applicant's date of birth and motor vehicle driver's license or nondriver identification card number, the application is an open record under section 44-04-18.

Approved April 23, 2015

Filed April 23, 2015

CHAPTER 158

HOUSE BILL NO. 1343

(Representatives Seibel, B. Anderson, Brandenburg, Karls, Zubke)
(Senators Bekkedahl, Dever)

AN ACT to amend and reenact sections 16.1-01-09.1 and 16.1-02-14, subsection 1 of section 16.1-07-30, and subsection 3 of section 44-08-21 of the North Dakota Century Code, relating to recall petitions, recall special elections, election notices, and jury lists; and to repeal sections 16.1-11-05 and 16.1-13-03 of the North Dakota Century Code, relating to notices by the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-01-09.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-09.1. Recall petitions - Signature - Form - Circulation.

1. A request of the secretary of state for approval of a petition to recall an elected official or appointed official of a vacated elected office may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the recall; the printed name, signature, and address of the committee member; and notarization of the signature. The filed signature forms must be originals. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays.
2. An individual may not sign a recall petition circulated pursuant to article III of the Constitution of North Dakota or section 44-08-21 unless the individual is a qualified elector. An individual may not sign a petition more than once, and each signer shall also legibly print the signer's name, complete residential, rural route, or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition. A petition must be in substantially the following form:

RECALL PETITION

We, the undersigned, being qualified electors request that _____ (name of the individual being recalled) the _____ (office of individual being recalled) be recalled for the reason or reasons of _____.

RECALL SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota and the political subdivision who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Name	Complete Residential, Rural Route, or General Delivery Address
1. _____(Chairperson) _____	
2. _____	
3. _____	
4. _____	
5. _____	

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota for thirty days, and you are a United States citizen. All signers shall also legibly print their name, complete residential, rural route, or general delivery address, and date of signing on the petition. Every qualified elector signing a petition must do so in the presence of the individual circulating the petition.

QUALIFIED ELECTORS

Month, Day, Year	Signed Name of Qualified Elector	Printed Name of Qualified Elector	Complete Residential, Rural Route, or General Delivery Address	City State, Zip Code
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				

The number of signature lines on each page of a printed petition may vary if necessary to accommodate other required textual matter.

3. Each copy of a petition provided for in this section, before being filed, must have attached an affidavit executed by the circulator in substantially the following form:

State of North Dakota)
) ss.
 County of _____)
 (county where signed)
 I, _____, being sworn, say that I am a qualified elector; that I
 (circulator's name)
 reside at _____;
 (address)
 that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each individual whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the individual whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me on _____, _____, at
 _____, North Dakota.
 _____ (city)
 (Notary Seal) _____

(signature of notary)
 Notary Public
 My commission expires _____

4. A petition for recall must include, before the signature lines for the qualified electors as provided in subsection 2, the name of the individual being recalled, the office from which that individual is being recalled, and a list of the names and addresses of not less than five qualified electors of the state, political subdivision, or district in which the official is to be recalled who are sponsoring the recall.
5. For the recall of an elected official under article III of the Constitution of North Dakota, circulators have one year to gather the required number of signatures of qualified electors on the recall petition from the date the secretary of state approves the recall petition for circulation. For the recall of an elected official under section 44-08-21, circulators have ninety days from the date the secretary of state approves the recall petition for circulation to submit the recall petition to the appropriate filing officer.
6. A petition may not be circulated under the authority of article III of the Constitution of North Dakota or section 44-08-21 by an individual who is less than eighteen years of age, nor may the affidavit called for by subsection 3 be executed by an individual who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety.
7. When recall petitions are delivered to the secretary of state or other filing officer with whom a petition for nomination to the office in question is filed, the chairman of the sponsoring committee shall submit to the secretary of state or other filing officer an affidavit stating that to the best of that individual's knowledge, the petitions contain at least the required number of signatures. Upon submission of the petitions to the appropriate filing officer, the petitions are considered filed and may not be returned to the chairman of the sponsoring committee for the purpose of continuing the circulation process or resubmitting the petitions at a later time. An elector's name may not be removed by the elector from a recall petition that has been submitted to and received by the appropriate filing officer.
8. The filing officer has a reasonable period, not to exceed thirty days, in which to pass upon the sufficiency of a recall petition. The filing officer may conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the filing officer to be invalid may not be counted and all violations of law discovered by the filing officer must be reported to the state's attorney for possible prosecution.
9. The filing officer shall call a special recall election to be held no sooner than ninety-ninety-five days nor later than one hundred five days following the date

the filing officer certifies the petition valid and sufficient. No special recall election may be called if that date would be within ~~ninety~~ninety-five days of the next scheduled election.

10. A notice of the recall election must be posted in the official newspaper thirty days before the candidate filing deadline, which is by four p.m. on the sixty-fourth day before the election. The official notice must include the necessary information for a candidate to file and have the candidate's name included on the ballot.
11. An official may not be recalled if the recall special election would be held during the same year in which the official's office would be included on the ballot.

SECTION 2. AMENDMENT. Section 16.1-02-14 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-14. Voter lists and reports to be made available for jury management.

1. By February first of each year, the secretary of state shall transmit information from the central voter file to the state court administrator for the purpose of compiling the master list of jurors under chapter 27-09.1.
2. After each general election at which the president of the United States is elected, the secretary of state shall transmit information from the central voter file to the jury administrator for the federal court in North Dakota.

SECTION 3. AMENDMENT. Subsection 1 of section 16.1-07-30 of the North Dakota Century Code is amended and reenacted as follows:

1. Not later than one hundred days before a regularly scheduled election to which sections 16.1-07-18 through 16.1-07-33 apply, and as soon as practicable in the case of a special election, the secretary of state and each local election official charged with printing and distributing ballots and balloting materials for that election shall prepare an election notice, to be used in conjunction with the federal write-in absentee ballot described in section 16.1-07-25. The election notice must contain a list of all of the ballot measures and federal, state, and local offices that as of that date the secretary of state and the local election official expect to be on the ballot on the date of the election. The notice also must contain specific instructions for how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each office to be filled and for each ballot measure to be contested. Upon publication of the election notice, the secretary of state shall provide the local election officials of the state with the location of the notice on the secretary of state's website.

SECTION 4. AMENDMENT. Subsection 3 of section 44-08-21 of the North Dakota Century Code is amended and reenacted as follows:

3. Once circulated, the recall petition must be filed with the filing officer with whom a petition for nomination to the office in question is filed unless that filing officer is the individual subject to recall, in which case the petition must be filed with the secretary of state. The filing officer with whom the petition is filed shall pass on the sufficiency of a petition pursuant to section 16.1-01-09.1. Except as otherwise provided in this section, the filing officer

shall call a special election to be held not sooner than ~~ninety-ninety-five~~ days nor later than one hundred five days following the date the filing officer certifies the petition valid and sufficient. No special election may be called if that date would be within ~~ninety-ninety-five~~ days of the next scheduled election. An elector's name may not be removed from a recall petition that has been submitted to and received by the appropriate filing officer.

SECTION 5. REPEAL. Sections 16.1-11-05 and 16.1-13-03 of the North Dakota Century Code are repealed.

Approved March 26, 2015

Filed March 26, 2015

CHAPTER 159

HOUSE BILL NO. 1309

(Representatives Devlin, Holman, J. Nelson, Rohr, Trottier)
(Senators Armstrong, Schaible)

AN ACT to amend and reenact subsection 1 of section 16.1-01-12, subsection 11 of section 16.1-08.1-01, sections 16.1-08.1-03.1 and 16.1-08.1-03.2, subsection 3 of section 16.1-08.1-03.5, section 16.1-08.1-03.9, subsection 1 of section 16.1-08.1-03.12, and sections 16.1-08.1-03.13, 16.1-08.1-06, and 16.1-10-04.1 of the North Dakota Century Code, relating to campaign finance disclosure.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 16.1-01-12 of the North Dakota Century Code is amended and reenacted as follows:

1. It is unlawful for an individual, measure committee as described in section 16.1-08.1-01, or other organization to:
 - a. Fraudulently alter another individual's ballot or substitute one ballot for another or to otherwise defraud a voter of that voter's vote.
 - b. Obstruct a qualified elector on the way to a polling place.
 - c. Vote or offer to vote more than once in any election.
 - d. Knowingly vote in the wrong election precinct or district.
 - e. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
 - f. Knowingly exclude a qualified elector from voting or knowingly allow an unqualified person to vote.
 - g. Knowingly vote when not qualified to do so.
 - h. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
 - i. Circulate an initiative, referendum, recall, or any other election petition not in its entirety or circulate such a petition when unqualified to do so.
 - j. Pay or offer to pay any individual, measure committee, or other organization, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained for circulating an initiative, referendum, or recall petition. This subsection does not prohibit the payment of salary and expenses for circulation of the petition on a basis not related to the number of signatures obtained, as long as the circulators file their intent to remunerate prior to submitting the petitions and, in the case of initiative and referendum petitions, fully disclose all contributions received pursuant to chapter 16.1-08.1 to the secretary of state upon

submission of the petitions. The disclosure of contributions received under this section does not affect the requirement to file a preelection report by individuals or organizations soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly under chapter 16.1-08.1. Any signature obtained in violation of this subdivision is void and may not be counted.

- k. Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.
- l. Willfully violate any rule adopted by the secretary of state pursuant to this title.
- m. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the same to be false, or willfully deface, destroy, or conceal any statement or certificate entrusted to the individual's or organization's care.
- n. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law.
- o. Sign a name other than that individual's own name to an initiative, referendum, recall, or any other election petition.

¹²² **SECTION 2. AMENDMENT.** Subsection 11 of section 16.1-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

11. "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes and includes the following:
 - a. A political action committee, derived from a corporation, cooperative corporation, limited liability company, or an association that is prohibited from making a contribution for political purposes under section 16.1-08.1-03.5, and which solicits or receives contributions or makes expenditures for political purposes;
 - b. A candidate committee, established to support an individual candidate seeking statewide, judicial, or legislative office, ~~that~~which solicits or receives contributions for political purposes;
 - c. A political organization governed by the Internal Revenue Code and registered with the federal election commission, which solicits or receives contributions or makes expenditures for political purposes;
 - d. A multicandidate political committee, established to support multiple groups or slates of candidates seeking public office, that solicits or receives contributions for political purposes;

¹²² Section 16.1-08.1-01 was also amended by section 1 of Senate Bill No. 2299, chapter 163.

- e. A measure committee that, including an initiative or referendum sponsoring committee at any stage of its organization, which solicits or receives contributions or makes expenditures for the purpose of aiding or opposing a measure sought to be voted upon by the voters of the state, including any activities undertaken for the purpose of drafting an initiative or referendum petition, seeking approval of the secretary of state for the circulation of a petition, or seeking approval of the submitted petitions; and
- f. An incidental committee.

SECTION 3. AMENDMENT. Section 16.1-08.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.1. Contributions statement required of persons and measure committees circulating or promoting passage or defeat of initiated or referred measure -Statement of petition sponsors.

1. Any person or measure committee, as described in section 16.1-08.1-01, that is soliciting or accepting a contribution for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly at any election shall file a statement in accordance with this subsection if the person has received any contribution in excess of one hundred dollars. The statement must include the name and mailing address of each person that contributed in excess of one hundred dollars to the person, the amount of each reportable contribution, and the date each reportable contribution was received. The statement must include the name and mailing address of each recipient of an expenditure exceeding one hundred dollars in the aggregate, the amount of each reportable expenditure, and the date the expenditure was made.
2. A person or measure committee ~~that~~as described in section 16.1-08.1-01 which is soliciting or accepting a contribution for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly may not accept a contribution of more than one hundred dollars from an out-of-state person or political committee unless the contribution is accompanied by a certified statement from the contributor listing the name, address, and amount contributed by each person that contributed more than one hundred dollars of the contribution. The statement must indicate if no person contributed in excess of one hundred dollars of the out-of-state person's or political committee's overall contribution. The certified statement must also list the occupation, employer, and principal place of business for each individual who contributed more than one hundred dollars of the contribution. The person soliciting or accepting a contribution for the purpose of aiding the circulation of a statewide initiative or referendum petition or of promoting passage or defeat of a statewide initiated or referred measure shall include this statement with the contribution statement required to be filed under subsection 1.
3. The statement required of a person or measure committee under subsection 1 must be filed with the secretary of state no later than the thirty-second day before the date of the election in which the measure appears or would have appeared on the ballot complete from the beginning of that calendar year through the fortieth day before the date of the election. A complete statement for the entire calendar year for each statement required to be filed under this

section must be filed no later than the thirty-first day of January of the following year. Even if a person required to report according to this section has not received any contributions in excess of one hundred dollars during the reporting period, the person shall file a statement as required by this chapter. A statement filed according to this section during the reporting period must show the following:

- a. The gross total of all contributions received and expenditures made in excess of one hundred dollars;
 - b. The gross total of all contributions received and expenditures made of one hundred dollars, or less; and
 - c. The cash on hand in the filer's account at the start and close of the reporting period.
4. ~~Within one hundred eighty days after the approval of a petition to initiate or refer a measure or to recall an official or after the submission of a petition to convene a grand jury as provided under section 29-10.1-02, the sponsoring committee or the individual responsible for submission of the petition shall file a statement with the secretary of state which discloses whether petition-circulators have been or will be paid for the circulation of petitions and which lists the total amount of money paid or which is expected to be paid to circulators.~~

SECTION 4. AMENDMENT. Section 16.1-08.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.2. Political committee and candidate registration.

1. ~~A statewide, judicial, or legislative candidate or political committee as defined in section 16.1-08.1-01 shall register its name and addresscontact information, its agent's name and addresscontact information, and a designation as to whether the committee is incorporated solely for the purpose of liability protection, with the secretary of state each calendar year. A candidate who does not have a candidate committee shall register the candidate's name and contact information and, if the candidate has an agent, the agent's name and contact information with the secretary of state. The registration required under this section for a candidate or political committee that has not previously registered with the secretary of state must be completedsubmitted within fifteen business days of the receipt of any contribution or expenditure made.~~
2. A candidate or political committee required to be registered under this section must register with the secretary of state each year during which the candidate holds public office or during which the political committee receives contributions or makes expenditures for political purposes. An individual who no longer holds public office or an individual who no longer seeks public office must register with the secretary of state each year in which contributions are received or expenditures are made for political purposes.
3. A political committee that organizes and registers according to federal law and makes an independent expenditure or makes a disbursement in excess of two hundred dollars to a nonfederal candidate seeking public office, a political party, or political committee in this state is not required to register as a political committee according to this section if the political committee reports according to section 16.1-08.1-03.7.

4. An incidental political committee is required to register under this section only as a result of making a reportable expenditure or contribution in the aggregate during any reporting period, but the registration under this section does not change the nature of business for the organization.
5. Registration by a political committee under this section does not reserve the name for exclusive use nor does it constitute registration of a trade name under chapter 47-25.

SECTION 5. AMENDMENT. Subsection 3 of section 16.1-08.1-03.5 of the North Dakota Century Code is amended and reenacted as follows:

3. A corporation, cooperative corporation, limited liability company, or association may make a ~~contribution~~ an expenditure to a measure committee as described in section 16.1-08.1-01 for the purpose of promoting the passage or defeat of an initiated or referred measure or petition or make a ~~contribution~~ an expenditure to any other person that makes an independent expenditure. A corporation, cooperative corporation, limited liability company, or association may make an independent expenditure for a political purpose or for the purpose of promoting passage or defeat of initiated or referred measures or petitions. The corporation, cooperative corporation, limited liability company, or association shall file a statement disclosing a ~~contribution or an independent~~ any expenditure made under this subsection with the secretary of state within forty-eight hours after making the ~~contribution or independent~~ expenditure. The statement must include:
 - a. The full name of the corporation, cooperative corporation, limited liability company, or association;
 - b. The complete address of the corporation, cooperative corporation, limited liability company, or association;
 - c. The name of the recipient of the ~~contribution or independent~~ expenditure;
 - d. If the ~~contribution or independent~~ expenditure is related to a measure or petition, the title of the measure or petition and whether the ~~contribution or independent~~ expenditure is made in support of or opposition to the measure or petition;
 - e. If the ~~contribution or independent~~ expenditure is related to a measure, the election date on which the measure either will appear or did appear on the ballot;
 - f. The amount of the ~~contribution or independent~~ expenditure;
 - g. The cumulative total amount of ~~contributions and independent~~ expenditures since the beginning of the calendar year which are required to be reported under this subsection;
 - h. The telephone number and the printed name and signature of the individual completing the report statement, attesting to the report statement being true, complete, and correct; and
 - i. The date on which the report statement was signed.

SECTION 6. AMENDMENT. Section 16.1-08.1-03.9 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.9. Contribution statements of judicial district candidates or a candidate committee for a judicial district candidate.

1. A judicial district candidate or a candidate committee for a judicial district candidate shall make and file a statement in accordance with this section. The candidate or candidate committee shall include in the statement:
 - a. The name and mailing address of all contributors who made contributions in excess of two hundred dollars in the aggregate for the purpose of influencing the nomination for election, or election, of the candidate;
 - b. The aggregated amount of the contributions from each listed contributor;
 - c. The date the last contribution was received from each listed contributor;
 - d. The gross total of all contributions received in excess of two hundred dollars;
 - e. The gross total of all contributions received of two hundred dollars, or less; and
 - f. The cash on hand in the filer's account at the start and close of the reporting period.
2. A candidate or a candidate committee described in this section shall file a statement with the secretary of state no later than the thirty-second day before the date of the election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes. The reporting period for each of these statements is from the beginning of that calendar year through the fortieth day before the date of the election.
3. A candidate or a candidate committee described in this section shall also be required to file a complete year-end statement with the secretary of state no later than the thirty-first day of January in the year immediately following the date of the election in which the candidate's name appeared on the ballot or in which the candidate sought election through write-in votes. Even if the candidate or candidate committee has not received any contributions in excess of two hundred dollars during the reporting period, the candidate or candidate committee shall file a statement as required by this section.
4. A candidate or a candidate committee described in this section shall be required to file a year-end statement with the secretary of state, regardless of whether the candidate sought election during that calendar year.
5. A statement required by this section to be filed with the secretary of state must be:
 - a. ~~Deemed properly filed when deposited with or delivered to the secretary of state within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the secretary of state within the prescribed time. If the secretary of state does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the secretary of state of its nonreceipt.~~

- b. Preserved by the secretary of state for a period of four years from the date of filing. The statement is to be considered a part of the public records of the secretary of state and must be open to public inspection.

SECTION 7. AMENDMENT. Subsection 1 of section 16.1-08.1-03.12 of the North Dakota Century Code is amended and reenacted as follows:

1. An incidental committee or political committee not otherwise covered by another section of this chapter may make a ~~contribution~~ expenditure to a measure committee as described in section 16.1-08.1-01 for the purpose of promoting the passage or defeat of an initiated or referred measure or petition or make a ~~contribution~~ expenditure to any other person that makes an independent expenditure. The incidental committee or political committee may make an independent expenditure for a political purpose or for the purpose of promoting passage or defeat of initiated or referred measures or petitions. The incidental committee or political committee shall file a statement disclosing a ~~contribution~~ expenditure for a political purpose or an independent expenditure made under this subsection with the secretary of state within forty-eight hours after making the ~~contribution~~ expenditure or independent expenditure. The statement filed under this subsection must include:
 - a. The full name of the incidental committee or political committee;
 - b. The complete address of the incidental committee or political committee;
 - c. The name of the recipient of the ~~contribution~~ or independent expenditure;
 - d. If the ~~contribution~~ or independent expenditure is related to a measure or petition, the title of the measure or petition and whether the ~~contribution~~ or independent expenditure is made in support of or opposition to the measure or petition;
 - e. If the ~~contribution~~ or independent expenditure is related to a measure, the election date on which the measure appeared or will appear on the ballot;
 - f. The amount of the ~~contribution~~ or independent expenditure made to a recipient in this state;
 - g. The cumulative total of ~~contributions~~ and independent expenditures since the beginning of the calendar year made to recipients in this state;
 - h. The telephone number, printed name, and signature of the individual completing the report statement, attesting to the report statement being true, complete, and correct; and
 - i. The date on which the report statement was signed.

SECTION 8. AMENDMENT. Section 16.1-08.1-03.13 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.13. Contribution statements required of initiated or referendum petition sponsoring committees - Statement of petition sponsors.

1. At the time the sponsoring committee for an initiated or referendum petition requests approval of the secretary of state to circulate petitions for the purpose of placing a measure on the ballot, the committee also shall submit a

statement disclosing the contributions received and the expenditures made for the purpose of ~~drafting~~relating to the petition.

2. At the time the sponsoring committee for an initiated or referendum petition submits signed petitions to the secretary of state, the committee also shall submit a complete statement disclosing the contributions received and expenditures made for the purpose of ~~circulating~~relating to the petition.
3. If December thirty-first falls between the date the secretary of state approves the petition for circulation and the date the signed petitions are submitted to the secretary of state, a complete statement for the calendar year shall be filed no later than the thirty-first day of January of the following year.
4. The sponsoring committee also shall file a complete statement for the calendar year in which the measure or referendum appeared or was to appear on the ballot and any other calendar year not covered by this section in which a contribution was received or an expenditure was made. This statement shall be filed no later than the thirty-first day of January of the following year.
5. A sponsoring committee may not accept a contribution of more than one hundred dollars from an out-of-state person or political committee unless the contribution is accompanied by a statement from the contributor listing the name, address, and amount contributed by each person that contributed more than one hundred dollars of the contribution. The statement must indicate if no person contributed in excess of one hundred dollars of the out-of-state person's or political committee's overall contribution. The statement must also list the occupation, employer, and principal place of business for each individual who contributed more than one hundred dollars of the contribution.
6. The statements required of this section ~~shall~~must include:
 - a. The gross total of all contributions received and expenditures made in excess of one hundred dollars;
 - b. The gross total of all contributions received and expenditures made of one hundred dollars or less;
 - c. The cash on hand in the filer's account at the start and close of the reporting period;
 - d. The name and mailing address of each person that contributed in excess of one hundred dollars to the sponsoring committee;
 - e. The amount of each reportable contribution;
 - f. The date each reportable contribution was received;
 - g. The name and mailing address of each recipient of an expenditure exceeding one hundred dollars in the aggregate;
 - h. The amount of each reportable expenditure; and
 - i. The date the expenditure was made.

7. Within one hundred eighty days after the approval of a petition to initiate or refer a measure or to recall an official or after the submission of a petition to convene a grand jury as provided under section 29-10.1-02, the sponsoring committee or the individual responsible for submission of the petition shall file a statement with the secretary of state which discloses whether petition circulators have been or will be paid for the circulation of petitions and which lists the total amount of money paid or which is expected to be paid to circulators.

¹²³ **SECTION 9. AMENDMENT.** Section 16.1-08.1-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-06. Contributions and expenditure statement requirements.

1. Any statement required by this chapter to be filed with the secretary of state must be:
 - a. ~~Deemed properly filed when~~Filed electronically delivered ~~to~~with the secretary of state and must be within the prescribed time and in the format established by the secretary of state. If the secretary of state does not receive a statement, ~~aan electronic~~ duplicate of the statement must be promptly filed upon notice by the secretary of state of its nonreceipt. After a statement has been filed, the secretary of state may request or accept written clarification along with an amended statement from a candidate, political party, or political committee filing the statement when discrepancies, errors, or omissions on the statement are discovered by the secretary of state, the candidate, political party, or political committee filing the statement, or by any interested party reciting a lawful reason for requesting clarification and an amendment be made. When requesting an amended statement, the secretary of state shall establish a reasonable period of time, not to exceed ten days, agreed to by the candidate, political party, or political committee, for filing the amended statement with the secretary of state.
 - b. Preserved by the secretary of state for a period of ten years from the date of filing. The statement is to be considered a part of the public records of the secretary of state's office and must be open to public inspection on the internet.
2. In determining the amount of individual contributions from any contributor, all amounts received from the same contributor during the reporting period must be aggregated to report an overall total contribution for the purposes of the statements required by this chapter. Aggregate contributions must reference the date of the most recent contribution. Contributions made separately by different persons from joint accounts are considered separate contributions for reporting purposes.
3. Any statement and data filed ~~electronically~~with the secretary of state must be made available on the internet to the public free of charge within twenty-four hours after filing.

¹²³ Section 16.1-08.1-06 was also amended by section 2 of Senate Bill No. 2299, chapter 163.

4. ~~Unless otherwise provided by law, any candidate, political party, committee, or person may not be charged a fee for filing any statement with the secretary of state under this chapter.~~

SECTION 10. AMENDMENT. Section 16.1-10-04.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-04.1. Certain political advertisements to disclose name of sponsor - Name disclosure requirements.

Every political advertisement by newspaper, pamphlet or folder, display card, sign, poster, or billboard, website, or by any other similar public means, on behalf of or in opposition to any candidate for public office, designed to assist, injure, or defeat the candidate by reflecting upon the candidate's personal character or political action, or by a measure committee as described in section 16.1-08.1-01, or a corporation making ~~a direct~~an independent expenditure either for or against a measure, must disclose on the advertisement the name of the person, as defined in section 16.1-08.1-01, or political party paying for the advertisement. If the name of a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible individual from the political party, association, or partnership. The name of the person paying for any radio or television broadcast containing any advertising announcement for or against any candidate for public office must be announced at the close of the broadcast. If the name of a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible individual from the political party, association, or partnership. In every political advertisement in which the name of the person paying for the advertisement is disclosed, the first and last name of any named individual must be disclosed. An advertisement paid for by an individual candidate or group of candidates must disclose that the advertisement was paid for by the individual candidate or group of candidates. The first and last name or names of the candidates paying for the advertisement are not required to be disclosed. This section does not apply to campaign buttons.

Approved April 2, 2015
Filed April 2, 2015

CHAPTER 160

SENATE BILL NO. 2327

(Senators Davison, Casper, Oban)

AN ACT to create and enact a new section to chapter 16.1-02 of the North Dakota Century Code, relating to the reporting of incarcerated felons to the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Reporting incarcerations - Changes to records in the central voter file.

1. The director of the department of corrections and rehabilitation shall provide a report to the secretary of state, including the name, address, date of birth, date of sentence, effective date of the sentence, and county in which the conviction occurred, if available, of each individual who has been convicted of a felony and incarcerated under the legal and physical custody of the department of corrections and rehabilitation since the last report. The report must be provided every Monday morning. The secretary of state shall designate each individual in the report with an ineligible voter status in the central voter file.
2. The director of the department of corrections and rehabilitation shall provide a report to the secretary of state, including the name, address, and date of birth, if available, of each individual previously convicted of and incarcerated for a felony whose civil rights have been restored as provided in chapter 12.1-33 since the last report. The report must be provided every Monday morning. The secretary of state shall change the ineligible voter status of the individual in the central voter file to the appropriate status.
3. An individual who has been convicted of and incarcerated for a felony and whose civil rights have been restored as provided under chapter 12.1-33 must be allowed to vote if the individual meets the qualifications of an elector under section 16.1-01-04. The county auditor shall change the status of the individual's record in the central voter file as necessary.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 161

HOUSE BILL NO. 1474

(Representatives Boehning, Rick C. Becker, Kasper, Kreidt, Schatz)
(Senators Casper, Sorvaag)

AN ACT to amend and reenact sections 16.1-03-02 and 16.1-03-05 of the North Dakota Century Code, relating to political organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-03-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-02. Who may participate in and vote at caucus.

1. Only those individuals who are qualified electors under section 16.1-01-04 may vote or be elected as committeemen or officers at the precinct caucus.
2. ~~Only those individuals who either voted or affiliated with the party at the last general election or intend to affiliate with the party and vote with the party at the next election may vote at the precinct caucus.~~
3. In case the right of an individual to participate at the caucus is challenged, the question of the individual's right to participate must be decided by a vote of the whole caucus. An individual so challenged may not vote on the question of the individual's right to participate in the caucus, and a two-thirds vote of the whole caucus is required to exclude an individual from participation.
- 4.3. An individual may not vote or participate at more than one precinct caucus in any one year.

SECTION 2. AMENDMENT. Section 16.1-03-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-05. Vacancies in office of precinct committeeman - Filling.

A vacancy in the office of precinct committeeman, which occurs after the organization of the district committee, may be filled by appointment ~~from the precinct by the district executive committee of the party, as authorized by the district party bylaws.~~

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 162

HOUSE BILL NO. 1239

(Representatives Kempenich, Brabandt, Hanson, Laning, Rohr, Thoreson)
(Senators Armstrong, Schaible)

AN ACT to amend and reenact sections 4-22-17, 12.1-14-02, 16.1-07-10, 16.1-10-06.1, subsection 2 of section 16.1-11-11, and sections 16.1-11.1-05, 16.1-12-02.2, 16.1-13-23, 16.1-13-32, 61-24-03.1, and 61-24.5-07 of the North Dakota Century Code, relating to election administration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-22-17 of the North Dakota Century Code is amended and reenacted as follows:

4-22-17. Nominating petitions - Petitions required - Final filing date.

Any person running for the office of supervisor shall present to the county auditor of the county in which the district lies a petition giving that person's name and mailing address and the title and term of the office, and containing the signatures of not less than twenty-five nor more than three hundred qualified electors of the district. When a district lies in more than one county, the petition must be filed with the county auditor of the county where the candidate resides, and such county auditor shall certify to the county auditors of the other counties in which such district lies the name and mailing address of the candidate filing such petition. At the same time, the county auditor, or auditors in the case of multicounty districts, shall also certify to the secretary of state the name and mailing address of each person filing a nominating petition according to this section. No person may participate directly or indirectly in the nomination for more than one person for each office to be filled. The final filing date for nominating petitions is no later than ~~sixty~~sixty-four days before the day of the election and not later than four p.m. of such day.

Upon receipt of the petition or the certification as provided in this section, the county auditor shall without fee place the name of the candidate so nominated on the no-party ballot at the ensuing general election.

SECTION 2. AMENDMENT. Section 12.1-14-02 of the North Dakota Century Code is amended and reenacted as follows:

12.1-14-02. Interference with elections.

A person is guilty of a class A misdemeanor if, whether or not acting under color of law, ~~he~~the person, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because ~~he~~the other individual is or has been voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a ~~poll watcher or other~~an election official or an election observer, in any primary, special, or general election.
2. Injures, intimidates, or interferes with another in order to prevent ~~him~~that individual or any other ~~person~~individual from voting for any candidate or issue

or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a ~~poll watcher or other~~ an election official or an election observer, in any primary, special, or general election.

SECTION 3. AMENDMENT. Section 16.1-07-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-10. Care and custody of ballot - Submitted ballot may not be returned.

Upon receipt of an envelope containing the absent voter's ballot, the proper officer immediately shall attach the application of the absent voter and file the ballot with other absentee ballots from the same precinct. After submission to the appropriate election officer, a marked absent voter's ballot may not be returned to the voter for any reason other than to complete any missing information required on the affidavit on the back of the return envelope. Before delivering the absentee ballots to a polling place of the proper precinct, the proper officer shall package the ballots in a manner so the ballots are sealed securely. The package must be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words "This package contains an absent voter's ballot and must be opened only according to the processing provisions of section 16.1-07-12." The officer shall keep the package safely in the officer's office until it is delivered by the officer as provided in this chapter.

SECTION 4. AMENDMENT. Section 16.1-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-06.1. Paying for certain election-related activities prohibited.

No person may pay ~~another person~~ any individual for:

1. Any loss or damage due to attendance at the polls;
2. Registering;
3. The expense of transportation to or from the polls; or
4. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

~~The provisions of this section do not apply to the hiring of a person whose sole duty it is to act as a challenger and to watch the count of official ballots.~~

SECTION 5. AMENDMENT. Subsection 2 of section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

2. The signatures of qualified electors, the number of which must be determined as follows:
 - a. If the office is a county office, the signatures of not less than two percent ~~and not more than five percent~~ of the total vote cast for the office at the most recent general election at which the office was voted upon.
 - b. If the office is a county office and multiple candidates were elected to the office at the preceding general election at which the office was voted upon, the signatures of not less than two percent ~~and not more than five percent~~

of the votes cast for all candidates divided by the number of candidates that were to be elected to that office.

- c. If the office is a county office and no candidate was elected or no votes were cast for the office at any general election, the number of signers equal to the percentage as provided in paragraph 1 applied to the total average vote cast for the offices of sheriff and county auditor at the most recent general election at which those officers were elected in the petitioner's county. This average must be determined by dividing by two the total vote cast for those offices.
- d. In no case may more than three hundred signatures be required.

SECTION 6. AMENDMENT. Section 16.1-11.1-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11.1-05. Replacement ballots.

An elector may obtain a replacement ballot if a mail ballot is destroyed, spoiled, lost, or not received by the elector. The elector seeking a replacement ballot shall make the elector's request of the county auditor or appropriate election officer no later than four p.m. on the day before the election. After submission to the appropriate election officer, a voter's marked mail ballot may not be returned to the voter for any reason other than to complete any missing information required on the affidavit on the back of the return envelope.

SECTION 7. AMENDMENT. Section 16.1-12-02.2 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02.2. Counting of write-in votes - Certificate of candidacy by write-in candidates.

1. An election board or canvassing board may not count or be required to officially report any write-in vote for any:
 - a. Individual who is required to file a certificate of write-in candidacy under this section but who has not filed a certificate of candidacy and been certified as a write-in candidate.
 - b. Fictitious person or individual clearly not eligible to qualify for the office for which the vote was cast.
 - c. Statement concerning the candidates.
 - d. Name written or printed by the voter for an office that did not also include the darkening of the oval next to the write-in line, except that a write-in candidate for a nonfederal office may make a timely written demand to a county canvassing board to identify and preserve any write-in vote cast for the office sought by the write-in candidate for canvass by the board. The candidate shall deliver the demand to the county auditor and a copy to the county recorder no later than thirty-six hours before the time the county canvassing board is scheduled to meet. A demand only may be made if the unofficial election results maintained by the county auditor demonstrate that the write-in candidate's known vote total is within the pertinent percentage limits provided in subsection 1 or 2 of section 16.1-16-01 and a statement to that effect is included in the demand. After

- delivery of the ballots as provided by section 16.1-15-08, the canvassing board shall review the ballots to identify any ballot that contains a write-in vote. The county canvassing board shall tally and canvass any write-in vote in the same manner as lawful or qualifying write-in votes if the canvassing board is able to clearly ascertain the intent of the voter from examining the ballot because the write-in candidate's name has been written on the ballot opposite the office to be voted for or because of any other cogent evidence of intent.
- e. Write-in votes which constitute five percent or less of the votes cast by the voters for the candidate receiving the most votes for that office, except in the case of a primary election in which enough votes were cast as write-in votes to qualify a name for the general election ballot. This percentage is to be calculated based on the total number of write-in votes tabulated by the voting equipment in the precincts of the county in which that office was on the ballot.
 - f. Candidate receiving fewer than three write-in votes unless the number of votes received qualifies the candidate to be nominated or elected.
2. Write-in votes that do not need to be individually canvassed based on the requirements of this subsection 1 must be listed on the official canvass report as "scattered write-ins".
 - 2-3. An individual who intends to be a write-in candidate for president of the United States or for statewide or judicial district office at any election shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the election. The certificate must contain the name and address of the candidate and be signed by the candidate. Before the thirteenth day before the election, the secretary of state shall certify the names of the candidates to each county auditor as write-in candidates.
 - 3-4. An individual who intends to be a write-in candidate at the general election for president of the United States shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the general election. The certificate must contain the names and addresses of the candidates for presidential electors for that presidential candidate and a certification of acceptance signed by each candidate for elector. The candidate shall sign the certificate. The certificate may also include the name and address of a candidate for vice president of the United States and a certification of acceptance signed by that candidate. The secretary of state shall prescribe the form of the certificate of write-in candidacy and the certification of acceptance. Before the thirteenth day before the election, the secretary of state shall certify the names of the presidential candidates and the presidential electors to each county auditor as write-in candidates.
 - 4-5. An individual who intends to be a write-in candidate for any legislative district office shall file a certificate of write-in candidacy with the secretary of state. The certificate must contain the name, address, and signature of the candidate. Certificates must be filed by four p.m. on the fourth day before the election. When the candidate files a certificate, the candidate also shall file the contribution statement provided for under section 16.1-08.1-02 complete through the day of the filing of the certificate.
 - 5-6. A certificate under this section is not required when:

- a. No names will appear on the ballot for an office;
 - b. The number of candidates appearing on the ballot for an office is less than the number to be elected; or
 - c. The number of candidates appearing on the ballot for a party office is less than the number of nominations a party is entitled to make.
- 6-7. An individual required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots.

SECTION 8. AMENDMENT. Section 16.1-13-23 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-23. Preparation of ballot by elector - Depositing - Second-chance voting.

Upon receipt of a ballot within the provided secrecy sleeve, the elector, forthwith and without leaving the polling place, shall retire alone to one of the voting booths or compartments to prepare the elector's ballot by darkening the oval opposite the name of each ~~person~~individual for whom the elector wishes to vote. In the case of a ballot containing a constitutional amendment, an initiated or referred measure, or any other question to be submitted to a vote of the people, the elector shall darken the oval opposite the word or words expressing the elector's wish. After preparing the ballot, the elector shall place the ballot back in the provided secrecy sleeve so it is concealed and so the endorsement of the inspector or election judge may be seen. The elector then shall deposit the ballot in the optical scanning device and wait to determine if the ballot is deposited into the ballot box or if the optical scanning device has indicated a possibility for a second-chance voting condition. If a second-chance voting condition is indicated, a voter may spoil and receive up to two additional ballots. The voter's third ballot must be cast as is and may not be returned to the voter even if errors exist causing certain votes not to be counted.

SECTION 9. AMENDMENT. Section 16.1-13-32 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-32. Securing new ballot upon spoiling of others.

If any elector spoils a ballot before casting the ballot in the ballot box, the elector may obtain others successively, one at a time, not exceeding three in all, upon returning each spoiled ballot. Each paper ballot returned must be canceled immediately and, together with those not distributed to the electors, must be preserved and secured in sealed packages and returned to the county recorder.

SECTION 10. AMENDMENT. Section 61-24-03.1 of the North Dakota Century Code is amended and reenacted as follows:

61-24-03.1. Filling vacancy of director on general election ballot.

Whenever a vacancy exists on a general election no-party ballot for any directorship of the Garrison Diversion Conservancy District, the vacancy may be filled by filing with the county auditor at least ~~sixty days~~ sixty-four days before the day of the election and not later than four p.m. of that day a petition substantially in the form provided in section 61-24-03, stating that the petitioner desires to become a candidate for election to the office of director. This petition must contain the signatures of not less than fifty qualified electors of the

CHAPTER 163

SENATE BILL NO. 2299

(Senators Oban, Miller, Poolman)
(Representatives Boschee, Louser, Schneider)

AN ACT to create and enact a new section to chapter 16.1-08.1 of the North Dakota Century Code, relating to campaign contributions through a conduit; to amend and reenact sections 16.1-08.1-01 and 16.1-08.1-06 of the North Dakota Century Code, relating to campaign contributions and reporting of contributions through a conduit; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁴ **SECTION 1. AMENDMENT.** Section 16.1-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-01. Definitions.

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

1. "Affiliate" means an organization that controls, is controlled by, or is under common control with another organization. For purposes of this definition, control means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an organization, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise. Control is presumed to exist if an organization, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing fifty percent or more of the voting securities of any other organization.
2. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. The term does not include corporations, cooperative corporations, limited liability companies, political committees, or political parties.
3. "Candidate" means an individual who seeks nomination for election or election to public office, and includes:
 - a. An individual holding public office;
 - b. An individual who has publicly declared that individual's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;

¹²⁴ Section 16.1-08.1-01 was also amended by section 2 of House Bill No. 1309, chapter 159.

- c. An individual who has formed a campaign or other committee for that individual's candidacy for public office;
 - d. An individual who has circulated a nominating petition to have that individual's name placed on the ballot; and
 - e. An individual who has, in any manner, solicited or received a contribution for that individual's candidacy for public office, whether before or after the election for that office.
4. "Conduit" means a person that is not a political party, political committee, or candidate and which receives a contribution of money and transfers the contribution to a candidate, political party, or political committee when the contribution is designated specifically for the candidate, political party, or political committee and the person has no discretion as to the recipient and the amount transferred. The term includes a transactional intermediary, including a credit card company or a money transfer service that pays or transfers money to a candidate on behalf of another person.
5. "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription, loan, advance, deposit of money, or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to public office or aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes. The term includes funds received by a candidate for public office or a political party or committee which are transferred or signed over to that candidate, party, or committee from another candidate, party, or political committee or other source including a conduit. The term "anything of value" includes any good or service of more than a nominal value. The term "nominal value" means the cost, price, or worth of the good or service is trivial, token, or of no appreciable value. The term "contribution" does not include:
- a. A loan of money from a bank or other lending institution made in the regular course of business.
 - b. Time spent by volunteer campaign or political party workers.
 - c. Money spent by a candidate on the candidate's own behalf.
 - d. Money or anything of value received for commercial transactions, including rents, advertising, or sponsorships made as a part of a fair market value bargained-for exchange.
 - e. Money or anything of value received by a candidate in that person's personal capacity, including pursuant to a contract or agreement made for personal or private employment purposes, and not received for a political purpose or to influence the performance of that person's official duty.
 - f. Contributions of products or services for which the actual cost or fair market value are reimbursed by a payment of money.
 - g. An independent expenditure.

- ~~5-6.~~ "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code, and for purposes of this chapter "corporations" includes nonprofit corporations. However, if a political committee, the only purpose of which is accepting contributions and making expenditures for a political purpose, incorporates for liability purposes only, the committee is not considered a corporation for the purposes of this chapter.
- ~~6-7.~~ "Expenditure" means:
- a. A gift, transfer, conveyance, provision, loan, advance, payment, distribution, disbursement, outlay, or deposit of money or anything of value, except a loan of money from a bank or other lending institution made in the regular course of business, made for a political purpose or for the purpose of influencing the passage or defeat of a measure.
 - b. A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure.
 - c. The transfer of funds by a political committee to another political committee.
 - d. An independent expenditure.
- ~~7-8.~~ "Incidental committee" means a committee, club, association, or other group of persons that makes a contribution or expenditure, but for which making contributions and expenditures for political purposes is not its primary purpose.
- ~~8-9.~~ "Independent expenditure" means an expenditure made for a political purpose or for the purpose of influencing the passage or defeat of a measure if the expenditure is made without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of, any candidate or a candidate committee or measure committee.
- ~~9-10.~~ "Patron" means a person who owns equity interest in the form of stock, shares, or membership or maintains similar financial rights in a cooperative corporation.
- ~~10-11.~~ "Person" means an individual, partnership, political committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.
- ~~11-12.~~ "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes and includes the following:
- a. A political action committee, derived from a corporation, cooperative corporation, limited liability company, or an association that is prohibited from making a contribution for political purposes under section 16.1-08.1-03.5, and which solicits or receives contributions or makes expenditures for political purposes;
 - b. A candidate committee, established to support an individual candidate seeking statewide office, that solicits or receives contributions for political purposes;

- c. A political organization governed by the Internal Revenue Code and registered with the federal election commission, which solicits or receives contributions or makes expenditures for political purposes;
- d. A multicanidate political committee, established to support multiple groups or slates of candidates seeking public office, that solicits or receives contributions for political purposes;
- e. A measure committee that solicits or receives contributions for the purpose of aiding or opposing a measure to be voted upon by the voters of the state; and
- f. An incidental committee.

42-13. "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be filled by a vote of the electors of this state or any of its political subdivisions and whose name appears on the election ballot as the candidate of such association, committee, or organization.

43-14. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of a duty of a state office or any position taken in any bona fide news story, commentary, or editorial.

44-15. "Public office" means every office to which an individual can be elected by vote of the people under the laws of this state.

45-16. "Subsidiary" means an affiliate of a corporation under the control of the corporation directly or indirectly through one or more intermediaries.

¹²⁵ **SECTION 2. AMENDMENT.** Section 16.1-08.1-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-06. Contributions and expenditure statement requirements.

1. Any statement required by this chapter to be filed with the secretary of state must be:
 - a. Deemed properly filed when electronically delivered to the secretary of state within the prescribed time and in the format established by the secretary of state. If the secretary of state does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the secretary of state of its nonreceipt. After a statement has been filed, the secretary of state may request or accept written clarification along with an

¹²⁵ Section 16.1-08.1-06 was also amended by section 9 of House Bill No. 1309, chapter 159.

- amended statement from a candidate, political party, or political committee filing the statement when discrepancies, errors, or omissions on the statement are discovered by the secretary of state, the candidate, political party, or political committee filing the statement, or by any interested party reciting a lawful reason for requesting clarification and an amendment be made. When requesting an amended statement, the secretary of state shall establish a reasonable period of time, not to exceed ten days, agreed to by the candidate, political party, or political committee, for filing the amended statement with the secretary of state.
- b. Preserved by the secretary of state for a period of ten years from the date of filing. The statement is to be considered a part of the public records of the secretary of state's office and must be open to public inspection.
 2. In determining the amount of individual contributions from any contributor, all amounts received from the same contributor during the reporting period must be aggregated to report an overall total contribution for the purposes of the statements required by this chapter. Aggregate contributions must reference the date of the most recent contribution. Contributions made separately by different persons from joint accounts are considered separate contributions for reporting purposes.
 3. In reporting a contribution received through a conduit, a candidate, political party, or political committee shall list each reportable contribution identifying the person that submitted the contribution to the conduit and provide the required information regarding the contribution from that person rather than identifying the conduit as the contributor.
 4. Any statement and data filed electronically must be made available on the internet to the public free of charge within twenty-four hours after filing.
 - 4-5. Unless otherwise provided by law, any candidate, political party, committee, or person may not be charged a fee for filing any statement with the secretary of state under this chapter.

SECTION 3. A new section to chapter 16.1-08.1 of the North Dakota Century Code is created and enacted as follows:

Conduit required to provide detailed contribution information to recipient.

A conduit that transfers any contribution to a candidate, political party, or political committee shall provide the recipient of the contribution a detailed statement that lists the name and address of each individual contributor, the amount of each contribution, and the date each contribution was received. The conduit also shall include on the statement the occupation, employer, and principal place of business of each contributor, or the political committee if not already registered according to state or federal law, which contributed five thousand dollars or more in the aggregate during a reporting period applicable to the candidate, political party, or political committee. The conduit shall provide the statement to the candidate, political party, or political committee in a manner to allow the candidate, political party, or political committee to file any statement required to be filed under this chapter.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 164

HOUSE BILL NO. 1181

(Representatives Streyle, Brabandt, Dockter, Louser, Owens, Rohr, Schmidt)
(Senators Casper, Holmberg, Laffen, Unruh)

AN ACT to amend and reenact section 16.1-13-08 of the North Dakota Century Code, relating to filling vacancies in the office of United States senator.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-13-08 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-08. Filling vacancy in office of United States senator.

~~When a vacancy occurs in the office of United States senator from this state, the governor shall issue a writ of call a special election to be held within ninety-five days to fill the vacancy at the next statewide primary or general election, whichever occurs first, and that occurs at least ninety days after the vacancy. However, if the next primary or general election at which the vacancy could be filled occurs in the year immediately preceding the expiration of the term, then no election may be held. The governor, by appointment, may fill the vacancy temporarily, but any person so appointed shall serve only until the vacancy is filled by election or until the term expires if no election can be held. If the vacancy occurs within ninety-five days of the expiration of the term of office for that office, no election may be held to fill the vacancy.~~

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 165

HOUSE BILL NO. 1445

(Representative Mock)

AN ACT to amend and reenact sections 16.1-15-04, 16.1-15-05, and 16.1-15-06 of the North Dakota Century Code, relating to election canvass reports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-15-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-04. ~~Three canvass reports~~ Canvass report prepared by election board - ~~One for county auditor and one for each political party.~~

The election board shall generate at least ~~three~~one canvass ~~reports~~report from the electronic voting system. The ballots may not be sealed, nor may the ~~three canvass reports~~report be signed, by the election board or poll clerk until the counts in the poll clerks' books and in the canvass ~~reports~~all showreport shows the same totals for ballots cast. ~~A signed canvass report is to be given to each judge so that the political parties have a record of the votes cast.~~

In the case of the absentee ballot precinct as authorized in section 16.1-07-12.1, early voting precincts as authorized in section 16.1-07-15, and mail ballot precinct as authorized in section 16.1-11.1-06, if the work of the election board is completed prior to close of the polls on election day, the election board shall create and sign a statement consisting of a reconciliation of the number of voters recorded in the pollbook and the number of ballots processed through the tabulators. The voting system ~~shall then~~must be secured in a manner prescribed by the county auditor that will protect the system and ballots from tampering. Prior to generating the canvass ~~reports~~report from one of these three types of precincts, an election judge representing each political party, or two election judges in the case of an election that does not include a political party contest, shall verify that the system and ballots remain secure and the statement created by the election board is still accurate.

SECTION 2. AMENDMENT. Section 16.1-15-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-05. Oath required of members of election board upon completion of canvass - Contents.

At the conclusion of the canvass of the votes, each member of the election board shall sign an affidavit to the effect that the ballots have been counted and the votes canvassed as provided in this chapter and that the returns as disclosed by the canvass ~~reports~~report agree with the number of ballots cast and are true and correct of the member's own knowledge.

SECTION 3. AMENDMENT. Section 16.1-15-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-06. ~~Reports~~ Canvass report and pollbooks sent to county auditor - Compensation for making returns.

Immediately following the canvass, except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by the inspector of elections, personally shall deliver ~~one of the signed canvass reports~~report provided for in section 16.1-15-04 to the county auditor. The ~~reports~~report, carefully sealed under cover, accompanied by the pollbook provided for in sections 16.1-02-13 and 16.1-06-21 with the oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county auditor. The ~~person~~individual making the return ~~shall~~is entitled to receive compensation therefor in accordance with section 16.1-05-05. The compensation and mileage must be paid out of the county treasury on a warrant of the county auditor and is full compensation for returning all used or voided ballots to the proper official.

Approved April 8, 2015
Filed April 8, 2015

FIRES

CHAPTER 166

HOUSE BILL NO. 1056

(Legislative Management)
(Taxation Committee)

AN ACT to amend and reenact section 18-10-07 of the North Dakota Century Code, relating to rural fire protection district increased levy approval; to repeal section 57-15-26.3 of the North Dakota Century Code, relating to the levy limit for rural fire protection districts; to provide for a legislative management study of the consolidation of elections and a legislative management study of statutory references to political subdivisions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁶ **SECTION 1. AMENDMENT.** Section 18-10-07 of the North Dakota Century Code is amended and reenacted as follows:

18-10-07. Fire protection policy to be determined - Tax levy.

The board of directors shall determine a general fire protection policy for the district and shall annually estimate the probable expense for carrying out the contemplated program. The annual estimate of probable expense may include an amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year, who shall levy a tax upon the taxable property within the district for the maintenance of the fire protection district for the fiscal year as provided by law.

The tax may not exceed the limitation in section 57-15-26.3a tax rate of five mills per dollar of the taxable valuation of property in the district, except upon resolution adopted by the board of directors and approval by a majority of the qualified electors voting on the question at an annual or special meeting of electors called by the board of directors, the levy may be made in an amount not exceeding thirteen mills. If an election to approve or reauthorize an excess levy will be held at an annual or special meeting of electors of the district called by the board of directors, notice of the meeting and the proposed excess levy election must be provided by at least one publication in the official newspaper of each county in which the district is located at least seven days, but not more than fourteen days, before the date of the public meeting. The published notice must include the amount of the proposed tax rate increase in mills and the duration for which elector approval of the increase is sought and must include the location where, and hours during which, ballots may be cast.

¹²⁶ Section 18-10-07 was also amended by section 3 of House Bill No. 1059, chapter 433, section 21 of Senate Bill No. 2144, chapter 439, and section 12 of Senate Bill No. 2217, chapter 92.

Votes to approve or disapprove the levy increase must be cast on the date of the meeting. The polling place must remain open for at least six hours on the date of the meeting. The secretary-treasurer of the district shall prepare and distribute to qualified electors at the polling place paper ballots to conduct the election on the question of increased levy authority. Three election judges to receive and count the ballots, who are qualified electors of the district but not members of the board, must be selected at least seven days before the meeting by approval of a majority of the members of the board. A marked ballot must be delivered to one of the judges, folded to conceal its contents, the judge shall deposit it in the ballot box, and another judge shall enter the name of the elector who cast the ballot in the poll book. When the election is closed, the judges shall count the ballots and announce the result. Results of the election must be certified by the secretary-treasurer of the district and each of the election judges to the tax commissioner and to the county auditor of each county in which the district is located within ten days after the election. The certificate must include a statement of the question as it appeared on the ballot, together with the total number of votes cast in favor, and the number of votes cast against, authorizing the excess levy.

After July 31, 2015, approval or reauthorization by electors of increased levy authority under this section may not be effective for more than ten taxable years. No signature on the petition may be considered valid if made more than ninety days prior to receipt of the petition. Additional levy authority authorized by the board of directors after petition of electors before August 1, 2015, remains in effect under the provisions of law at the time the levy was authorized for the time period authorized by the electors but not exceeding five taxable years. The tax must be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural fire protection district, who shall have a surety bond in the amount of at least five thousand dollars.
3. Placed to the credit of the rural fire protection district so authorizing the same by its secretary-treasurer in a state or national bank, except amounts to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles may be invested to earn the maximum return available.
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the rural fire protection district.

The amount of tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year and including any amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles.

¹²⁷ **SECTION 2. REPEAL.** Section 57-15-26.3 of the North Dakota Century Code is repealed.

¹²⁷ Section 57-15-26.3 was amended by section 20 of Senate Bill No. 2217, chapter 92, and was also repealed by section 104 of Senate Bill No. 2144, chapter 439.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY- CONSOLIDATION OF ELECTIONS. During the 2015-16 interim, the legislative management shall consider studying the feasibility and desirability of consolidating all political subdivision and school district elections with the statewide primary election and the holding of all special elections on other specified dates during any year. If the legislative management conducts the study, the legislative management shall seek input and participation from the secretary of state; representatives of cities, counties, school districts, and other political subdivisions; and representatives of political parties. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - STATUTORY REFERENCES TO POLITICAL SUBDIVISIONS. During the 2015-16 interim, the legislative management shall consider studying statutory usage of various references to political subdivisions and the feasibility of differentiating references to political subdivisions based on whether the governing body is elected or appointed. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2014.

Approved April 27, 2015

Filed April 27, 2015

CHAPTER 167

SENATE BILL NO. 2306

(Senators Nelson, Axness, Flakoll)
(Representatives Beadle, Boehning, Schneider)

AN ACT to amend and reenact section 18-11-28 of the North Dakota Century Code, relating to alternate firefighters relief association plan benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-11-28 of the North Dakota Century Code is amended and reenacted as follows:

18-11-28. Service, disability, and survivor pensions - Formulation of optional plan.

With the consent of the governing body of the city involved, and in substitution for a pension payment schedule, disability pension provision, and survivor pension provision provided in sections 18-11-15, 18-11-16, 18-11-17, and 18-11-26, a firefighters relief association may adopt a monthly service pension plan, disability pension for members, and pensions for survivors of deceased members of the association as provided in this section.

1. Normal retirement date. Normal retirement date for a service pension is the first day of the month coincident with or next following the member's attainment of age fifty-five and the completion of ten years of service.
2. Service pensions. A member retiring on or after the member's retirement date is entitled to receive a monthly benefit beginning following the member's actual retirement and continuing for the member's lifetime as specified in subsection 7. The benefit amount is equal to two and fifty hundredths percent of average final compensation, times years of service, up to a maximum of seventy-five percent.
3. Termination benefits. If a member terminates the member's employment as a firefighter, either voluntarily or by discharge, and is not eligible for any other benefits, the member is entitled to the following:
 - a. Nonvested termination. If the member has less than ten years of credited service upon termination, the member is entitled to a refund of the member's accumulated contributions, payable in a single lump sum payment. Any benefits already received by the member from the association must be deducted from this payment. Upon return of the member's accumulated contributions, all of the member's rights and benefits under the plan are forfeited and terminated. Upon any reemployment, a firefighter may not receive credit for years or completed months of service for which the firefighter has withdrawn the firefighter's accumulated contributions from the plan, unless the firefighter repays into the plan the contributions the firefighter has withdrawn, with interest, as determined by the board, within ninety days after the firefighter's reemployment. A member may voluntarily leave the member's

accumulated contributions in the plan for a period of five years after leaving the employ of the department pending the possibility of being reemployed as a firefighter, without losing credit for the time that the member was a member of the plan. If a member who is not vested is not reemployed as a firefighter with the department within five years, the member's accumulated contributions must be returned. During this period, the member is not entitled to any benefits under subsection 4 or 5.

- b. Vested termination. If the member has ten or more years of service upon termination, the member is entitled to a monthly retirement benefit, determined in the same manner as a service pension, and based upon the member's service and the applicable pay in effect at the time of termination. The monthly benefit amount commences upon application by the member, at the member's ~~age~~ fifty-five normal retirement age. Alternatively, upon the member's request, the member's accumulated contributions must be returned to the member. Following payment under such election, neither the member nor the member's beneficiaries or estate is entitled to any future benefit payments from the fund.

4. Disability pensions.

- a. Eligibility. An active member who becomes disabled, ~~and is not yet eligible to begin payments under a service pension, before the member's normal retirement date~~ is eligible to receive a disability pension. ~~A service or deferred pensioner who becomes disabled, which disability arose from or is attributable to service on the fire department, and who has ceased to be an active member of the association for five years or less is eligible to receive a disability pension.~~

- b. The disability benefit is determined as follows:

- (1) Benefit amount. The monthly benefit under the disability pension equals ~~a percentage of ten percent times the member's years of credited service, up to a maximum of fifty percent times the monthly salary of a top paid firefighter for the year that the first benefit is paid, reduced as described below in this paragraph. The percentage equals ten percent times the member's years of credited service, up to a maximum of fifty percent. If the member is eligible for a service pension~~ When a member eligible to receive a disability pension attains the member's normal retirement date, the member's monthly benefit equals the greater of the disability pension after adjustment for other income or the service pension. If the member is eligible for a deferred pension, the member will receive the disability pension through the member's normal retirement age, and then is entitled to receive the greater of the disability pension or the member's service pension amount ~~If the service pension is greater, the disability benefit must cease and the member must be treated in all respects as a service pensioner.~~
- (2) Adjusted for other income before age sixty-five. The disability pension amount must be reduced by one dollar for every "excess dollar". "Excess dollar" is the sum of earned income plus payments by the association, plus other insurance payments, less the salary of a top paid firefighter on January thirty-first of the year that the excess dollar amount is determined. This reduction must be redetermined each year.

For purposes of this provision, earned income is all income reported or reportable for federal income tax purposes, excluding passive income, but including wages, salary, commissions, and similar pay from any gainful work, including partnership profits when applicable. For purposes of this provision, passive income is interest, rent, receipts, inheritance payments, private disability insurance, or other payments not related to wages. Other insurance payments received by a disabled member of the association for disability must be included in the excess dollar calculation without any reduction for taxes or other miscellaneous payments. For purposes of this provision, insurance includes disability benefits provided by the city or under workers' compensation or similar legislation, as well as primary and dependent disability benefits provided under social security. Any lump sum payment attributable to wages or insurance payments received by the member will be prorated over the period of time for which the payment is intended to provide benefits.

- (3) Adjustment for other income ceases after age sixty-five. The "excess dollar" becomes zero and the association no longer has the right nor the responsibility to determine the excess dollar calculation for that disabled member of the association.
- c. Determination of benefit amount by board. Every disabled member of the association who disagrees with the findings of the association with regard to the benefit calculation may have the calculation determined by an independent third party in an arbitration process, the results of which are final. The association has the right and responsibility to all active members to determine the excess dollar calculation for each disabled member of the association. Any attempt to fraudulently receive benefits under this section by misrepresenting a physical condition or withholding information affecting benefit payments may be cause for dismissal from the association and immediate suspension of all benefit payments, current or future.
- d. Application for benefit. All applications for pensions must be made on forms furnished by the association. Applicants shall answer all questions under oath and furnish such evidence as the board requests. Should any doubt arise in regard to the existence of disability, the matter must be referred to three physicians, one to be chosen by the applicant, one to be chosen by the board, and the two physicians so selected shall choose a third physician. In such case, the three physicians thus chosen shall examine the applicant and report to the board.
- e. Suspension of disability pension pending proof of income. A disabled member shall provide proof of earned income to the association by April fifteenth each year. The proof provided must be in the form of earned income reported to the internal revenue service. If a disabled member is unable to provide proof of earned income by April fifteenth each year, the excess dollar amount is presumed sufficient to reduce the disability pension to zero dollars until the association receives adequate information to accurately determine the excess dollar amount. The association shall pay a disabled member the disability pension amount that was suspended, up to twelve months, in one lump sum once earned income information is received and the association accurately determines the amount owed to the disabled member.

5. Optional forms of payment.

- a. Normal form of benefit. For a member married at retirement, the normal form of payment of the service pension or deferred vested pension is a monthly payment for the member's lifetime, with fifty percent of this amount payable to the member's surviving spouse. For a member who is not married at retirement, the normal form of payment is a monthly payment for the member's lifetime, with no survivor payments, but actuarially adjusted as described in subdivision b as if the member were married to a spouse of the same age.
- b. Optional forms of benefits. In place of the normal form of benefit provided in subdivision a, a member may elect to receive an actuarially equivalent benefit, based on the factors provided in subsection 8, in one of the following optional forms of payment:
 - (1) Life annuity. A monthly benefit payable for the member's lifetime only, with no survivor benefits payable.
 - (2) Certain and life annuity. A monthly benefit payable for the member's lifetime, but with one hundred twenty payments guaranteed. If the member dies before receiving one hundred twenty payments, monthly payments will be made to the member's designated beneficiary or estate until one hundred twenty payments have been paid.
 - (3) Joint and survivor annuity. A monthly benefit payable for the member's life, plus payments equal to seventy-five percent or one hundred percent of this benefit amount to the member's spouse following the member's death. Under this option, the surviving spouse is the member's spouse at the time of retirement. If the spouse dies before the member, no benefits will be paid to a survivor following the member's death.
- c. Benefit selection. A member may select one of the optional forms of payment in subdivision b during the ninety days prior to the member's actual retirement, or upon attaining normal retirement age, on a form provided by the board. The selection may be changed at any time before cashing or depositing the first retirement payment. Consent of the member's spouse is not required to select or change an optional benefit form. A member may change the beneficiary designated under the certain and life payment form at any time prior to the member's death by filing a new selection form with the board. The beneficiary's consent is not required. If a member dies after having completed and filed a selection form with the board, but before actually retiring, the board shall direct that payments be made as if the member had retired on the member's date of death and had selected the optional payment indicated in the member's form. If a member dies after reaching normal retirement age without having completed a selection form, the board shall direct that payments be made as if the member had retired on the member's date of death, and had selected the joint and one hundred percent survivor optional payment form if the member was married on the member's date of death, or the certain and life form if the member was not married. If the member's spouse dies after the member has filed forms with the board selecting a joint and survivor benefit form, but before cashing or depositing the first retirement payment, and if the member does not file a revised selection

form, the board shall direct that payments be made under subdivision a, providing for payments to a member who is not married at retirement.

6. Preretirement death benefits.

- a. Surviving spouse benefits. If a vested active or vested deferred member dies before retirement, a pension in the sum of fifty percent of the amount of the disability pension, or if greater, fifty percent of the deferred vested pension, the member would have been entitled to on the date of death must be paid to the surviving spouse for the period of the spouse's natural life.
- b. Children's benefit. If a vested active or vested deferred member dies before retirement, a monthly benefit must be paid to the member's surviving children until age ~~eighteen~~nineteen, or until completion of high school, if the children are actively enrolled beyond age eighteenwhichever occurs first. The benefit amount to be shared among the children is equal to a percentage of the top paid firefighter's monthly salary on January thirty-first of the year the benefit is paid. The percentage is determined based on the number of children at the time of each benefit payment and whether the children's parent is alive. If the children's surviving parent is alive, the percentage is twenty percent. If no parent survives, and there is more than one child, the percentage is sixty percent. If there is no parent and only one child, the percentage is forty percent. Children who were living while the deceased was on the payroll of the department, or who were born within nine months after the decedent was withdrawn from the payroll of the department, are eligible for this benefit.
- c. Minimum benefit. When an active member who is not yet vested dies, the member's beneficiaries designated on forms provided by the pension association or the member's estate, in case this form has not been filed with the association, or in case the designated beneficiaries do not exist or cannot be found within six months of the date of death, shall receive in addition to the funeral benefit, a sum equal to what the member has contributed to the association, less the amount of any benefits received by the active member or the member's beneficiaries or estate.

7. Commencement of benefits.

- a. Payment of benefits. Monthly benefit payments must be distributed on the last day of each month. For service or deferred pensions, the first payment must be prorated to equal the total monthly benefit earned, times the number of days in the month following actual retirement, divided by the total number of days in the month. Benefits payable to the surviving beneficiary of a retired member who had been receiving payments commence in the month following the retired member's death. Benefits payable to the surviving spouse or children of a member who dies before retirement must be similarly prorated based on the date of death of the active or deferred member. The final monthly benefit paid in the month a retired member dies, a surviving beneficiary dies, or a surviving beneficiary ceases to be eligible for benefits must be paid on the last day of the month of death or termination of eligibility and must equal a full monthly payment with no reduction or proration.

- b. Mandatory commencement of benefits. Notwithstanding any provision in this section to the contrary, benefits payable under the plan are subject to the following:
- (1) A member's benefits may not commence later than April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half and the calendar year in which the member terminates employment. If a lump sum death benefit is payable to a deceased member's beneficiary, the benefit must be paid no later than sixty days following the member's date of death.
 - (2) The member's entire interest in the plan must be distributed over the life of the member or the lives of the member and a designated beneficiary, over a period not extending beyond the life expectancy of the member or the life expectancy of the member and designated beneficiary.
 - (3) When a member dies after distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution prior to the member's death.
 - (4) When a member dies before distribution of benefits has begun, the entire interest of the member must be distributed within five years of the member's death. The five-year payment rules do not apply to any portion of the member's interest which is payable to a surviving spouse payable over the life or life expectancy of the spouse and which begins no later than the date the member would have reached age seventy and one-half.
 - (5) The benefits payable must meet the minimum distribution incidental benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code.
8. Actuarial equivalence - optional forms of benefit. To determine the amount of the monthly payment under the life-only and certain and life optional forms permitted under subsection 5, multiply the normal monthly benefit amount by the following factors:

Life-only benefit: 1.043

Certain and life benefit: 1.030

To determine the amount of the monthly payment under the alternative joint and survivor optional forms permitted under subsection 5, multiply the normal monthly benefit amount by the following factors based on the difference in age between the member and the member's spouse, using the member's and spouse's ages as of the member's and spouse's most recent birthdays.

If the member is the same age as the spouse, use the following factors:

Joint and seventy-five percent survivor: 0.980

Joint and one hundred percent survivor: 0.960

If the spouse is not the same age as the member, use the following factors:

and	If the Spouse Is Younger:	Joint and Survivor	Joint and Survivor	If the Spouse Is Older:	Joint and Survivor	Joint
	Age Survivor Difference	75%	100%	Age Difference	75% 100%	
	1	0.979	0.959	1	0.980	0.960
	2	0.978	0.957	2	0.981	0.962
	3	0.977	0.956	3	0.981	0.964
	4	0.976	0.954	4	0.982	0.965
	5	0.976	0.952	5	0.983	0.967
	6	0.975	0.951	6	0.984	0.969
	7	0.974	0.949	7	0.985	0.970
	8	0.973	0.948	8	0.986	0.972
	9	0.973	0.947	9	0.986	0.973
	10	0.972	0.945	10	0.987	0.975
	11	0.971	0.944	11	0.988	0.976
	12	0.971	0.943	12	0.989	0.978
	13	0.970	0.942	13	0.989	0.979
	14	0.969	0.940	14	0.990	0.980
	15	0.969	0.939	15	0.991	0.982

Approved March 13, 2015

Filed March 13, 2015

FOODS, DRUGS, OILS, AND COMPOUNDS

CHAPTER 168

SENATE BILL NO. 2200

(Senators Kilzer, Warner)
(Representatives Kretschmar, Nathe)

AN ACT to amend and reenact sections 19-01-10 and 19-03.1-37 of the North Dakota Century Code, relating to reports issued by the state crime laboratory.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-01-10 of the North Dakota Century Code is amended and reenacted as follows:

19-01-10. Department to make analyses, inspections, and examinations - Report of examination as evidence - Publication of report.

The department shall make, or cause to be made, analyses, examinations, and inspections of all products, articles, compositions, or things included under this title whenever such analyses, inspections, or examinations are necessary to determine whether any of such products, articles, compositions, or things violate this title relating to the products, articles, compositions, or things in question, or violate any definition, standard, tolerance, rule, or regulation issued with regard to such products, articles, compositions, or things pursuant to any provision contained in this title. However, the state crime laboratory shall make or cause to be made, analysis, examination, inspection, or test of any product, article, composition, or thing at the request of any prosecutor, defense counsel, or law enforcement officer in the state of North Dakota when such analysis, examination, inspection, or test is made in connection with an investigation into violations of the criminal law of this state. A copy of any report issued by the department or the state crime laboratory, or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by a law enforcement officer or individual who has authorized access to the crime laboratory information management system through the criminal justice data information sharing system, of the examination or analyses of any product, article, composition, or thing, duly authenticated by the person making the analysis or examination, when given under oath, is prima facie evidence in all courts of the matters and facts therein contained. The department may collect samples of any product, article, composition, or thing for the purpose of making analyses, inspections, and investigations in connection with research carried on by it and may publish the reports thereof for the information of the public.

SECTION 2. AMENDMENT. Section 19-03.1-37 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-37. Burden of proof - Liabilities.

1. It is not necessary for the state to negate any exemption or exception in this chapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this chapter. The burden of proof of any exemption or exception is upon the person claiming it.
2. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter, the person is presumed not to be the holder of the registration or form. The burden of proof is upon the person to rebut the presumption.
3. No liability is imposed by this chapter upon any authorized state, county, or municipal officer engaged in the lawful performance of the officer's duties.
4. In all prosecutions under this chapter, chapter 19-03.2, or chapter 19-03.4 involving the analysis of a substance or sample thereof, a certified copy of the analytical report signed by the director of the state crime laboratory or the director's designee, or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by a law enforcement officer or individual who has authorized access to the crime laboratory information management system through the criminal justice data information sharing system, must be accepted as prima facie evidence of the results of the analytical findings.
5. Superseded by N.D.R.Ev., Rule 707.
6. In all cases of conspiracy to violate chapter 19-03.1, 19-03.2, or 19-03.4, the state is not required to prove or establish that a conspirator knew the other person to the agreement intended to deliver or possess with intent to deliver a controlled substance, an imitation controlled substance, or drug paraphernalia to a third person.

Approved March 19, 2015

Filed March 19, 2015

CHAPTER 169

SENATE BILL NO. 2100

(Judiciary Committee)
(At the request of the State Board of Pharmacy)

AN ACT to amend sections 19-03.1-05, 19-03.1-09, and 19-03.1-11 of the North Dakota Century Code, relating to the scheduling of controlled substances; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-05. Schedule I.

1. The controlled substances listed in this section are included in schedule I.
2. Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:
 - a. Acetyl-alpha-methylfentanyl (also known as N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide).
 - b. Acetylfentanyl (also known as N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide).
 - c. Acetylmethadol.
 - ~~e.d.~~ Allylprodine.
 - ~~d.e.~~ Alphacetylmethadol.
 - ~~e.f.~~ Alphameprodine.
 - ~~f.g.~~ Alphamethadol.
 - ~~g.h.~~ Alpha-methylfentanyl (also known as N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).
 - ~~h.i.~~ Alpha-methylthiofentanyl (also known as N-[1-methyl-2- (2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
 - i.j. Benzethidine.

- j-k. Betacetylmethadol.
- k-l. Beta-hydroxyfentanyl (also known as N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide).
- l-m. Beta-hydroxy-3-methylfentanyl (also known as N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide).
- m-n. Betameprodine.
- n-o. Betamethadol.
- o-p. Betaprodine.
- p-q. Clonitazene.
- q-r. Dextromoramide.
- r-s. Diampromide.
- s-t. Diethylthiambutene.
- t-u. Difenoxin.
- u-v. Dimenoxadol.
- v-w. Dimepheptanol.
- w-x. Dimethylthiambutene.
- x-y. Dioxaphetyl butyrate.
- y-z. Dipipanone.
- z-aa. Ethylmethylthiambutene.
- aa-bb. Etonitazene.
- bb-cc. Etoxidine.
- cc-dd. Furethidine.
- dd-ee. Hydroxypethidine.
- ee-ff. Ketobemidone.
- ff-gg. Levomoramide.
- gg-hh. Levophenacymorphan.
- hh-ii. 3-Methylfentanyl (also known as N-[3-methyl-1-(2-phenylethyl) 4-piperidyl]-N-phenylpropanamide).
- ii-jj. 3-Methylthiofentanyl (also known as N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).

- jj-kk. Morpheridine.
- kk-ll. MPPP (also known as 1-methyl-4-phenyl-4-propionoxypiperidine).
- ll-mm. Noracymethadol.
- mm-nn. Norlevorphanol.
- nn-oo. Normethadone.
- oo-pp. Norpipanone.
- pp-qq. Para-fluorofentanyl (also known as N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide).
- qq-rr. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-acetoxypiperidine).
- rr-ss. Phenadoxone.
- ss-tt. Phenampromide.
- tt-uu. Phenomorphan.
- uu-vv. Phenoperidine.
- vv-ww. Piritramide.
- ww-xx. Proheptazine.
- xx-yy. Properidine.
- yy-zz. Propiram.
- zz-aaa. Racemoramide.
- aaa-bbb. Thiofentanyl (also known as N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide).
- bbb-ccc. Tilidine.
- ccc-ddd. Trimeperidine.

4. Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- Acetorphine.
 - Acetyldihydrocodeine.
 - Benzylmorphine.
 - Codeine methylbromide.
 - Codeine-N-Oxide.

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- f. Cyrenorphine.
 - g. Desomorphine.
 - h. Dihydromorphine.
 - i. Drotebanol.
 - j. Etorphine (except hydrochloride salt).
 - k. Heroin.
 - l. Hydromorphinol.
 - m. Methyldesorphine.
 - n. Methyldihydromorphine.
 - o. Morphine methylbromide.
 - p. Morphine methylsulfonate.
 - q. Morphine-N-Oxide.
 - r. Myrophine.
 - s. Nicocodeine.
 - t. Nicomorphine.
 - u. Normorphine.
 - v. Pholcodine.
 - w. Thebacon.
5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):
- a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine; α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
 - b. Alpha-methyltryptamine.
 - c. 4-methoxyamphetamine (also known as 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine; PMA).
 - d. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy- α -methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA).

- e. Hashish.
- f. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepino (5,4-b) indole; Tabernanthe iboga).
- g. Lysergic acid diethylamide.
- h. Marijuana.
- i. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl).
- j. Peyote (all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
- k. N-ethyl-3-piperidyl benzilate.
- l. N-methyl-3-piperidyl benzilate.
- m. Psilocybin.
- n. Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:
- (1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers.
Other names: Delta-9-tetrahydrocannabinol.
 - (2) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.
 - (3) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.
- (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
- o. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.
- (1) ~~Naphthoylindoles. Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted~~

in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:

- (a) 1-Pentyl-3-(1-naphthoyl)indole—Other names: JWH-018 and AM-678.
- (b) 1-Butyl-3-(1-naphthoyl)indole—Other names: JWH-073.
- (c) 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole—Other names: JWH-081.
- (d) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole—Other names: JWH-200.
- (e) 1-Propyl-2-methyl-3-(1-naphthoyl)indole—Other names: JWH-015.
- (f) 1-Hexyl-3-(1-naphthoyl)indole—Other names: JWH-019.
- (g) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole—Other names: JWH-122.
- (h) 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole—Other names: JWH-210.
- (i) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole—Other names: JWH-398.
- (j) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole—Other names: AM-2201.

Indole carboxaldehydes. Any compound structurally derived from 1H-indole-3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranlylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:
 - [1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.
 - [2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.
 - [3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.

- [4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.
- [5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.
- [6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.
- [7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.
- [8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.
- [9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.
- [10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.
- [11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole - Other names: RCS-8.
- [12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
- [13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
- [14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
- [15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
- [16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
- [17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone - Other names: WIN 48,098 and Pravadoline.
- [18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
- [19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
- [20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
- [21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.
- [22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone -- Other names: THJ-018.

[23] 1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone - Other names: FUBIMINA.

[24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl) indole - Other names: AM-1248.

[25] 1-Pentyl-3-(1-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.

(2) Indole carboxamides. Any compound structurally derived from 1H-indole-3-carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

(a) Substitution to the indole ring to any extent; or

(b) Substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or

(c) A nitrogen heterocyclic analog of the indole ring; or

(d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.

(e) Examples include:

[1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.

[2] N-Adamantyl-1-fluoropentylindole-3-carboxamide - Other names: STS-135.

[3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide - Other names: AKB 48 and APINACA.

[4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide - Other names: NNEI and MN-24.

[5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide - Other names: ADBICA.

[6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: AB-PINACA.

[7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.

- [8] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA.
- [9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: ADB-PINACA.
- [10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: AB-CHMINACA.
- [11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: ADB-FUBINACA.
- [12] N-((3s,5s,7s)-adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: FUB-AKB48 and AKB48 N-(4-fluorobenzyl) analog.
- [13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide - Other names: 5-fluoro-THJ.
- [14] (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: 5-fluoro AMB.
- [15] methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate - Other names: FUB-AMB.
- (3) Indole carboxylic acids. Any compound structurally derived from 1H-indole-3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:
- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:
- [1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: BB-22 and QUCHIC.
- [2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FDU-PB-22.

- [3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: PB-22 and QUPIC.
- [4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinolinyl ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.
- [5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.
- [6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate - Other names: NM2201.

(2)(4)Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:

- (a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.
- (b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.

(3)(5)Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.

(4)(6)Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane - Other names: JWH-176.

(5) Phenylacetylindoles. Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in

the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Examples include:

- (a) 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole — Other names: RCS-8.
- (b) 1-Pentyl-3-(2-methoxyphenylacetyl)indole — Other names: JWH-250.
- (c) 1-Pentyl-3-(2-methylphenylacetyl)indole — Other names: JWH-251.
- (d) 1-Pentyl-3-(2-chlorophenylacetyl)indole — Other names: JWH-203.

(6)(7) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:

- (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: CP 47,497.
- (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
- (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.

(7) Benzoylindoles. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples include:

- (a) 1-Pentyl-3-(4-methoxybenzoyl)indole — Other names: RCS-4.
- (b) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole — Other names: AM-694.
- (c) (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone — Other names: WIN 48,098 and Pravadoline.

(8) Tetramethylcyclopropanoylindoles. Any compound containing a 3-tetramethylcyclopropanoylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in

the indole ring to any extent and whether or not substituted in the tetramethylcyclopropanoyl ring to any extent.

(a) (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone — Other names: UR-144.

(b) (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone — Other names: XLR-11.

(c) (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone — Other names: A-796,260.

(9)(8) Others specifically named:

(a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.

(b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: Dexanabinol and HU-211.

(c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone - Other names: WIN 55,212-2.

(d) 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-yl)indole — Other names: AM-1248.

(e) N-Adamantyl-1-pentyl-1H-indole-3-carboxamide — Other names: JWH-018 adamantyl carboxamide.

(f) N-Adamantyl-1-fluoropentylindole-3-carboxamide — Other names: STS-135.

(g) N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide — Other names: AKB-48.

(h) 1-Pentyl-3-(1-adamantyl)indole — Other names: AB-001 and JWH-018 adamantyl analog.

(i) Naphthalen-1-yl-(4-pentylloxynaphthalen-1-yl)methanone - Other names: CB-13.

- p. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.

- (1) Whether or not the compound is further modified in any of the following ways, that is to say:
- By substitution of phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups;
 - By substitution at the 2-position by any alkyl groups; or
 - By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.
- (2) Examples include:
- 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).
 - 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).
 - 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).
 - 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).
 - 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).
 - 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).
 - 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).
 - 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).
 - 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).
 - 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).
 - 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).
 - 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).
 - 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).
 - 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).

- (o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).
- (p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I-NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).
- (q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine).
- (r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine).
- (s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).
- (t) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (also known as 2C-B-FLY).
- (u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine (also known as 2C-B-butterFLY).
- (v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).
- (w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuran-yl-isopropylamine or bromo-dragonFLY).
- (x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine (also known as 2C-I-NBOH or 2,5I-NBOH).
- (y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).
- (z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).
- (aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).
- (bb) 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran (also known as 6-APDB).
- (cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-amethylphenethylamine; 2,5-DMA).
- (dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).
- (ee) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T-7).

- (ff) 5-methoxy-3,4-methylenedioxy-amphetamine.
 - (gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy- α -methylphenethylamine; DOM and STP).
 - (hh) 3,4-methylenedioxy amphetamine (also known as MDA).
 - (ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).
 - (jj) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl- α -methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).
 - (kk) 3,4,5-trimethoxy amphetamine.
 - (ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).
- q. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the α -position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:
- (1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
 - (2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
 - (3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).
 - (4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
 - (5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MiPT).
 - (6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).
 - (7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine).
 - (8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DiPT).
 - (9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
 - (10) Dimethyltryptamine (also known as DMT).
 - (11) Psilocyn.
- r. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
- s. 1-[4-(trifluoromethylphenyl)]piperazine.

- t. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
 - u. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
 - v. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
 - w. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
 - x. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl)cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TPCP, TCP).
 - y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
 - z. *Salvia divinorum*, salvinorin A, or any of the active ingredients of *salvia divinorum*.
6. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Flunitrazepam.
 - b. Gamma-hydroxybutyric acid.
 - c. Mecloqualone.
 - d. Methaqualone.
7. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
- a. Aminorex (also known as 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine).
 - b. Cathinone.
 - c. Substituted cathinones. Any compound, material, mixture, preparation, or other product, unless listed in another schedule or an approved food and drug administration drug (e.g., bupropion, pyrovalerone), structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
 - (1) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents,

whether or not further substituted in the ring system by one or more other univalent substituents;

- (2) By substitution at the 3-position with an acyclic alkyl substituent;
- (3) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
- (4) By inclusion of the 2-amino nitrogen atom in a cyclic structure.

Some trade or other names:

- (a) 3,4-Methylenedioxy- α -pyrrolidinopropiophenone (also known as MDPPP).
- (b) 3,4-Methylenedioxy-N-ethylcathinone (also known as Ethylone, MDEC, or bk-MDEA).
- (c) 3,4-Methylenedioxy-N-methylcathinone (also known as Methylone or bk-MDMA).
- (d) 3,4-Methylenedioxypropylvalerone (also known as MDPV).
- (e) 3,4-Dimethylmethcathinone (also known as 3,4-DMMC).
- (f) 2-(methylamino)-1-phenylpentan-1-one (also known as Pentadrone).
- (g) 2-Fluoromethcathinone.
- (h) 3-Fluoromethcathinone.
- (i) 4-Methylethcathinone (also known as 4-MEC).
- (j) 4-Fluoromethcathinone (also known as Flephedrone).
- (k) 4-Methoxy- α -pyrrolidinopropiophenone (also known as MOPPP).
- (l) 4-Methoxymethcathinone (also known as Methedrone; bk-PMMA).
- (m) 4'-Methyl- α -pyrrolidinobutiophenone (also known as MPBP).
- (n) α -methylamino-butyrophenone (also known as Buphedrone or MABP).
- (o) α -pyrrolidinobutiophenone (also known as α -PBP).
- (p) α -pyrrolidinopropiophenone (also known as α -PPP).
- (q) α -pyrrolidinopentiophenone (also known as α -pyrrolidinovalerophenone or α -PVP).
- (r) Beta-keto-N-methylbenzodioxolylbutanamine (also known as Butylone or bk-MBDB).

- (s) Ethcathinone (also known as N-Ethylcathinone).
 - (t) 4-Methylmethcathinone (also known as Mephedrone or 4-MMC).
 - (u) Methcathinone.
 - (v) N,N-dimethylcathinone (also known as metamfepramone).
 - (w) Naphthylpyrovalerone (naphyrone).
- d. Fenethylamine.
 - e. Fluoroamphetamine.
 - f. Fluoromethamphetamine.
 - g. (\pm)cis-4-methylaminorex (also known as (\pm)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).
 - h. N-Benzylpiperazine (also known as BZP, 1-benzylpiperazine).
 - i. N-ethylamphetamine.
 - j. N, N-dimethylamphetamine (also known as N,N-alpha-trimethylbenzeneethanamine; N,N-alpha-trimethylphenethylamine).

SECTION 2. AMENDMENT. Section 19-03.1-09 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-09. Schedule III.

1. The controlled substances listed in this section are included in schedule III.
2. Schedule III consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II and any other drug of the quantitative composition shown in that schedule for those drugs or which is the same except that it contains a lesser quantity of controlled substances.
 - b. Benzphetamine.
 - c. Chlorphentermine.
 - d. Clortermine.

- e. Phendimetrazine.
4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system:
- a. Any compound, mixture, or preparation containing:
- (1) Amobarbital;
 - (2) Secobarbital;
 - (3) Pentobarbital;
- or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.
- b. Any suppository dosage form containing:
- (1) Amobarbital;
 - (2) Secobarbital;
 - (3) Pentobarbital;
- or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.
- c. Any substance that contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules thereof.
- d. Chlorhexadol.
- e. Embutramide.
- f. Gamma-hydroxybutyric acid in a United States food and drug administration-approved drug product.
- g. Ketamine.
- h. Lysergic acid.
- i. Lysergic acid amide.
- j. Methyprylon.
- k. Perampanel.
- l. Sulfondiethylmethane.
- ~~l~~m. Sulfonethylmethane.
- ~~m~~n. Sulfonmethane.

- n-o. Tiletamine and zolazepam or any salt thereof. Some trade or other names for a tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Some trade or other names for zolazepam: 4-2(2-fluorophenyl)-6, 8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one, flupyrazapon.
5. Nalorphine.
 6. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
 - a. (1) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
 - (2) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - (3) ~~Not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.~~
 - (4) ~~Not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.~~
 - (5) Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - (6)(4) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - (7)(5) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - (8)(6) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - b. Buprenorphine.
 7. Anabolic steroids. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following anabolic steroids:
 - a. 3beta,17-dihydroxy-5a-androstane;

- b. 3alpha,17beta-dihydroxy-5a-androstane;
- c. 5alpha-androstan-3,17-dione;
- d. 1-androstenediol (3beta,17beta-dihydroxy-5alpha-androst-1-ene);
- e. 1-androstenediol (3alpha,17beta-dihydroxy-5alpha-androst-1-ene);
- f. 4-androstenediol (3beta,17beta-dihydroxy-4-ene);
- g. 5-androstenediol (3beta,17beta-dihydroxy-androst-5-ene);
- h. 1-androstenedione ([5alpha]-androst-1-en-3,17-dione);
- i. 4-androstenedione (androst-4-en-3,17-dione);
- j. 5-androstenedione (androst-5-en-3,17-dione);
- k. Bolasterone (7alpha,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);
- l. Boldenone (17beta-hydroxyandrost-1,4,-diene-3-one);
- m. Boldione (androsta-1,4-diene-3,17-dione);
- n. Calusterone (7beta,17alpha-dimethyl-17beta-hydroxyandrost-4-en-3-one);
- o. Clostebol (4-chloro-17beta-hydroxyandrost-4-en-3-one);
- p. Dehydrochloromethyltestosterone (4-chloro-17beta-hydroxy-17alpha-methyl-androst-1,4-dien-3-one);
- q. Delta-1-dihydrotestosterone (also known as '1-testosterone') (17beta-hydroxy-5alpha-androst-1-en-3-one);
- r. Desoxymethyltestosterone (17a-methyl-5a-androst-2-en-17ol) (also known as madol);
- s. 4-dihydrotestosterone (17beta-hydroxy-androstan-3-one);
- t. Drostanolone (17beta-hydroxy-2alpha-methyl-5alpha-androstan-3-one);
- u. Ethylestrenol (17alpha-ethyl-17beta-hydroxyestr-4-ene);
- v. Fluoxymesterone (9-fluoro-17alpha-methyl-11beta, 17beta-dihydroxyandrost-4-en-3-one);
- w. Formebolone (2-formyl-17alpha-methyl-11alpha, 17beta-dihydroxyandrost-1,4-dien-3-one);
- x. Furazabol (17alpha-methyl-17beta-hydroxyandrostano[2,3-c]-furazan);
- y. 13beta-ethyl-17alpha-hydroxygon-4-en-3-one;
- z. 4-hydroxytestosterone (4,17beta-dihydroxy-androst-4-en-3-one);

- aa. 4-hydroxy-19-nortestosterone (4,17beta-dihydroxy-estr-4-en-3-one);
- bb. Mestanolone (17alpha-methyl-17beta-hydroxy-5-androstan-3-one);
- cc. Mesterolone (1alpha-methyl-17beta-hydroxy-[5alpha]-androstan-3-one);
- dd. Methandienone (17alpha-methyl-17beta-dihydroxyandrost-1,4-dien-3-one);
- ee. Methandriol (17alpha-methyl-3beta,17beta-dihydroxyandrost-5-ene);
- ff. Methasterone (2[alpha],17[alpha]-dimethyl-5[alpha]-androstan-17[beta]-ol-3-one);
- gg. Methenolone (1-methyl-17beta-hydroxy-5alpha-androst-1-en-3-one);
- hh. 17alpha-methyl-3beta,17beta-dihydroxy-5a-androstane;
 - ii. 17alpha-methyl-3alpha,17beta-dihydroxy-5a-androstane;
 - jj. 17alpha-methyl-3beta,17beta-dihydroxyandrost-4-ene;
- kk. 17alpha-methyl-4-hydroxynandrolone (17alpha-methyl-4-hydroxy-17beta-hydroxyestr-4-en-3-one);
 - ll. Methyldienolone (17alpha-methyl-17beta-hydroxyestra-4,9(10)-dien-3-one);
- mm. Methyltrienolone (17alpha-methyl-17beta-hydroxyestra-4,9(11)-trien-3-one);
- nn. Methyltestosterone (17alpha-methyl-17beta-hydroxyandrost-4-en-3-one);
- oo. Mibolerone (7alpha,17alpha-dimethyl-17beta-hydroxyestr-4-en-3-one);
- pp. 17alpha-methyl-delta1-dihydrotestosterone (17beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one) (also known as '17-alpha-methyl-1-testosterone');
- qq. Nandrolone (17beta-hydroxyestr-4-en-3-one);
 - rr. 19-nor-4-androstenediol (3beta,17beta-dihydroxyestr-4-ene);
- ss. 19-nor-4-androstenediol (3alpha,17beta-dihydroxyestr-4-ene);
 - tt. 19-nor-5-androstenediol (3beta,17beta-dihydroxyestr-5-ene);
- uu. 19-nor-5-androstenediol (3alpha,17-beta-dihydroxyester-5-ene);
- vv. 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- ww. 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
- xx. 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- yy. Norbolethone (13beta,17alpha-diethyl-17beta-hydroxygon-4-en-3-one);

- zz. Norclostebol (4-chloro-17beta-hydroxyestr-4-en-3-one);
- aaa. Norethandrolone (17alpha-ethyl-17beta-hydroxyestr-4-en-3-one);
- bbb. Normethandrolone (17alpha-methyl-17beta-hydroxyestr-4-en-3-one);
- ccc. Oxandrolone (17alpha-methyl-17beta-hydroxy-2-oxa-[5alpha]-androstan-3-one);
- ddd. Oxymesterone (17alpha-methyl-4-17beta-dihydroxyandrost-4-en-3-one);
- eee. Oxymetholone (17alpha-methyl-2-hydroxymethylene-17beta-hydroxy [5alpha]-androstan-3-one);
- fff. Stanozolol (17alpha-methyl-17beta-hydroxy[5alpha]-androst-2-eno[3,2-c]-pyrazole);
- ggg. Stenbolone (17beta-hydroxy-2-methyl-[5alpha]-androst-1-en-3-one);
- hhh. Prostanazol (17[beta]-hydroxy-5[alpha]-androstan[3,2-c]pyrazole);
 - iii. Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
- jjj. Testosterone (17beta-hydroxyandrost-4-en-3-one);
- kkk. Tetrahydrogestrinone (13beta,17alpha-diethyl-17beta-hydroxygon-4,9,11-trien-3-one);
- lll. Trenbolone (17beta-hydroxyestr-4,9,11-trien-3-one);

or any salt, ester, or isomer of a drug or substance described or listed in this subsection, if that salt, ester, or isomer promotes muscle growth.

The term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for administration unless any person prescribes, dispenses, possesses, delivers, or distributes for human use.

- 8. Hallucinogenic substances.
 - a. Dronabinol (synthetic) [(-)-delta-9-(trans)-tetrahydrocannabinol] in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration-approved drug product.
 - b. Any product in hard or soft gelatin capsule form containing natural dronabinol (derived from the cannabis plant) or synthetic dronabinol (produced from synthetic materials) in sesame oil, for which an abbreviated new drug application has been approved by the food and drug administration under section 505(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355(j)] which references as its listed drug the drug product referred to in subdivision a.
- 9. The board may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections 3 and

4 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

SECTION 3. AMENDMENT. Section 19-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-11. Schedule IV.

1. The controlled substances listed in this section are included in schedule IV.
2. Schedule IV consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
 - a. Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
 - b. Dextropropoxyphene (also known as alpha-(+)-4-dimethylamino- 1,2-diphenyl-3-methyl-2-propionoxybutane).
 - c. Tramadol.
4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Alprazolam.
 - b. Alfaxalone.
 - c. Barbital.
 - e-d. Bromazepam.
 - d-e. Camazepam.
 - e-f. Carisoprodol.
 - f-g. Chloral betaine.
 - g-h. Chloral hydrate.
 - h-i. Chlordiazepoxide.
 - i-j. Clobazam.

- j-k. Clonazepam.
- k-l. Clorazepate.
- l-m. Clotiazepam.
- m-n. Cloxazolam.
- n-o. Delorazepam.
- o-p. Diazepam.
- p-q. Dichloralphenazone.
- q-r. Estazolam.
- r-s. Ethchlorvynol.
- s-t. Ethinamate.
- t-u. Ethyl loflazepate.
- u-v. Fludiazepam.
- v-w. Flurazepam.
- w-x. Fospropofol.
- x-y. Halazepam.
- y-z. Haloxazolam.
- z-aa. Indiplon.
- aa-bb. Ketazolam.
- bb-cc. Loprazolam.
- ee-dd. Lorazepam.
- dd-ee. Lorcaserin.
- ee-ff. Lormetazepam.
- ff-gg. Mebutamate.
- gg-hh. Medazepam.
- hh-ii. Meprobamate.
- ii-jj. Methohexital.
- jj-kk. Methylphenobarbital (also known as mephobarbital).
- kk-ll. Midazolam.

ll-mm. Nimetazepam.
mm-nn. Nitrazepam.
nn-oo. Nordiazepam.
oo-pp. Oxazepam.
pp-qq. Oxazolam.
qq-rr. Paraldehyde.
rr-ss. Petrichloral.
ss-tt. Phenobarbital.
tt-uu. Pinazepam.
uu-vv. Propofol.
vv-ww. Prazepam.
ww-xx. Quazepam.
yy. Suvorexant.
xx-zz. Temazepam.
yy-aaa. Tetrazepam.
zz-bbb. Triazolam.
aaa-ccc. Zaleplon.
bbb-ddd. Zolpidem.
eee-eee. Zopiclone.

5. Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.
6. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
 - a. Cathine.
 - b. Diethylpropion.
 - c. Fencamfamin.
 - d. Fenproporex.

- e. Mazindol.
 - f. Mefenorex.
 - g. Modafinil.
 - h. Pemoline (including organometallic complexes and chelates thereof).
 - i. Phentermine.
 - j. Pipradrol.
 - k. Sibutramine.
 - l. SPA ((-)-1-dimethylamino-1, 2-diphenylethane).
7. Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of:
- a. Pentazocine, including its salts.
 - b. Butorphanol, including its optical isomers.
8. The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection 2 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 19, 2015

Filed March 19, 2015

CHAPTER 170

HOUSE BILL NO. 1394

(Representatives Delmore, Beadle, Hawken, K. Koppelman)
(Senators Armstrong, Luick, Nelson)

AN ACT to amend and reenact subsections 7 and 9 of section 19-03.1-23 of the North Dakota Century Code, relating to marijuana possession offenses and penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 7 and 9 of section 19-03.1-23 of the North Dakota Century Code are amended and reenacted as follows:

7. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class C felony. If, at the time of the offense the person is in or on, or within one thousand feet [300.48 meters] of the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves one ounce [28.35 grams] or less of marijuana. Any person who violates this subsection regarding possession of ~~one-half ounce [14.175 grams]~~ to one ounce [28.35 grams] or less of marijuana is guilty of a class ~~B~~ misdemeanor. Any person, ~~except a person operating a motor vehicle, who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana is guilty of a class B misdemeanor. Any person who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana while operating a motor vehicle is guilty of a class A misdemeanor.~~
9. ~~When~~If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter ~~and has not been convicted of any other criminal offense.~~ Once sealed, the court record may not be opened even by order of the court.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 171

SENATE BILL NO. 2029

(Legislative Management)
(Commission on Alternatives to Incarceration)

AN ACT to amend and reenact section 19-03.1-45 of the North Dakota Century Code, relating to probation and treatment for drug abuse; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-45 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-45. Drug abuse assessment and treatment - Presentence investigation - Certified drug abuse treatment programs.

1. If a person has pled guilty or has been found guilty of a felony violation of subsection 7 of section 19-03.1-23, if that person has not previously pled guilty or been found guilty of any offense involving the use, possession, manufacture, or delivery of a controlled substance or of any other felony offense of this or another state or the federal government, ~~and if the court imposes probation,~~ the court shall impose a period of probation of ~~not less than eighteen months in conjunction~~ up to the length authorized under section 12.1-32-06.1 with a suspended execution of a sentence of imprisonment, a sentence to probation, or an order deferring imposition of sentence.
2. Upon a plea or finding of guilt of a person subject to ~~the provisions of~~ subsection 1, the court shall order a presentence investigation to be conducted by the department. The presentence investigation ~~shall~~ must include a drug and alcohol evaluation conducted by a licensed addiction counselor.
3. If the licensed addiction counselor recommends treatment, the court shall require the person to participate in an addiction program licensed by the department of human services as a condition of the probation. The court shall commit the person to treatment through a licensed addiction program until determined suitable for discharge by the court. The term of treatment ~~shall~~ may not exceed eighteen months and may include an aftercare plan. During the commitment and while subject to probation, ~~the person shall be supervised by the department~~ shall supervise the person.
4. If the person fails to participate in, or has a pattern of intentional conduct that demonstrates the person's refusal to comply with or participate in the treatment program, as established by judicial finding, the person ~~shall be~~ is subject to revocation of the probation. Notwithstanding subsection 2 of section 12.1-32-02, the amount of time participating in the treatment program under this section is not "time spent in custody" and will not be a credit against any sentence to term of imprisonment.

5. In this section:
 - a. "Department" means the department of corrections and rehabilitation; and
 - b. "Licensed addiction counselor" is a person licensed pursuant to section 43-45-05.1.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 172

SENATE BILL NO. 2070

(Senator Anderson)
(Representative Rick C. Becker)

AN ACT to create and enact a new section to chapter 19-03.1 of the North Dakota Century Code, relating to immunity from criminal liability for an individual who reports a medical emergency involving drugs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 19-03.1 of the North Dakota Century Code is created and enacted as follows:

Overdose prevention and immunity.

An individual is immune from criminal prosecution under sections 19-03.1-22.1, 19-03.1-22.3, 19-03.1-22.5, subsection 7 of section 19-03.1-23, subsection 3 of section 19-03.2-03, and section 19-03.4-03 if that individual contacted law enforcement or emergency medical services and reported that the individual was or that another individual was in need of emergency medical assistance due to a drug overdose. To receive immunity under this section, the individual receiving immunity must have remained on the scene until assistance arrived, cooperated with emergency medical services and law enforcement personnel in the medical treatment of the reported drug overdosed individual, and the overdosed individual must have been in need of emergency medical services. The maximum number of individuals that may be immune for any one occurrence is three individuals. Immunity from prosecution under this section is not applicable for a violation under section 19-03.1-23.1.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 173

SENATE BILL NO. 2030

(Legislative Management)
(Commission on Alternatives to Incarceration)

AN ACT to amend and reenact section 19-03.4-03 of the North Dakota Century Code, relating to drug paraphernalia; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁸ **SECTION 1. AMENDMENT.** Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of chapter 19-03.1. Any person violating this section subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, inject, ingest, inhale, or analyze a controlled substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1. Otherwise, a violation of this section is
2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this chapter, other than an offense related to marijuana, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony.
3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal marijuana in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor.
4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana in violation of chapter 19-03.1. A person violating this subsection is guilty of a class B misdemeanor.

Approved April 20, 2015
Filed April 20, 2015

¹²⁸ Section 19-03.4-03 was also amended by section 3 of House Bill No. 1367, chapter 114.

CHAPTER 174

HOUSE BILL NO. 1149

(Representative Keiser)
(Senators Anderson, J. Lee)

AN ACT to amend and reenact sections 19-03.5-09 and 19-03.5-10 of the North Dakota Century Code, relating to adoption of administrative rules governing use of the prescription drug monitoring program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.5-09 of the North Dakota Century Code is amended and reenacted as follows:

19-03.5-09. Authority to adopt rules - Rules adopted by professional licensing boards.

1. The state board of pharmacy may adopt rules that set forth the procedures and methods for implementing the prescription drug monitoring program under this chapter.
2. Each professional licensing board that is responsible for the licensing of individuals authorized to prescribe or dispense controlled substances for human consumption shall adopt rules under chapter 28-32 to require licensed individuals under that board's jurisdiction who prescribe or dispense controlled substances to humans to utilize the prescription drug monitoring program. In drafting rules required under this subsection, each professional licensing board shall consult with the state board of pharmacy, the other boards required to adopt rules under this subsection, and the advisory council in order to maximize the uniformity among the rules for each profession. All or any of the professional licensing boards subject to the rulemaking requirement of this subsection may conduct a joint rulemaking proceeding under chapter 28-32 to implement rules required by this subsection.

SECTION 2. AMENDMENT. Section 19-03.5-10 of the North Dakota Century Code is amended and reenacted as follows:

19-03.5-10. Reporting unlawful acts and penalties.

1. The board may report to a dispenser's licensing board any dispenser who knowingly fails to submit prescription drug monitoring information to the board as required by this chapter or by administrative rule or who knowingly submits incorrect prescription information to the board.
2. A person, including a vendor, ~~who~~that uses or discloses prescription drug monitoring information in violation of this chapter is subject to the penalty provided in section 12.1-13-01.

Approved March 26, 2015
Filed March 26, 2015

GAME, FISH, PREDATORS, AND BOATING

CHAPTER 175

HOUSE BILL NO. 1381

(Representatives Lefor, Beadle, Meier, Porter)
(Senators Bekkedahl, Bowman, Kilzer)

AN ACT to amend and reenact section 20.1-01-31 of the North Dakota Century Code, relating to interference with the taking of wildlife.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-01-31 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-31. Interference with rights of hunters and trappers.

~~No person~~An individual may not intentionally interfere with the lawful taking of wildlife on public or private land by another or intentionally harass, drive, or disturb any wildlife on public or private land for the purpose of disrupting a lawful hunt. The individual may not use an aerial vehicle that does not carry a human operator on public or private land to intentionally interfere with the lawful taking of wildlife by another individual or intentionally harass, drive, or disturb any wildlife for the purpose of disrupting a lawful hunt. Except for department personnel, the ~~person~~individual setting the trap or snare, or that ~~person's~~individual's agent, ~~no person~~another individual may not remove or tamper with a trap or snare legally set to take fur-bearing animals or unprotected wild animals or remove the fur-bearing animal or unprotected wild animal from a trap or snare. This section does not apply to any incidental interference arising from lawful activity by public or private land users or to landowners or operators interfering with hunters on land owned or operated by that individual.

Approved March 19, 2015
Filed March 19, 2015

CHAPTER 176

HOUSE BILL NO. 1356

(Representatives Porter, Damschen)
(Senators Schaible, Unruh)

AN ACT to amend and reenact subdivision c of subsection 17 of section 20.1-02-05, sections 20.1-02-28 and 20.1-05-02 of the North Dakota Century Code, relating to depredation prevention by landowners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision c of subsection 17 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

- c. Carrying out practices or designating an individual to carry out practices or authorizing or having the designee authorize landowners to carry out practices that will alleviate depredations caused by predatory animals and big game animals.

SECTION 2. AMENDMENT. Section 20.1-02-28 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-28. Deerproof hay yard program.

Within legislative appropriations, the director shall provide for a deerproof hay yard program. The deerproof hay yard program must provide materials and supplies at no cost and construction cost-share assistance to landowners for the establishment of deerproof hay yards to protect crops, hay, or feed on private property with deer depredation problems. A landowner who allows commercial hunting for big game on a majority of acres owned and operated in exchange for compensation and who posts a majority of the acres owned and operated by that person to prohibit big game hunting is not eligible to participate in the deerproof hay yard program. The department shall establish a prorated repayment system over a three-year period. For winter management program purposes of this section, a person may not willfully hunt, harass, chase, pursue, take, attempt to take, possess, transport, ship, convey by common carrier, sell, barter, or exchange a deer except as provided in carrying out practices to alleviate depredations under the private land habitat and access improvement program and elsewhere in this title.

SECTION 3. AMENDMENT. Section 20.1-05-02 of the North Dakota Century Code is amended and reenacted as follows:

20.1-05-02. Big game animals protected.

Except as otherwise provided in section 20.1-02-28, a person may not hunt, harass, chase, pursue, take, attempt to take, possess, transport, ship, convey by common or private carrier, sell, barter, or exchange a big game animal except as provided in carrying out practices to alleviate depredations under the private land habitat and access improvement program and elsewhere in this title.

Approved March 31, 2015
Filed March 31, 2015

CHAPTER 177

HOUSE BILL NO. 1158

(Representatives Schmidt, Boe, Dockter, Hatlestad, Hofstad, Porter, Silbernagel)
(Senators Armstrong, Bowman)

AN ACT to amend and reenact sections 20.1-03-17, 20.1-03-18, 20.1-03-19, 20.1-03-20, and 26.1-21-09.1 of the North Dakota Century Code, relating to the issuance of game and fish licenses; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-03-17 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-17. Issuance of licenses - Who to issue —~~County auditor may appoint agents to receive service fees - Disposition of proceeds —Continuing appropriation.~~

All hunting, fur-bearer, fishing, and taxidermists' licenses must be issued by ~~county auditors~~, the director, deputy director, and bonded game wardens. The ~~county auditors~~, deputy director, and each bonded game warden shall send the director all license fees. ~~For each license the county auditor issues, the county auditor shall collect the authorized charges and record them in the county auditor's record of cash received. Unless the county auditor and the board of county commissioners execute a written agreement providing for the disposition of compensation for the issuance of licenses, the county auditor is entitled to be reimbursed, as compensation, twenty-five cents for the issuance of each of the first one thousand resident hunting, fishing, or fur-bearer licenses issued each year and fifteen cents for the issuance of each resident hunting, fishing, or fur-bearer license issued in excess of the first one thousand licenses issued each year; one dollar for the issuance of each nonresident hunting or fur-bearer license; twenty-five cents for the issuance of each nonresident fishing license; and ten cents for the issuance of each nonresident general game license. The compensation due for the issuance of licenses is hereby appropriated as a standing and continuing appropriation from the game and fish fund for the purposes of this section. By March 1, 2015, each county auditor shall implement a computerized online licensing system approved by the department. The county auditor is responsible for any equipment, supplies, and technical support associated with selling licenses online.~~

~~The county auditor~~Upon request, the director may appoint agents~~the person making the request an agent~~ to distribute hunting and fishing licenses, ~~or stamps. A county auditor may not provide hunting or fishing licenses to agents located outside this state, but the~~The director may provide licenses to agents located outside this state if there are no agents located a reasonable distance within this state where nonresidents may obtain licenses. Upon request, the director may appoint the county auditor of any county as an agent to distribute hunting and fishing licenses. The ~~director and county auditor~~ may require agents~~an agent~~ to show evidence of adequate financial security before the agents ~~are~~an agent is appointed. Adequate financial security may be evidenced by a letter of credit, cash deposit, or bond. Agents may be bonded through the state bonding fund. The agents may charge purchasers a service fee of fifty cents for each license. Service fees may be retained

by the agent. The agent shall return the remainder of the license fees to the county auditor for deposit with the county treasurer, or to the director if the agent is appointed by the director, at least once each month, and not later than three days after the close of the month. Notwithstanding section 26.1-21-11, if a claim against the state bonding fund is not filed within sixty days of the expiration of the reporting period provided in this section, the claim is waived. Deposits are to be accompanied by a report showing the amounts received from the sale of each type of license, the amount retained, and the net amounts deposited. The county treasurer shall credit the fees so deposited to a separate account and shall hold the fees, subject to warrant for payment thereof drawn by the county auditor in favor of the director. The director shall deposit all license or stamp fees received with the state treasurer to be credited to the game and fish fund. By March 1, 2016, each agent appointed by a county auditor to distribute hunting and fishing licenses or stamps shall implement a computerized online licensing system approved by the department. The agent is responsible for any equipment, supplies, and technical support associated with selling licenses online.

SECTION 2. AMENDMENT. Section 20.1-03-18 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-18. County auditors Agents to file applications and stubs certain licenses - Game officials may inspect file - Return of unused supplies.

Each county auditor For licenses not issued through the computerized online licensing system, each agent appointed to distribute hunting and fishing licenses shall keep on file a record of each license applications the auditor receives and all the stubs of licenses the auditor issues received from the director. These applications and stubs licenses may be inspected at any time by the director or the director's duly authorized deputies and wardens. Within thirty days after the close of each open season, the auditor Each agent shall transmit return to the director all applications, stubs, and unused or mutilated licenses covering that open season and tags within thirty days after the close of the season for which the license was valid.

SECTION 3. AMENDMENT. Section 20.1-03-19 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-19. When reports and remittances to be made Remittances by county auditors agents to the director.

Each county auditor, on the first day of February and August of each year, and within thirty days after the close of each open season, shall make a complete report of all license sales to the director on forms furnished by the director, accompanied by a warrant drawn on the county treasurer to cover such report. At the beginning of each month, the director shall provide each agent appointed to distribute hunting and fishing licenses a statement reporting the agent's license sales for the previous month. By the fifteenth of each month, the agent shall remit to the director the funds collected for license sales for the preceding month.

SECTION 4. AMENDMENT. Section 20.1-03-20 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-20. Bonds of county auditors and agents applicable to duties imposed by this title.

The official bond of each county auditor and of each agent bonded through the state bonding fund and appointed by the county auditor director to distribute hunting and fishing licenses or stamps applies to all duties required of county auditors and

agents under this title, including the liability for all moneys required to be collected or received by ~~county auditors and~~ agents under this title for the issuance of licenses.

SECTION 5. AMENDMENT. Section 26.1-21-09.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-09.1. Bonds of agents appointed to distribute hunting and fishing licenses or stamps - Premiums - Determination of eligibility.

The annual premium for a bond of an agent appointed by ~~a county auditor~~the director of the game and fish department to distribute hunting and fishing licenses or stamps pursuant to section 20.1-03-17 is ten dollars. The premium must be paid to the fund pursuant to rules adopted by the commissioner. The commissioner shall deposit the premiums with the state treasurer to the credit of the fund. The commissioner may reduce or waive the premium if it is determined that funds received pursuant to this section are sufficient to cover potential claims on the bonds of agents appointed to distribute hunting and fishing licenses or stamps. The commissioner shall determine the conditions and qualifications of agents bonded under this section. The amount of coverage afforded under this section is fifteen thousand dollars per agent per year.

SECTION 6. EFFECTIVE DATE. This Act becomes effective on April 1, 2016.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 178

SENATE BILL NO. 2093

(Senators Armstrong, Schaible, Unruh)
(Representatives Porter, Nathe)

AN ACT to amend and reenact subsection 3 of section 20.1-03-36.2 of the North Dakota Century Code, relating to guide and outfitter licenses; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 20.1-03-36.2 of the North Dakota Century Code is amended and reenacted as follows:

3. Guide and outfitter licenses expire on ~~December~~March thirty-first of each year for licenses issued after March thirty-first in the previous year unless revoked at an earlier date.

SECTION 2. APPLICATION. A license purchased for the year of 2015 and before the effective date of this Act does not expire on December 31, 2015, but expires on March 31, 2016.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 179

HOUSE BILL NO. 1156

(Representatives Porter, J. Nelson, Schmidt)
(Senators Armstrong, G. Lee)

AN ACT to create and enact an new section to chapter 20.1-03 of the North Dakota Century Code, relating to the option to use deer lottery license refunds for the private land open to sportsmen program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 20.1-03 of the North Dakota Century Code is created and enacted as follows:

Deer lottery license refund to private land open to sportsmen option.

The director shall provide that each application for a deer lottery license contain the option for an applicant to donate the refund to which an unsuccessful applicant would be entitled to the private land open to sportsmen program. All moneys collected under this section must be placed in the game and fish private land habitat and access improvement fund and allocated to the private land open to sportsmen program.

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 180

HOUSE BILL NO. 1081

(Representatives J. Nelson, Devlin, Hunskor)
(Senators Bekkedahl, Murphy)

AN ACT to amend and reenact sections 20.1-04-07, 20.1-08-04.2, 20.1-08-04.6, and 20.1-08-04.13 of the North Dakota Century Code, relating to big game and turkey hunting licenses for youth with a life-threatening illness; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-04-07 of the North Dakota Century Code is amended and reenacted as follows:

20.1-04-07. Governor's proclamation concerning the taking of wild turkeys - National wild turkey federation raffle - Youth spring wild turkey licenses - Outdoor adventure foundation licenses.

1. By proclamation the governor may provide for a permit season to take wild turkeys in the manner, number, places, and times deemed in the state's best interests; however:
 - 4- a. By proclamation the governor may make available to the national wild turkey federation one license per year to hunt wild turkeys in the spring in the manner, places, and times as the governor prescribes. The national wild turkey federation shall hold a raffle or may auction to the highest bidder, whether resident or nonresident, a license to hunt wild turkeys. If an individual receives a wild turkey license through the raffle or the auction, the individual is not eligible to apply for a wild turkey license through the game and fish department that year. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle. Ten percent of the net proceeds of the raffle or auction may be retained by the local, state, or national wild turkey federation entity conducting the raffle or auction. All remaining net proceeds must be deposited in the national wild turkey federation superfund and used for wild turkey management and related projects in this state. The national wild turkey federation shall submit reports concerning the raffle or auction as the director requires.
 - 2- b. By proclamation the governor also may allow individuals who are first-time youth spring wild turkey hunters to receive one spring wild turkey license valid for the regular spring wild turkey season. To be eligible to receive a spring wild turkey license, an individual must be fifteen years of age or younger on the opening day of the spring wild turkey season and have never received a spring wild turkey license.
 - c. By proclamation the governor may make available to the outdoor adventure foundation up to two licenses to hunt a turkey in the spring season. The foundation shall make one license available to each qualified youth to hunt as provided in the governor's proclamation. A qualified youth

receiving a license under this section must comply with hunter education requirements and if under the age of eighteen must be accompanied by an adult twenty-one years of age or older. As used in this section, "qualified youth" means an individual who has cancer or a life-threatening illness, is of legal age to hunt a turkey, is under twenty-five years of age, is a resident, and is sponsored by the foundation. The foundation must provide the department supporting documentation demonstrating compliance with this section. The director may adopt rules to implement this section.

2. The governor shall make available to residents and nonresidents any permits remaining after the resident fall drawing.

SECTION 2. AMENDMENT. Section 20.1-08-04.2 of the North Dakota Century Code is amended and reenacted as follows:

20.1-08-04.2. Governor's proclamation concerning the hunting of moose - Raffle.

The governor may by proclamation provide for a season to hunt moose in a manner, number, places, and times as the governor prescribes. Licenses to hunt moose must be issued by lottery, except as provided under subsection 8 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation one license per year to hunt moose in a manner, places, and times as the governor prescribes. In addition, the governor may by proclamation make available a license under section 20.1-08-04.13. The North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. The person who receives the license from the raffle may not transfer the license. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle. Fifty percent of all net proceeds must be used for elk management or other wildlife and in conservation-related projects in this state as described under rocky mountain elk foundation policies and objectives. All remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation shall submit reports concerning the raffle as the director requires. A person may only receive one license to hunt moose issued by lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

SECTION 3. AMENDMENT. Section 20.1-08-04.6 of the North Dakota Century Code is amended and reenacted as follows:

20.1-08-04.6. Governor's proclamation concerning the hunting of elk - Rocky mountain elk foundation raffle.

The governor may by proclamation provide for a season to hunt elk in a manner, number, places, and times as the governor prescribes. Licenses to hunt elk must be issued by lottery, except as provided under subsection 7 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center a license to hunt elk in a manner, places, and times as the governor prescribes. In addition, the governor may by proclamation make available a license under section 20.1-08-04.13. The rocky

mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and fifty percent of all net proceeds must be used for elk management or other wildlife and conservation-related projects in North Dakota as described under rocky mountain elk foundation policies and objectives and all remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall submit reports concerning the raffle as the director requires. An owner of farmed elk who is experiencing elk depredation problems may contact the director. Upon investigation, the director may issue special elk depredation management licenses. The governor by proclamation shall establish a procedure to issue elk depredation management licenses in a timely manner. Except for landowners who receive a license under subsection 7 of section 20.1-03-11 and landowners who receive special elk depredation management licenses issued to landowners under subsection 7 of section 20.1-03-11, and persons who receive a special elk depredation management license issued by lottery under this section, a person may only receive one license to hunt elk issued by lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

SECTION 4. AMENDMENT. Section 20.1-08-04.13 of the North Dakota Century Code is amended and reenacted as follows:

20.1-08-04.13. Governor's proclamation concerning once-in-a-lifetime big game hunts for terminally ill children youth with cancer or a life-threatening illness - Rules.

By proclamation, the governor may make available annually to ~~one~~ the outdoor adventure foundation one any elk license, one any moose license, up to ~~eight~~ seven deer licenses, and ~~four~~ up to two antelope licenses to hunt the species indicated on the license in the manner, places, and times as the governor prescribes. The ~~organization~~ foundation shall make one license available to each qualified ~~child~~ youth to hunt the species of big game indicated on the license as provided in the governor's proclamation. A qualified ~~child~~ youth receiving a license under this section must comply with hunter education requirements and, if under the age of eighteen, must be accompanied by an adult twenty-one years of age or older. ~~The director may adopt rules to implement this section. As used in this section, "organization" means a nonprofit organization qualified under Internal Revenue Code section 501(c)(3) with the principal purpose of granting hunting and fishing adventures for children who have been diagnosed with a terminal illness by a licensed physician and As used in this section, "qualified child" means a terminally ill~~ an individual who has been diagnosed with cancer or a life-threatening illness, is of legal age to hunt the species for which the license is valid, but is under twenty-one ~~twenty-five~~ years of age, is a resident, and is sponsored by an organization that provides to the foundation. The foundation must provide the department supporting documentation demonstrating compliance with this section. The director may adopt rules to implement this section.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall study game and fish department licenses provided to entities for the purpose of fundraising. The study must include a review of the present law in this and other states and the desirability and feasibility of allowing the game and fish department to issue these licenses through certain procedures and

with certain limits created by the legislative assembly. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 9, 2015

Filed April 9, 2015

GOVERNMENTAL FINANCE

CHAPTER 181

HOUSE BILL NO. 1284

(Representatives Bellev, Boehning, Dockter, B. Koppelman, Olson, Schmidt)

AN ACT to amend and reenact subsection 2 of section 21-03-10.1 and section 21-03-13 of the North Dakota Century Code, relating to the contents of bond election ballots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 21-03-10.1 of the North Dakota Century Code is amended and reenacted as follows:

- 2. ~~The~~ A bond election ballot form authorized in substantially the form prescribed in section 21-03-13 is sufficient must be used in a school district bond election. After approval of the initial resolution by the number of qualified electors required by section 21-03-07, the proceeds of the bond issue may be used only for the purpose and in the manner designated by the school plan except as herein provided.

SECTION 2. AMENDMENT. Section 21-03-13 of the North Dakota Century Code is amended and reenacted as follows:

21-03-13. Ballot - Contents.

The ballot for a bond election must be separate from other ballots used on the same day for other elections, and must be written or printed, and must state the question in substantially the following form:

Shall the _____ (here inserting the name of the municipality) issue its bonds in the amount of not to exceed \$_____, (here inserting the amount) maturing within a maximum of _____, (here inserting the duration) resulting in an estimated additional millage of _____ (here inserting the number of mills) mills, equal to \$_____ (here inserting the equivalent in dollars) on each \$1,000 of taxable valuation for the first taxable year, for the purpose of _____ (here inserting the purpose)?

Yes

No

Spoiled or blank ballots cast at such election may not be counted for or against the proposed issue.

Approved April 13, 2015

Filed April 13, 2015

CHAPTER 182

HOUSE BILL NO. 1193

(Representative Klemin)
(Senator Burckhard)

AN ACT to amend and reenact section 21-06-07 of the North Dakota Century Code, relating to investments for political subdivisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 21-06-07 of the North Dakota Century Code is amended and reenacted as follows:

21-06-07. Political subdivisions may invest funds.

1. Counties, cities, school districts, park districts, and townships in this state may invest moneys in their general fund, or balances in any special or temporary fund, in:
 - a. Bonds, treasury bills and notes, or other securities that are a direct obligation of, or an obligation insured or guaranteed by, the treasury of the United States, or its agencies, instrumentalities, or organizations created by an act of Congress.
 - b. Securities sold under agreements to repurchase written by a financial institution in which the underlying securities for the agreement to repurchase are of a type listed above.
 - c. Certificates of deposit fully insured by the federal deposit insurance corporation or by the state.
 - d. Obligations of the state.
 - e. Certificates of deposit, savings deposits, or other deposits fully insured or guaranteed by the federal deposit insurance corporation and placed for the benefit of the public depositor by a public depository through an appropriate deposit placement service as determined by the commissioner of financial institutions.
 - e. State and local securities:
 - (1) Any security that is a general obligation of any state or local government with taxing powers and is rated in the highest three categories by a nationally recognized rating agency.
 - (2) An obligation of the state housing finance agency that is rated in the highest two categories by a nationally recognized rating agency.
 - (3) Any security that is a general obligation of a school district and is rated in the highest two categories by a nationally recognized rating agency.

(4) Obligations of this state and general obligations of its political subdivisions.

- f. Commercial paper issued by a United States corporation rated in the highest quality category by at least two nationally recognized rating agencies and matures in two hundred seventy days or less.
2. Bonds, treasury bills and notes, or other securities so purchased must be taken into consideration in making levies for the ensuing year, and when funds are needed for current expenses, the governing board and authorities of such municipalities may convert those obligations into cash.

Approved March 26, 2015

Filed March 26, 2015

CHAPTER 183

HOUSE BILL NO. 1063

(Government and Veterans Affairs Committee)
(At the request of the State Investment Board)

AN ACT to amend and reenact sections 21-10-02.1 and 21-10-06 of the North Dakota Century Code, relating to modifications to investment policies for and funds under management of the state investment board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 21-10-02.1 of the North Dakota Century Code is amended and reenacted as follows:

21-10-02.1. Board - Policies on investment goals and objectives and asset allocation.

1. The governing body of each fund enumerated in section 21-10-06 shall establish policies on investment goals and objectives and asset allocation for each respective fund. The policies must provide for:
 - a. The definition and assignment of duties and responsibilities to advisory services and persons employed by the board.
 - b. ~~Acceptable rates~~Rate of return objectives, including liquidity; requirements and acceptable levels of risk.
 - c. Long-range asset allocation goals.
 - d. Guidelines for the selection and redemption of investments.
 - e. Investment diversification, investment quality, qualification of advisory services, and amounts to be invested by advisory services.
 - f. The type of reports and procedures to be used in evaluating performance.
2. The asset allocation and any subsequent allocation changes for each fund, ~~to be effective;~~ must be approved by the governing body of that fund and the state investment board by January first of each year. If the asset allocation is not approved, the previous asset allocation remains effective. The governing body of each fund shall use the staff and consultants of the retirement and investment office in developing asset allocation and investment policies.

SECTION 2. AMENDMENT. Section 21-10-06 of the North Dakota Century Code is amended and reenacted as follows:

21-10-06. Funds under management of board - Accounts.

1. Subject to the provisions of section ~~21-10-01~~21-10-02, the board ~~is charged with the investment of~~shall invest the following funds:

-
- a. State bonding fund.
 - b. Teachers' fund for retirement.
 - c. State fire and tornado fund.
 - d. Workforce safety and insurance fund.
 - e. ~~National guard tuition trust fund.~~
 - f. Public employees retirement system.
 - ~~g-f.~~ Insurance regulatory trust fund.
 - ~~h-g.~~ State risk management fund.
 - ~~i-h.~~ Budget stabilization fund.
 - ~~j-i.~~ Health care trust fund.
 - ~~k-j.~~ Cultural endowment fund.
 - ~~l-k.~~ Petroleum tank release compensation fund.
 - ~~m-l.~~ Legacy fund.
 - m. A fund under contract with the board pursuant to subsection 3.
2. Separate accounting must be maintained for each of the funds listed in subsection 1. The moneys of the individual funds may be commingled for investment purposes when determined advantageous.
 3. The state investment board may provide investment services to, and manage the money of, any agency, institution, or political subdivision of the state, subject to agreement with the industrial commission. The scope of services to be provided by the state investment board to the agency, institution, or political subdivision must be specified in a written contract. The state investment board may charge a fee for providing investment services and any revenue collected must be deposited in the state retirement and investment fund.

Approved March 26, 2015

Filed March 26, 2015

CHAPTER 184

HOUSE BILL NO. 1194

(Representative Klemin)
(Senator Burckhard)

AN ACT to create and enact a new chapter to title 21 of the North Dakota Century Code, relating to a political subdivision borrowing funds; and to amend and reenact sections 11-11-18, 21-02-01, and 21-03-02 of the North Dakota Century Code, relating to exemptions from statutory provisions for bonds and the definition of revenues.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁹ **SECTION 1. AMENDMENT.** Section 11-11-18 of the North Dakota Century Code is amended and reenacted as follows:

11-11-18. Board to submit extraordinary outlay to vote.

The board of county commissioners shall submit to the electors of the county at any regular or special election any proposal for an extraordinary outlay of money by the county when the proposed expenditure is greater in amount than can be provided for by the annual tax levies. If the board considers the courthouse, jail, or other public buildings of the county inadequate for the needs of the county or deems it necessary to build a county hospital, and if it is thought that it is not for the best interests of the county to issue bonds to aid in the construction of such buildings or that the construction of such buildings by any other procedure is not for the best interests of the county, it shall submit to the electors of the county, at any regular or special election, the proposal for the construction of a courthouse, jail, or other public building by establishing a building fund to aid in the construction thereof. The requirements of this section shall not apply to lease-purchase agreements authorized by section 24-05-04 or to bank or credit union loans authorized in title 21.

SECTION 2. AMENDMENT. Section 21-02-01 of the North Dakota Century Code is amended and reenacted as follows:

21-02-01. Definitions.

In this chapter unless the context or subject matter otherwise requires:

1. "Political subdivision" means a local governmental unit created by statute or by the Constitution of North Dakota for local governmental or other public purposes.
2. "Revenues" means any of the following:
 - a. Uncollected taxes.

¹²⁹ Section 11-11-18 was repealed by section 104 of Senate Bill No. 2144, chapter 439.

- b. Amounts to be received from a distribution of federal moneys, including currently existing bureau of Indian affairs contracts.
 - c. Amounts to be received from a distribution of moneys pursuant to a state appropriation or a state statutory or constitutional provision.
 - d. Amounts to be received from a grant or loan of state or federal funds.
 - e. Amounts to be received from the issuance and sale of obligations by a political subdivision.
3. "Uncollected taxes" means taxes for the year during which a certificate of indebtedness is issued and the preceding four years that have been levied but from which moneys have not come into the public treasury by payment or by satisfaction of tax lien, exclusive of tax levies dedicated to the payment of principal of and interest on outstanding evidences of indebtedness.

SECTION 3. AMENDMENT. Section 21-03-02 of the North Dakota Century Code is amended and reenacted as follows:

21-03-02. Provisions not applicable to certain issues.

This chapter is not applicable:

1. To issues of bonds, warrants, or other forms of public securities issued on account of public improvements and for the payment of which special assessments are or shall be levied upon and against property benefited thereby which do not constitute, at the time of their issuance, a general obligation or fixed liability of the municipality issuing the same, nor the portion of any such issue payable by general taxation on account of assumption of a portion of the cost of such improvement under section 40-24-10 or any similar law. Nothing in this subsection may be construed to prevent the issuance of bonds by any city for the purposes specified in subdivision g of subsection 2 of section 21-03-06.
2. To drainage bonds or irrigation bonds.
3. To borrowing of money in anticipation of tax collections by means of certificates of indebtedness, as provided by chapter 21-02.
4. To revenue bonds under the provisions of chapter 40-35.
5. To bank or credit union loans authorized in title 21.

SECTION 4. A new chapter to title 21 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Political subdivision" means a local government unit created by statute or by the Constitution of North Dakota for local governmental or other public purposes.
2. "Revenue" means any of the following:

- a. Amounts to be received from a distribution of federal moneys, including bureau of Indian affairs contracts.
- b. Amounts to be received from a distribution of state moneys pursuant to a state appropriation or a state statutory or constitutional provision.

Political subdivision authority to enter agreement for bank or credit union loans.

A political subdivision may borrow against its anticipated revenue, from a bank or credit union located in this state. A bank or credit union loan and terms must be authorized by resolution of the governing body for the political subdivision. The resolution must identify the revenue to be used to repay the loan and any collateral that will secure repayment of the loan. The loan agreement must be signed on behalf of the political subdivision by the president, chairman, or equivalent officer; auditor; business manager; and secretary or equivalent officer of the political subdivision.

Limit on amount of loans - Loan terms.

Except as limited by this section, a bank or a credit union and political subdivision may agree to terms and conditions of a bank or credit union loan, including the rate of interest and any collateral.

1. A political subdivision may have no more than five hundred thousand dollars in outstanding principal on bank or credit union loans at any time.
2. A political subdivision bank or credit union loan must be paid in full within five years from the date of loan origination.
3. The loan documents must describe the revenues from which the loan is anticipated to be paid and may require the political subdivision to establish a separate fund for the repayment of the loan, including interest, on or before the due date.
4. Collateral for a loan may consist only of property that is purchased with loan proceeds.

Delinquent loans.

If designated revenues are not sufficient to pay a loan balance, in addition to the designated revenues, the political subdivision may set aside up to ten percent of the amount of the collections from current tax revenues to pay to the lending bank or credit union on a monthly basis until the delinquent loans have been paid in full.

Approved April 9, 2015
Filed April 9, 2015

HEALTH AND SAFETY

CHAPTER 185

SENATE BILL NO. 2176

(Senators Heckaman, Mathern)
(Representatives Rohr, Wallman)

AN ACT to amend and reenact section 23-01-41 of the North Dakota Century Code, relating to the autism spectrum disorder database; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-41 of the North Dakota Century Code is amended and reenacted as follows:

23-01-41. Autism spectrum disorder database - Rulemaking - Confidentiality.

1. The state department of health shall establish and administer an autism spectrum disorder database. The database must include a record of all reported cases of autism spectrum disorder in the state and any other information determined relevant and appropriate by the department in order to complete epidemiologic surveys of the autism spectrum disorder, enable research and analysis of the autism spectrum disorder, and provide services to individuals with an autism spectrum disorder.
2. The state department of health shall establish criteria regarding who is qualified to report a case of autism spectrum disorder to the database. In establishing this criteria, the department shall require that the reporter be a ~~doctoral-level professional and be appropriately licensed, credentialed, and experienced in the field of autism spectrum disorder, including intellectual testing and other formal evidenced-based assessments for autism spectrum disorders. The department shall consult with experts in establishing this criteria~~ physician or psychologist or any other licensed or certified health care professional who is qualified by training and by licensure or certification to make the diagnosis of autism spectrum disorder.
3. The database established under this section must:
 - a. Include the reported individual's diagnoses under the most recent edition of the American psychiatric association's diagnostic and statistical manual of mental disorders; and
 - b. ~~Include~~ Indicate whether a complete physical evaluation of the reported individual, performed by a licensed physician was performed by a licensed independent practitioner as part of the diagnostic process for autism spectrum disorder.
4. The health council shall adopt rules to provide for mandatory reporting to the autism spectrum disorder database and to establish reporting requirements,

including timeliness requirements. A reporter who makes the diagnosis an individual is affected with autism spectrum disorder, or the reporter's designee, shall report this diagnosis in the form or manner prescribed by the state department of health.

5. The state department of health shall keep confidential all records of the database which could be used to identify a reported individual; however, the department may provide these records to other state agencies as necessary to effect the purposes of this database without regard to the confidential nature of the records. If the department provides confidential records of the database to a state agency, the department shall notify the receiving agency of the confidential nature of the records and the receiving agency shall treat these records as confidential.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 186

HOUSE BILL NO. 1370

(Representatives P. Anderson, Hawken, Mitskog, Strinden)
(Senator Nelson)

AN ACT to create and enact a new section to chapter 23-01 of the North Dakota Century Code, relating to mammogram result notices and the notification of registered owners of mammography equipment; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

(Effective through July 31, 2017) Mammogram results.

1. As used in this section, the term "facility" means a hospital, outpatient department, clinic, radiology practice, mobile unit, or office of a physician or other facility as determined by the state department of health, which conducts breast cancer screening or diagnosis through mammography activities.
2. If a facility at which a mammography examination is performed categorizes a patient as having heterogeneously dense breasts or extremely dense breasts based on a breast imaging reporting and data system approved by the state department of health, such as the system established by the American college of radiology, the facility shall include in the summary of the written report that is sent to the patient a notice that the patient has dense breast tissue, that this dense breast tissue may make it more difficult to detect cancer on a mammogram, and that this dense breast tissue may increase the patient's risk of breast cancer.
3. The state department of health shall notify all registered owners of mammography equipment of these changes, along with the state board of medical examiners, the North Dakota medical association, the North Dakota board of nursing, and the North Dakota nursing association. The state department of health shall encourage these boards to include information about these changes in the next publication of their professional journals.

SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2017, and after that date is ineffective.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 187

SENATE BILL NO. 2104

(Senator Anderson)
(Representative Rick C. Becker)

AN ACT to create and enact a new section to chapter 23-01 and a new subsection to section 43-15-10 of the North Dakota Century Code, relating to immunity from liability related to opioid antagonists and limited prescriptive authority for Naloxone rescue kits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

Opioid antagonist prescription, distribution, possession, or use - Immunity from liability.

1. As used in this section:
 - a. "Health care professional" means a licensed or certified health care professional who is working within the scope of practice for that profession. The term may include a physician, physician assistant, advanced practice registered nurse, and pharmacist acting in the professional's scope of practice.
 - b. "Opioid antagonist" means a drug:
 - (1) That is approved by the United States food and drug administration for the treatment of a drug overdose and is recognized by the state department of health for the treatment of a drug overdose; and
 - (2) That when administered negates or neutralizes, in whole or in part, the pharmacological effects of an opioid in the body.
2. A health care professional acting in good faith may directly or by standing order prescribe, distribute, or dispense an opioid antagonist, if the health care professional provides training to:
 - a. An individual at risk of experiencing an opioid-related overdose; or
 - b. A family member, friend, or other individual in a position to assist an individual at risk of experiencing an opioid-related overdose.
3. An individual acting in good faith may receive or possess an opioid antagonist if that individual is:
 - a. An individual at risk of experiencing an opioid-related overdose; or
 - b. A family member, friend, or other individual in a position to assist an individual at risk of experiencing an opioid-related overdose.

4. An individual acting in good faith may self-administer an opioid antagonist or administer an opioid antagonist to another individual who the administering individual suspects is at risk of experiencing an opioid overdose.
5. An individual may receive, possess, or administer an opioid antagonist under subsection 3 or 4, regardless of whether the individual is the individual for or to whom the opioid antagonist is prescribed, distributed, or dispensed.
6. An individual who prescribes, distributes, dispenses, receives, possesses, or administers an opioid antagonist as authorized under this section is immune from civil and criminal liability for such action. A health care professional who prescribes, distributes, or dispenses an opioid antagonist as authorized under this section is not subject to professional discipline for such action. This section does not expand the scope of practice of a health care professional. Immunity from liability or discipline under this subsection does not apply if the individual's actions constitute recklessness, gross negligence, or intentional misconduct.

SECTION 2. A new subsection to section 43-15-10 of the North Dakota Century Code is created and enacted as follows:

To establish limited prescriptive authority for individuals to distribute opioid antagonist kits, also known as "Naloxone rescue kits." If the board establishes limited prescriptive authority under this subsection, the board shall adopt rules to establish standards that may include training, certification, and continuing education requirements.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 188

HOUSE BILL NO. 1116

(Human Services Committee)
(At the request of the State Department of Health)

AN ACT to amend and reenact sections 23-02.1-01, 23-02.1-13, 23-02.1-15, 23-02.1-19, 23-02.1-20, 23-02.1-25, and 23-02.1-27, and subsection 5 of section 23-02.1-30 of the North Dakota Century Code, relating to the Health Statistics Act; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-01. Definitions.

As used in this chapter:

1. "Authorized representative" means a person ~~who~~that has the legal authority to act on behalf of the person named on a record, including a personal representative or guardian.
2. "Certified" means a copy of the original record on file with the state department of health ~~that~~which is signed and sealed by the state registrar or deputy state registrar.
3. "Dead body" means a lifeless human body or parts of such body or bones thereof from the state of which it may reasonably be concluded that death recently occurred.
4. "Electronic birth registration system" means the electronic birth registration system maintained by the state department of health.
5. "Electronic death registration system" means the electronic death registration system maintained by the state department of health.
6. "Facts of death" means the demographic and personal information pertaining to ~~a person's~~an individual's death.
7. "Fetal death" or "birth resulting in stillbirth" means death ~~prior to occurring~~before the complete expulsion or extraction from its mother of a product of human conception; ~~irrespective of the duration of pregnancy; the~~The death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.
8. "Filing" means the presentation of a record, report, or other information provided for in this chapter of a birth, death, fetal death, adoption, marriage, divorce, or other event as specified by the state health officer for registration by the state registrar.

9. "Final disposition" means the burial, interment, cremation, removal from the state, or other disposition of a dead body or fetus.
10. "Health statistics" means data derived from records of birth, death, fetal death, marriage, divorce, or other records relating to the health of the populace or the state of the environment.
11. "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial, or domiciliary care to two or more individuals unrelated by blood, or to which ~~persons~~individuals are committed by law.
12. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.
13. "Medical certification" means the medical information pertaining to a ~~person's~~an individual's death, including the cause and manner of death.
14. "Personal or real property interests" means ownership or other legal rights or duties concerning personal or real property.
15. "Physician" means a ~~person~~an individual authorized or licensed to practice medicine or osteopathy ~~pursuant to~~under chapter 43-17.
- 45-16. "Registration" means the acceptance by the state registrar and incorporation into official records, reports, or other records provided for in this chapter, of birth, death, fetal death, marriage, divorce, or other records as may be determined by the state health officer.
- 46-17. "Relative" means a ~~person's~~an individual's current or surviving spouse, a parent or legal guardian, a child, a grandparent, or a grandchild. The state registrar may require proof of the relationship.
- 47-18. "Subregistrar" means a funeral director or other suitable ~~person~~individual from a licensed funeral home who is appointed by the state registrar for the purpose of issuing burial-transit permits.
- 48-19. "System of health statistics tabulation and analysis" includes the tabulation, analysis, and presentation or publication of statistical data derived from health statistics.
- 49-20. "System of vital records registration" includes the registration, collection, preservation, amendment, and certification of birth, death, fetal death, marriage, divorce, or other records as may be determined necessary by the state health officer or the state health officer's designee.

SECTION 2. AMENDMENT. Section 23-02.1-13 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-13. Birth registration.

1. A birth record for each live birth that occurs in this state must be filed with the state registrar.
2. When a birth occurs in an institution, the person in charge of the institution or a designated representative must use the state department of health's electronic birth registration system to report the birth, including all personal and medical facts, to the state registrar within five days after the birth.
3. When a birth occurs outside an institution, the required forms prescribed by the state department of health must be prepared and filed with the state registrar, within thirty days of the birth by one of the following in the indicated order of priority:
 - a. The physician in attendance at or immediately after the birth, or in the absence of such ~~a person~~ an individual;
 - b. Any other ~~person~~ individual in attendance at or immediately after the birth, or in the absence of such ~~a person~~ an individual; or
 - c. The father, the mother, or in the absence of the father and the inability of the mother, the ~~person~~ individual in charge of the premises where the birth occurred.
4. If a man and the mother are or have been married or have attempted to marry each other in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born during the marriage or attempted marriage, or within three hundred days after the termination of cohabitation or after the marriage or attempted marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the man must be entered on the record as the father of the child unless the presumption of paternity has been rebutted by a court decree.
5. If the child is not born during the marriage of the mother, or within three hundred days after a marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the father may not be entered on the birth record unless:
 - a. After the child's birth, the father and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - (1) He has acknowledged his paternity of the child in writing filed with the state registrar; or
 - (2) He is obligated to support the child under a written voluntary promise or by court order;
 - b. After the child's birth, the child's natural mother and the father voluntarily acknowledge the child's paternity ~~in a writing~~ on a form prescribed by the state department of health, signed by ~~both~~ the child's natural mother and biological father, and filed with the state registrar; or

- c. A court or other entity of competent jurisdiction has adjudicated paternity.
6. If, in accordance with subsections 4 and 5, the name of the father of the child is not entered on the birth record, the child's surname must be shown on the birth record as the current legal surname of the mother at the time of birth unless an affidavit or an acknowledgment of paternity signed by both parents is received ~~stating the surname to be that of the father~~filed with the state department of health.

SECTION 3. AMENDMENT. Section 23-02.1-15 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-15. Delayed registration of birth.

1. When the birth of ~~a person~~an individual born in this state has not been registered, a record may be filed in accordance with the regulations of the state department of health. Such record must be registered subject to such evidentiary requirements as the state department of health shall prescribe to substantiate the alleged facts of birth.
2. Records of birth registered one year or more after the date of occurrence must be marked "delayed" and show on ~~their~~the face of the record the date of delayed registration.
3. A summary statement of the evidence submitted in support of the delayed registration must be endorsed on the record.
4. a. When an applicant does not submit the minimum documentation required in the regulations for delayed registration or when the state registrar finds reason to question the validity or adequacy of the record or documentary evidence, the state registrar may not register the delayed record and shall advise the applicant of the reasons for this action. In the event that the deficiencies are not corrected, the state registrar shall advise the applicant of the right of appeal to a court of competent jurisdiction for a judicial determination of the birth facts.
b. The state department of health may by regulation provide for the dismissal of an application ~~which~~that is more than ~~two years~~one year old and is not being actively pursued.
5. A report of live birth may not be registered for a deceased individual one year or more after that individual's date of birth.

SECTION 4. AMENDMENT. Section 23-02.1-19 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-19. Death registration.

1. A death record for each death that occurs in this state must be filed with the state registrar in accordance with the rules and regulations set forth by the state department of health using the electronic death registration system. All registration and issuing of copies of death records will be completed by the state department of health.
2. The funeral director shall obtain the facts of death from the next of kin or the best qualified ~~person~~individual or source available and must file the facts of

death information using the electronic death registration system within three days after assuming custody of the dead body. The funeral director shall obtain the medical certification of death from the ~~person~~individual responsible for the medical certification.

3. The medical certification must be completed and filed using the electronic death registration system within ~~fifteen~~ days after death by the physician, physician assistant, or nurse practitioner in charge of the patient's care for the illness or condition which resulted in death except when inquiry is required by the local health officer or coroner.
4. When death occurred without medical attendance or when inquiry is required by the local health officer or coroner, the county coroner shall investigate the cause of death, and shall obtain medical information about the individual from the individual's medical records or last-known physician or physician assistant, and shall complete and file the medical certification within ~~fifteen~~ days after taking charge of the case using the electronic death registration system.
5. If the cause of death cannot be determined within ~~fifteen~~ days after death, the medical certification may be filed after the prescribed period, in accordance with rules adopted by the state department of health. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the body notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.
6. When a death is presumed to have occurred within this state but the body cannot be located, a death record may be prepared by the state registrar upon receipt of findings of a court of competent jurisdiction, including the facts of death and medical certification required to complete the death record. The death record must be marked "presumptive" and must show on ~~its~~the face of the death record the date of registration and must identify the court and the date of the decree.
7. Each death ~~record~~registration must include the social security number of the decedent, if the information is available. A social security number included on a death record is confidential and may be disclosed only to a relative or authorized representative of the individual named on the record, to a person with personal or real property interests that depend upon information contained in the death record, or by an order of a court of competent jurisdiction.

SECTION 5. AMENDMENT. Section 23-02.1-20 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-20. Fetal death registration.

1. A fetal death record for each fetal death ~~which that~~ occurs in this state after a gestation period of twenty completed weeks or more ~~or of less than twenty completed weeks of gestation when provided by rules of the state department of health~~ must be filed with the state registrar.
2. ~~The funeral director who first assumes custody of a fetus shall file the fetal death record. In the absence of such a person, the physician or other person in attendance at or after delivery shall file the fetal death record. The person filing the fetal death record shall obtain the facts of death from the next of kin~~

~~or the best qualified person or source available and must file the facts of death information within fifteen days of the occurrence using the electronic death registration system. The person filing the fetal death record shall obtain the medical certification of death from the person responsible for the medical certification.~~
When a fetal death occurs in an institution, the person in charge of the institution or a designated representative shall use the state department of health's electronic fetal death registration system to report the fetal death, including all personal and medical facts, to the state registrar within ten days after the delivery. If a fetal death occurs outside of an institution, a funeral director or other individual in attendance at or after delivery shall file the fetal death record.

- ~~3. The medical certification must be completed and filed using the electronic death registration system by the physician, physician assistant, or a nurse practitioner in attendance at the delivery within fifteen days after the delivery except when inquiry is required by the local health officer or coroner.~~
- ~~4. When inquiry is required by the local health officer or coroner or in the absence of medical attendance, the county coroner shall investigate the cause of fetal death, and shall obtain medical information about the individual from that individual's medical records or last-known physician or physician assistant and file the medical certification within fifteen days after taking charge of the case using the electronic death registration system.~~
- ~~5-4.~~ If the cause of fetal death cannot be determined within ~~fifteen~~ days after death, the medical certification may be filed after the prescribed period of time in accordance with rules adopted by the state department of health. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the fetus the notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.
- ~~6-5.~~ The provision for entering the name of the father of the fetus on the fetal death record and the reporting of out-of-wedlock fetal deaths concur exactly with those set forth in section 23-02.1-13.

SECTION 6. AMENDMENT. Section 23-02.1-25 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-25. Correction and amendment of vital records.

1. A record registered under this chapter may be amended only in accordance with this chapter and regulations ~~thereunder~~under this chapter adopted by the state department of health to protect the integrity and accuracy of vital records.
2. A record that is amended under this section must be marked "amended" except as provided in subsection 4. The date of amendment and a summary description of the evidence submitted in support of the amendment must be endorsed on or made a part of the record. The state department of health shall prescribe by regulation the conditions under which additions or minor corrections may be made to birth records within one year after the date of birth without the record being considered as amended.
3. Upon receipt of a certified copy of a court order ~~changing the name of a person born in this state~~that is amending a birth, death, or fetal death record

and upon request of such ~~person~~individual or the ~~person's~~individual's parent, guardian, or legal representative, the state registrar shall amend the record to reflect the new names directed in the court order; however, if the state registrar has information to believe the facts of the court order are false or inaccurate, the state registrar shall provide the court and any known parties with the correct information.

4. Upon receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents and upon request, the state registrar shall amend a record of birth to show such paternity if paternity is not shown on the record. Upon request of the parents, the surname of the child must be changed on the appropriate record to ~~that of the father~~the surname designated by the parents on the acknowledgment of paternity. Such record may not be marked as "amended". The provisions of this subsection apply also in their entirety to records of fetal death.

SECTION 7. AMENDMENT. Section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-27. Disclosure of records.

Birth, death, and fetal death records, filings, data, or other information related to birth, death, and fetal death records are confidential and may not be disclosed except as authorized under this chapter. The state registrar shall restrict access to all vital records to protect vital records from loss, mutilation, or destruction and to prevent disclosure of the information contained in these records except as authorized under this chapter.

1. A certified copy of a birth record may be issued to the individual named on the record if that individual is at least sixteen years old, to a parent named on the record, to an authorized representative, or by the order of a court of competent jurisdiction. If the individual named on a birth record is deceased, a certified copy of that record may also be issued to a relative. If the date of birth on any birth record is more than one hundred and twenty-five years old, that record is an open record and a certified copy may be issued to anyone, except that adoption records remain confidential.
2. A certified copy of a complete death record may be issued to a relative, an authorized representative, the child fatality review board, a licensed physician for the purposes of researching family medical history, a funeral director reporting the facts of death, or a person with personal or real property interests that depend upon information contained in the complete death record or by the order of a court of competent jurisdiction and may include the cause of death and the social security number. A certified copy of the facts of death record that includes the facts of death and the social security number may be issued to any person that may obtain a certified copy of a complete death record or to any licensed attorney who requires the copy for a bona fide legal determination. A certified copy of an informational death record may be issued to the general public, but the copy may not contain the cause of death or the social security number.
3. A certified copy of a fetal death record may be issued to a parent named on the record, an authorized representative, or by the order of a court of competent jurisdiction. A person authorized to receive a certified copy of a fetal death record may request the certified copy be issued in the form of a certification of birth resulting in stillbirth.

4. A noncertified informational copy of a marriage record may be issued to the general public.
5. ~~Any individual~~A person authorized to receive a certified copy of any specific record may grant another ~~individual~~person the same authority by completing a written authorization on a form prescribed by the state department of health.
6. The state department of health may grant limited access to birth and death information to divisions and programs of the state department of health, the department of transportation, the protection and advocacy project, and the department of information technology, and to the department of human services necessary for the purpose of completing their respective official duties.
7. The state department of health may issue, through electronic means determined by the state department of health, verifications of information contained on birth or death records filed with the state registrar when such information is provided and a verification is requested by a governmental agency, whether foreign or domestic, in the conduct of the agency's official duties. The state department of health may also issue these electronic verifications for a negotiated and agreed-upon fee to:
 - a. Benefit-paying parties, such as annuity companies, pension plans, and life insurance companies, that demonstrate a need for such information to determine whether the benefits the benefit-paying party are paying should be terminated or distributed to a beneficiary;
 - b. Physicians licensed to practice in the United States who demonstrate such information is needed to determine whether a patient the physician is treating has been lost to care;
 - c. Attorneys licensed to practice in the United States who demonstrate that the information is necessary to administer the attorneys' client's estate; or
 - d. Other entities for fraud prevention as determined by the state registrar.

SECTION 8. AMENDMENT. Subsection 5 of section 23-02.1-30 of the North Dakota Century Code is amended and reenacted as follows:

5. On or before the fifth day of each month, each hospital, institution, funeral director, embalmer, or person acting as such in this state shall report to the state registrar, on forms provided for this purpose, information required by the state registrar regarding each ~~dead body or fetus~~birth, death, or fetal death handled ~~by such person~~ during the preceding calendar month.

SECTION 9. APPLICATION. Under subsection 3 of section 23-02.1-13, the state department of health shall use forms that are substantially similar to the department's North Dakota parent's worksheet and certifier's worksheet for completing the North Dakota birth certificate.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 189

SENATE BILL NO. 2238

(Senators Marcellais, Schneider)
(Representative M. Nelson)

AN ACT to amend and reenact subsection 3 of section 23-06-03 of the North Dakota Century Code, relating to providing military caskets or urns for eligible deceased veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 23-06-03 of the North Dakota Century Code is amended and reenacted as follows:

3. If the deceased is not survived by an individual described by subsection 1 and did not leave sufficient means to defray funeral expenses, including the cost of a casket, the county social service board of the county in which the deceased had residence for county general assistance purposes or, if residence cannot be established, the county social service board of the county in which the death occurs shall employ some person to arrange for and supervise the burial or cremation. If the deceased was a resident or inmate of a public institution, the county in which the deceased was a resident for county general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the burial or cremation. Each board of county commissioners may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars. The county social services board may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket. The county social service board shall pay the charge for funeral expenses as negotiated by the board of county commissioners, less any amount left by the deceased to defray the expenses.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 190

SENATE BILL NO. 2079

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 23-09.3-01.1 and subsections 1 and 2 of section 23-16-01.1 of the North Dakota Century Code, relating to the moratoria on basic care and nursing facility bed capacity; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-09.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

23-09.3-01.1. Moratorium on expansion of basic care bed capacity.

1. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2013~~2015, and July 31, ~~2015~~2017, except when:
 - a. A nursing facility converts nursing facility beds to basic care;
 - b. An entity licenses bed capacity transferred as basic care bed capacity under section 23-16-01.1;
 - c. An entity demonstrates to the state department of health and the department of human services that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile [80.47-kilometer] radius have been occupied at ninety percent or more for the previous twelve months. In determining whether basic care services will be readily available if an additional license is issued, preference may be given to an entity that agrees to any participation program established by the department of human services for individuals eligible for services under the medical assistance program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or
 - d. The state department of health and the department of human services grant approval of new basic care beds to an entity. The approved entity shall license the beds within forty-eight months from the date of approval.
2. Transfers of basic care beds from one basic care facility to another entity is permitted. Transferred basic care beds must become licensed within forty-eight months of transfer. The entity receiving the transferred beds or any new facility may seek to participate in the basic care assistance program. If the entity can demonstrate that individuals can be cared for at a more independent level and that this service will delay entry into the nursing facility, the entity may be approved for basic care assistance funds.
3. If an Indian tribe acquires basic care beds, the tribal facility must meet state licensing requirements for those beds within forty-eight months of acquisition. A tribal facility may seek to participate in the basic care assistance program.

Basic care assistance payments may only be made to a tribal facility that agrees to participate and adhere to all federal and state requirements of the basic care assistance program including participation, screening, ratesetting, and licensing requirements.

SECTION 2. AMENDMENT. Subsections 1 and 2 of section 23-16-01.1 of the North Dakota Century Code are amended and reenacted as follows:

1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic care beds to nursing facility beds or relicenses nursing facility beds delicensed after July 31, 2011, nursing facility beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2013~~2015, and July 31, ~~2015~~2017. A nursing facility may not delicense nursing facility bed capacity, relicense nursing facility bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert licensed basic care bed capacity back to nursing facility bed capacity, or otherwise reconfigure licensed nursing facility bed capacity more than one time in a twelve-month period.
2. Transfer of licensed nursing facility bed capacity from a nursing facility to another entity is permitted. The nursing facility may transfer the bed capacity either as nursing facility bed capacity or basic care bed capacity. Transferred bed capacity must become licensed by an entity ~~as the type of bed capacity originally transferred~~ within forty-eight months of transfer. Bed capacity transferred as basic care bed capacity may not be reverted to nursing facility bed capacity at any time. A receiving entity may transfer the received bed capacity to another entity within the forty-eight-month period originally established at the time the nursing facility first transferred the licensed nursing facility bed capacity. The subsequent receiving entity must license the received bed capacity within the forty-eight-month period originally established at the time of the first transfer.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 191

SENATE BILL NO. 2284

(Senators Nelson, Anderson, Grabinger)
(Representatives Boschee, Delmore, Maragos)

AN ACT to create and enact section 23-16-16 of the North Dakota Century Code, relating to hospital treatment of victims of sexual assault; to provide a penalty; to designate the use of oil and gas impact grants; and to provide for reports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 23-16-16 of the North Dakota Century Code is created and enacted as follows:

23-16-16. Treatment of victims of sexual assault.

1. As used in this section:
 - a. "Hospital" means an entity required to obtain a license under section 23-16-01.
 - b. "Sexual assault" has the same meaning as provided under section 12.1-20-07.
 - c. "Victim of sexual assault" means an individual who:
 - (1) States a sexual assault has been committed against the individual;
 - (2) Is accompanied by another individual who states a sexual assault has been committed against the accompanied individual; or
 - (3) Hospital personnel or a sexual assault nurse examiner have reason to believe is a victim of sexual assault.
2. A hospital may not require a victim of sexual assault to submit to a forensic examination or to report the alleged sexual assault to law enforcement.
3. A hospital without staff specially trained to perform a sexual assault forensic examination may coordinate with a community-based sexual assault nurse examiner nurse program or develop a sexual assault examiner nurse program to ensure all victims of sexual assault who want a sexual assault forensic examination or sexually transmitted infection treatment receive that examination or treatment.

SECTION 2. BOARD OF UNIVERSITY AND SCHOOL LANDS - USE OF OIL AND GAS IMPACT GRANTS - REPORTS. The board of university and school lands, from funds designated in House Bill No. 1176 as approved by the sixty-fourth legislative assembly for grants to law enforcement agencies impacted by oil and gas development, shall make available \$250,000 for grants through the domestic violence and rape crisis program for community-based or hospital-based sexual assault examiner programs, for the biennium beginning July 1, 2015, and ending June 30,

2017. The board of university and school lands shall award the grants as directed by the attorney general. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-fifth legislative assembly on the use of the funds received and the outcomes of its program. The attorney general shall report to the sixty-fifth legislative assembly on the number of nurses trained, the number and location of nurses providing services related to sexual assault nurse examiner programs, and documentation of collaborative efforts to assist victims which includes nurses, the hospital or clinic, law enforcement, states attorneys, and sexual assault advocates. Grant funds awarded under this section may not be used for salaries for nurses.

Approved April 23, 2015

Filed April 23, 2015

CHAPTER 192

HOUSE BILL NO. 1113

(Government and Veterans Affairs Committee)
(At the request of the State Department of Health)

AN ACT to create and enact subsection 3 to section 23-20.1-04.1 of the North Dakota Century Code, relating to custody of land used for disposal of radioactive material; to amend and reenact sections 23-01-36, 23-20.1-04.3, 23-20.1-04.4, 23-20.1-06, and 23-20.1-10 of the North Dakota Century Code, relating to the licensing and regulation of radioactive material; to repeal section 23-20.1-09.1 of the North Dakota Century Code, relating to the confidentiality of radioactive material records; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-36 of the North Dakota Century Code is amended and reenacted as follows:

23-01-36. Appeal from permit proceedings.

An appeal from the issuance, denial, modification, or revocation of a permit issued under chapter 23-20.1, 23-20.3, 23-25, 23-29, or 61-28 may be made by the person who filed the permit application, or by any person who is aggrieved by the permit application decision, provided that person participated in or provided comments during the hearing process for the permit application, modification, or revocation. An appeal must be taken within thirty days after the final permit application determination is mailed by first-class mail to the permit applicant and to any interested person who has requested a copy of the final permit determination during the permit hearing process. Except as provided in this section, an appeal of the final permit determination is governed by sections 28-32-40, 28-32-42, 28-32-43, 28-32-44, 28-32-46, and 28-32-49. The department may substitute final permit conditions and written responses to public comments for findings of fact and conclusions of law. Except for a violation of chapter 23-20.1, 23-20.3, 23-25, 23-29, or 61-28 which occurs after the permit is issued, or any permit condition, rule, order, limitation, or other applicable requirement implementing those chapters which occurs after the permit is issued, any challenge to the department's issuance, modification, or revocation of the permit or permit conditions must be made in the permit hearing process and may not be raised in any collateral or subsequent legal proceeding, and the applicant and any aggrieved person may raise on appeal only issues that were raised to the department in the permit hearing process.

SECTION 2. Subsection 3 to section 23-20.1-04.1 of the North Dakota Century Code is created and enacted as follows:

3. Land used for the disposal of technologically enhanced naturally occurring radioactive material is not subject to the provisions of subsection 2.

SECTION 3. AMENDMENT. Section 23-20.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

23-20.1-04.3. Procedural requirements.

In the licensing and regulation of the processing, generation, or disposal of source material, byproduct material, or other radioactive material occurring naturally or produced artificially, the department shall provide:

1. In the cases of licenses:
 - a. An opportunity, after public notice, for written comments and a public hearing, with a transcript.
 - b. ~~An opportunity for cross-examination.~~
 - e. A written determination of the action to be taken which is based upon findings included in the determination and upon evidence presented during the public comment period and which is subject to judicial review.
 - ~~d.c.~~ For each licensed activity which has a significant impact on the human environment, a written analysis prepared by the department, which must be available to the public before commencement of hearings, of the impact of the licensed activity on the environment. The analysis must include:
 - (1) An assessment of the radiological and nonradiological impacts to the public health.
 - (2) An assessment of any impact on any waterway and ground water.
 - (3) Consideration of alternatives to the activities to be conducted.
 - (4) Consideration of the long-term impacts of the licensed activities.
 - e.d. A prohibition of any major construction with respect to the activities to be conducted prior to completing the action stipulated in subdivisions a, b, c, and d.
 - f.e. An assurance that management of source material, byproduct material, or other radioactive material occurring naturally or produced artificially is carried out in conformance with applicable standards promulgated by the department, the commission, and the United States environmental protection agency.
2. In the case of rulemaking:
 - a. An opportunity for public participation through written comments or a public hearing.
 - b. An opportunity for judicial review.

SECTION 4. AMENDMENT. Section 23-20.1-04.4 of the North Dakota Century Code is amended and reenacted as follows:

23-20.1-04.4. Additional authorities.

The department is authorized, ~~in carrying out its authority under subdivision f of subsection 1 of section 23-20.1-04.3,~~ to require persons exempt from licensing to conduct monitoring, perform remedial work, and to comply with any other measures

the department deems necessary or desirable to protect health or minimize danger to life or property.

SECTION 5. AMENDMENT. Section 23-20.1-06 of the North Dakota Century Code is amended and reenacted as follows:

23-20.1-06. Administrative procedures and judicial review.

Any proceeding under this chapter for:

1. The issuance or modification of rules including emergency orders relating to control of sources of ionizing radiation;
2. Granting, suspending, revoking, or amending any license; or
3. Determining compliance with rules of the department;

must be conducted in accordance with the provisions of chapter 28-32. If an emergency exists requiring immediate action to protect the public health and safety, the department may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet this emergency. Notwithstanding any provision of this chapter, such order is effective immediately. Any person to whom such order is directed shall comply therewith immediately, but on application to the department must be afforded a hearing before the ~~state health council~~department within ten days. On the basis of such hearing, the emergency order must be continued, modified, or revoked within thirty days after such hearing.

SECTION 6. AMENDMENT. Section 23-20.1-10 of the North Dakota Century Code is amended and reenacted as follows:

23-20.1-10. Penalties.

~~Any person who violates any provision of this chapter or any license condition or limitation implemented by this chapter is subject to a civil penalty of not more than ten thousand dollars per day of violation.~~

~~In addition to any other penalty or remedy pursuant to this chapter, any person who knowingly violates any of the provisions of this chapter, or rules or orders of the department in effect pursuant thereto, is guilty of a class A misdemeanor.~~

1. Any person who violates this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is subject to a civil penalty not to exceed twelve thousand five hundred dollars per day per violation, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.
2. Any person who willfully violates any provision of this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is guilty of a class C felony, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.
3. Any person who willfully makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter or who falsifies, tampers with, or willfully renders inaccurate any monitoring

device or method required to be maintained under this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is guilty of a class C felony, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.

SECTION 7. REPEAL. Section 23-20.1-09.1 of the North Dakota Century Code is repealed.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 193

HOUSE BILL NO. 1255

(Representatives Porter, Hofstad)
(Senators Dever, Larsen)

AN ACT to create and enact a new section to chapter 23-27, a new section to chapter 26.1-36, and section 65-02-21.2 of the North Dakota Century Code, relating to air ambulance services and classifications of ambulance services for health insurance and workers' compensation benefits; and to amend and reenact section 50-24.1-16 of the North Dakota Century Code, relating to classification of ambulance services for medical assistance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-27 of the North Dakota Century Code is created and enacted as follows:

Air ambulance services.

1. The department shall create and maintain a primary call list and a secondary call list of air ambulance service providers operating in this state.
2. To qualify to be listed on the primary call list, an air ambulance service provider shall submit to the department attested documentation indicating the air ambulance service provider is a participating provider of the health insurance carriers in the state which collectively hold at least seventy-five percent of the health insurance coverage in the state as determined by annual market share reports.
3. The department shall provide the primary call list and the secondary call list for air ambulance service providers operating in this state to all emergency medical services personnel, each hospital licensed under chapter 23-16, each 911 coordinator in this state, and each public safety answering point operating in this state.
4. The department shall establish air ambulance service response zones for rotary wing aircraft which are based on response times and patient health and safety.
 - a. Upon receipt of a request for air ambulance services, emergency medical services personnel, a hospital licensed under chapter 23-16, or a public safety answering point operating in this state, shall make a reasonable effort to inform the requesting party of the estimated response time for the requested air transport versus the ground transport for that designated response zone. If at any point during the request for air ambulance services the requester withdraws the request, the receiving party is not required to complete that call for air ambulance services.
 - b. If emergency medical services personnel, a hospital licensed under chapter 23-16, or a public safety answering point operating in this state receives a request from emergency medical services personnel for air

ambulance services, the recipient of the request shall comply with the call priority under this subdivision in responding to the request.

- (1) First, the recipient of the request shall call an air ambulance service provider listed on the primary call list which is within the designated response zone.
 - (2) Second, if each of the air ambulance service providers listed on the primary list is not available or is not able and willing to respond to the call, the recipient of the request shall notify the requester of this fact and shall call an air ambulance provider listed on the secondary call list within the designated response zone.
 - (3) Third, if each of the air ambulance service providers listed on the secondary list is not available or is not able and willing to respond to the call, the recipient of the request shall notify the requester of this fact and shall inform the requester of primary and secondary air ambulance service provider options outside the designated response zone.
5. Upon request of the department, a potential patient, or a potential patient's legal guardian, an air ambulance service provider shall provide that provider's fee schedule, including the base rate, per loaded mile rate, and any usual and customary charges.

 - a. The department shall compile and distribute this fee information to each hospital licensed under chapter 23-16, each hospital emergency department in the state, each physician the department determines is likely to generate an air ambulance transport, each emergency medical services operation, each emergency medical services professional, each emergency medical services personnel, each public safety answering point in this state, and each 911 coordinator in this state.
 - b. Before a hospital refers a patient to an air ambulance service provider, the hospital shall make a reasonable effort to inform the patient or the patient's legal guardian of the fees for the air ambulance service providers licensed under this chapter, for the purpose of allowing the patient or legal guardian to make an informed decision on choosing an air ambulance service provider. A hospital is exempt from complying with this subdivision if the hospital determines compliance might jeopardize the health or safety of the patient.
 6. The state health council shall adopt rules establishing air ambulance service provider requirements that must address transport plans, including auto launch protocol and auto launch cancellation protocol; transporting to the nearest appropriate medical facility; medical necessity; and informed consent. As necessary, the state health council shall adopt rules relating to quality of care standards and other appropriate requirements regarding air ambulance service providers.

SECTION 2. A new section to chapter 26.1-36 of the North Dakota Century Code is created and enacted as follows:

Ambulance services classifications.

For purposes of classifying ambulance services for an accident and health insurance policy, the classifications established under section 50-24.1-16 apply.

SECTION 3. AMENDMENT. Section 50-24.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-16. Reimbursement of ambulance services.

1. Medical assistance coverage must include reimbursement of ambulance services for responding to calls to assist covered individuals which do not result in transport. The reimbursement must be at a rate negotiated by the department and the ambulance service.
2. For purposes of classifying ambulance services under this section:
 - a. An emergency response is one that at the time the ambulance is called the ambulance responds immediately. An immediate response is one in which the ambulance begins as quickly as possible to take the steps necessary to respond to the call.
 - b. An advanced life support assessment is an assessment performed by an advanced life support crew as part of an emergency response that was necessary because the patient's reported condition at the time of the dispatch was such that only an advanced life support crew was qualified to perform the assessment. An advanced life support assessment does not necessarily result in a determination that the patient requires an advanced life support level of service.

SECTION 4. Section 65-02-21.2 of the North Dakota Century Code is created and enacted as follows:

65-02-21.2. Ambulance services classifications.

For purposes of classifying ambulance services for benefits provided under this title, the classifications established under section 50-24.1-16 apply.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 194

HOUSE BILL NO. 1114

(Energy and Natural Resources Committee)
(At the request of the State Department of Health)

AN ACT to amend and reenact section 23-29-03, subsection 3 of section 23-29-05.1, and section 23-29-12 of the North Dakota Century Code, relating to solid waste management; to repeal sections 23-29-09 and 23-29-16 of the North Dakota Century Code, relating to solid waste management correspondence and environmental protection; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-29-03 of the North Dakota Century Code is amended and reenacted as follows:

23-29-03. Definitions.

1. "Collection" means the aggregation of solid waste from the places at which the waste was generated.
2. "Department" means the state department of health.
3. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water including ground water.
4. "Industrial waste" means solid waste, which is not a hazardous waste regulated under chapter 23-20.3, generated from the combustion or gasification of municipal waste and from industrial and manufacturing processes. The term does not include municipal waste or special waste.
5. "Infectious waste" means solid waste that may contain pathogens with sufficient virulence and in sufficient quantity that exposure of a susceptible human or animal to the solid waste could cause the human or animal to contract an infectious disease.
6. "Landfill" means a publicly or privately owned area of land where solid wastes are permanently disposed.
7. "Litter" means discarded and abandoned solid waste materials that are not special waste or industrial waste.
8. "Major appliance" means an air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, water heater, humidifier, dehumidifier, garbage disposal, trash compactor, or other similar appliance.
9. "Municipal waste" means solid waste that includes garbage, refuse, and trash generated by households, motels, hotels, and recreation facilities; by public

and private facilities; and by commercial, wholesale, and private and retail businesses. The term does not include special waste or industrial waste.

10. "Open burning" means the combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and control of the emission of the combustion products.
11. "Person" means any individual, corporation, limited liability company, partnership, firm, association, trust, estate, public or private institution, group, federal agency, political subdivision of this state or any other state or political subdivision thereof, and any legal successor, representative agent, or agency of the foregoing.
12. "Political subdivision" means a city, county, township, or solid waste management authority.
13. "Resource recovery" means the use, reuse, or recycling of materials, substances, energy, or products contained within or derived from municipal solid waste.
14. "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. The term does not include:
 - a. Agricultural waste, including manures and crop residues, returned to the soil as fertilizer or soil conditioners; or
 - b. Solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges that are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended [Pub. L. 92-500; 86 Stat. 816; 33 U.S.C. 1251 et seq.], or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended [68 Stat. 919; 42 U.S.C. 2011 et seq.].
15. "Solid waste management" means the purposeful systematic control of the storage, collection, transport, composting, resource recovery, land treatment, and disposal of solid waste.
16. "Special waste" means solid waste that is not a hazardous waste regulated under chapter 23-20.3 and includes waste generated from energy conversion facilities; waste from crude oil and natural gas exploration and production; waste from mineral and ore mining, beneficiation, and extraction; and waste generated by surface coal mining operations. The term does not include municipal waste or industrial waste.
17. "Storage" means the containment and holding of solid waste after generation for a temporary period, at the end of which the solid waste is processed for resource recovery, treated, disposed of, or stored elsewhere.
18. "Transport" means the offsite movement of solid waste.

SECTION 2. AMENDMENT. Subsection 3 of section 23-29-05.1 of the North Dakota Century Code is amended and reenacted as follows:

3. A person violating this section is guilty of an infraction for which a minimum fine of ~~one~~two hundred dollars must be imposed, except if the litter discarded and abandoned amounted to more than one cubic foot [0.0283 cubic meter] in volume or if the litter consisted of furniture or a major appliance, the offense is a class B misdemeanor and the person is subject to the civil penalty provided in section 23-29-12.

SECTION 3. AMENDMENT. Section 23-29-12 of the North Dakota Century Code is amended and reenacted as follows:

23-29-12. Penalties.

~~Unless another penalty is specifically prescribed, a person violating this chapter, or any rule, order, or condition in a permit issued under this chapter, is subject to a civil penalty not to exceed one thousand dollars per day of such violation.~~

1. Any person who violates this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is subject to a civil penalty not to exceed twelve thousand five hundred dollars per day per violation, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.
2. Any person who willfully violates any provision of this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is guilty of a class C felony, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.
3. Any person who willfully makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter or who falsifies, tampers with, or willfully renders inaccurate any monitoring device or method required to be maintained under this chapter or any permit condition, rule, order, limitation, or other applicable requirement implementing this chapter is guilty of a class C felony, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter.

SECTION 4. REPEAL. Sections 23-29-09 and 23-29-16 of the North Dakota Century Code are repealed.

Approved March 31, 2015
Filed March 31, 2015

CHAPTER 195

HOUSE BILL NO. 1390

(Representative Keiser)

AN ACT to create and enact section 23-29-04.2 of the North Dakota Century Code, relating to establishment by the state department of health of one or more operating pilot projects to examine and determine standards for rules governing operations and permitting of commercial oilfield special waste recycling facilities for oilfield special waste from oil and gas drilling and production operations; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 23-29-04.2 of the North Dakota Century Code is created and enacted as follows:

23-29-04.2. Commercial oilfield special waste recycling facilities - Action against well operators restricted.

1. By June 1, 2015, the department shall select at least one commercial oilfield special waste recycling facility having a pending beneficial use application, for authorization of operation of the facility as a pilot project and to assist the department to develop standards for recycling of oilfield special waste. The pending beneficial use application of the pilot project facility must be supported by scientific findings from a third-party source focused on the anticipated environmental performance of the end products of the recycled oilfield special waste and the practical utility of those end products.
2. Any pilot project facility and any commercial oilfield special waste recycling facility permitted after June 30, 2017, must obtain a solid waste permit from the department and a treating plant permit from the industrial commission for treatment of oilfield special waste.
3. Any selected pilot project facility may operate as an oilfield special waste recycling facility through June 30, 2017, and may implement beneficial use demonstration projects using processed materials under the guidance of the department. A selected pilot project facility operator shall cooperate with the department to monitor and analyze impacts to the environment.
4. By July 1, 2017, based upon the results of any pilot projects, the department shall make recommendations either to adopt rules under chapter 28-32 governing operations and permitting of commercial oilfield special waste recycling facilities or to develop written guidelines on recycling and beneficial use of oilfield special waste under the department's beneficial use approval process. The rules or guidelines must be adopted to assure compliance with federal and state laws and rules for protection of the state's water and air and public health in the handling and subsequent use of oilfield special waste.
5. Upon presentation of official credentials, an employee authorized by the department may:

- a. Examine the premises and facilities and copy books, papers, records, memoranda, or data of a commercial oilfield special waste recycling facility.
 - b. Enter upon public or private property for the purpose of taking action authorized by this chapter and rules adopted under this chapter, including obtaining information from any person, conducting surveys and investigations, and taking corrective action.
6. The operator of the commercial oilfield special waste recycling facility is liable for the cost of any inspection and corrective action required by the department.
7. As a condition of permitting, the department may require the operator of a commercial oilfield special waste recycling facility post a bond or other financial assurance payable to the state in a sufficient amount for remediation of any release or disposal of oilfield special waste in violation of the rules of the department, on the premises or property of the facility or at a place where treated or untreated materials from the facility are taken for use or disposal.
8. As used in this section:
- a. "Commercial oilfield special waste recycling facility" means a commercial recycling facility permitted, or a commercial recycling facility pilot project authorized, under this section for extraction of reusable solids and fluids from any or all types of oilfield special waste.
 - b. "Drilling operation" means oil and gas drilling and production operations and any associated activities that generate oilfield special waste.
 - c. "Oilfield special waste" means special waste associated with oil and gas drilling operations, exploration, development, or production and specifically includes drill cuttings, saltwater, and other solids and fluids from drilling operations.
9. Upon delivery of oilfield special waste to a commercial oilfield special waste recycling facility, which is permitted or authorized to conduct recycling operations under this section and is not affiliated with the well operator; acceptance of the oilfield special waste by the recycling facility; and after the oilfield special waste has been treated and converted to a beneficial use as a usable product or legitimate substitute for a usable product, the well operator is not liable in any civil or criminal action for any subsequent claim or charge regarding the material converted to a beneficial use.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 196

SENATE BILL NO. 2121

(Senator Anderson)
(Representative Dockter)

AN ACT to amend and reenact section 23-34-01 of the North Dakota Century Code, relating to medical peer review records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-34-01 of the North Dakota Century Code is amended and reenacted as follows:

23-34-01. Definitions.

As used in this chapter:

1. "Health care organization" means:
 - a. A hospital;
 - b. A hospital medical staff;
 - c. A clinic;
 - d. A long-term or extended care facility;
 - e. An ambulatory surgery center;
 - f. An emergency medical services unit;
 - g. A physician;
 - h. A group of physicians operating a clinic or outpatient care facility;
 - i. A pharmacist;
 - j. A pharmacy;
 - k. An association or organization, whether domestic or foreign, of medical institutions or medical professionals;
 - l. A nonprofit corporation, whether domestic or foreign, that owns, operates, or is established by any entity set forth in subdivisions a through i;
 - ~~k-m.~~ Any combination of entities set forth in subdivisions a through j; or
 - ~~l-n.~~ Any federally designated state peer review organization.
2. "Health care provider" means a physician or other person licensed, certified, or otherwise authorized by the law of this state to provide health care services.

3. "Peer review organization" means:
 - a. A health care organization; or
 - b. A committee of a health care organization which:
 - (1) Is composed of health care providers, employees, administrators, consultants, agents, or members of the health care organization's governing body; and
 - (2) Conducts professional peer review.
4. a. "Peer review records" means:
 - (1) Data, information, reports, documents, findings, compilations and summaries, testimony, and any other records generated by, acquired by, or given to a peer review organization as a part of any professional peer review, regardless of when the record was created; and
 - (2) Communications relating to a professional peer review, whether written or oral, between:
 - (a) Peer review organization members;
 - (b) Peer review organization members and the peer review organization's staff; or
 - (c) Peer review organization members and other persons participating in a professional peer review, including the person who is the subject of the professional peer review.
 - b. The term does not include original patient source documents.
5. "Professional peer review" means all procedures a peer review organization uses or functions it performs to monitor, evaluate, and take action to review the medical care provided to patients by health care organizations or health care providers and includes procedures or functions to:
 - a. Evaluate and improve the quality of health care;
 - b. Obtain and disseminate data and statistics relative to the treatment and prevention of disease, illness, or injury;
 - c. Develop and establish guidelines for medical care and the costs of medical care;
 - d. Provide to other affiliated or nonaffiliated peer review organizations information that is originally generated within the peer review organization for the purposes of professional peer review;
 - e. Identify or analyze trends in medical error, using among other things a standardized incident reporting system; and
 - f. Provide quality assurance.

CHAPTER 197

SENATE BILL NO. 2132

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact subsection 1 of section 23-37-17 and section 26.1-21-02 of the North Dakota Century Code, relating to petroleum tank registration fees and bonding fund investment income.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 23-37-17 of the North Dakota Century Code is amended and reenacted as follows:

1. An owner or operator of a tank shall pay an annual registration fee of fifty dollars for each aboveground or underground tank owned or operated by that person. ~~If on~~after the first day of July in any year the amount of money in the petroleum release compensation fundfiscal year has been closed and all expenses relating to the fiscal year have been accounted for, the fund balance is less than six million dollars, the annual registration fee of fifty dollars is increased to one hundred dollars. ~~If on~~after the first day of July in any year the amount of money in the petroleum release compensation fundfiscal year has been closed and all expenses relating to the fiscal year have been accounted for, the fund balance is five million five hundred thousand dollars or more and the annual registration fee has been increased to one hundred dollars, the fee must be reduced to fifty dollars. ~~Annual registration fees must be reduced to five dollars if on the first day of July in any year the amount of money in~~If after the fiscal year has been closed and all expenses relating to the fiscal year have been accounted for, the fund balance exceeds nine million dollars, the annual registration fee is reduced to five dollars. Annual registration fees must continue at ~~the fee of five dollars until the money in the fund~~fund balance does not exceed nine million dollars.

SECTION 2. AMENDMENT. Section 26.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-21-02. State bonding fund - Management by commissioner.

A fund must be maintained as a fund for the bonding of public employees and public officials. ~~Money~~All assessments, interest, profits on investments, and all other income collected under this chapter must be paid into the fund. The commissioner shall manage the fund.

Approved March 19, 2015

Filed March 19, 2015

CHAPTER 198

HOUSE BILL NO. 1323

(Representatives Porter, D. Anderson, Hogan, Holman, J. Nelson)
(Senators Axness, Dever, Erbele, Larsen)

AN ACT to amend and reenact sections 23-43-01, 23-43-02, 23-43-03, 23-43-04, 23-43-05, and 23-43-06 of the North Dakota Century Code, relating to the creation and implementation of a stroke system; and to provide for a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-43-01 of the North Dakota Century Code is amended and reenacted as follows:

23-43-01. Primary stroke centers. Stroke system - Duties of state health officer.

- ~~1. Effective January 1, 2010, the state department of health shall designate qualified hospitals as primary stroke centers. A hospital seeking designation as a primary stroke center shall apply to the department for that designation and shall demonstrate to the department that the hospital meets the applicable criteria established by the department.~~
- ~~2. The criteria established by the department for designation as a primary stroke center must include a requirement that the hospital be certified as a primary stroke center by the joint commission on accreditation of health care organizations or by a similar accrediting or certifying organization possessing hospital standards recognized nationally by the health care industry and accepted by the department.~~
- ~~3. The department may suspend or revoke a hospital's designation as a primary stroke center, after notice and opportunity for a hearing, if the department determines the hospital is not in compliance with the requirements of this chapter.~~
- ~~4. Annually, the state department of health shall provide a list of hospitals designated as primary stroke centers to each emergency medical services operation licensed in this state. The department shall post to the department's website a list of the hospitals designated as primary stroke centers.~~

The state health officer shall establish and maintain a comprehensive stroke system for the state. The program must comply with this chapter; be based on department-approved, nationally recognized guidelines and protocols; and provide specific patient care and support services criteria stroke centers shall meet to ensure stroke patients receive safe and effective care, and must modify the state's emergency medical response system to assure stroke patients are quickly identified and transported to and treated in facilities that have specialized programs for providing timely and effective treatment for stroke patients. The stroke system must include standards for the following components:

1. A system plan.
2. Prehospital emergency medical services.
3. Hospitals, for which the standards must include:
 - a. Standards for designation, redesignation, and removal of designation.
 - b. Standards for evaluation and quality improvement programs for designated facilities. The standards must require each facility to collect quality improvement data and to provide specified portions to the department for use in state and regional stroke quality improvement programs.
4. A stroke registry. Data in the stroke registry is not subject to subpoena or discovery or introduction into evidence in any civil action. A designated facility shall participate in the stroke registry. A hospital not designated shall provide to the stroke registry a minimum set of data elements for all stroke patients as determined by the stroke system of care advisory task force.
5. A stroke quality improvement program to monitor the performance of the stroke system. The proceedings and records of the stroke quality improvement program are not subject to subpoena or discovery or introduction into evidence in any civil action arising out of any matter that is the subject of consideration by the stroke quality improvement program.

SECTION 2. AMENDMENT. Section 23-43-02 of the North Dakota Century Code is amended and reenacted as follows:

23-43-02. Stroke system of care task force. Designation of comprehensive stroke center, primary stroke centers, and acute stroke-ready hospitals.

1. ~~The state department of health shall establish a stroke system of care task force. The purpose of the task force is to encourage and ensure the establishment of an effective stroke system of care throughout the state. The state health officer, or the officer's designee, shall serve on the task force. The state health officer shall appoint members to the task force who represent rural hospitals, physicians who treat patients in rural areas, and members representing emergency medical services operations that provide services in rural areas of the state. Members of the task force serve at the pleasure of the state health officer.~~
2. ~~Before April 1, 2010, the stroke system of care task force shall provide the state department of health with recommendations regarding the establishment of an effective stroke system of care in the rural areas of this state. The initial recommendations must include:~~
 - a. ~~Protocols for the triage, stabilization, and appropriate routing of stroke patients by emergency medical services operations in rural areas; and~~
 - b. ~~A plan to provide for coordination and communication between rural hospitals, primary stroke centers, and other support services in order to assure that residents of all regions of the state have access to effective and efficient stroke care.~~

3. ~~The state health council may adopt rules, based on the task force's recommendations.~~
1. The state department of health shall identify hospitals that meet the criteria as a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital. In order to receive a designation under this section, a hospital shall apply to the state department of health and shall demonstrate to the satisfaction of the department the hospital meets the applicable criteria.
2. In order to qualify for designation as a comprehensive stroke center, an accredited acute care hospital must be certified as a comprehensive stroke center by a department-approved, nationally recognized guidelines-based organization, which provides comprehensive stroke center hospital certification for stroke care. As a condition of retaining designation as a comprehensive stroke center, an acute care hospital shall maintain its certification.
3. In order to qualify for designation as a primary stroke center, an accredited acute care hospital must be certified as a primary stroke center by a department-approved, nationally recognized guidelines-based organization, which provides primary stroke center certification for stroke care. As a condition of retaining designation as a primary stroke center, an acute care hospital shall maintain its certification.
4. In order to qualify for designation as an acute stroke-ready hospital, an accredited acute care hospital must be certified as an acute stroke-ready hospital by department-approved, nationally recognized guidelines-based criteria. As a condition of retaining designation as an acute stroke-ready hospital, an acute care hospital shall maintain its certification.
5. Through agreement, a comprehensive stroke center and primary stroke center may coordinate with an acute stroke-ready hospital to provide appropriate access to care for acute stroke patients. The coordinating stroke care agreement must be in writing and include, at a minimum:
 - a. The transfer agreement for the transport and acceptance of a stroke patient seen by the acute stroke-ready hospital for stroke treatment therapies the stroke center or primary care center is not capable of providing; and
 - b. Communication criteria and protocol with the acute stroke-ready hospital.
6. If the department determines the hospital is not in compliance with the requirements set for designation level, after notice and a hearing, the state department of health may suspend or revoke a hospital's state designation as a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital.
7. Any facility that is not designated, must have a predetermined plan for the triage of acute stroke patients. The plan must be filed annually with the state department of health, division of emergency medical services and trauma.

SECTION 3. AMENDMENT. Section 23-43-03 of the North Dakota Century Code is amended and reenacted as follows:

23-43-03. Stroke triage – Emergency medical services operations - Assessment and transportation of stroke patients to a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital.

1. ~~Before January 1, 2011, the state department of health shall adopt a nationally recognized standardized stroke triage assessment tool. The department shall post this standardized stroke triage assessment tool to the department's website and shall provide a copy to each emergency medical services operation licensed in this state. As a term of licensure under chapter 23-27, each licensed emergency medical services operation shall adopt and implement a stroke triage assessment tool that is substantially similar to the standardized stroke triage assessment tool adopted by the department.~~
2. ~~The department shall work with the stroke task force to establish protocols related to the assessment, treatment, and transport of stroke patients by emergency medical services operations licensed by the state. The protocols may include regional transport plans for the triage and transport of stroke patients to the closest, most appropriate facility, including the bypass of health care facilities not designated as primary stroke centers when it is safe to do so.~~
3. ~~Effective April 1, 2012, each emergency medical services operation licensed under chapter 23-27 shall comply with this chapter.~~
1. Before June first of each year the state department of health shall send the list of comprehensive stroke centers, primary stroke centers, and acute stroke-ready hospitals to the medical director of each licensed emergency medical services operation in this state. The state department of health shall maintain a copy of the list and shall post a list of comprehensive stroke centers, primary stroke centers, and acute stroke-ready hospitals to the state department of health's website.
2. The state department of health shall adopt and distribute a nationally recognized, standardized stroke triage assessment tool. The department shall post this stroke triage assessment tool on the department's website and provide a copy of the assessment tool to each licensed emergency medical services operation. Each licensed emergency medical services operation shall use a stroke triage assessment tool that is substantially similar to the sample stroke triage assessment tool provided by the state department of health.
3. Each emergency medical services operation in the state shall establish prehospital care protocols related to the assessment, treatment, and transport of a stroke patient by a licensed emergency medical services operation. Such protocols must include plans for the triage and transport of an acute stroke patient to the closest comprehensive or primary stroke center or when appropriate to an acute stroke-ready hospital, within a specified timeframe of onset of symptoms.
4. As part of current training requirements, each emergency medical services operation in the state shall establish protocols to assure licensed emergency medical services providers and 911 dispatch personnel receive regular training on the assessment and treatment of stroke patients.
5. An emergency medical services operation shall comply with this chapter.

6. All data reported under this chapter must be made available to the state department of health and to all other government agencies, or contractors of government agencies, which have responsibility for the management and administration of emergency medical services throughout the state.
7. This chapter may not be construed to require disclosure of any confidential information or other data in violation of the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.].

SECTION 4. AMENDMENT. Section 23-43-04 of the North Dakota Century Code is amended and reenacted as follows:

23-43-04. Reports-Continuous improvement of quality of care for individuals with stroke - Recommendations - Report to legislative management.

~~Semiannually, each hospital designated as a primary stroke center shall provide the state department of health a report on the center's quality initiatives. The data in the report is an exempt record and is not subject to the state's open records law. However, the department shall make the data in these reports available to state and local government entities that have responsibility for the management and administration of emergency medical services throughout the state. Annually, the department shall compile the report data in aggregate form as a report card and post this report card to the department's website. The results of this report card may be used by the department to conduct training.~~

1. The state department of health shall establish and implement a plan for achieving continuous quality improvement in the quality of care provided under the state comprehensive stroke system for stroke response and treatment. In implementing this plan, the state department of health shall:
 - a. Maintain a statewide stroke database that compiles information and statistics on stroke care which align with nationally recognized stroke consensus metrics. The state department of health shall utilize a nationally recognized data set platform with confidentiality standards no less secure than the stroke registry data platform. The state department of health shall coordinate with national voluntary health organizations involved in stroke quality improvement to avoid duplication and redundancy.
 - b. Require comprehensive stroke centers and primary stroke centers and encourage acute stroke-ready hospitals and emergency medical services operations to report data consistent with nationally recognized guidelines on the treatment of individuals with confirmed stroke within the state.
 - c. Encourage sharing of information and data among health care providers on ways to improve the quality of care of stroke patients in this state.
 - d. Facilitate the communication and analysis of health information and data among the health care professionals providing care for individuals with stroke.
 - e. Require the application of evidence-based treatment guidelines regarding the transitioning of patients to community-based followup care in hospital outpatient, physician office, and ambulatory clinic settings for ongoing care after hospital discharge following acute treatment for stroke.

2. The state department of health shall establish a data oversight process and implement a plan for achieving continuous quality improvement in the quality of care provided under the state comprehensive stroke system for stroke response and treatment which must:
 - a. Analyze data generated by the stroke registry on stroke response and treatment;
 - b. Identify potential interventions to improve stroke care in geographic areas or regions of the state; and
 - c. Provide recommendations to the state department of health, emergency medical services advisory council, and legislative assembly for the improvement of stroke care and delivery in the state.
3. Data reported under this section must be made available to the state department of health and to other government agencies, or contractors of government agencies, which have responsibility for the management and administration of emergency medical services throughout the state.
4. Before June first of each even-numbered year, the state department of health shall provide a report to the legislative management regarding progress made toward the recommendations provided in this chapter and any recommendations for future legislation.

SECTION 5. AMENDMENT. Section 23-43-05 of the North Dakota Century Code is amended and reenacted as follows:

23-43-05. Standard of care.Stroke system of care task force.

~~This chapter is not a medical practice guideline and may not be used to restrict the authority of a hospital to provide services for which the hospital has been licensed. This chapter must be interpreted to recognize that all patients should be treated individually based on each patient's needs and circumstances.~~

1. The state department of health shall establish a stroke system of care task force to address matters of triage, treatment, and transport of possible acute stroke patients. The stroke system of care task force must include representation from the state department of health, the emergency medical services advisory council, the university of North Dakota's center for rural health, the American stroke association or similar entity, comprehensive stroke centers, primary stroke centers, rural hospitals, physicians, and emergency medical services operations.
2. The task force shall implement the regulations necessary to establish an effective stroke system of care in the state, with a focus on serving rural areas. The regulations must include protocols for the assessment, stabilization, and appropriate routing of stroke patients by emergency medical services operations, and for coordination and communication between hospitals, comprehensive stroke centers, primary stroke centers, and other support services necessary to assure all residents have access to effective and efficient stroke care.
3. The stroke system of care task force shall make recommendations to the state department of health and health council. Upon receiving such

recommendations, the health council may adopt rules implementing the recommendations.

4. As used in this subsection, "telemedicine services" means the use of interactive audio, video, and other electronic media used for the purpose of diagnosis, consultation, or treatment of acute stroke. The stroke system of care task force shall recommend eligible essential health care services for acute stroke care provided through telemedicine services.

SECTION 6. AMENDMENT. Section 23-43-06 of the North Dakota Century Code is amended and reenacted as follows:

23-43-06. Advertisement-General provisions.

~~A person may not advertise to the public that a hospital is a primary stroke center unless the hospital has been designated as such under this chapter.~~

1. This chapter is not a medical practice guideline and may not be used to restrict the authority of a hospital to provide services for which the hospital received a license under state law. Patients must be treated individually based on the needs and circumstances of each patient.
2. A person may not advertise to the public, by way of any medium, that a hospital is a comprehensive stroke center, primary stroke center, or acute stroke ready hospital unless the hospital is designated as such by the state department of health.
3. The health council may adopt rules to implement this chapter.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 199

SENATE BILL NO. 2259

(Senators Mathern, Wanzek, Heckaman)
(Representatives Oversen, Pollert, Glasshiem)

AN ACT to create and enact chapter 23-48 of the North Dakota Century Code, relating to the use of experimental drugs; and to provide for a notification by the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 23-48 of the North Dakota Century Code is created and enacted as follows:

23-48-01. Definitions.

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

1. a. "Eligible patient" means an individual who:
 - (1) Has a terminal illness that is attested to by the patient's treating physician;
 - (2) Considered all other treatment options currently approved by the United States food and drug administration;
 - (3) If there is a clinical trial for the terminal illness within one hundred miles of the patient's home address for the terminal illness, is unable to participate in the clinical trial or within one week of completion of the clinical trial application process is not accepted to the clinical trial;
 - (4) Has a recommendation from the patient's treating physician for an investigational drug, biological product, or device;
 - (5) Has given written, informed consent for the use of the investigational drug, biological product, or device or, if the patient is a minor or lacks the mental capacity to provide informed consent, a parent or legal guardian has given written, informed consent on the patient's behalf; and
 - (6) Has documentation by the patient's treating physician the patient meets the requirements of this subdivision.
- b. The term does not include an individual treated as an inpatient in a hospital licensed under chapter 23-16.
2. "Investigational drug, biological product, or device" means a drug, biological product, or device that has successfully completed phase one of a clinical trial but has not yet been approved for general use by the United States food and drug administration and remains under investigation in a United States food and drug administration-approved clinical trial.

3. "Terminal illness" means a disease that, without life-sustaining procedures, will soon result in death or a state of permanent unconsciousness from which recovery is unlikely.
4. "Written, informed consent" means a written document signed by the patient or the patient's parent or legal guardian and attested to by the patient's treating physician and by a witness which:
 - a. Explains the currently approved products and treatments for the terminal illness from which the patient suffers;
 - b. Attests to the fact the patient concurs with the patient's treating physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patient's life;
 - c. Identifies the specific proposed investigational drug, biological product, or device the patient is seeking to use;
 - d. Describes the potentially best and worst outcomes of using the investigational drug, biological product, or device with a realistic description of the most likely outcome, including the possibility that new, unanticipated, different, or worse symptoms might result, and that death could be hastened by the proposed treatment, based on the treating physician's knowledge of the proposed treatment in conjunction with an awareness of the patient's condition;
 - e. States the patient's health insurer and provider are not obligated to pay for any care or treatments consequent to the use of the investigational drug, biological product, or device;
 - f. States the patient's eligibility for hospice care may be withdrawn if the patient begins curative treatment and that hospice care may be reinstated if the curative treatment ends and the patient meets hospice eligibility requirements;
 - g. States in-home health care may be denied if treatment begins; and
 - h. Attests that the patient understands the patient is liable for all expenses consequent to the use of the investigational drug, biological product, or device, and that this liability may extend to the patient's estate, unless a contract between the patient and the manufacturer of the drug, biological product, or device states otherwise.

23-48-02. Drug manufacturers - Availability of investigational drugs, biological products, or devices - Costs - Insurance coverage.

1. A manufacturer of an investigational drug, biological product, or device may make available the manufacturer's investigational drug, biological product, or device to an eligible patient pursuant to this chapter. This chapter does not require that a manufacturer make available to an eligible patient an investigational drug, biological product, or device.
2. A manufacturer may:
 - a. Provide to an eligible patient an investigational drug, biological product, or device without receiving compensation; or

- b. Require an eligible patient to pay the costs of, or the costs associated with, the manufacture of the investigational drug, biological product, or device.
3. If an eligible patient dies while being treated by an investigational drug, biological product, or device, the eligible patient's heirs are not liable for any outstanding debt related to the treatment or lack of insurance due to the treatment.

23-48-03. Action against health care provider's license or medicare certification prohibited.

Notwithstanding any other law, a licensing board may not revoke, fail to renew, suspend, or take any action against a health care provider's license issued in this state, based solely on the health care provider's recommendations to an eligible patient regarding access to or treatment with an investigational drug, biological product, or device, if the recommendations are consistent with medical standards of care. Action against a health care provider's medicare certification based solely on the health care provider's recommendation that a patient have access to an investigational drug, biological product, or device is prohibited.

23-48-04. Access to investigational drugs, biological products, and devices.

An official, employee, or agent of this state may not block or attempt to block an eligible patient's access to an investigational drug, biological product, or device. Counseling, advice, or a recommendation consistent with medical standards of care from a licensed health care provider is not a violation of this section. This section does not require payment for experimental drugs under this state's medical assistance program or from other payer sources.

23-48-05. Cause of action not created.

This chapter does not create a private cause of action against a manufacturer of an investigational drug, biological product, or device or against any other person involved in the care of an eligible patient using the investigational drug, biological product, or device, for any harm done to the eligible patient resulting from the investigational drug, biological product, or device, if the manufacturer or other person complied in good faith with the terms of this chapter. However, this chapter does not limit a private cause of action against a manufacturer or other person if there was a failure to exercise reasonable care.

SECTION 2. NOTIFICATION BY SECRETARY OF STATE. The secretary of state shall notify the federal food and drug administration and the North Dakota congressional delegation of this bill by sending a copy of this bill upon filing with the secretary of state.

Approved April 15, 2015
Filed April 15, 2015

MENTAL AND PHYSICAL ILLNESS OR DISABILITY

CHAPTER 200

HOUSE BILL NO. 1108

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 25-01-01.1, 25-01.2-01, 25-01.2-02, 25-01.2-03, 25-01.2-04, 25-01.2-08, 25-01.2-09, 25-01.2-11, 25-01.2-13, 25-01.2-14, 25-01.2-17, 25-04-01, 25-04-02, 25-04-03, 25-04-04, 25-04-05.1, 25-16-01, 25-16-02, 25-16-03, 25-16-03.1, 25-16-05, 25-16-06, 25-16-07, 25-16-08, 25-16-09, 25-16-12, 25-16-14, 25-16.1-01, 25-18-15, subsection 9 of section 43-12.1-04, sections 50-06-01.4, 50-06-06.3, 50-06-06.4, 50-10.1-01, and 57-38-01.16 of the North Dakota Century Code, relating to changing statutory references to "developmentally disabled persons" to "individual with a developmental disability" or "individuals with developmental disabilities".

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-01-01.1. State council on developmental disabilities.

There must be maintained in the department of human services a state council on developmental disabilities consisting of one representative of each of the following departments, divisions, institutions, and organizations designated by the head of such agency or organization:

1. Office of superintendent of public instruction.
2. North Dakota department of human services.
3. State department of health.
4. Life skills and transition center.
5. Job service North Dakota.

The council shall, at a minimum, include representation that conforms to federal law requirements regarding state councils on developmental disabilities. All members of the council must be appointed by the governor. The council shall select its own officers who shall serve for a term of two years commencing on October first of each year. Meetings must be held at least twice a year or at the call of the chairman or upon notice in writing signed by not less than three members of the council. A simple majority of the council constitutes a quorum and may act upon any matter coming

before the council. Members of the council are entitled to reimbursement in the same manner and at the same rate provided by law for other state officials.

The council shall assist in the development of the state plan for developmental disabilities, monitor and evaluate the implementation of such state plan, and review and comment on all state plans in the state which relate to programs affecting ~~persons~~individuals with developmental disabilities. The council may take any action reasonably necessary to secure and administer any money made available to state councils on developmental disabilities through the Developmentally Disabled and Bill of Rights Act [Pub. L. 95-602; 92 Stat. 2955; 42 U.S.C. 6000 et seq.]. The council, if approved by the governor, shall appoint a full-time director who shall assist the council. The director must be classified under the state personnel merit system. The council shall also perform studies and surveys of the needs of ~~developmentally disabled persons~~individuals with developmental disabilities in North Dakota and shall facilitate coordination of the activities of all state departments, divisions, agencies, and institutions having responsibilities in the field of developmental disabilities.

SECTION 2. AMENDMENT. Section 25-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Developmental disability" means a severe, chronic disability of a ~~person~~an individual which:
 - a. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - b. Is manifested before the ~~person~~individual attains age twenty-two;
 - c. Is likely to continue indefinitely;
 - d. Results in substantial functional limitations in three or more of the following areas of major life activity:
 - (1) Self-care;
 - (2) Receptive and expressive language;
 - (3) Learning;
 - (4) Mobility;
 - (5) Self-direction;
 - (6) Capacity for independent living; and
 - (7) Economic sufficiency; and
 - e. Reflects the ~~person's~~individual's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

2. "Institution or facility" means any school, hospital, residence center, group home, or any other facility operated by any public or private agency, organization, or institution, which provides services to ~~developmentally disabled persons~~ an individual with a developmental disability.
3. "Least restrictive appropriate setting" means that setting which allows the ~~developmentally disabled person~~ individual with a developmental disability to develop and realize the ~~person's~~ individual's fullest potential and enhances the ~~person's~~ individual's ability to cope with the ~~person's~~ individual's environment without unnecessarily curtailing fundamental personal liberties.
4. "Service or services for ~~developmentally disabled persons~~ an individual with a developmental disability" means services provided by any public or private agency, organization, or institution, directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of a ~~developmentally disabled person~~ an individual with a developmental disability.

SECTION 3. AMENDMENT. Section 25-01.2-02 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-02. Appropriate treatment, services, and habilitation - Treatment in least restrictive appropriate setting.

All ~~persons~~ individuals with developmental disabilities have a right to appropriate treatment, services, and habilitation for those disabilities. Treatment, services, and habilitation for ~~developmentally disabled persons~~ individuals with a developmental disability must be provided in the least restrictive appropriate setting.

SECTION 4. AMENDMENT. Section 25-01.2-03 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-03. Presumption of incompetence prohibited - Discrimination prohibited - Deprivation of constitutional, civil, or legal rights prohibited.

~~No developmentally disabled person~~ An individual with a developmental disability may not be presumed to be incompetent ~~or~~ and may not be deprived of any constitutional, civil, or legal right solely because of admission to or residence at an institution or facility or solely because of receipt of services for ~~developmentally disabled persons~~ individuals with a developmental disability. However, nothing in this section may be construed to limit or modify section 16.1-01-04. The constitutional, civil, or legal rights which may not be varied or modified under the provisions of this section include:

1. The right to vote at elections;
2. The free exercise of religion;
3. The right of reasonable opportunities to interact with members of the opposite sex; and
4. The right to confidential handling of personal and medical records.

SECTION 5. AMENDMENT. Section 25-01.2-04 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-04. Mail, telephone, and visitation rights - Application to residential institution or facility.

1. Except as provided in this section, every person/individual who resides in a mental health or developmental disabilities institution or facility has the right of private, unimpeded, uncensored communication with persons of the resident's choice by mail, telephone, and visitation.
 - 1-a. The facility director shall ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible, and that space for private visitation is available.
 - 2-b. The facility director may establish in writing reasonable times and places for use of telephones and for visits, provided that a resident's ability to contact an attorney may not be restricted and provided that any rules or restrictions must be posted in each residential facility. A copy of any rules or restrictions must be given to all residents over eighteen years of age and to the parents or guardian of all residents under eighteen years of age, upon admission.
2. This section applies only with respect to an institution or facility that provides residential care.

SECTION 6. AMENDMENT. Section 25-01.2-08 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-08. Medication - Chemical restraints.

No person/individual receiving services at any institution or facility for the ~~developmentally disabled/individuals with developmental disabilities~~ may at any time be administered any drug or medication, or be chemically restrained or tranquilized in any manner, except upon the written authorization of a licensed physician when necessary and appropriate as an element of the service being received or as a treatment of any medical or physical condition in conformity with accepted standards for that treatment. The nature, amount of, and reasons for the administration of any drug or medication must be promptly recorded in the person's medical record.

SECTION 7. AMENDMENT. Section 25-01.2-09 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-09. Punishment - Isolation - Physical restraints - Psychosurgery - Sterilization - Shock treatment.

No person/individual receiving services at any institution or facility for the ~~developmentally disabled/individuals with developmental disabilities~~ may at any time:

1. Be subjected to any corporal punishment.
2. Be isolated or secluded, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that person/individual or other persons/individuals.
3. Be physically restrained in any manner, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that person/individual or to other persons/individuals.

4. Be subjected to psychosurgery, sterilization, medical behavioral research, or pharmacological research, except in conformity with an order of a court of competent jurisdiction. Under no circumstances may ~~a person~~ an individual receiving treatment be subjected to hazardous or intrusive experimental research which is not directly related to the specific goals of that ~~person's~~ individual's treatment program.
5. Be subjected to electroconvulsive therapy or shock treatment without that ~~person's~~ individual's written and informed consent. If the recipient of services is a minor, the recipient's parent or guardian may provide informed consent for that treatment which the parent or guardian believes to be in the recipient's best interests.

SECTION 8. AMENDMENT. Section 25-01.2-11 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-11. Psychosurgery, sterilization, or research - Court order required - Hearing - Right to attorney at public expense - Application to residential institution or facility.

A court of competent jurisdiction may issue the orders required for the procedures or treatments in subsection 4 of section 25-01.2-09 upon application of the party alleging the necessity of the procedure, the ~~person~~ individual who is receiving or is entitled to receive the treatment, or the ~~person's~~ individual's guardian, following a hearing on the application.

1. The ~~person~~ individual receiving or entitled to treatment shall:
 - a. Receive prior notice of the hearing;
 - b. Have the right and the opportunity to present evidence; and
 - c. Have the right to be confronted with and to cross-examine witnesses.
2. If the ~~developmentally disabled person~~ individual with a developmental disability is indigent, counsel shall be provided at public expense not less than ten days before the hearing.
3. The burden of proof is on the party alleging the necessity of the procedure or treatment.
4. An order allowing the procedure or treatment may not be granted unless the party alleging the necessity of the procedure or treatment proves by clear and convincing evidence that the procedure is in the best interest of the recipient and that no less drastic measures are feasible.

This section applies only with respect to an institution or facility that provides residential care.

SECTION 9. AMENDMENT. Section 25-01.2-13 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-13. Education.

Every ~~developmentally disabled child~~ with a developmental disability is entitled to a free and appropriate education in the least restrictive appropriate setting in accordance with chapter 15.1-32.

SECTION 10. AMENDMENT. Section 25-01.2-14 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-14. Individualized habilitation or education plan - Contents.

Any institution, facility, agency, or organization that provides services for ~~developmentally disabled persons~~ individuals with a developmental disability shall have a written, individualized habilitation plan developed and put into effect for each ~~person~~ individual for whom that institution, facility, agency, or organization is primarily responsible for the delivery, or coordinating the delivery, of services. A school must have an individual educational plan for each of its ~~developmentally disabled students~~ with a developmental disability. A plan required under this section must:

1. Be developed and put into effect within thirty days following admission of the ~~person~~ individual.
2. Be reviewed and updated from time to time, but no less than annually.
3. Include a statement of the long-term habilitation or education goals for the ~~person~~ individual and the intermediate objectives relating to the attainment of those goals. The objectives must be stated specifically, in sequence, and in behavioral or other terms that provide measurable indices of progress.
4. State an objective criteria and an evaluation procedure and schedule for determining whether the objectives and goals are being achieved.
5. Describe the personnel necessary for the provision of the services described in the plan.
6. Specify the date of initiation and the anticipated duration of each service to be provided.
7. State whether the ~~developmentally disabled person~~ individual with a developmental disability appears to need a guardian and determine the type of protection needed by the individual based on the individual's actual mental and adaptive limitations and other conditions which may warrant the appointment of a guardian. Any member of the individual habilitation plan team may petition, or notify any interested person of the need to petition, for a finding of incapacity and appointment of a guardian.

SECTION 11. AMENDMENT. Section 25-01.2-17 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-17. Enforcement of rights.

Every ~~developmentally disabled person~~ individual with a developmental disability is entitled to enforce any of the rights guaranteed by this chapter by civil action or any other remedy available by common law or statute. In any proceeding to enforce these rights, the court may, in its discretion, award reasonable attorney's fees and costs to a successful plaintiff. ~~A developmentally disabled person~~ An individual with a developmental disability who is successful in an administrative proceeding may also

be awarded reasonable attorney's fees and costs. Any award of attorney's fees and costs must be in addition to any actual or punitive damages to which the ~~person~~individual may be entitled.

SECTION 12. AMENDMENT. Section 25-04-01 of the North Dakota Century Code is amended and reenacted as follows:

25-04-01. Life skills and transition center - Name - Administration and control.

A facility for ~~developmentally disabled persons~~individuals with developmental disabilities must be maintained at or near the city of Grafton in Walsh County. The facility must also be available for a ~~person~~an individual who is determined to be a ~~person~~an individual who may benefit from the facility's services. The facility must be known and designated as the life skills and transition center. The department of human services has administrative authority and control of the life skills and transition center.

SECTION 13. AMENDMENT. Section 25-04-02 of the North Dakota Century Code is amended and reenacted as follows:

25-04-02. Purpose of life skills and transition center.

1. The life skills and transition center must be maintained for the relief, instruction, care, and custody of ~~persons who are developmentally disabled~~individuals with developmental disabilities or other ~~persons~~individuals who may benefit from the services offered at the center. For this purpose the department of human services may introduce and establish such trades and manual industries as in its judgment will best prepare the residents for future self-support.
2. The department may provide onsite and offsite additional services and effectuate its powers and duties to best serve ~~persons who are developmentally disabled~~individuals with developmental disabilities and other ~~persons~~individuals who may benefit from those activities. The services provided and the duties effectuated need not be accredited by the accreditation council on services for people with developmental disabilities or certified by the health care financing administration, or any other similar accrediting or certifying organization, if the service or duty is not provided to ~~persons who are developmentally disabled~~individuals with developmental disabilities or if such accrediting or certifying organization does not accredit or certify the service or duty.

SECTION 14. AMENDMENT. Section 25-04-03 of the North Dakota Century Code is amended and reenacted as follows:

25-04-03. Qualifications of superintendent.

The superintendent of the life skills and transition center must be a skilled administrator with professional training and experience relating to the needs of the ~~developmentally disabled~~individuals with developmental disabilities. All employees must be appointed and removed by the superintendent or by the superintendent's designee. The salaries of all employees shall be fixed by the superintendent or the superintendent's designee within the limits of the legislative appropriations made for such purpose.

SECTION 15. AMENDMENT. Section 25-04-04 of the North Dakota Century Code is amended and reenacted as follows:

25-04-04. Who may receive benefits of life skills and transition center.

Subject to this chapter and to any rules adopted by the department of human services, the benefits of the life skills and transition center may be received by:

1. ~~Persons who are developmentally disabled~~Individuals with developmental disabilities and other ~~persons~~individuals who may benefit from services provided at the life skills and transition center who, in the opinion of the superintendent of the life skills and transition center are of suitable age and capacity to receive instruction in the center and whose deficiencies prevent them from receiving proper training and instruction in the public schools;
2. ~~Persons who are developmentally disabled~~Individuals with developmental disabilities and other ~~persons~~individuals who may benefit from services provided at the life skills and transition center who cannot be properly cared for in their homes or other available facilities; or
3. ~~Persons who are developmentally disabled~~Individuals with developmental disabilities and other ~~persons~~individuals who may benefit from onsite and offsite services provided or duties effectuated by the life skills and transition center.

Residents and nonresidents of this state may receive the benefits of the life skills and transition center. Priority, however, must be given to residents of this state and first priority must be given to ~~persons who are developmentally disabled~~individuals with developmental disabilities.

SECTION 16. AMENDMENT. Section 25-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-05.1. Transfer of residents - Visiting privileges - Release and placement of patients.

1. The superintendent shall have the right of temporary transfer of any resident of the life skills and transition center to an appropriate hospital or other specialized facility when in the superintendent's opinion the immediate health and safety of the resident requires the transfer. The superintendent shall also have the right and responsibility of indefinite transfer of a resident from one state facility for the ~~developmentally disabled~~individuals with developmental disabilities to another when the best interest of the resident will be served thereby, or when the transfer is required in conformity with the policies of the department of human services; provided, however, that no transfer may be effected until all reasonable efforts have been made to consult with the resident's parent or guardian of the person.
2. Subject to reasonable rules for the orderly operation of the life skills and transition center or other state facility for the ~~developmentally disabled~~individuals with developmental disabilities, any parent or guardian of the person of a resident shall have the right of visiting and communicating with a child or ward and authorizing visits and communications with others.
3. The superintendent may authorize the temporary release of any resident to the custody of the resident's parent or guardian of the person, or to another

person designated by the parent or such guardian. In the absence of such authorization, any parent or guardian of the person of any resident may formally request, in writing, the resident's temporary release. The release must be granted at the earliest reasonable opportunity, but not more than thirty days after receipt of a written application. If a release is, or would be, effected contrary to the advice of the superintendent based on a recent comprehensive evaluation of the individual, the superintendent shall so advise the parent or such guardian in writing.

4. The superintendent may arrange for the suitable placement of a resident outside the life skills and transition center or other state facility and to release the resident on placement, provided placement has been preceded by a comprehensive evaluation. No such placement may be effected until all reasonable efforts have been made to consult with the resident's parent or guardian of the person.

SECTION 17. AMENDMENT. Section 25-16-01 of the North Dakota Century Code is amended and reenacted as follows:

25-16-01. Definitions.

In this chapter unless the context or subject matter otherwise requires:

1. "Department" means the department of human services.
2. "Treatment or care center" means any hospital, home, or other premises operated to provide relief, care, custody, treatment, day activity, work activity, or extended employment services to ~~developmentally disabled persons~~ individuals with a developmental disability.

SECTION 18. AMENDMENT. Section 25-16-02 of the North Dakota Century Code is amended and reenacted as follows:

25-16-02. License required.

The operator of a treatment or care center for ~~developmentally disabled persons~~ individuals with a developmental disability shall secure annually from the department a license as required by rules adopted under this chapter.

SECTION 19. AMENDMENT. Section 25-16-03 of the North Dakota Century Code is amended and reenacted as follows:

25-16-03. Requirements for license.

The department shall issue a license for the operation of a treatment or care center for ~~developmentally disabled persons~~ individuals with a developmental disability upon a showing that:

1. The premises to be used are in fit, safe, sanitary condition and properly equipped to provide good care and treatment;
2. The persons in active charge of the center and their assistants are qualified by training and experience to carry on efficiently the duties required of them;
3. The health, ~~morality~~, safety, and well-being of the residents cared for and treated therein will be properly safeguarded;

4. There is sufficient entertainment, treatment, educational, and physical facilities and services available to the residents therein;
5. Appropriate arrangements are made for a medical and psychological examination of each resident; and
6. The provider is in compliance with rules adopted by the department under this chapter.

SECTION 20. AMENDMENT. Section 25-16-03.1 of the North Dakota Century Code is amended and reenacted as follows:

25-16-03.1. Conviction not bar to licensure - Exceptions.

Conviction of an offense does not disqualify a person from licensure under this chapter unless the division determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a treatment or care center for ~~developmentally disabled persons~~individuals with a developmental disability, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 21. AMENDMENT. Section 25-16-05 of the North Dakota Century Code is amended and reenacted as follows:

25-16-05. Content of license.

The license to operate a treatment or care center for ~~developmentally disabled persons~~individuals with a developmental disability issued under the provisions of this chapter must specify:

1. The name of the licensee.
2. The premises to which the license is applicable.
3. The number of residents who may be received in such premises at any one time.
4. The date of expiration of the license.

SECTION 22. AMENDMENT. Section 25-16-06 of the North Dakota Century Code is amended and reenacted as follows:

25-16-06. Department to prescribe forms - Rules.

The department may prescribe forms for the registration and record of the persons residing in treatment or care centers for ~~developmentally disabled persons~~individuals with a developmental disability and may adopt reasonable rules for the conduct of such centers as are necessary to carry out the purposes of this chapter.

SECTION 23. AMENDMENT. Section 25-16-07 of the North Dakota Century Code is amended and reenacted as follows:

25-16-07. Records of treatment or care center confidential.

Except as otherwise authorized by law, an agent of the department of human services or the superintendent of the life skills and transition center or the licensee or

their agents or employees may not disclose the contents of the individual records of a treatment or care center for ~~developmentally disabled persons~~ developmentally disabled individuals with a developmental disability, nor of the reports received from those records, except:

1. In a judicial proceeding when ordered by the presiding judge;
2. To a law enforcement official for a law enforcement purpose or any other legally constituted boards or agencies serving the interests of the residents for treatment, payment, or health care operations, to arrange, facilitate, or coordinate service to any such person;
3. To the parents or legal guardians of the resident;
4. To a physician to aid in the treatment of an individual within the fourth degree of consanguinity of a deceased resident, if the disclosure is limited to genetic health information that has a direct bearing on the health of the relative, the relative's child, or the relative's decision to have a child; or
5. To an individual who is within the fourth degree of consanguinity of a deceased resident, if the disclosure is limited to information about a resident needed to establish a family's genealogy.

SECTION 24. AMENDMENT. Section 25-16-08 of the North Dakota Century Code is amended and reenacted as follows:

25-16-08. Revocation of license.

The department may revoke a license of a treatment or care center for ~~developmentally disabled persons~~ individuals with a developmental disability upon a proper showing that:

1. Any of the conditions set forth in section 25-16-03 as requirements for the issuance of the license no longer exists;
2. The license was issued upon fraudulent or untrue representations;
3. The owner or operator has violated any of the rules of the department; or
4. The owner or operator of the center has been guilty of an offense determined by the department to have a direct bearing upon a person's ability to serve the public as an owner or operator, or the department determines, following conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 25. AMENDMENT. Section 25-16-09 of the North Dakota Century Code is amended and reenacted as follows:

25-16-09. Hearing on denial or revocation of license.

Before any application for a license to conduct a treatment or care center for ~~developmentally disabled persons~~ individuals with a developmental disability is denied or before the revocation of such license by the department, written charges as to the reasons ~~therefor~~ for the revocation or denial must be served upon the applicant or licensee, who ~~shall have the~~ has a right to a hearing before the department, if a hearing is requested within ten days after service of written charges.

SECTION 26. AMENDMENT. Section 25-16-12 of the North Dakota Century Code is amended and reenacted as follows:

25-16-12. Efforts to obtain private and governmental grants.

The department of human services and the duly licensed treatment or care centers for ~~developmentally disabled persons~~individuals with a developmental disability may exert all possible efforts to obtain grants, both private and governmental, for the care, custody, treatment, training, and education of ~~developmentally disabled persons~~individuals with a developmental disability.

SECTION 27. AMENDMENT. Section 25-16-14 of the North Dakota Century Code is amended and reenacted as follows:

25-16-14. Definitions - Group homes for ~~developmentally disabled persons~~individuals with developmental disabilities - Zoning.

1. For the purposes of this section:

- a. "Group home" means any community residential facility, foster home, family care facility, or other similar home for individuals with a developmental disability.
- b. "Developmentally disabled personIndividual with a developmental disability" means ~~a person~~an individual with a severe, chronic disability which:
 - (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - (2) Is manifested before the ~~person~~individual attains age twenty-two;
 - (3) Is likely to continue indefinitely;
 - (4) Results in substantial functional limitations in three or more of the following areas of major life activity:
 - (a) Self-care;
 - (b) Receptive and expressive language;
 - (c) Learning;
 - (d) Mobility;
 - (e) Self-direction;
 - (f) Capacity for independent living; and
 - (g) Economic sufficiency; and
 - (5) Reflects the ~~person's~~individual's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are lifelong or extended duration and are individually planned and coordinated.

- b. ~~"Group home" means any community residential facility, foster home, family care facility, or other similar home for developmentally disabled persons.~~
2. Notwithstanding the provisions in chapter 11-33, 40-47, or 58-03, or any other provisions authorizing any political subdivision to establish or enforce zoning regulations, a licensed group home serving six or fewer ~~developmentally disabled persons~~individuals with a developmental disability must be considered a permitted use in a single-family or equivalent least-density residential zone, and a licensed group home serving eight or fewer ~~developmentally disabled persons~~individuals with a developmental disability must be considered a permitted use in any area zoned for residential use of greater density than single-family use.

SECTION 28. AMENDMENT. Section 25-16.1-01 of the North Dakota Century Code is amended and reenacted as follows:

25-16.1-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the department of human services.
2. "Treatment or care center" means any hospital, home, or other premises, operated to provide relief, care, custody, treatment, day activity, work activity, or extended employment services to ~~developmentally disabled persons~~individuals with developmental disabilities.

SECTION 29. AMENDMENT. Section 25-18-15 of the North Dakota Century Code is amended and reenacted as follows:

25-18-15. Payment for services to medically fragile children.

The department may consider the unique level of care, the additional cost required to provide services to medically fragile clients under twenty-one years of age, and the actual and reasonable cost of providing services to ~~developmentally disabled individuals~~individuals with developmental disabilities when reimbursing an intermediate care facility for individuals with intellectual disabilities.

SECTION 30. AMENDMENT. Subsection 9 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

9. A person that provides medications, other than by the parenteral route:
 - a. Within a correctional facility, in compliance with section 12-44.1-29;
 - b. Within a psychiatric residential treatment facility for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;
 - c. Within a treatment or care center for ~~developmentally disabled persons~~individuals with developmental disabilities licensed under chapter 25-16;
 - d. Within a group home, a residential child care facility, or an adult foster care facility licensed under section 50-11-01 or North Dakota Administrative Code chapter 75-03-16;

- e. Within the life skills and transition center, to the extent the individual who provides medications is a direct training technician or a vocational training technician as approved by the department of human services;
- f. Within a human service center licensed under chapter 50-06; or
- g. Within a primary or secondary school under a program established under section 15.1-19-23 if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian.

SECTION 31. AMENDMENT. Section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.4. Structure of the department.

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:
 1. a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, child protection services, children's trust fund, state youth authority, licensure of day care homes and facilities, services to unmarried parents, refugee services, in-home community-based services, and administration of the interstate compacts on the placement of children and juveniles.
 2. b. Administration of programs for ~~persons~~individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.
 3. c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult family care homes, committee on aging, and the fund matching program for city or county tax levies for senior citizen activities and services.
 4. d. Administration of mental health programs, including planning and implementing preventive, consultative, diagnostic, treatment, and rehabilitative services for persons with mental or emotional disorders and psychiatric conditions.
 5. e. Administration of alcohol and drug abuse programs, including establishing quality assurance standards for the licensure of programs, services, and facilities, planning and coordinating a system of prevention, intervention, and treatment services, providing policy leadership in cooperation with other public and private agencies, and disseminating information to local service providers and the general public.

- 6- f. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, fuel assistance, child support enforcement, refugee assistance, work experience, work incentive, and quality control.
- 7- g. Administration of medical service programs, including medical assistance for needy persons, early and periodic screening, diagnosis and treatment, utilization control, and claims processing.
2. The executive director shall consult with and maintain a close working relationship with the state department of health; with the department of corrections and rehabilitation and the superintendents of the school for the deaf and the North Dakota vision services - school for the blind to develop programs for ~~developmentally disabled persons~~individuals with developmental disabilities; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive director shall also maintain a close liaison with county social service agencies.

SECTION 32. AMENDMENT. Section 50-06-06.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.3. Facility staff training.

It is the intent of the legislative assembly that the department of human services design and implement a facility staff training system in cooperation with the board of higher education to assure adequate and appropriate staff development and training for the providers of community-based care on behalf of ~~developmentally disabled persons~~individuals with developmental disabilities.

SECTION 33. AMENDMENT. Section 50-06-06.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.4. Comprehensive community residential program.

It is the intent of the legislative assembly that the department of human services implement a comprehensive community residential program for ~~developmentally disabled children~~ with developmental disabilities, including the use of intermediate care facilities and other such foster home and group home resources as deemed appropriate.

SECTION 34. AMENDMENT. Section 50-10.1-01 of the North Dakota Century Code is amended and reenacted as follows:

50-10.1-01. Definitions.

As used in this chapter:

1. "Administrative action" means any action or decision made by an owner, employee, or agent of a long-term care facility, or by a public agency, which affects the provision of services to a resident of a long-term care facility.
2. "Department" means the department of human services.
3. "Long-term care facility" means any skilled nursing facility, basic care facility, nursing home as defined in subsection 3 of section 43-34-01, assisted living facility, or swing-bed hospital approved to furnish long-term care services;

provided, that a facility, as defined by subsection 2 of section 25-01.2-01, providing services to ~~developmentally disabled persons~~individuals with developmental disabilities is not a long-term care facility.

4. "Resident" means ~~a person~~an individual residing in and receiving personal care from a long-term care facility.

SECTION 35. AMENDMENT. Section 57-38-01.16 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.16. Income tax credit for employment of ~~developmentally disabled individuals with developmental disabilities~~ or chronically mentally ill persons.

A taxpayer filing an income tax return under this chapter may claim a credit against the tax liability imposed under section 57-38-30 for a portion of the wages paid to ~~a developmentally disabled~~an employee with a developmental disability or a chronically mentally ill employee. The credit allowed under this section equals five percent of up to six thousand dollars in wages paid during the first twelve months of employment by the taxpayer for each ~~developmentally disabled~~employee with a developmental disability or chronically mentally ill employee of the taxpayer. Only wages actually paid during the taxpayer's taxable year may be considered for purposes of this section. An employee of a subcontractor is considered an employee of the contractor to the extent of any wages paid under the contract.

The total of credits allowed under this section may not exceed fifty percent of the taxpayer's liability under this chapter.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 201

HOUSE BILL NO. 1040

(Legislative Management)
(Health Care Reform Review Committee)

AN ACT to amend and reenact sections 25-03.1-02, 25-03.1-04, 25-03.1-06, 25-03.1-07, 25-03.1-08, 25-03.1-10, 25-03.1-11, 25-03.1-16, 25-03.1-17, 25-03.1-18.1, and 25-03.1-19, subsection 3 of section 25-03.1-21, and sections 25-03.1-23, 25-03.1-25, 25-03.1-26, 25-03.1-27, 25-03.1-41, and 25-03.1-42 of the North Dakota Century Code, relating to scope of practice in involuntary commitment proceedings; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-03.1-02 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-02. Definitions.

In this chapter, unless the context requires otherwise:

1. "Advanced practice registered nurse" means an individual who is licensed as an advanced practice registered nurse under chapter 43-12.1 within the role of certified nurse practitioner or certified clinical nurse specialist, who has completed the requirements for a minimum of a master's degree in psychiatric and mental health nursing from an accredited program, and who is functioning within the scope of practice in one of the population foci as approved by the state board of nursing. This chapter does not expand the scope of practice of an advanced practice registered nurse beyond the scope of practice established by the state board of nursing.
2. "Alternative treatment order" means an involuntary outpatient order for a treatment program, other than hospitalization, which may include treatment with a prescribed medication.
- ~~2-3.~~ "Chemically dependent person" or "person who is chemically dependent" means an individual with an illness or disorder characterized by a maladaptive pattern of usage of alcohol or drugs, or a combination thereof, resulting in social, occupational, psychological, or physical problems.
- ~~3-4.~~ "Consent" means voluntary permission that is based upon full disclosure of facts necessary to make a decision and which is given by an individual who has the ability to understand those facts.
- ~~4-5.~~ "Court" means, except when otherwise indicated, the district court serving the county in which the respondent resides.
- ~~5-6.~~ "Department" means the department of human services.
- ~~6-7.~~ "Director" means the director of a treatment facility or the director's designee.

- 7-8. "Expert examiner" means a licensed physician, physician assistant, psychiatrist, psychologist trained in a clinical program, advanced practice registered nurse, or licensed addiction counselor appointed by the court to examine the respondent and to provide an evaluation of whether the respondent is a person requiring treatment.
- 8-9. "Independent expert examiner" means a licensed physician, physician assistant, psychiatrist, psychologist trained in a clinical program, advanced practice registered nurse, or licensed addiction counselor, chosen at the request of the respondent to provide an independent evaluation of whether the respondent is a person requiring treatment.
- 9-10. "Magistrate" means the judge of the appropriate district or juvenile court or a judge assigned by the presiding judge of the judicial district.
- 40-11. "Mental health professional" means:
- a. A psychologist with at least a master's degree who has been either licensed or approved for exemption by the North Dakota board of psychology examiners.
 - b. A social worker with a master's degree in social work from an accredited program.
 - c. ~~A registered nurse with a master's degree in psychiatric and mental health nursing from an accredited program~~An advanced practice registered nurse.
 - d. A registered nurse with a minimum of two years of psychiatric clinical experience under the supervision of ~~a registered nurse as defined by subdivision c or~~ of an expert examiner.
 - e. A licensed addiction counselor.
 - f. A licensed professional counselor with a master's degree in counseling from an accredited program who has either successfully completed the advanced training beyond the master's degree as required by the national academy of mental health counselors or a minimum of two years of clinical experience in a mental health agency or setting under the supervision of a psychiatrist or psychologist.
 - g. A physician assistant.
- 44-12. "Mentally ill person" or "person who is mentally ill" means an individual with an organic, mental, or emotional disorder ~~which~~that substantially impairs the capacity to use self-control, judgment, and discretion in the conduct of personal affairs and social relations. ~~"Mentally ill person"~~The term does not include an individual with an intellectual disability of significantly subaverage general intellectual functioning ~~which~~that originates during the developmental period and is associated with impairment in adaptive behavior, although ~~a person~~an individual who is intellectually disabled may also ~~suffer from a mental illness~~be a person who is mentally ill. Chemical dependency does not per se constitute mental illness, although ~~persons suffering from that condition~~a person who is chemically dependent may also be ~~suffering from mental illness~~a person who is mentally ill.

- ~~42-13.~~ "Person requiring treatment" means a person who is mentally ill or a person who is chemically dependent, and there is a reasonable expectation that if the ~~person~~individual is not treated for the mental illness or chemical dependency there exists a serious risk of harm to that ~~person~~individual, others, or property. "Serious risk of harm" means a substantial likelihood of:
- ~~a. Suicide, as manifested by suicidal threats, attempts, or significant depression relevant to suicidal potential;~~
 - ~~b. Killing or inflicting serious bodily harm on another person or inflicting significant property damage, as manifested by acts or threats;~~
 - ~~c. Substantial deterioration in physical health, or substantial injury, disease, or death, based upon recent poor self-control or judgment in providing one's shelter, nutrition, or personal care; or~~
 - ~~d. Substantial deterioration in mental health which would predictably result in dangerousness to that person, others, or property, based upon evidence of objective facts to establish the loss of cognitive or volitional control over the person's thoughts or actions or based upon acts, threats, or patterns in the person's treatment history, current condition, and other relevant factors, including the effect of the person's mental condition on the person's ability to consent.~~
- ~~43-14.~~ "Physician assistant" means an individual licensed to practice as a physician assistant under chapter 43-17, who is authorized by the state board of medical examiners to practice in the field of psychiatry, holds a certification in psychiatry approved by the board, and is practicing under the supervision of a psychiatrist licensed to practice medicine in this state. This chapter does not expand the scope of practice of a physician assistant beyond the scope of practice authorized by the state board of medical examiners.
15. "Private treatment facility" means any facility established under chapter 10-19.1 or 10-33 and licensed under chapter 23-16 or 50-31.
- 44-16. "Psychiatrist" means a licensed physician who has completed a residency program in psychiatry.
- 45-17. "Public treatment facility" means any treatment facility not falling under the definition of a private treatment facility.
- 46-18. "Qualified service organization" means a ~~person or~~entity that provides services to a treatment facility such as data processing, bill collecting, dosage preparation, laboratory analysis, or legal, medical, accounting, or other professional services, and which agrees that in dealing with patient records, it is bound by the confidentiality restrictions of this chapter, except as otherwise provided for by law.
- 47-19. "Respondent" means ~~a person~~an individual subject to petition for involuntary treatment.
20. "Serious risk of harm" means a substantial likelihood of:
- a. Suicide, as manifested by suicidal threats, attempts, or significant depression relevant to suicidal potential;

- b. Killing or inflicting serious bodily harm on another individual or inflicting significant property damage, as manifested by acts or threats;
- c. Substantial deterioration in physical health or substantial injury, disease, or death based upon recent poor self-control or judgment in providing one's shelter, nutrition, or personal care; or
- d. Substantial deterioration in mental health which would predictably result in dangerousness to that individual, others, or property, based upon evidence of objective facts to establish the loss of cognitive or volitional control over the individual's thoughts or actions or based upon acts, threats, or patterns in the individual's treatment history, current condition, and other relevant factors, including the effect of the individual's mental condition on the individual's ability to consent.

~~48-21.~~ "Superintendent" means the state hospital superintendent or the superintendent's designee.

~~49-22.~~ "Third-party payer" means a person ~~or entity who~~that pays, or agrees to pay, for diagnosis or treatment furnished to a patient on the basis of a contractual relationship with the patient or a member of the patient's family, or on the basis of the patient's eligibility for federal, state, or local governmental benefits, and includes any person ~~or entity~~ providing audit or evaluation activities for the third-party payer.

~~20-23.~~ "Treatment facility" or "facility" means any hospital, including the state hospital at Jamestown, or any evaluation and treatment facility that provides directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and inpatient care to ~~persons~~individuals suffering from a mental disorder or chemical dependencywho are mentally ill or chemically dependent.

SECTION 2. AMENDMENT. Section 25-03.1-04 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-04. Screening and admission to a public treatment facility.

Under rules adopted by the department, screening of an individual to a public treatment facility for observation, diagnosis, care, or treatment for mental illness or chemical dependency must be performed, in person ~~whenever~~when reasonably practicable, by a regional human service center. This screening must be performed in the region where the individual is physically located. Upon the request of a court, a law enforcement official, a qualified mental health professional, the individual's legal guardian, a minor's parent or legal custodian, or the individual requesting services, the regional human service center shall conduct a screening. If a request for screening is made by a qualified mental health professional and the individual that is the subject of the screening does not authorize the disclosure of the individual's protected health information, upon the request of the regional human service center, any mental health professional who has treated the individual within the previous six months shall disclose, subject to the requirements of title 42, Code of Federal Regulations, part 2, to the human service center any relevant protected health information regarding that treatment. Upon receipt of the request, the regional human service center shall arrange for a screening of the individual and must, if appropriate, treat the applicant, or refer the applicant to the appropriate treatment facility. Upon admittance to a public treatment facility, the superintendent or director shall

immediately designate a physician, psychiatrist, psychologist, advanced practice registered nurse, or mental health professional to examine the individual.

SECTION 3. AMENDMENT. Section 25-03.1-06 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-06. Right to release on application - Exception - Judicial proceedings.

Any ~~person~~individual voluntarily admitted for inpatient treatment to any treatment facility or the state hospital must be orally advised of the right to release and must be further advised in writing of the rights under this chapter. A voluntary patient who requests release must be immediately released. However, if the superintendent or the director determines that the patient is a person requiring treatment, the release may be postponed until judicial proceedings for involuntary treatment have been held in the county where the hospital or facility is located. The patient must be served the petition within twenty-four hours, exclusive of weekends and holidays, from the time release is requested, unless extended by the magistrate for good cause shown. The treatment hearing must be held within seven days from the time the petition is served.

SECTION 4. AMENDMENT. Section 25-03.1-07 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-07. Involuntary admission standards.

~~A person~~An individual may be involuntarily admitted under this chapter to the state hospital or another treatment facility only if it is determined that the individual is a person requiring treatment.

SECTION 5. AMENDMENT. Section 25-03.1-08 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-08. Application to state's attorney or retained attorney - Petition for involuntary treatment - Investigation by qualified mental health professional.

1. Any ~~person~~individual eighteen years of age or over shall present the information necessary for the commitment of an individual for involuntary treatment to the state's attorney of the county where the respondent is presently located, or which is the respondent's place of residence, or to an attorney retained by that ~~person~~applicant to represent the applicant throughout the proceedings. The attorney shall assist the ~~person~~applicant in completing the petition. The petition must be verified by affidavit of the applicant and contain assertions that the respondent is a person requiring the treatment; the facts, in detail, that are the basis of that assertion; the names, telephone numbers, and addresses, if known, of any witnesses to those facts; and, if known, the name, telephone number, and address of the nearest relative or guardian of the respondent, or, if none, of a friend of the respondent.
2. The petition may be accompanied by any of the following:
 - 1-a. A written statement supporting the petition from a psychiatrist, physician, physician assistant, psychologist, advanced practice registered nurse, or addiction counselor who is practicing within the professional scope of practice and who has personally examined the respondent within forty-five days of the date of the petition.

2-b. One or more supporting affidavits otherwise corroborating the petition.

3. In assisting the ~~person~~applicant in completing the petition, the state's attorney may direct a qualified mental health professional designated by the regional human service center to investigate and evaluate the specific facts alleged by the applicant. The investigation must be completed as promptly as possible and include observations of and conversation with the respondent, unless the respondent cannot be found or refuses to meet with the mental health professional. A written report of the results of the investigation must be delivered to the state's attorney. Copies of the report must be made available upon request to the respondent, the respondent's counsel, and any expert examiner conducting an examination under section 25-03.1-11. The state's attorney or retained attorney shall file the petition if the information provided by the petitioner or gathered by investigation provides probable cause to believe that the subject of the petition is a person requiring treatment. A state's attorney who determines there are insufficient grounds for filing a petition may refer the applicant to other community resources. A state's attorney's decision not to institute proceedings may be reviewed under section 11-16-06.

SECTION 6. AMENDMENT. Section 25-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-10. Involuntary treatment - Court-ordered examination.

If the petition is not accompanied by a written supportive statement of a psychiatrist, physician, physician assistant, psychologist, advanced practice registered nurse, or addiction counselor who has examined the respondent within the last forty-five days, the court shall order the respondent to be examined by an expert examiner of the respondent's own choice or one appointed by the court. The order must state the date and time within which the respondent must appear; the address to which the respondent is to report; a statement that if the respondent fails to appear at the appointed place at or before the ordered date and time, the respondent may be involuntarily taken into custody and transported to the appointed place; and a statement that the expert examiner may consult with or request participation in the examination by a qualified mental health professional and may include with the written examination report any findings or observations by that mental health professional. Accompanying the order must be an explanation of the intended uses and possible effects of this examination. The examination may be conducted at a treatment facility, at the respondent's home, or at any other suitable place in the community. A request for examination at the state hospital must be screened and approved by a regional human service center. The respondent may be accompanied by one or more relatives or friends at the place of the examination. The costs of the court-ordered examination must be borne by the county that is the respondent's place of residence.

SECTION 7. AMENDMENT. Section 25-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-11. Involuntary treatment - Examination - Report.

1. The respondent must be examined within a reasonable time by an expert examiner as ordered by the court. If the respondent is taken into custody under the emergency treatment provisions of this chapter, the examination must be conducted within twenty-four hours, exclusive of holidays, of custody. Any expert examiner conducting an examination under this section may consult with or request participation in the examination by any qualified mental

health professional and may include with the written examination report any findings or observations by that mental health professional. This examination report, and that of the independent examiner, if one has been requested, must be filed with the court. The report must contain:

- a. Evaluations of the respondent's physical condition and mental status.
 - b. A conclusion as to whether the respondent is a person requiring treatment, with a clear explanation of how that conclusion was derived from the evaluation.
 - c. If the report concludes that the respondent is a person requiring treatment, a list of available forms of care and treatment that may serve as alternatives to involuntary hospitalization.
 - d. The signature of the examiner who prepared the report.
2. For purposes of any examination conducted pursuant to this section:
- a. An evaluation of a respondent's physical condition may be made only by a licensed physician or physician assistant, psychiatrist, or advanced practice registered nurse.
 - b. An evaluation of a respondent's mental status may be made only by a licensed physician, physician assistant, psychiatrist, advanced practice registered nurse, or psychologist trained in a clinical program.
 - c. An evaluation of whether the respondent is chemically dependent may be made only by a licensed physician, physician assistant, psychiatrist, advanced practice registered nurse, licensed addiction counselor, or licensed psychologist trained in a clinical program.
3. If the expert examiner concludes that the respondent is not a person requiring treatment, the court may without taking any other additional action terminate the proceedings and dismiss the petition. If the expert examiner concludes that the respondent is a person requiring treatment, or makes no conclusion thereon, the court shall set a date for hearing and shall give notice of hearing to the persons designated in section 25-03.1-12. If the respondent is in custody and is alleged to be ~~suffering from mental illness~~ person who is mentally ill or a combination of ~~mental illness and chemical dependency~~ person who is both mentally ill and chemically dependent, the preliminary hearing date must be within four days, exclusive of weekends and holidays, of the date respondent was taken into custody through emergency commitment under section 25-03.1-25 unless a delay or continuance is concurred in by the respondent or unless extended by the magistrate for good cause shown. If a preliminary hearing is not required, the treatment hearing must be held within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served.

SECTION 8. AMENDMENT. Section 25-03.1-16 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-16. Medication pending treatment order.

A patient who has requested release or a ~~person~~ individual who is the subject of a petition for treatment has the right to refuse medication and other forms of treatment before the preliminary or treatment hearing. However, a physician, a physician assistant, or an advanced practice registered nurse may prescribe medication or a less restrictive alternative if it is necessary to prevent bodily harm to the respondent or others or to prevent imminent deterioration of the respondent's physical or mental condition. The patient has the right to be free of the effects of medication at the preliminary or treatment hearing by discontinuance of medication no later than twenty-four hours before the hearing unless, in the opinion of the ~~prescribing physician~~ prescriber, the need for the medication still exists or discontinuation would hamper the respondent's preparation for and participation in the proceedings.

SECTION 9. AMENDMENT. Section 25-03.1-17 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-17. Involuntary treatment - Right to preliminary hearing.

A respondent who is in custody under section 25-03.1-25 and who is alleged to be a mentally ill ~~person~~ or to be suffering from a combination of chemical dependency and mental illness ~~person who is both mentally ill and chemically dependent~~ is entitled to a preliminary hearing. At the preliminary hearing the magistrate shall review the medical report. During the hearing the petitioner and the respondent must be afforded an opportunity to testify and to present and cross-examine witnesses, and the court may receive the testimony of any other interested person. The magistrate may receive evidence that would otherwise be inadmissible at a treatment hearing. At the conclusion of the hearing, if the court does not find probable cause to believe that the individual is a person requiring treatment, the petition must be dismissed. The ~~person~~ individual must be ordered discharged from the treatment facility if that ~~person~~ individual has been detained before the hearing. If the court finds probable cause to believe that the respondent is a person requiring treatment, it shall consider less restrictive alternatives to involuntary detention and treatment. The court may then order the respondent to undergo up to fourteen days' treatment under a less restrictive alternative or, if it finds that alternative treatment is not in the best interests of the respondent or others, it shall order the respondent detained for up to fourteen days for involuntary treatment in a treatment facility.

The court shall specifically state to the respondent and give written notice that if involuntary treatment beyond the fourteen-day period is to be sought, the respondent will have the right to a treatment hearing as required by this chapter.

SECTION 10. AMENDMENT. Section 25-03.1-18.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-18.1. Court-authorized involuntary treatment with prescribed medication.

1. a. Upon notice and hearing, a treating psychiatrist may request authorization from the court to treat a ~~person~~ individual under a mental health treatment order with prescribed medication. The request may be considered by the court in an involuntary treatment hearing. As a part of the request, the treating psychiatrist and another licensed physician ~~or, physician assistant, psychiatrist, or advanced practice registered nurse~~ not involved in the current diagnosis or treatment of the patient shall certify:

- (1) That the proposed prescribed medication is clinically appropriate and necessary to effectively treat the patient and that the patient is a person requiring treatment;
 - (2) That the patient was offered that treatment and refused it or that the patient lacks the capacity to make or communicate a responsible decision about that treatment;
 - (3) That prescribed medication is the least restrictive form of intervention necessary to meet the treatment needs of the patient; and
 - (4) That the benefits of the treatment outweigh the known risks to the patient.
 - b. The court shall inquire whether the patient has had a sufficient opportunity to adequately prepare to meet the issue of involuntary treatment with prescribed medication and, at the request of the patient, the court may continue the involuntary treatment hearing for a period not exceeding seven days or may appoint an independent expert examiner as provided in subsection 4.
2. a. Evidence of the factors certified under subsection 1 may be presented to the court at an involuntary treatment hearing held pursuant to sections 25-03.1-19 and 25-03.1-22, or at a separate hearing after motion and notice. The court in ruling on the requested authorization for involuntary treatment with prescribed medication shall consider all relevant evidence presented at the hearing, including:
- (1) The danger the patient presents to self or others;
 - (2) The patient's current condition;
 - (3) The patient's treatment history;
 - (4) The results of previous medication trials;
 - (5) The efficacy of current or past treatment modalities concerning the patient;
 - (6) The patient's prognosis; and
 - (7) The effect of the patient's mental condition on the patient's capacity to consent.
- b. Involuntary treatment with prescribed medication may not be authorized by the court solely for the convenience of facility staff or for the purpose of punishment.
3. If the factors certified under subsection 1 have been demonstrated by clear and convincing evidence, the court may include in its involuntary treatment order a provision, or it may issue a separate order after notice and hearing, authorizing the treating psychiatrist to involuntarily treat the patient with prescribed medication on such terms and conditions as are appropriate. The order for involuntary treatment with prescribed medication, however, may not be in effect for more than ninety days.

4. If a patient has requested an examination by an independent expert examiner under this chapter, and if the treating psychiatrist has requested authorization for involuntary treatment with prescribed medication, only a psychiatrist may independently examine the patient as to the issue of involuntary treatment with prescribed medication.

SECTION 11. AMENDMENT. Section 25-03.1-19 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-19. Involuntary treatment hearing.

The involuntary treatment hearing, unless waived by the respondent or the respondent has been released as a person not requiring treatment, must be held within fourteen days of the preliminary hearing. If the preliminary hearing is not required, the involuntary treatment hearing must be held within four days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served. The court may extend the time for hearing for good cause. The respondent has the right to an examination by an independent expert examiner if so requested. If the respondent is indigent, the county of residence of the respondent shall pay for the cost of the examination and the respondent may choose an independent expert examiner.

The hearing must be held in the county of the respondent's residence or location or the county where the state hospital or treatment facility treating the respondent is located. At the hearing, evidence in support of the petition must be presented by the state's attorney, private counsel, or counsel designated by the court. During the hearing, the petitioner and the respondent must be afforded an opportunity to testify and to present and cross-examine witnesses. The court may receive the testimony of any other interested person. All ~~persons~~individuals not necessary for the conduct of the proceeding must be excluded, except that the court may admit ~~persons~~individuals having a legitimate interest in the proceeding. The hearing must be conducted in as informal a manner as practical, but the issue must be tried as a civil matter. Discovery and the power of subpoena permitted under the North Dakota Rules of Civil Procedure are available to the respondent. The court shall receive all relevant and material evidence ~~which~~that may be offered as governed by the North Dakota Rules of Evidence. There is a presumption in favor of the respondent, and the burden of proof in support of the petition is upon the petitioner.

If, upon completion of the hearing, the court finds that the petition has not been sustained by clear and convincing evidence, ~~it~~the court shall deny the petition, terminate the proceeding, and order that the respondent be discharged if the respondent has been hospitalized before the hearing.

SECTION 12. AMENDMENT. Subsection 3 of section 25-03.1-21 of the North Dakota Century Code is amended and reenacted as follows:

3. If a peace officer, physician either in person or directing an emergency medical services professional, psychiatrist, physician assistant, clinical psychologist, advanced practice registered nurse, or any mental health professional reasonably believes that the respondent is not complying with an order for alternative treatment, that the alternative treatment is not sufficient to prevent harm or injuries to the respondent or others, and that considerations of time and safety do not allow intervention by a court, the designated professional may cause the respondent to be taken into custody and detained at a treatment facility as provided in subsection 3 of section 25-03.1-25 and, within twenty-four hours, shall file a notice with the court stating the

circumstances and factors of the case. The state hospital or public treatment facility ~~must~~shall immediately accept, if appropriately screened and medically stable, and a private treatment facility may accept, the respondent on a provisional basis. The superintendent or director shall require an immediate examination of the respondent and, within twenty-four hours after admission, shall either release the respondent subject to the conditions of the original order or file a notice with the court stating in detail the circumstances and factors of the case. The court shall, within forty-eight hours of receipt of the notice of the superintendent or director, after a hearing and based on the evidence presented and other available information:

- a. Release the individual from hospitalization and continue the alternative treatment order;
- b. Consider other alternatives to hospitalization, modify its original order, and direct the individual to undergo another program of alternative treatment for the remainder of the commitment period; or
- c. Enter a new order directing that the respondent remain hospitalized until discharged from the hospital under section 25-03.1-30.

SECTION 13. AMENDMENT. Section 25-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-23. Petition for continuing treatment orders.

A petition for an order authorizing continuing treatment must contain a statement setting forth the reasons for the determination that the patient continues to be a person requiring treatment; a statement describing the treatment program provided to the patient and the results of that treatment; and a clinical estimate as to how long further treatment will be required. The petition must be accompanied by a certificate executed by a physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, or licensed addiction counselor, any of whom is practicing within that individual's professional scope of practice.

SECTION 14. AMENDMENT. Section 25-03.1-25 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-25. Detention or hospitalization - Emergency procedure.

1. When a peace officer, physician either in person or directing an emergency medical services professional, psychiatrist, physician assistant, psychologist, advanced practice registered nurse, or mental health professional has reasonable cause to believe that an individual is a person requiring treatment and there exists a serious risk of harm to that ~~person~~individual, ~~other persons~~others, or property of an immediate nature that considerations of safety do not allow preliminary intervention by a magistrate, the peace officer, physician either in person or directing an emergency medical services professional, psychiatrist, physician assistant, psychologist, advanced practice registered nurse, or mental health professional, using the screening process set forth in section 25-03.1-04, may cause the ~~person~~individual to be taken into custody and detained at a treatment facility as provided in subsection 3, and subject to section 25-03.1-26, except that if emergency conditions exist that prevent the immediate conveyance of the individual to a public treatment facility, a private facility that has adequate resources and capacity to hold that

individual may hold the individual in anticipation of conveyance to a public treatment facility for up to twenty-three hours:

- a. Without conducting an immediate examination required under section 25-03.1-26; and
 - b. Without following notice and hearing requirements for a transfer to another treatment facility required under subsection 3 of section 25-03.1-34.
2. If a petitioner seeking the involuntary treatment of a respondent requests that the respondent be taken into immediate custody and the magistrate, upon reviewing the petition and accompanying documentation, finds probable cause to believe that the respondent is a person requiring treatment and there exists a serious risk of harm to the respondent, ~~other persons~~others, or property if allowed to remain at liberty, the magistrate may enter a written order directing that the respondent be taken into immediate custody and be detained as provided in subsection 3 until the preliminary or treatment hearing, which must be held no more than seven days after the date of the order.
3. Detention under this section may be:
- a. In a treatment facility where the director or superintendent must be informed of the reasons why immediate custody has been ordered. The facility may provide treatment that is necessary to preserve the respondent's life or to appropriately control behavior by the respondent which is likely to result in physical injury to self or to others if allowed to continue, but may not otherwise provide treatment to the respondent without the respondent's consent; or
 - b. In a public or private facility in the community which is suitably equipped and staffed for the purpose. Detention in a jail or other correctional facility may not be ordered except in cases of actual emergency when no other secure facility is accessible, and then only for a period of not more than twenty-four hours and under close supervision.
4. Immediately upon being taken into custody, the ~~person~~individual must be advised of the purpose of custody, of the intended uses and possible effects of any evaluation that the ~~person~~individual undergoes, and of the ~~person's~~individual's rights to counsel and to a preliminary or treatment hearing.
5. Upon arrival at a facility the peace officer, physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, or mental health professional who conveyed the ~~person~~individual or who caused the ~~person~~individual to be conveyed shall complete an application for evaluation and shall deliver a detailed written report from the peace officer, physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, or the mental health professional who caused the ~~person~~individual to be conveyed. The written report must state the circumstances under which the ~~person~~individual was taken into custody. The report must allege in detail the overt act that constituted the basis for the beliefs that the individual is a person requiring treatment and that, because of that ~~person's~~individual's condition, there exists a serious risk of harm to that ~~person~~individual, ~~another person~~others, or property if the ~~person~~individual is not immediately detained.

SECTION 15. AMENDMENT. Section 25-03.1-26 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-26. Emergency procedure - Acceptance of petition and individual - Notice - Court hearing set.

1. A public treatment facility immediately shall accept and a private treatment facility may accept on a provisional basis the application and the ~~person~~individual admitted under section 25-03.1-25. The superintendent or director shall require an immediate examination of the subject and, within twenty-four hours after admission, shall either release the ~~person~~individual if the superintendent or director finds that the subject does not meet the emergency commitment standards or file a petition if one has not been filed with the court of the ~~person's~~individual's residence or the court which directed immediate custody under subsection 2 of section 25-03.1-25, giving notice to the court and stating in detail the circumstances and facts of the case.
2. Upon receipt of the petition and notice of the emergency detention, the magistrate shall set a date for a preliminary hearing, if the respondent is alleged to be ~~suffering from mental illness~~a person who is mentally ill or ~~from a combination of mental illness and chemical dependency~~a person who is both mentally ill and chemically dependent, or a treatment hearing, if the respondent is alleged to be ~~suffering from chemical dependency~~a person who is chemically dependent, to be held no later than four days, exclusive of weekends and holidays, after detention unless the person has been released as a person not requiring treatment, has been voluntarily admitted for treatment, has requested or agreed to a continuance, or unless the hearing has been extended by the magistrate for good cause shown. The magistrate shall appoint counsel if one has not been retained by the respondent.

SECTION 16. AMENDMENT. Section 25-03.1-27 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-27. Notice and statement of rights.

1. ~~Whenever any person~~When an individual is detained for emergency evaluation and treatment under this chapter, the superintendent or director shall cause both the patient and, if possible, a responsible member of the patient's immediate family, a guardian, or a friend, if any, to receive:
 - a. A copy of the petition which asserted that the individual is a person requiring treatment.
 - b. A written statement explaining that the individual will be examined by an expert examiner within twenty-four hours of hospitalization, excluding holidays.
 - c. A written statement in simple terms explaining the rights of the individual alleged to be ~~suffering from mental illness~~a person who is mentally ill or ~~from a combination of mental illness and chemical dependency~~a person who is both mentally ill and chemically dependent to a preliminary hearing, to be present at the hearing, and to be represented by legal counsel, if the individual is certified by an expert examiner or examiners as a person requiring treatment.

- d. A written statement in simple terms explaining the rights of the individual to a treatment hearing, to be present at the hearing, to be represented by legal counsel, and the right to an independent medical evaluation.
2. If the individual is unable to read or understand the written materials, every reasonable effort must be made to explain ~~them~~the written material in a language the individual understands, and a note of the explanation and by whom made must be entered into the patient record.

SECTION 17. AMENDMENT. Section 25-03.1-41 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-41. Limitations and restrictions of patient's rights.

The rights enumerated in subsections 5, 6, 7, and 8 of section 25-03.1-40 may be limited or restricted by the treating physician, physician assistant, psychiatrist, advanced practice registered nurse, or psychologist trained in a clinical program, if in that ~~person's~~individual's professional judgment to do so would be in the best interests of the patient and the rights are restricted or limited in the manner authorized by the rules adopted pursuant to section 25-03.1-46. ~~Whenever~~When a physician, physician assistant, psychiatrist, advanced practice registered nurse, or psychologist trained in a clinical program responsible for treatment of a particular patient imposes a special restriction on the rights of the patient as authorized by the rules, a written order specifying the restriction and the reasons for the restriction must be signed by the physician, physician assistant, psychiatrist, advanced practice registered nurse, or psychologist trained in a clinical program and attached to the patient's chart. These restrictions must be reviewed at intervals of not more than fourteen days and may be renewed by following the procedure set out in this section.

SECTION 18. AMENDMENT. Section 25-03.1-42 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-42. Limitation of liability - Penalty for false petition.

1. A person acting in good faith upon either actual knowledge or reliable information ~~whewhich~~ makes the petition for involuntary treatment of ~~another person~~an individual under this chapter is not subject to civil or criminal liability.
2. A physician, physician assistant, psychiatrist, psychologist, advanced practice registered nurse, mental health professional, employee of a treatment facility, state's attorney, or peace officer who in good faith exercises professional judgment in fulfilling an obligation or discretionary responsibility under this chapter is not subject to civil or criminal liability for acting unless it can be shown that it was done in a negligent manner.
3. A person ~~who~~that makes a petition for involuntary treatment of ~~another person~~an individual without having good cause to believe that the ~~other person~~individual is suffering from mental illness or chemical dependency ~~a person who is both mentally ill and chemically dependent~~ and as a result is likely to cause serious harm to self or others is guilty of a class A misdemeanor.

Approved April 13, 2015
 Filed April 13, 2015

CHAPTER 202

SENATE BILL NO. 2047

(Legislative Management)
(Human Services Committee)

AN ACT to amend and reenact sections 25-03.2-01, 25-03.2-03, 25-03.2-07, and 25-03.2-10 of the North Dakota Century Code, relating to psychiatric residential treatment facilities for children and rulemaking authority of the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-03.2-01 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Child" or "children" means a person or persons under the age of twenty-one.
2. "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery, ~~provided by qualified mental health professionals.~~
3. "Department" means the department of human services.
4. "Diagnostic assessment" means a written summary of the history, diagnosis, and individual treatment needs of a mentally ill person using diagnostic, interview, and other relevant assessment techniques ~~provided by a mental health professional.~~
5. "Individual treatment plan" means a written plan of intervention, treatment, and services for a mentally ill person that is developed under the clinical supervision of a mental health professional on the basis of a diagnostic assessment.
6. "Mentally ill person" has the same meaning provided for in section 25-03.1-02.
7. "Psychiatric residential treatment facility for children" means a facility or a distinct part of a facility that provides to children a total, twenty-four hour, therapeutic environment integrating group living, educational services, and a clinical program based upon a comprehensive, interdisciplinary clinical assessment, and an individualized treatment plan that meets the needs of the child and family. The services are available to children in need of and able to respond to active psychotherapeutic intervention and who cannot be effectively treated in their own family, in another home, or in a less restrictive setting. The facility must meet the requirements of a psychiatric residential treatment facility as set out in title 42, Code of Federal Regulations, part 483.352.

8. ~~"Qualified mental health professional" means a licensed physician who is a psychiatrist, a licensed clinical psychologist who is qualified for listing on the national register of health service providers in psychology, a licensed certified social worker who is a board-certified diplomate in clinical social work, or a nurse who holds advanced licensure in psychiatric nursing.~~
9. "Residential treatment" means a twenty-four hour a day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital, for the active treatment of mentally ill persons.

SECTION 2. AMENDMENT. Section 25-03.2-03 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-03. Requirements for license.

The department shall issue a license for the operation of a psychiatric residential treatment facility for children upon a showing that:

1. The premises to be used are in fit, safe, and sanitary condition and properly equipped to provide good care and treatment;
2. The program director of the facility holds, at a minimum, a master's degree in social work, psychology, or in a related field with at least two years of professional experience in the treatment of children suffering from mental illnesses or emotional disturbances. The executive director of the facility must have, at a minimum, a bachelor's degree in a behavioral science or a bachelor's degree in any field and two years of experience in administration;
3. The staff employed by the facility is supervised by the program director and qualified by training and experience to provide services to children suffering from mental illnesses or emotional disturbances. The facility annually must provide training to staff which is relevant to the needs of the client population;
4. The health, safety, and well-being of the children cared for and treated in the facility will be properly safeguarded;
5. There are sufficient treatment, educational, recreational and leisure, and physical facilities and services available to the children in the facility;
6. The facility will provide for a medical and psychological examination of each child within seventy-two hours of admission and thereafter as needed by the child;
7. ~~An interdisciplinary team consisting of at least one qualified mental health professional~~ will review each individual treatment plan at least monthly and update or amend the plan to meet the needs of the child;
8. The facility develops postdischarge plans and coordinates facility services and related community services with partial discharge plans with each child's family, school, and community upon discharge to ensure continuity of care; and
9. The facility is in compliance with requirements for psychiatric residential treatment facilities under 42 U.S.C. 1396d [Pub. L. 89-97; 79 Stat. 351] and

title 42, Code of Federal Regulations, part 441, and with this chapter and rules adopted under this chapter.

SECTION 3. AMENDMENT. Section 25-03.2-07 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-07. Method of providing service.

A psychiatric residential treatment facility for children shall provide for the development of an individual treatment plan, based upon a comprehensive interdisciplinary diagnostic assessment, which includes the role of the family, identifies the goals and objectives of the therapeutic activities and treatment, provides a schedule for accomplishing the therapeutic activities and treatment goals and objectives, and identifies the individuals responsible for providing services, consistent with the individual treatment plan, to children. Clinical supervision of the individual treatment plan must be accomplished ~~by full-time or part-time employment of or contracts with qualified mental health professionals as set forth by the department in rules.~~ Clinical supervision must be documented ~~by the qualified mental health professionals co-signing in~~ individual treatment plans and by entries in the child's record regarding supervisory activity.

SECTION 4. AMENDMENT. Section 25-03.2-10 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-10. Department may adopt rules.

The department may adopt rules for the conduct of psychiatric residential treatment facilities for children and shall adopt rules defining which professionals may provide clinical supervision and review, and may develop, update, and sign an individual treatment plan within a psychiatric residential treatment facility for children.

Approved March 13, 2015

Filed March 13, 2015

CHAPTER 203

HOUSE BILL NO. 1366

(Representatives Maragos, Hofstad, D. Johnson)
(Senator Oehlke)

AN ACT to provide for collaboration between the school for the deaf and school districts on the provision of appropriate services and resources to children who are deaf or hearing impaired and the families of children who are deaf or hearing impaired.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. COLLABORATION BETWEEN SCHOOL FOR THE DEAF AND SCHOOL DISTRICTS TO PROVIDE SERVICES AND RESOURCES TO CHILDREN WHO ARE DEAF OR HEARING IMPAIRED.

1. The school for the deaf shall collaborate with school districts to ensure that children who are deaf or hearing impaired and families of children who are deaf or hearing impaired receive appropriate services and have access to appropriate resources including:
 - a. Screening and assessment of hearing capabilities and communication and language needs at the earliest possible age, and continuation of screening services throughout the child's educational experience;
 - b. Early intervention to provide for acquisition of solid language bases at the earliest age possible;
 - c. The opportunity to interact in person or through technological mediums with adult role models and peers who are deaf or hearing impaired;
 - d. Qualified teachers, interpreters, and resource personnel, who communicate effectively with the child in the child's mode of communication; and
 - e. Placement best suited to the child's needs such as social, emotional, cultural, age-related, hearing loss, academic level, mode of communication, style of learning, motivational level, and family support needs.
2. The school for the deaf shall:
 - a. Make information available to parents of children who are deaf or hearing impaired; and
 - b. Provide awareness information to the public concerning medical, cultural, and linguistic issues of deafness and hearing loss.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 204

SENATE BILL NO. 2334

(Senators J. Lee, Anderson)
(Representatives Delmore, Hofstad, Weisz)

AN ACT to create and enact sections 25-17-02.1 and 25-17-07 of the North Dakota Century Code, relating to the state's newborn screening program; to amend and reenact sections 23-01-03.1, 25-17-00.1, 25-17-01, 25-17-03, 25-17-05, and 25-17-06 of the North Dakota Century Code, relating to the state's newborn screening program; and to repeal section 25-17-04 of the North Dakota Century Code, relating to the state's newborn screening program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-03.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-03.1. Newborn metabolic and genetic disease screening tests.

1. The health council may authorize the use of newborn metabolic and genetic disease screening tests, as provided for in chapter 25-17, for research purposes. The council shall adopt rules to ensure that the results are used for legitimate research purposes and to ensure that the confidentiality of the newborns and their families is protected. shall adopt rules relating to the storage, maintenance, and disposal of blood spots or other newborn screening specimens.
2. The health council shall specify a panel of metabolic diseases and genetic diseases for which newborn screening must be performed. The screening panel must include disorders and diseases selected by the state health officer with input from an advisory committee that is approved by the health council.

SECTION 2. AMENDMENT. Section 25-17-00.1 of the North Dakota Century Code is amended and reenacted as follows:

25-17-00.1. Definitions.

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

1. "Confirmatory-diagnostic testing" means testing to prove or disprove the presence of a specific metabolic disease or genetic disease.
2. "Confirmatory-diagnostic testing laboratory" means a laboratory performing confirmatory-diagnostic testing.
3. "Department" means the state department of health.
4. "Licensed clinician" means a currently licensed physician, physician assistant, or advanced practice registered nurse.

5. "Low-protein modified food product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a physicianlicensed clinician for the dietary treatment of a metabolic disease. The term does not include a natural food that is naturally low in protein.
- 2-6. "Medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered under the direction of a physicianlicensed clinician.
- 3-7. "Metabolic disease" and "genetic disease" mean a disease as designated by rule of the state health council for which early identification and timely intervention will lead to a significant reduction in mortality, morbidity, and associated disabilities.
8. "Newborn screening program" means a program facilitating access to appropriate testing, followup, diagnosis, intervention, management, evaluation, and education regarding metabolic diseases and genetic diseases identified in newborns.
9. "Out-of-range screening result" means a screening result that is outside of the expected range of testing results established for a particular disease.
10. "Responsible clinician" means the licensed clinician, midwife, naturopath, or birth attendant attending a newborn.
11. "Screening" means initial testing of a newborn for the possible presence of metabolic disease or genetic disease.
12. "Screening laboratory" means the laboratory the department selects to perform screening.

SECTION 3. AMENDMENT. Section 25-17-01 of the North Dakota Century Code is amended and reenacted as follows:

25-17-01. Newborn screening education programs and tests.

The state department of health shall:

1. Develop and implement a metabolic disease and genetic disease educational program among physicianslicensed clinicians, hospital staffs, public health nurses, and the citizens of this state. This educational program must include information about the nature of the diseases and about screening for the early detection of these diseases so that proper measures may be taken to reduce mortality, morbidity, and associated disabilities.
2. Provide, on a statewide basis, a newborn screening system and short-term followup services for metabolic and genetic diseasesprogram.
3. Coordinate with or refer individuals to public and private health care service providers for long-term followup services for metabolic diseases orand genetic diseases, or both.
4. Select a screening laboratory.

5. Store, maintain, and dispose of blood spots used for screening.

SECTION 4. Section 25-17-02.1 of the North Dakota Century Code is created and enacted as follows:

25-17-02.1. Testing and reporting requirements.

1. A responsible clinician shall provide the parents and guardians of a newborn written information on the nature of newborn screening and confirmatory-diagnostic testing. The parents or guardians of a newborn may object to screening after receiving the written information. A newborn may not be subject to screening to which the newborn's parents or guardians object. In the case of an objection, the responsible clinician shall record the objection in a document signed by the parents or guardians and shall submit the document to the department.
2. The responsible clinician attending a newborn shall cause that newborn to be subjected to screening in the manner prescribed by the department.
3. The screening laboratory shall provide to the department screening results and any blood spots used in screening.
4. If screening shows an out-of-range screening result, the responsible clinician shall cause the newborn to be subjected to appropriate clinical followup by a licensed clinician which may include confirmatory-diagnostic testing. The responsible clinician shall ensure the department receives any confirmatory-diagnostic testing results.
5. A licensed clinician attending a patient with a metabolic disease or genetic disease that was not detected by the state's newborn screening program shall report the case to the department.

SECTION 5. AMENDMENT. Section 25-17-03 of the North Dakota Century Code is amended and reenacted as follows:

25-17-03. Treatment for positive diagnosis - Registry of cases.

The state department of health shall:

1. Follow up with attending physicians~~Notify responsible clinicians regarding cases with positive tests for metabolic diseases or genetic diseases, or both,~~out-of-range screening results or positive confirmatory-diagnostic testing results in order to determine the exact diagnosis~~facilitate access to appropriate treatment. If the responsible clinician is not a licensed clinician, the responsible clinician shall refer the patient to a licensed clinician for appropriate followup care.~~
2. Refer every diagnosed case of a metabolic disease or genetic disease,~~or both, to a qualified health care provider~~licensed clinician for necessary treatment.
3. Maintain a registry of cases of metabolic diseases and genetic diseases.
4. Provide medical food at no cost to males under age twenty-two and females under age forty-five who are diagnosed with phenylketonuria or maple syrup urine disease, regardless of income. If treatment services under this

subsection are provided to an individual by the department, the department may seek reimbursement from any government program that provides coverage to that individual for the treatment services provided by the department.

5. Offer for sale at cost medical food to females age forty-five and over and to males age twenty-two and over who are diagnosed with phenylketonuria or maple syrup urine disease, regardless of income. These individuals are responsible for payment to the department for the cost of medical food.
6. Provide low-protein modified food products, if medically necessary as determined by a qualified health care provider, to females under age forty-five and males under age twenty-two who are receiving medical assistance and are diagnosed with phenylketonuria or maple syrup urine disease.

SECTION 6. AMENDMENT. Section 25-17-05 of the North Dakota Century Code is amended and reenacted as follows:

25-17-05. Testing charges.

~~The state health council may adopt rules that establish reasonable fees and may impose those fees to cover the costs of administering tests under this chapter. All test fees collected by the state department of health must be deposited in the state department of health operating account. A screening and confirmatory diagnostic testing laboratory may charge fees for necessary services.~~

SECTION 7. AMENDMENT. Section 25-17-06 of the North Dakota Century Code is amended and reenacted as follows:

25-17-06. Pulse oximetry screening for critical congenital heart defects - Exception.

Before discharge of a newborn child born in a hospital with a birthing center, the newborn child must receive a pulse oximetry screening for critical congenital heart defects. The screening requirement of this section does not apply if the parents or guardians of a newborn child object to the screening. The state department of health shall provide medical staff and facilities that provide birthing services with notice regarding this screening requirement. For purposes of this chapter, pulse oximetry screening is not a test under section 25-17-05 and a congenital heart defect detected by screening under this section is not a metabolic disease or genetic disease as those terms are used under this chapter.

SECTION 8. Section 25-17-07 of the North Dakota Century Code is created and enacted as follows:

25-17-07. Institutional review board.

A person that conducts research on blood spots, other specimens, or registry data that is maintained by the department shall follow institutional review board processes for human research which must include obtaining parent or guardian authorization.

SECTION 9. REPEAL. Section 25-17-04 of the North Dakota Century Code is repealed.

Approved April 16, 2015
Filed April 16, 2015

INSURANCE

CHAPTER 205

SENATE BILL NO. 2129

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact section 26.1-03.1-01, subsections 2 and 3 of section 26.1-03.1-02, section 26.1-03.1-03, subsection 2 of section 26.1-03.1-04, subdivision a of subsection 2 of section 26.1-03.1-06, and sections 26.1-03.1-07, 26.1-03.1-08, and 26.1-03.1-13 of the North Dakota Century Code, relating to risk-based capital reports of insurers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03.1-01. Definitions.

As used in this chapter:

1. "Adjusted risk-based capital report" means a risk-based capital report that has been adjusted by the commissioner in accordance with subsection ~~35~~ of section 26.1-03.1-02.
2. "Corrective order" means an order issued by the commissioner specifying corrective actions that the commissioner has determined are required.
3. "Domestic insurer" means any ~~insurance company~~insurer domiciled in this state, except a county mutual insurance company.
4. "Foreign insurer" means any ~~insurance company~~insurer that is licensed to do business in this state under chapter 26.1-11 but is not domiciled in this state.
5. "Fraternal benefit society" means any insurer licensed under chapter 26.1-15.1.
6. "Life or health insurer" means any licensed life or health ~~insurance company~~insurer or a licensed property and casualty insurer writing only accident and health insurance.
- 6-7. "Negative trend" means, with respect to a life or health insurer or a fraternal benefit society, negative trend over a period of time, as determined in accordance with the trend test calculation included in the life or fraternal risk-based capital instructions.

- 7-8. "Property and casualty insurer" means any insurer licensed under chapter 26.1-05 or 26.1-11 but does not include monoline mortgage guaranty insurers, financial guaranty insurers, and title insurers.
9. "Risk-based capital instructions" means the risk-based capital report, including risk-based capital instructions adopted by the national association of insurance commissioners, as such risk-based capital instructions may be amended by the national association of insurance commissioners from time to time in accordance with the procedures adopted by the national association of insurance commissioners.
- 8-10. "Risk-based capital level" means an insurer's company action level risk-based capital, regulatory action level risk-based capital, authorized control level risk-based capital, or mandatory control level risk-based capital and where:
- a. "Authorized control level risk-based capital" means the number determined under the risk-based capital formula in accordance with the risk-based capital instructions.
 - b. "Company action level risk-based capital" means, with respect to any insurer, the product of two and its authorized control level risk-based capital.
 - c. "Mandatory control level risk-based capital" means the product of seventy hundredths and the authorized control level risk-based capital.
 - d. "Regulatory action level risk-based capital" means the product of one and one-half and its authorized control level risk-based capital.
- 9-11. "Risk-based capital plan" means a comprehensive financial plan containing the elements specified in subsection 2 of section 26.1-03.1-03. If the commissioner rejects the risk-based capital plan, and it is revised by the insurer, with or without the commissioner's recommendation, the plan must be called the "revised risk-based capital plan".
- 40-12. "Risk-based capital report" means the report required in section 26.1-03.1-02.
- 44-13. "Total adjusted capital" means the sum of:
- a. An insurer's statutory capital and surplus as determined in accordance with statutory accounting applicable to the annual financial statements required to be filed under section 26.1-03-07; and
 - b. Such other items, if any, as the risk-based capital instructions may provide.

SECTION 2. AMENDMENT. Subsections 2 and 3 of section 26.1-03.1-02 of the North Dakota Century Code are amended and reenacted as follows:

2. A life and health insurer's or fraternal benefit society's risk-based capital must be determined in accordance with the formula set forth in the risk-based capital instructions. The formula must take into account, and may adjust for the covariance between, the following factors determined in each case by applying the factors in the manner set forth in the risk-based capital instructions:
 - a. The risk with respect to the insurer's assets;

- b. The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;
- c. The interest rate risk with respect to the insurer's business; and
- d. All other business risks and any other relevant risks as are set forth in the risk-based capital instructions;

determined in each case by applying the factors in the manner set forth in the risk-based capital instructions.

- 3. A property and casualty insurer's risk-based capital must be determined in accordance with the formula set forth in the risk-based capital instructions. The formula must take into account, and may adjust for the covariance between, the following factors determined in each case by applying the factors in the manner set forth in the risk-based capital instructions:

- a. Asset risk;
- b. Credit risk;
- c. Underwriting risk; and
- d. All other business risks and any other relevant risks as are set forth in the risk-based instructions;

determined in each case by applying the factors in the manner set forth in the risk-based capital instructions.

SECTION 3. AMENDMENT. Section 26.1-03.1-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03.1-03. Company action level event.

- 1. "Company action level event" means any of the following events:
 - a. The filing of a risk-based capital report by an insurer which indicates that:
 - (1) The insurer's total adjusted capital is greater than or equal to its regulatory action level risk-based capital but less than its company action level risk-based capital;
 - (2) If a life or health insurer or a fraternal benefit society, the insurer has total adjusted capital that is greater than or equal to its company action level risk-based capital but less than the product of its authorized control level risk-based capital and ~~two and one-half~~three and has a negative trend; or
 - (3) If a property and casualty insurer, the insurer has total adjusted capital which is greater than or equal to its company action level risk-based capital but less than the product of its authorized control level risk-based capital and three and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty risk-based capital instructions;

- b. The notification by the commissioner to the insurer of an adjusted risk-based capital report that indicates an event in subdivision a, provided the insurer does not challenge the adjusted risk-based capital report under section 26.1-03.1-07; or
 - c. If, under section 26.1-03.1-07, an insurer challenges an adjusted risk-based capital report that indicates the event in subdivision a, the notification by the commissioner to the insurer that the commissioner, after a hearing, has rejected the insurer's challenge.
 2. In the event of a company action level event, the insurer shall prepare and submit to the commissioner a risk-based capital plan that must:
 - a. Identify the conditions that contribute to the company action level event;
 - b. Contain proposals of corrective actions that the insurer intends to take and would be expected to result in the elimination of the company action level event;
 - c. Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business may include separate projections for each major line of business and separately identify each significant income, expense, and benefit component;
 - d. Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions; and
 - e. Identify the quality of, and problems associated with, the insurer's business, including its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance, if any, in each case.
 3. The risk-based capital plan must be submitted:
 - a. Within forty-five days of the company action level event; or
 - b. If the insurer challenges an adjusted risk-based capital report under section 26.1-03.1-07, within forty-five days after notification to the insurer that, after a hearing, the commissioner has rejected the insurer's challenge.
 4. Within sixty days after the submission by an insurer of a risk-based capital plan to the commissioner, the commissioner shall notify the insurer whether the risk-based capital plan may be implemented or is, in the judgment of the commissioner, unsatisfactory. If the commissioner determines the risk-based capital plan is unsatisfactory, the notification to the insurer must set forth the reasons for the determination, and may set forth proposed revisions that will render the risk-based capital plan satisfactory, in the judgment of the commissioner. Upon notification from the commissioner, the insurer shall prepare a revised risk-based capital plan, which may incorporate by reference

any revisions proposed by the commissioner, and shall submit the revised risk-based capital plan to the commissioner:

- a. Within forty-five days after the notification from the commissioner; or
 - b. If the insurer challenges the notification from the commissioner under section 26.1-03.1-07, within forty-five days after a notification to the insurer that, after a hearing, the commissioner has rejected the insurer's challenge.
5. In the event of a notification by the commissioner to an insurer that the insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory, ~~subject to the insurer's right to a hearing under section 26.1-03.1-07~~, the commissioner may, subject to the insurer's right to a hearing under section 26.1-03.1-07, specify in the notification that the notification constitutes a regulatory action level event.
6. Every domestic insurer that files a risk-based capital plan or revised risk-based capital plan with the commissioner shall file a copy of the risk-based capital plan or revised risk-based capital plan with the insurance commissioner in any state in which the insurer is authorized to do business if:
- a. The state has a risk-based capital provision substantially similar to subsection 1 of section 26.1-03.1-08; and
 - b. The insurance commissioner of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the risk-based capital plan or revised risk-based capital plan in that state no later than the later of:
 - (1) Fifteen days after the receipt of notice to file a copy of its risk-based capital plan or revised risk-based capital plan with the state; or
 - (2) The date on which the risk-based capital plan or revised risk-based capital plan is filed under subsections 3 and 4.

SECTION 4. AMENDMENT. Subsection 2 of section 26.1-03.1-04 of the North Dakota Century Code is amended and reenacted as follows:

2. In the event of a regulatory action level event the commissioner shall:
 - a. Require the insurer to prepare and submit a risk-based capital plan or, if applicable, a revised risk-based capital plan;
 - b. Perform such examination or analysis as the commissioner deems necessary of the assets, liabilities, and operations of the insurer, including a review of its risk-based capital plan or revised risk-based capital plan, ~~as the commissioner deems necessary~~; and
 - c. Subsequent to the examination or analysis, issue an order specifying the corrective actions as the commissioner determines are required in a corrective order.

SECTION 5. AMENDMENT. Subdivision a of subsection 2 of section 26.1-03.1-06 of the North Dakota Century Code is amended and reenacted as follows:

- a. With respect to a life insurer or fraternal benefit society, the commissioner shall take actions as are necessary to place the insurer under regulatory control under chapter 26.1-06.1. In that event, the mandatory control level event must be deemed sufficient grounds for the commissioner to take action under chapter 26.1-06.1, and the commissioner has the rights, powers, and duties in chapter 26.1-06.1 with respect to the insurer. If the commissioner takes action pursuant to an adjusted risk-based capital report, the insurer is entitled to the protection of chapter 26.1-06.1 pertaining to summary proceedings. Notwithstanding any of the foregoing, the commissioner may forego action for up to ninety days after the mandatory control level event if the commissioner finds there is a reasonable expectation that the mandatory control level event may be eliminated within the ninety-day period.

SECTION 6. AMENDMENT. Section 26.1-03.1-07 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03.1-07. Hearings.

Upon: any of the following, the insurer has the right to a confidential departmental hearing, on a record, at which the insurer may challenge any determination or action by the commissioner. The insurer shall notify the commissioner of the request for a hearing within five days after the notification by the commissioner under subsection 1, 2, 3, or 4. Upon receipt of the insurer's request for a hearing, the commissioner shall set a date for the hearing, which date may be no less than ten nor more than thirty days after the date of the insurer's request.

1. Notification to an insurer by the commissioner of an adjusted risk-based capital report;
2. Notification to an insurer by the commissioner that:
 - a. The insurer's risk-based capital plan or revised risk-based capital plan is unsatisfactory; and
 - b. Such notification constitutes a regulatory action level event with respect to the insurer;
3. Notification to any insurer by the commissioner that the insurer has failed to adhere to its risk-based capital plan or revised risk-based capital plan and that the failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event with respect to the insurer in accordance with its risk-based capital plan or revised risk-based capital plan; or
4. Notification to an insurer by the commissioner of a corrective order with respect to the insurer;

~~the insurer is entitled to a confidential departmental hearing, on a record, at which the insurer may challenge any determination or action by the commissioner. The insurer shall notify the commissioner of its request for a hearing within five days after the notification by the commissioner under subsection 1, 2, 3, or 4. Upon receipt of the insurer's request for a hearing, the commissioner must set a date for the hearing, which date must be no less than ten nor more than thirty days after the date of the insurer's request.~~

SECTION 7. AMENDMENT. Section 26.1-03.1-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03.1-08. Confidentiality - Prohibition on announcements - Prohibition on use in ratemaking.

1. All risk-based capital reports, to the extent the information therein is not required to be set forth in a publicly available annual statement schedule, and risk-based capital plans, including the results or report of any examination or analysis of an insurer performed under this chapter and any corrective order issued by the commissioner pursuant to examination or analysis, with respect to any domestic insurer or foreign insurer that are ~~filed with the commissioner constitute information that might be damaging to the insurer if made available to its competitors, and therefore must be kept confidential by the commissioner. This information may not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner under this chapter or any other provision of the insurance laws of this state~~ in the possession or control of the insurance department are confidential and privileged, not subject to section 44-04-18, not subject to subpoena, and not subject to discovery and are not admissible in evidence in any private civil action. However, the commissioner may use any document, material, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.
2. Neither the commissioner nor any person that received any document, material, or other information while acting under the authority of the commissioner may be permitted or required to testify in any private civil action concerning any confidential document, material, or information subject to subsection 1.
3. To assist in the performance of the commissioner's duties, the commissioner:
 - a. May share any document, material, or other information, including any confidential and privileged document, material, or information subject to subsection 1, with any other state, federal, or international regulatory agency; the national association of insurance commissioners and its affiliates and subsidiaries; and any state, federal, and international law enforcement authority, provided the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information.
 - b. May receive any document, material, or information, including any otherwise confidential and privileged document, material, or information, from the national association of insurance commissioners and its affiliates and subsidiaries and from any regulatory and law enforcement official of any other foreign or domestic jurisdiction, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.
 - c. May enter any agreement governing sharing and use of information consistent with this subsection.

4. Waiver of any applicable privilege or claim of confidentiality in any document, material, or information does not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection 3.
- ~~2-5.~~ It is the judgment of the legislative assembly that the comparison of an insurer's total adjusted capital to any of its risk-based capital levels is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer, and is not intended as a means to rank insurers generally. Therefore, except as otherwise required under this chapter, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the risk-based capital levels of any insurer, or of any component derived in the calculation, by any insurer, insurance producer, broker, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited. However, if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its risk-based capital levels, or any of them, or an inappropriate comparison of any other amount to the insurer's risk-based capital levels is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity of the statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.
- ~~3-6.~~ It is the further judgment of the legislative assembly that the risk-based capital instructions, risk-based capital reports, adjusted risk-based capital reports, risk-based capital plans, and revised risk-based capital plans are intended solely for use by the commissioner in monitoring the solvency of insurers and the need for possible corrective action with respect to insurers and may not be used by the commissioner for ratemaking nor considered or introduced as evidence in any rate proceeding nor used by the commissioner to calculate or derive any elements of an appropriate premium level or rate of return for any line of insurance that an insurer or any affiliate is authorized to write.

SECTION 8. AMENDMENT. Section 26.1-03.1-13 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03.1-13. Phasein provision.

1. For risk-based capital reports required to be filed by life insurers with respect to 1993, the following requirements apply in lieu of the provisions of sections 26.1-03.1-03, 26.1-03.1-04, 26.1-03.1-05, and 26.1-03.1-06:
 - a. In the event of a company action level event with respect to a domestic insurer, the commissioner may take no regulatory action hereunder.
 - b. In the event of a regulatory action level event under subdivision a, b, or c of subsection 1 of section 26.1-03.1-04, the commissioner shall take the actions required under section 26.1-03.1-03.

- c. In the event of a regulatory action level event under subdivision d, e, f, g, h, or i of subsection 1 of section 26.1-03.1-04 or an authorized control level event, the commissioner shall take the actions required under section 26.1-03.1-04 with respect to the insurer.
 - d. In the event of a mandatory control level event with respect to an insurer, the commissioner shall take the actions required under section 26.1-03.1-05 with respect to the insurer.
2. For risk-based capital reports required to be filed by property and casualty insurers with respect to 1994, the following requirements apply in lieu of the provisions of sections 26.1-03.1-03, 26.1-03.1-04, 26.1-03.1-05, and 26.1-03.1-06:
- a. In the event of a company action level event with respect to a domestic insurer, the commissioner shall take no regulatory action hereunder.
 - b. In the event of a regulatory action level event under subdivision a, b, or c of subsection 1 of section 26.1-03.1-04, the commissioner shall take the actions required under section 26.1-03.1-03.
 - c. In the event of a regulatory action level event under subdivision d, e, f, g, h, or i of subsection 1 of section 26.1-03.1-04 or an authorized control level event, the commissioner shall take the action required under section ~~26.1-03.1-05~~26.1-03.1-04 with respect to the insurer.
 - d. In the event of a mandatory control level event with respect to an insurer, the commissioner shall take the actions required under section 26.1-03.1-05 with respect to the insurer.

Approved March 27, 2015

Filed March 27, 2015

CHAPTER 206

SENATE BILL NO. 2231

(Senator J. Lee)
(Representative Weisz)

AN ACT to amend and reenact section 26.1-08-06 of the North Dakota Century Code, relating to the comprehensive health association; to require comprehensive health association of North Dakota notification of policy holders; to provide a contingent effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-08-06 of the North Dakota Century Code is amended and reenacted as follows:

26.1-08-06. Comprehensive benefit plan.

1. The benefit plan must offer comprehensive health care coverage to every eligible individual. The coverage to be issued by the association, its schedule of benefits, exclusions, and other limitations must be established by the lead carrier and subject to the approval of the board.
2. In establishing the benefit plan coverage, the board shall take into consideration the levels of health insurance coverage provided in the state and medical economic factors as may be deemed appropriate. Benefit levels, deductibles, coinsurance factors, copayments, exclusions, and limitations may be applied as determined to be generally reflective of health insurance coverage provided in the state, but may be maintained at a level that will allow the benefit plan to qualify as minimum essential coverage under the provisions and rules of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148].
3. The coverage may include deductibles of not less than five hundred dollars per individual per benefit period.
4. The coverage must include a limitation of not less than three thousand dollars per individual on the total annual out-of-pocket expenses for services covered under this section.
5. Any coverage or combination of coverages through the association may not exceed a lifetime maximum benefit of one million dollars for an individual.
6. The coverage may include cost-containment measures and requirements, including preadmission screening, second surgical opinion, concurrent utilization review, and individual case management for the purpose of making the benefit plan more cost-effective.
7. The coverage may include preferred provider organizations, health maintenance organizations, and other limited network provider arrangements.

8. Coverage must include oral surgery for partially or completely unerupted impacted teeth, a tooth root without the extraction of the entire tooth, or the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth.
9. Coverage must include substance abuse and mental disorders as outlined in sections 26.1-36-08 and 26.1-36-09.
10. Covered expenses must include, at the option of the eligible individual, professional services rendered by a chiropractor and for services and articles prescribed by a chiropractor for which an additional premium may be charged.
11. The coverage must include organ transplants as approved by the board.
12. The association must be payer of last resort of benefits whenever any other benefit or source of third-party payment is available. Benefits otherwise payable under an association benefit plan must be reduced by all amounts paid or payable through any other health insurance coverage and by all hospital and medical expense benefits paid or payable under any workforce safety and insurance coverage, automobile medical payment or liability insurance whether provided on the basis of fault or no fault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program. The association must have a cause of action against an eligible individual for the recovery of the amount of benefits paid that are not for covered expenses. Benefits due from the association may be reduced or refused as a setoff against any amount recoverable under this subsection.
13. The board may modify the benefit plan coverage for the purpose of enabling the plan coverage, design, and operation to qualify as minimum essential coverage under the provisions and rules of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148].

SECTION 2. NOTIFICATION. The board shall notify current policy holders of their options under the federal Patient Protection and Affordable Care Act [Pub. L. 111-148].

SECTION 3. CONTINGENT EFFECTIVE DATE. This Act becomes effective on the date the insurance commissioner certifies to the secretary of state and the legislative council that the United States department of health and human services does not provide a minimum essential coverage designation to state high-risk pools which qualifies the state high-risk pool as minimum essential coverage under the provisions and rules of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148].

SECTION 4. EXPIRATION DATE. This Act is effective through July 31, 2017, and after that date is ineffective.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 207

HOUSE BILL NO. 1132

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact sections 26.1-10-06.1, 26.1-10-06.2, and 26.1-10-13 of the North Dakota Century Code, relating to insurance holding company systems; to amend and reenact sections 26.1-10-01, 26.1-10-02, 26.1-10-03, 26.1-10-03.1, 26.1-10-04, 26.1-10-05, 26.1-10-05.1, 26.1-10-06, 26.1-10-07, 26.1-10-08, 26.1-10-09, 26.1-10-10, 26.1-10-10.1, and 26.1-10-11 of the North Dakota Century Code, relating to insurance holding company systems; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-10-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is under the control of, or is under common control with, the person specified.
2. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided for in subsection 9 of section 26.1-10-04, that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.
3. ~~"Insurance company" means an insurer as described in section 26.1-29-02, except that it does not include:~~
 - a. ~~Agencies, authorities, or instrumentalities of the United States and its possessions, Commonwealth of Puerto Rico, or a state or political subdivision of a state.~~
 - b. ~~Fraternal benefit societies.~~

- e. Nonprofit health service corporations"Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer which, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or the insurer's insurance holding company system as a whole including anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section 26.1-03.1-03 or would cause the insurer to be in hazardous financial condition as set forth in North Dakota Administrative Code section 45-03-13-01.
4. "Groupwide supervisor" means the regulatory official authorized to engage in conducting and coordinating groupwide supervision activities who is determined or acknowledged by the commissioner under section 26.1-10-06.2 to have sufficient significant contacts with the internationally active insurance group.
5. "Insurance holding company system" means two or more affiliated persons, one or more of which is an ~~insurance company~~insurer.
6. "Insurer" has the same definition as provided in section 26.1-29-02, except the term does not include an agency, authority, or instrumentality of the United States or its possessions or a state or political subdivision of a state.
- 5-7. "Internationally active insurance group" means an insurance holding company system that includes an insurer registered under section 26.1-10-04, and meets the following criteria:
- a. Premiums written in at least three countries;
- b. The percentage of gross premiums written outside the United States is at least ten percent of the insurance holding company system's total gross written premiums; and
- c. Based on a three-year rolling average, the total assets of the insurance holding company system are at least fifty billion dollars or the total gross written premiums of the insurance holding company system are at least ten billion dollars.
8. "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, or an unincorporated organization or any similar entity or any combination of the foregoing acting in concert. The term does not include any securities broker performing no more than the usual and customary broker's functionjoint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.
- 6-9. "Securityholder" of a specified person means the owner of any security of the person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.
- 7-10. "Subsidiary" of a specified person means an affiliate under the control of the person directly, or indirectly through one or more intermediaries.

- 8-11. "Voting security" includes any security convertible into or evidencing a right to acquire a voting security.

SECTION 2. AMENDMENT. Section 26.1-10-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-02. Subsidiaries – ~~Additional investment authority – Exception from investment restrictions of insurers.~~

1. Any domestic ~~insurance company~~insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries. A subsidiary may conduct any kind of business and its authority to do so is not limited because it is a subsidiary of a domestic insurer.
2. In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under all other sections of this chapter, a domestic ~~insurance company~~insurer may also:
 - a. Invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed the lesser of ten percent of the ~~insurance company's admitted~~insurer's assets or fifty percent of the ~~company's~~insurer's surplus as regards policyholders; provided, that after the investments the ~~company's~~insurer's surplus as regards policyholders will be reasonable in relation to the ~~company's~~insurer's outstanding liabilities and adequate to meet its financial needs. In calculating the amount of the investments, investments in domestic or foreign insurance subsidiaries and health maintenance organizations shall be excluded, and there must be included:
 - (1) Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities-; and
 - (2) All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities, and all contributions to the capital or surplus; of a subsidiary subsequent to its acquisition or formation.
 - b. Invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries; engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer. provided; that each subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the ~~insurance company~~insurer to exceed any of the investment limitations specified in subdivision a. "The total investment of the ~~insurance company~~insurer" includes:
 - (1) Any direct investment by the ~~company~~insurer in an asset-; and
 - (2) The ~~company's~~insurer's proportionate share of any investment in an asset by any subsidiary of the ~~company~~insurer which must be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ~~company's~~ ownership of suchthe subsidiary.

- c. With the approval of the commissioner, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries; provided, that after ~~such~~the investment the ~~insurance company's insurer's~~ surplus as regards policyholders will be reasonable in relation to the ~~company's insurer's~~ outstanding liabilities and adequate to its financial needs.
3. Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subsection 2 are not subject to any of the otherwise applicable restrictions or prohibitions applicable to such investments of ~~insurance companies~~an insurer.
4. Whether any investment pursuant to subsection 2 meets the applicable requirements thereof is to be determined before ~~such~~the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the date they were made net of any return of capital invested, not including dividends.
5. If an ~~insurance company~~insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three years from the time of the cessation of control or within such further time as the commissioner prescribes, unless at any time after the investment has been made, the investment has met the requirements for investment under any other section, and the ~~company~~insurer has so notified the commissioner.

SECTION 3. AMENDMENT. Section 26.1-10-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-03. Acquisition of control of or merger with domestic company— Filing requirements— Hearings— Exceptions— Violations— Jurisdiction— Consent to service of process insurer - Penalties.

1. a. A person other than the issuer may not make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic ~~insurance company~~insurer if, after consummation, the person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the ~~company~~insurer, and a person may not enter into an agreement to merge with or otherwise to acquire control of a domestic ~~insurance company~~insurer or any person controlling a domestic insurer unless, at the time the offer, request, or invitation is made or the agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the ~~company~~insurer, and the ~~company~~ has sent to its shareholders, a statement containing the information required by this section and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner in the manner hereinafter prescribed in this chapter.
- b. For purposes of this section, any controlling person of a domestic insurer seeking to divest the person's controlling interest in the domestic insurer, in any manner, shall file with the commissioner, with a copy to the insurer, confidential notice of the person's proposed divestiture at least thirty days before the cessation of control. The commissioner shall determine those

- instances in which a party seeking to divest or to acquire a controlling interest in an insurer, will be required to file for and obtain approval of the transaction. The information remains confidential until the conclusion of the transaction unless the commissioner determines confidential treatment will interfere with enforcement of this section. If the statement referred to in subdivision a is otherwise filed, this subdivision does not apply.
- c. With respect to a transaction subject to this section, the acquiring person shall file a preacquisition notification with the commissioner which must contain the information set forth in subdivision a of subsection 3 of section 26.1-10-03.1. Failure to file the notification may result in penalties specified in subdivision e of subsection 5 of section 26.1-10-03.1.
- d. For purposes of this section, a domestic insurance ~~company~~insurer includes any other person in control of a domestic insurance ~~company~~insurer unless the other person, as determined by the commissioner, is either directly or through its affiliates primarily engaged in business other than the business of insurance. For purposes of this section, the term "person" does not include a securities broker holding, in the usual and customary broker's function, less than twenty percent of the voting securities of an insurer or of any person that controls an insurer.
2. The statement to be filed with the commissioner must be made under oath or affirmation and must contain the following information:
- a. The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection 1 is to be effected, hereinafter called the "acquiring party":
- (1) If the person is an individual, the individual's principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years.
 - (2) If the person is not an individual, a report of the nature of its business operations during the past five years or for any lesser period as the person and any predecessors thereof have been in existence; an informative description of the business intended to be done by the person and the person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the person, or who perform or will perform functions appropriate to these positions. The list must include for each individual the information required by this subsection.
- b. The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction ~~wherein~~that funds were or are to be obtained for any such purpose, including any pledge of the insurer's stock, or the stock of any of the insurer's subsidiaries or controlling affiliates, and the identity of persons furnishing the consideration; provided, however, that ~~when~~if a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender must remain confidential, if the person filing the statement so requests.

- c. Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each acquiring party, or for any lesser period as the acquiring party and any predecessors thereof have been in existence, and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement.
- d. Any plans or proposals which each acquiring party may have to liquidate the ~~insurance company~~insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.
- e. The number of shares of any security referred to in subsection 1 which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection 1, and a statement as to the method used to arrive at the fairness of the proposal.
- f. The amount of each class of any security referred to in subsection 1 which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.
- g. A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection 1 in which any acquiring party is involved, including transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description must identify the persons who have entered into the contracts, arrangements, or understandings.
- h. A description of the purchase of any security referred to in subsection 1 during the twelve calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor.
- i. A description of any recommendations to purchase any security referred to in subsection 1 made during the twelve calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party.
- j. Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection 1, and, if distributed, of additional soliciting material relating thereto.
- k. The term of any agreement, contract, or understanding made with or proposed to be made with any broker-dealer as to solicitation of securities referred to in subsection 1 for tender, and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.
- l. An agreement by the person required to file the statement referred to in subsection 1 to provide the annual report, specified in subsection 12 of section 26.1-10-04, for so long as control exists.

- m. An acknowledgment by the person required to file the statement referred to in subsection 1, that the person and all subsidiaries within the person's control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer.
- n. Any additional information the commissioner by rule prescribes as necessary or appropriate for the protection of policyholders and securityholders of the insurance company insurer or in the public interest.

If the person required to file the statement referred to in subsection 1 is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by subdivisions a through h must be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member. If any partner, member, or person is a corporation or the person required to file the statement referred to in subsection 1 is a corporation, the commissioner may require that the information called for by subdivisions a through h must be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of the corporation.

If any material change occurs in the facts combined set forth in the statement filed with the commissioner and sent to the insurance company insurer pursuant to this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, must be filed with the commissioner and sent to the insurance company insurer within two business days after the person learns of the change. ~~The insurance company shall send the amendment to its shareholders.~~

3. If any offer, request, invitation, agreement, or acquisition referred to in subsection 1 is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection 1 may utilize those documents in furnishing the information called for by that statement.
4. a. The commissioner shall approve any merger or other acquisition of control referred to in subsection 1 unless, after a public hearing, the commissioner finds that:
- a. (1) After the change of control, the domestic insurance company insurer referred to in subsection 1 would not be able to satisfy the requirements for the issuance of a certificate of authority to write the lines of insurance for which it is presently licensed.
- b. (2) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein. In applying the competitive standard in this subdivision:

- (a) The information requirements of subdivision a of subsection 3 of section 26.1-10-03.1 and the standards of subdivision b of subsection 4 of section 26.1-10-03.1;
- (b) The merger or other acquisition may not be disapproved if the commissioner finds that any of the situations meeting the criteria provided by subdivision c of subsection 4 of section 26.1-10-03.1 exist; and
- (c) The commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time.
- e. (3) The financial condition of any acquiring party might jeopardize the financial stability of the ~~insurance company~~insurer or prejudice the interest of its policyholders.
- d. (4) The plans or proposals which the acquiring party has to liquidate the ~~insurance company~~insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the ~~company~~insurer and not in the public interest.
- e. (5) The competence, experience, and integrity of those persons who would control the operation of the ~~insurance company~~insurer are such that it would not be in the interest of policyholders of the ~~company~~insurer and of the public to permit the merger or other acquisition of control.
- f. (6) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.
- b. ~~The commissioner shall hold the public hearing referred to in this subsection~~subdivision a must be held within thirty days after the statement required by subsection 1 is filed and ~~shall give at least twenty days' notice must be given by the commissioner to the person filing the statement. Not less than seven days' notice of the hearing must be given by the person filing the statement to the insurance company~~insurer and to other persons designated by the commissioner. The commissioner shall make a determination within thirty days after the conclusion of the hearing~~the sixty-day period preceding the effective date of the proposed transaction.~~ At the hearing, the person filing the statement, the ~~insurance company~~insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith are entitled to conduct discovery proceedings in the same manner allowed in district court of this state. All discovery proceedings must be concluded not later than three days prior to the hearing.
- c. If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing referred to in subdivision b may be held on a consolidated basis upon request of the person filing the statement referred to in subsection 1. Within five days of making the request for a public hearing, the person shall file the statement referred to

in subsection 1 with the national association of insurance commissioners. A commissioner may opt out of a consolidated hearing and shall provide notice to the applicant of the opt out within ten days of the receipt of the statement referred to in subsection 1. A hearing conducted on a consolidated basis is public and must be held within the United States before the commissioners of the states in which the insurers are domiciled. The commissioners shall hear and receive evidence. A commissioner may attend the hearing in person or by telecommunication.

- d. In connection with a change of control of a domestic insurer, any determination by the commissioner that the person acquiring control of the insurer must be required to maintain or restore the capital of the insurer to the level required by the laws and rules of this state must be made not later than sixty days after the date of notification of the change in control submitted pursuant to subdivision a of subsection 1.
- e. ~~The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control. The commissioner may waive the hearing if the companies involved and all the policyholders of the domestic companies involved consent to waiving the hearing.~~
5. This section does not apply to:
- a. Any transaction which is subject to the provisions of chapter 26.1-07, dealing with the merger or consolidation of two or more ~~insurance companies~~insurers.
 - b. Any offer, request, invitation, agreement, or acquisition which the commissioner by order ~~has excepted~~exempts as:
 - (1) ~~Not~~ not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic ~~insurance company~~insurer or
 - (2) ~~As~~ as otherwise not comprehended within the purposes of this section.
6. The following is a violation of this section:
- a. The failure to file any statement, amendment, or other material required to be filed pursuant to subsection 1 or 2.
 - b. The effectuation or any attempt to effectuate an acquisition of control of, divestiture of, or merger with, a domestic ~~insurance company~~insurer without the approval of the commissioner.
7. The courts of this state have jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under this section, and over all actions involving the person arising out of violations of this section, and each person is deemed to have performed acts equivalent to and constituting appointment of the commissioner as the person's attorney upon whom may be served all lawful process in any action, suit, or proceeding arising out of violations of this

section. Copies of all lawful process must be served on the commissioner and transmitted by registered mail by the commissioner to the person at the person's last-known address.

SECTION 4. AMENDMENT. Section 26.1-10-03.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-03.1. Acquisitions involving insurance—~~companies~~insurers not otherwise covered —Penalty.

1. For the purpose of this section:
 - a. "Acquisition" means any agreement, arrangement, or activity the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes the acquisition of voting securities, the acquisition of assets, bulk reinsurance, and mergers.
 - b. An "~~involved insurance—company~~insurer" includes an ~~insurance—company~~insurer which either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.
2. a. Except as exempted in subdivision b, this section applies to any acquisition in which there is a change in control of an ~~insurance—company~~insurer authorized to do business in this state.
 - b. This section does not apply to ~~the following~~:
 - (1) ~~An acquisition subject to approval or disapproval by the commissioner pursuant to section 26.1-10-03.~~
 - (2) A purchase of securities solely for investment purposes so long as the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state. If a purchase of securities results in a presumption of control under subsection 2 of section 26.1-10-01, it is not solely for investment purposes unless the commissioner of the ~~insurance—company's~~insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and ~~such~~the disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the commissioner of this state.
 - (3)~~(2)~~The acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the commissioner in accordance with subdivision a of subsection 3 thirty days prior to the proposed effective date of the acquisition. However, the preacquisition notification is not required for exclusion from this section if the acquisition would otherwise be excluded from this section by any other paragraph of this subdivision.
 - (4)~~(3)~~The acquisition of already affiliated persons.
 - (5)~~(4)~~An acquisition if, as an immediate result of the acquisition:

- (a) In no market would the combined market share of the involved ~~insurance companies~~insurers exceed five percent of the total market;
- (b) There would be no increase in any market share; or
- (c) In no market would the combined market share of the involved ~~insurance companies~~insurers exceed twelve percent of the total market, and in no market would the market share increase by more than two percent of the total market.

For the purpose of this paragraph, a "market" means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by ~~insurance companies~~insurers licensed to do business in this state.

~~(6)~~(5)An acquisition for which a preacquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business.

~~(7)~~(6)An acquisition of an ~~insurance company~~insurer whose domiciliary commissioner affirmatively finds that the ~~insurance company~~insurer is in failing condition, there is a lack of feasible alternative to improving the ~~insurance company's~~insurer's condition, the public benefits of improving the ~~insurance company's~~insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition, and ~~such~~the findings are communicated by the domiciliary commissioner to the commissioner of this state.

3. An acquisition covered by subsection 2 may be subject to an order pursuant to subsection 5 unless the acquiring person files a preacquisition notification and the waiting period has expired. The acquired person may file a preacquisition notification. The commissioner shall give confidential treatment to information submitted under this subsection in the same manner as provided in section 26.1-10-07.
 - a. The preacquisition notification must be in the form and contain the information prescribed by the national association of insurance commissioners relating to those markets which, under paragraph 54 of subdivision b of subsection 2, cause the acquisition not to be exempted from the provisions of this section. The commissioner may require additional material and information as the commissioner deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subsection 4. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of such person indicating that person's ability to render an informed opinion.
 - b. The waiting period required begins on the date of receipt of the commissioner of a preacquisition notification and ends on the earlier of the thirtieth day after the date of its receipt, or termination of the waiting period by the commissioner. Prior to the end of the waiting period, the commissioner on a one-time basis may require the submission of additional needed information relevant to the proposed acquisition, in

which the event the waiting period ends on the earlier of the thirtieth day after receipt of the additional information by the commissioner or termination of the waiting period by the commissioner.

4. a. The commissioner may enter an order under subdivision a of subsection 5 with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in any line of insurance in this state or tend to create a monopoly therein or if the ~~insurance company~~insurer fails to file adequate information in compliance with subsection 3.
- b. In determining whether a proposed acquisition would violate the competitive standard of subdivision a, the commissioner shall consider the following:
 - (1) Any acquisition covered under subsection 2 involving two or more ~~insurance companies~~insurers competing in the same market is prima facie evidence of violation of the competitive standards:

- (a) If the market is highly concentrated and the involved ~~insurance companies~~insurers possess the following shares of the market:

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more

- (b) Or, if the market is not highly concentrated and the involved ~~insurance companies~~insurers possess the following shares of the market:

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more

A highly concentrated market is one in which the share of the four largest ~~insurance companies~~insurers is seventy-five percent or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two ~~insurance companies~~insurers are involved, exceeding the total of the two columns in the table is prima facie evidence of violation of the competitive standard in subdivision a. For the purpose of this paragraph, the ~~insurance company~~insurer with the largest share of the market must be deemed to be insurer A.

- (2) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest ~~insurance companies~~insurers in the market, from the two largest to the eight largest, has increased by seven percent or more of the market over a period of time extending from any base year five to ten years prior to the acquisition up to the time of the acquisition. Any acquisition or merger covered under subsection 2 involving two or more ~~insurance~~

~~companies~~insurers competing in the same market is prima facie evidence of violation of the competitive standard in subdivision a if:

- (a) There is a significant trend toward increased concentration in the market;
 - (b) One of the ~~insurance companies~~insurers involved is one of the insurance companies in a grouping of large ~~insurance companies~~insurers showing the requisite increase in the market share; and
 - (c) Another involved ~~insurance company's~~insurer's market is two percent or more.
- (3) For the purposes of this subdivision:
- (a) The term "~~insurance company~~insurer" includes any company or group of companies under common management, ownership, or control.
 - (b) The term "market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the commissioner shall give due consideration to, among other things, the definitions or guidelines, if any, promulgated by the national association of insurance commissioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by ~~insurance companies~~insurers doing business in this state, and the relevant geographical market is assumed to be this state.
 - (c) The burden of showing prima facie evidence of violation of the competitive standard rests upon the commissioner.
- (4) Even though an acquisition is not prima facie violative of the competitive standard under paragraphs 1 and 2, the commissioner may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition is prima facie violative of the competitive standard under paragraphs 1 and 2, a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under this paragraph include the following: market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry into and exit from the market.
- c. An order may not be entered under subdivision a of subsection 5 if:
- (1) The acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits which would arise from such economies exceed the public benefits which would arise from not lessening competition; or

- (2) The acquisition will substantially increase the availability of insurance, and the public benefits of such increase exceed the public benefits which would arise from not lessening competition.
5. a. If an acquisition violates the standards of this section, the commissioner may enter an order:
 - (1) Requiring an involved ~~insurance company~~insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or
 - (2) Denying the application of an acquired or acquiring ~~insurance company~~insurer for a license to do business in this state.
 - b. The order may not be entered unless there :
 - (1) There is a hearing, ~~notice~~;
 - (2) Notice of ~~such~~the hearing is issued prior to the end of the waiting period and not less than fifteen days prior to the hearing;~~;~~ and ~~the~~
 - (3) The hearing is concluded and the order is issued no later than sixty days after the ~~end~~date of the ~~waiting period~~filing of the preacquisition notification with the commissioner. Every order must be accompanied by a written decision of the commissioner setting forth findings of fact and conclusions of law.
 - c. ~~An order entered under this subsection may not become final sooner than thirty days after it is issued, during which time the involved insurance company may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon the plan or other information, the commissioner shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the standards of this section would be remedied and the order vacated or modified.~~
 - d. An order pursuant to this subsection does not apply if the acquisition is not consummated.
 - e.d. Any person who violates a cease and desist order of the commissioner under this subsection and while the order is in effect, after notice and hearing and upon order of the commissioner, may be subject at the discretion of the commissioner to any one or both of the following:
 - (1) A monetary penalty of not more than ten thousand dollars for every day of violation.
 - (2) Suspension or revocation of ~~such~~the person's license.
 - f.e. Any ~~insurance company~~insurer or other person who fails to make any filing required by this section and who also fails to demonstrate a good-faith effort to comply with any such filing requirement is subject to a fine of not more than fifty thousand dollars.

- g.f. Subsections 2 and 3 of section ~~26.1-10-08~~26.1-10-10 and section ~~26.1-10-10~~26.1-10-12 do not apply to acquisitions covered under subsection 2.

SECTION 5. AMENDMENT. Section 26.1-10-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-04. Registration — Amendments — Termination — Alternative registration — Exceptions — Disclaimer — Violation of insurers.

1. Every ~~insurance company which~~insurer that is authorized to do business in this state and which is a member of an insurance holding company system shall register with the commissioner, except a foreign ~~insurance company~~insurer subject to ~~disclosure~~registration requirements and standards adopted by statute or rule in the jurisdiction of its domicile which are substantially similar to those contained in this section and section 26.1-10-05. Any ~~insurance company~~insurer subject to registration under this section shall register ~~before August 31, 1981, or~~within fifteen days after it becomes subject to registration, ~~whichever is later,~~ and annually thereafter by March first of each year for the previous calendar year unless the commissioner for good cause shown extends the time for registration, and then within the extended time. The commissioner may require any ~~authorized insurance company which~~insurer authorized to do business in the state which is a member of ~~an insurance~~ holding company system not subject to registration under this section to furnish a copy of the registration statement, the summary specified in subsection 10 of section 26.1-10-04, or other information filed by the ~~insurance company~~insurer with the insurance regulatory authority of the domiciliary jurisdiction.
2. Every ~~insurance company~~insurer subject to registration shall file a registration statement with the commissioner on a form approved by the commissioner, which must contain current information about:
 - a. The capital structure, general financial condition, ownership, and management of the ~~insurance company~~insurer and any person in control of the ~~insurance company~~insurer.
 - b. The identity and relationship of every member of the insurance holding company system.
 - c. The following agreements in force, ~~relationships subsisting,~~ and transactions currently outstanding or which have occurred during the last calendar year between the ~~insurance company~~insurer and its affiliates:
 - (1) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the ~~insurance company~~insurer or of the ~~insurance company~~insurer by its affiliates.
 - (2) Purchases, sales, or exchange of assets.
 - (3) Transactions not in the ordinary course of business.
 - (4) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the ~~insurance company's~~insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the ~~insurance company's~~insurer's business.

- (5) All management agreements, service contracts, and all cost-sharing arrangements.
 - (6) Reinsurance agreements.
 - (7) Dividends and other distributions to shareholders.
 - (8) Consolidated tax allocation agreements.
- d. Any pledge of the ~~insurance company's~~insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.
 - e. If requested by the commissioner, the insurer shall include financial statements of or within an insurance holding company system, including all affiliates. A financial statement may include an annual audited financial statement filed with the United States securities and exchange commission pursuant to the federal Securities Act of 1933, as amended, [15 U.S.C. 77a et seq.] or the federal Securities Exchange Act of 1934, as amended, [15 U.S.C. 78a et seq.] or the financial statement pursuant to this subdivision may satisfy the request by providing the commissioner with the most recently filed parent corporation financial statements that have been filed with the United States securities and exchange commission.
 - f. Other matters concerning transactions between registered ~~insurance companies~~insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the commissioner.
 - g. Statements that the insurer's board of directors is responsible for and supervises, relating to corporate governance and internal controls that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor.
 - h. Any other information required by the commissioner by rule.
3. No information need be disclosed on the registration statement filed pursuant to subsection 2 if the information is not material for the purposes of this section. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments, or guarantees involving one-half of one percent or less of an ~~insurance company's~~insurer's admitted assets as of December thirty-first next preceding are not material for purposes of this section.
 4. In addition to the annual filing requirement under subsection 1, each registered ~~insurance company~~insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms approved by the commissioner within fifteen days after the end of the month in which it learns of each change or addition; provided, however, that subject to subsections 7, 8, and 9 of section 26.1-10-05, each registered ~~insurance company~~insurer shall report all dividends and other distributions to shareholders within five business days following the declaration and no less than ten business days prior to payment thereof.

5. The commissioner shall terminate the registration of any ~~insurance company~~ insurer that demonstrates that it no longer is a member of an insurance holding company system.
6. The commissioner may require or allow two or more affiliated ~~insurance companies~~ insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.
7. The commissioner may allow an ~~insurance company~~ insurer which is authorized to do business in this state and which is part of an insurance holding company system to register on behalf of any affiliated ~~insurance company~~ insurer which is required to register under subsection 1 to file all information and material required to be filed under this section.
8. This section does not apply to any ~~insurance company~~ insurer, information, or transaction if and to the extent excepted by the commissioner by rule or order.
9. Any person may file with the commissioner a disclaimer of affiliation with any authorized ~~insurance company~~ insurer or a disclaimer may be filed by the ~~insurance company~~ insurer or any member of an insurance holding company system. The disclaimer must fully disclose all material relationships and bases for affiliation between the person and the ~~insurance company~~ insurer as well as the basis for disclaiming the affiliation. ~~After a disclaimer has been filed, the insurance company is relieved of any duty to register or report under this section which arises out of the insurance company's relationship with the person unless and until the commissioner disallows the disclaimer. The commissioner shall disallow the disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.~~ A disclaimer of affiliation is deemed to have been granted unless the commissioner, within thirty days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which must be granted. The disclaiming party is relieved of its duty to register under this section if approval of the disclaimer has been granted by the commissioner or if the disclaimer is deemed to have been approved.
10. All registration statements must contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.
11. Any person within an insurance holding company system subject to registration must provide complete and accurate information to an ~~insurance company~~ insurer, when the information is reasonably necessary to enable the ~~insurance company~~ insurer to comply with the provisions of this chapter.
12. The ultimate controlling person of every insurer subject to registration shall file an annual enterprise risk report. To the best of the ultimate controlling person's knowledge and belief, the report must identify the material risks within the insurance holding company system which could pose enterprise risk to the insurer. The report must be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

13. The failure to file a registration statement or any summary of the registration statement thereto or enterprise risk filing required by this section within the time specified for the filing is a violation of this section.

SECTION 6. AMENDMENT. Section 26.1-10-05 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-05. Standards -- Transactions with affiliates -- Adequacy of surplus -- Dividends and other distributions and management of an insurer with an insurance holding company system.

1. Transactions within an insurance holding company system to which an insurance company/insurer subject to registration is a party are subject to the following standards:
 - a. The terms must be fair and reasonable.
 - b. Agreements for cost-sharing services and management must include provisions as required by rules adopted by the commissioner.
 - c. The books, accounts, and records of each party must clearly and accurately disclose the precise nature and details of the transactions, including that accounting information that is necessary to support the reasonableness of the charges or fees to the respective parties.
 - ~~e-d.~~ The insurance company's/insurer's surplus as regards to policyholders following any dividends or distributions to shareholder affiliates must be reasonable in relation to the insurance company's/insurer's outstanding liabilities and adequate to its financial needs.
 - ~~e-e.~~ Charges or fees for services performed must be reasonable.
 - ~~e-f.~~ Expenses incurred and payment received must be allocated to the insurance company/insurer in conformity with statutory accounting practices consistently applied.
2. The following transactions involving a domestic insurance company/insurer and any person in its insurance holding company system, including an amendment or modification of an affiliate agreement previously filed pursuant to this section, which is subject to any materiality standards contained in subdivisions a through g, may not be entered into unless the insurance company/insurer has notified the commissioner in writing of its intention to enter into the transaction at least thirty days prior thereto, or a shorter period as the commissioner may permit, and the commissioner has not disapproved it within that period. The notice for an amendment or modification must include the reason for the change and the financial impact on the domestic insurer. Within thirty days after a termination of a previously filed agreement, informal notice must be reported to the commissioner for determination of the type of filing required, if any.
 - a. Sales, purchases, exchanges, loans, or extensions of credit, guarantees, or investments provided the transactions are equal to or exceed:
 - (1) With respect to nonlife insurance companies/insurers, the lesser of three percent of the insurance company's/insurer's admitted assets or

twenty-five percent of surplus as regards policyholders as of December thirty-first next preceding.

- (2) With respect to life ~~insurance companies~~insurers, three percent of the ~~insurance company's~~insurer's admitted assets as of December thirty-first next preceding.
- b. Loans or extensions of credit to any person ~~whothat~~ is not an affiliate, ~~whenif~~ the ~~insurance company~~insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in any affiliate of the ~~insurance company~~insurer making the loans or extensions of credit provided the transactions are equal to or exceed:
- (1) With respect to nonlife ~~insurance companies~~insurers, the lesser of three percent of the ~~insurance company's~~insurer's admitted assets or twenty-five percent of surplus as regards policyholders as of December thirty-first next preceding.
 - (2) With respect to life ~~insurance companies~~insurers, three percent of the ~~insurance company's~~insurer's admitted assets as of December thirty-first next preceding.
- c. Reinsurance agreements or modifications thereto, including:
- (1) All reinsurance pooling agreements.
 - (2) Agreements in which the reinsurance premium or a change in the ~~insurance company's~~insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years, equals or exceeds five percent of the ~~insurance company's~~insurer's surplus as regards policyholders, as of December thirty-first next preceding, including those agreements which may require as consideration the transfer of assets from an ~~insurance company~~insurer to a nonaffiliate, if an agreement or understanding exists between the ~~insurance company~~insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the ~~insurance company~~insurer.
- d. All management agreements, service contracts, tax allocation agreements, guarantees, and all cost-sharing arrangements.
- e. Any guarantee made by a domestic insurer; however, a guarantee that is quantifiable as to amount is not subject to the notice requirements of this subsection unless the guarantee exceeds the lesser of one-half of one percent of the insurer's admitted assets or ten percent of surplus as regards policyholders as of December thirty-first next preceding. Additionally, all guarantees that are not quantifiable as to amount are subject to the notice requirements of this subsection.
- f. Any direct or indirect acquisition or investment in a person that controls the insurer or in an affiliate of the insurer in an amount that, together with its present holdings in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. A direct or indirect acquisition or

investment in a subsidiary acquired pursuant to section 26.1-10-02, or authorized under any other section of this chapter, or in a nonsubsidiary insurance affiliate that is subject to this chapter, is exempt from this requirement.

- g. Any material transactions, specified by rule, which the commissioner determines may adversely affect the interests of the ~~insurance company's~~insurer's policyholders.

Nothing herein ~~contained in this subsection~~ may be deemed to authorize or permit any transactions which, in the case of an ~~insurance company~~insurer which is not a member of the same insurance holding company system, would be otherwise contrary to law.

3. A domestic ~~insurance company~~insurer may not enter into transactions ~~which that~~ are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that the separate transactions were entered into over any twelve-month period for that purpose, the commissioner may exercise the commissioner's authority under the penalty sections of this chapter.
4. The commissioner, in reviewing transactions pursuant to subsection 2, shall consider whether the transactions comply with the standards set forth in subsection 1 and whether they may adversely affect the interests of the policyholders.
5. The commissioner must be notified within thirty days of any investment of the domestic ~~insurance company~~insurer in any one corporation if the total investment in that corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities.
6. For purposes of this chapter, in determining whether an ~~insurance company's~~insurer's surplus as regards policyholders is reasonable in relation to the ~~insurance company's~~insurer's outstanding liabilities and adequate to meet its financial needs, the following factors, among others, must be considered:
 - a. The size of the ~~insurance company~~insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria.
 - b. The extent to which the ~~insurance company's~~insurer's business is diversified among the several lines of insurance.
 - c. The number and size of risks insured in each line of business.
 - d. The extent of the geographical dispersion of the ~~insurance company's~~insurer's insured risks.
 - e. The nature and extent of the ~~insurance company's~~insurer's reinsurance program.

- f. The quality, diversification, and liquidity of the ~~insurance company's~~insurer's investment portfolio.
- g. The recent past and projected future trend in the size of the ~~insurance company's~~insurer's investment portfolio.
- h. The surplus as regards policyholders maintained by other comparable ~~insurance companies~~insurers.
- i. The adequacy of the ~~insurance company's~~insurer's reserves.
- j. The quality and liquidity of investments in affiliates. The commissioner may treat the investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the commissioner's judgment the investment so warrants.
- k. ~~The quality of the company's earnings and the extent to which the reported earnings include extraordinary items.~~
7. ~~An insurance company subject to registration under section 26.1-10-04 may not~~A domestic insurer may not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until:
- ~~Thirty thirty~~thirty days after the commissioner has received notice of the declaration thereof and has not within ~~such that~~that period disapproved the payment; or
 - ~~The until the~~until the commissioner has approved the payment within the thirty-day period.
8. For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, when the fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the ~~greater~~lesser of:
- Ten percent of the ~~insurance company's~~insurer's surplus as regards policyholders as of December thirty-first next preceding; or
 - The net gain from operations of the ~~insurance company~~insurer, if the ~~company~~insurer is a life ~~insurance company~~insurer, or the net income, if the company is not a life ~~insurance company~~insurer, not including realized capital gains, for the twelve-month period ending December thirty-first next preceding, but shall not include pro rata distributions of any class of the ~~insurance company's~~insurer's own securities.
9. In determining whether a dividend or distribution is extraordinary under subsection 8, an insurer other than a life insurer may carry forward net income from the previous two calendar years which has not already been paid out as dividends. This carry-forward must be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.
10. Notwithstanding any other provision of law, an ~~insurance company~~insurer may declare an extraordinary dividend or distribution which is conditional upon the

commissioner's approval thereof, and the declaration confers no rights upon shareholders until:

- a. The commissioner has approved the payment of the dividend or distribution; or
- b. The commissioner has not disapproved the payment within the thirty-day period referred to in subsection 7.

SECTION 7. AMENDMENT. Section 26.1-10-05.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-05.1. Dividends and other distribution.

1. The board of directors of any company subject to this chapter may declare and the company may pay dividends and other distributions on its outstanding shares and cash, property, or its own shares and on its treasury stock in its own shares, subject to the following provisions:
 - a. No dividend or other distribution may be declared or paid at any time except out of earned, as distinguished from contributed, surplus, nor when the surplus of the company is less than the surplus required by law for the kind or kinds of business authorized to be transacted by ~~such company~~the insurer, nor when the payment of a dividend or other distribution would reduce its surplus to less than such amount.
 - b. Except in the case of share dividends, surplus for determining whether dividends or other distributions may be declared may not include surplus arising from unrealized appreciation in value, or revaluation of assets, or from unrealized profits upon investments.
 - c. No dividend or other distribution may be declared or paid contrary to any restriction contained in the articles of incorporation.
 - d. No dividend or other distribution may be declared or paid contrary to section 26.1-10-05.
2. No payment may be made to policyholders by way of dividends unless the ~~company~~insurer possesses admitted assets in the amount of such payment in excess of its capital, minimum required surplus, and all liabilities.

SECTION 8. AMENDMENT. Section 26.1-10-06 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-06. Examination –~~Consultants~~–Expenses.

1. Subject to the limitations contained in this section and in addition to the powers which the commissioner has relating to the examination of ~~insurance companies~~insurers, the commissioner may examine any insurer registered under section 26.1-10-04 and the insurer's affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

- ~~2. The commissioner may order any insurance company/insurer registered under section 26.1-10-04 to produce any record, book, or other information paper in the possession of the insurance company/insurer or its affiliates necessary to ascertain the financial condition or legality of conduct of the insurance company. If the insurance company fails to comply with the order, the commissioner may examine the affiliates to obtain the information/determine compliance with this chapter.~~
- ~~2-3. The commissioner may exercise the power under subsection 1 only if the examination of the insurance company, under other provisions of the law, is inadequate or the interests of the policyholders of the insurance company may be adversely affected. To determine compliance with this chapter, the commissioner may order any insurer registered under section 26.1-10-04 to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to a contractual relationship, statutory obligation, or other method. If the insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner a detailed explanation of the reason the insurer cannot obtain the information and the identity of the holder of the information. If the commissioner determines the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a penalty of one thousand dollars for each day's delay, or may suspend or revoke the insurer's license.~~
- ~~3-4. The commissioner may retain at the registered insurance company's/insurer's expense any attorneys, actuaries, accountants, and other experts, not otherwise a part of the commissioner's staff, as are reasonably necessary to assist in the conduct of the examination under subsection 1. Any persons so retained are under the direction and control of the commissioner and shall act in a purely advisory capacity.~~
- ~~4-5. Each registered insurance company/insurer producing any record, book, or other information paper for examination pursuant to subsection 1 is liable for and shall pay the expense of the examination.~~
- ~~6. If the insurer fails to comply with an order, the commissioner may examine the affiliates to obtain the information. The commissioner may issue a subpoena, administer oaths, and examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court. When subpoenaed, a person shall attend as a witness at the place specified in the subpoena, anywhere within the state. The witness is entitled to receive the same fees and mileage as a witness in an administrative hearing or in district court, which fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, must be itemized and charged against, and be paid by, the insurer being examined.~~

SECTION 9. Section 26.1-10-06.1 of the North Dakota Century Code is created and enacted as follows:

26.1-10-06.1. Supervisory colleges.

1. With respect to any insurer registered under section 26.1-10-04, and in accordance with subsection 3, the commissioner may participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations to determine compliance by the insurer with this chapter. The powers of the commissioner with respect to a supervisory college include:
 - a. Initiating the establishment of a supervisory college;
 - b. Clarifying the membership and participation of other supervisors in the supervisory college;
 - c. Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a groupwide supervisor;
 - d. Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and establishing processes for information sharing; and
 - e. Establishing a crisis management plan.
2. Each registered insurer subject to this section shall pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with subsection 3, including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or the insurer's affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of expenses.
3. To assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management, and governance processes, and as part of the examination of an individual insurer in accordance with section 26.1-10-06, the commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or the insurer's affiliates, including other state, federal, and international regulatory agencies. The commissioner may enter an agreement in accordance with subsection 3 of section 26.1-10-07 providing the basis for cooperation between the commissioner and the other regulatory agencies, and the activities of the supervisory college. This section does not delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or the insurer's affiliates within the commissioner's jurisdiction.

SECTION 10. Section 26.1-10-06.2 of the North Dakota Century Code is created and enacted as follows:

26.1-10-06.2. Groupwide supervision of internationally active insurance groups.

1. a. The commissioner may act as the groupwide supervisor for any internationally active insurance group in accordance with this section. However, the commissioner may otherwise acknowledge another regulatory official as the groupwide supervisor if the internationally active insurance group:

- (1) Does not have substantial insurance operations in the United States;
 - (2) Has substantial insurance operations in the United States but not in this state; or
 - (3) Has substantial insurance operations in the United States and this state, but the commissioner has determined under the factors set forth in subsections 2 and 6 the other regulatory official is the appropriate groupwide supervisor.
- b. An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request the commissioner make a determination or acknowledgment as to a groupwide supervisor under this section.
2. In cooperation with other state, federal, and international regulatory agencies, the commissioner shall identify a single groupwide supervisor for an internationally active insurance group and may determine the commissioner is the appropriate groupwide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state. However, the commissioner may acknowledge a regulatory official from another jurisdiction is the appropriate groupwide supervisor for the internationally active insurance group. The commissioner shall consider the following factors when making a determination or acknowledgment under this subsection:
 - a. The place of domicile of the insurers within the internationally active insurance group which hold the largest share of the group's premiums, assets, or liabilities;
 - b. The place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group;
 - c. The location of the executive offices or largest operational offices of the internationally active insurance group;
 - d. Whether another regulatory official is acting or is seeking to act as the groupwide supervisor under a regulatory system the commissioner determines to be:
 - (1) Substantially similar to the system of regulation provided under the laws of this state; or
 - (2) Otherwise sufficient in terms of providing for groupwide supervision, enterprise risk analysis, and cooperation with other regulatory officials; and
 - e. Whether another regulatory official acting or seeking to act as the groupwide supervisor provides the commissioner with reasonably reciprocal recognition and cooperation. However, a commissioner identified under this section as the groupwide supervisor may determine it is appropriate to acknowledge another supervisor to serve as the groupwide supervisor. The acknowledgment of the groupwide supervisor must be made after the consideration of the factors listed in subdivisions a through e, and must be made in cooperation with and subject to the

- acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group, and in consultation with the internationally active insurance group.
3. a. Notwithstanding any other provision of law, when another regulatory official is acting as the groupwide supervisor of an internationally active insurance group, the commissioner shall acknowledge that regulatory official as the groupwide supervisor unless the commissioner determines there has been a significant material change in the internationally active insurance group that results in:

 - (1) The internationally active insurance group's insurers domiciled in this state holding the largest share of the group's premiums, assets, or liabilities; or
 - (2) This state being the place of domicile of the top-tiered insurers in the insurance holding company system of the internationally active insurance group.
 - b. If such a material change has occurred, the commissioner shall make a determination or acknowledgment as to the appropriate groupwide supervisor under subsection 2.
 4. Under section 26.1-10-06, the commissioner may collect from any insurer registered under section 26.1-10-04 all information necessary to determine whether the commissioner may act as the groupwide supervisor of an internationally active insurance group or if the commissioner may acknowledge another regulatory official to act as the groupwide supervisor. Before issuing a determination that an internationally active insurance group is subject to groupwide supervision by the commissioner, the commissioner shall notify the insurer registered under section 26.1-10-04 and the ultimate controlling person within the internationally active insurance group. The internationally active insurance group must be provided not less than thirty days to provide the commissioner with additional information pertinent to the pending determination. The commissioner shall publish on the commissioner's internet website the identity of internationally active insurance groups the commissioner has determined are subject to groupwide supervision by the commissioner.
 5. If the commissioner is the groupwide supervisor for an internationally active insurance group, the commissioner may engage in any of the following groupwide supervision activities:

 - a. Assess the enterprise risks within the internationally active insurance group to ensure:

 - (1) The material financial condition and liquidity risks to the members of the internationally active insurance group which are engaged in the business of insurance are identified by management; and
 - (2) Reasonable and effective mitigation measures are in place.
 - b. Request, from any member of an internationally active insurance group subject to the commissioner's supervision, information necessary and

- appropriate to assess enterprise risk, including information about the members of the internationally active insurance group regarding:
- (1) Governance, risk assessment, and management;
 - (2) Capital adequacy; and
 - (3) Material intercompany transactions.
- c. Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of that internationally active insurance groups which are engaged in the business of insurance.
- d. Communicate with other state, federal, and international regulatory agencies for members within the internationally active insurance group, and share relevant information subject to the confidentiality provisions of section 26.1-10-07 through supervisory colleges as set forth in section 26.1-10-06.1 or otherwise.
- e. Enter agreements with or obtain documentation from any insurer registered under section 26.1-10-04; any member of the internationally active insurance group; and any other state, federal, and international regulatory agency for members of the internationally active insurance group, providing the basis for or otherwise clarifying the commissioner's role as groupwide supervisor, including provisions for resolving disputes with other regulatory officials. The agreement or documentation may not serve as evidence in any proceeding any insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this state.
- f. Other groupwide supervision activities, consistent with the authorities and purposes enumerated in this section, as considered necessary by the commissioner.
6. If the commissioner acknowledges another regulatory official from a jurisdiction that is not accredited by the national association of insurance commissioners is the groupwide supervisor, the commissioner may cooperate reasonably, through supervisory colleges or otherwise, with groupwide supervision undertaken by the groupwide supervisor, provided:
- a. The commissioner's cooperation is in compliance with the laws of this state; and
 - b. The regulatory official acknowledged as the groupwide supervisor also recognizes and cooperates with the commissioner's activities as a groupwide supervisor for other internationally active insurance groups as applicable. If such recognition and cooperation is not reasonably reciprocal, the commissioner may refuse recognition and cooperation.

7. The commissioner may enter an agreement with or obtain documentation from any insurer registered under section 26.1-10-04; any affiliate of the insurer; and other state, federal, and international regulatory agency for members of the internationally active insurance group which provide the basis for or otherwise clarify a regulatory official's role as groupwide supervisor.
8. The commissioner may adopt rules necessary for the administration of this section.
9. A registered insurer subject to this section is liable for and shall pay the reasonable expenses of the commissioner's participation in the administration of this section, including the engagement of an attorney, actuary, and any other professional and all reasonable travel expenses.

SECTION 11. AMENDMENT. Section 26.1-10-07 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-07. Information confidential~~Confidential treatment.~~

1. Any document, material, or other information in the possession or control of the North Dakota insurance department which is obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 26.1-10-06 and all information reported pursuant to subdivisions l and m of subsection 2 of section 26.1-10-03 and sections 26.1-10-04 and 26.1-10-05 must be givenis confidential treatment and isand privileged, not subject to section 44-04-18, not subject to subpoena and may not be made public by the commissioner or any other person, except to insurance departments of other states, and not subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use the document, material, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner may not otherwise make the document, material, or other information public without the prior written consent of the insurance companyinsurer to which it pertains unless the commissioner, after giving the insurance companyinsurer and its affiliates whethat would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in any manner the commissioner deems appropriate.
2. Neither the commissioner nor any person that received any document, material, or other information while acting under the authority of the commissioner or with whom such document, material, or other information is shared under this chapter is permitted or required to testify in any private civil action concerning any confidential document, material, or information subject to subsection 1.
3. To assist in the performance of the commissioner's duties:
 - a. If the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality, the commissioner may share any document, material, or other information, including the confidential and privileged document, material, or information subject to subsection 1, with any other state, federal, and international regulatory agency, the national association of insurance commissioners

- and its affiliates and subsidiaries, and any state, federal, or international law enforcement authority, including members of any supervisory college described in section 26.1-10-06.1;
- b. Notwithstanding subdivision a, the commissioner may share a confidential and privileged document, material, or information reported under subsection 12 of section 26.1-10-04 only with a commissioner of a state having statutes or regulations substantially similar to subsection 1 and who has agreed in writing not to disclose the information;
 - c. The commissioner may receive any document, material, or information, including any otherwise confidential and privileged document, material, or information from the national association of insurance commissioners and its affiliates and subsidiaries and from any regulatory and law enforcement official of other foreign or domestic jurisdiction, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding the document, material, or information is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and
 - d. The commissioner shall enter a written agreement with the national association of insurance commissioners governing sharing and use of information provided under this chapter consistent with this subsection and which must:
 - (1) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries under this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with any other state, federal, or international regulator;
 - (2) Specify ownership of information shared with the national association of insurance commissioners and its affiliates and subsidiaries under this chapter remains with the commissioner, and the national association of insurance commissioner's use of the information is subject to the direction of the commissioner;
 - (3) Require prompt notice to be given to an insurer if the insurer's confidential information in the possession of the national association of insurance commissioners under this chapter is subject to a request or subpoena to the national association of insurance commissioners for disclosure or production; and
 - (4) Require the national association of insurance commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners and its affiliates and subsidiaries under this chapter.
4. The sharing of information by the commissioner under this chapter does not constitute a delegation of regulatory authority or rulemaking, and the

commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

5. Waiver of any applicable privilege or claim of confidentiality in any document, material, or information may not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection 3.
6. Any document, material, or other information in the possession or control of the national association of insurance commissioners under this chapter is confidential and privileged, not subject to section 44-04-18, not subject to subpoena, and not subject to discovery or admissible in evidence in any private civil action.

SECTION 12. AMENDMENT. Section 26.1-10-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-08. Injunctions - Prohibitions against voting securities - Sequestration of voting securities.

1. Whenever it appears to the commissioner that any ~~insurance company~~insurer or any director, officer, employee, or agent thereof has committed or is about to commit a violation of this chapter or of any rule or order issued by the commissioner under this chapter, the commissioner may apply to the district court for the county in which the principal office of the ~~insurance company~~insurer is located or if the ~~insurance company~~insurer has no principal office in this state then to the district court of Burleigh County for an order enjoining the ~~insurance company~~insurer or the director, officer, employee, or agent thereof from violating or continuing to violate this chapter or any rule or order, and for any other equitable relief as the nature of the case and the interests of the ~~insurance company's~~insurer's policyholders, creditors, and shareholders or the public may require.
2. A security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of this chapter or any rule or order issued by the commissioner hereunder may not be voted at any shareholders' meeting; or ~~may be~~ counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though the securities were not issued and outstanding, but any action taken at the meeting is not invalidated by the voting of those securities, unless the action would materially affect control of the ~~insurance company~~insurer or unless the courts of this state have so ordered. If an ~~insurance company~~insurer or the commissioner has reason to believe that any security of the ~~insurance company~~insurer has been or is about to be acquired in contravention of this chapter or any rule or order issued by the commissioner hereunder, the ~~insurance company~~insurer or the commissioner may apply to the district court of Burleigh County or to the district court of the county in which the ~~insurance company~~insurer has its principal place of business to enjoin any offer, request, invitation, agreement, or acquisition made in contravention of section 26.1-10-03 or any rule or order issued by the commissioner thereunder to enjoin the voting of any security so acquired, to void any vote of the security already cast at any meeting of shareholders, and for any other equitable relief as the nature of the case and the interests of the ~~insurance company's~~insurer's policyholders, creditors, and shareholders or the public may require.

3. When a person has acquired or is proposing to acquire any voting securities in violation of this chapter or any rule or order issued by the commissioner hereunder, the district court of Burleigh County or the district court of the county in which the ~~insurance company~~insurer has its principal place of business may, on the notice the court deems appropriate and upon the application of the ~~insurance company~~insurer or the commissioner, seize or sequester any voting securities of the ~~insurance company~~insurer owned directly or indirectly by the person and issue any orders with respect thereto as may be appropriate to effectuate this chapter.
4. Notwithstanding any other provision of law, for the purpose of this chapter the site of the ownership of the securities of domestic ~~insurance companies~~insurers is deemed to be in this state.

SECTION 13. AMENDMENT. Section 26.1-10-09 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-09. Revocation, suspension, and nonrenewal of license.

Whenever it appears to the commissioner that any person has committed a violation of this chapter which makes the continued operation of an ~~insurance company~~insurer contrary to the interests of policyholders or the public, the commissioner, after giving notice and an opportunity to be heard, may suspend, revoke, or refuse to renew the ~~insurance company's~~insurer's license or authority to do business in this state for any period the commissioner finds is required for the protection of policyholders or the public. Any determination must be accompanied by specific findings of fact and conclusions of law.

SECTION 14. AMENDMENT. Section 26.1-10-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-10. Receivership.

Whenever it appears to the commissioner that any person has committed a violation of this chapter which so impairs the financial condition of a domestic ~~insurance company~~insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders, or the public, then the commissioner may proceed as provided in chapter 26.1-06.1 to take possession of the property of the ~~insurance company~~insurer and to carry on its business.

SECTION 15. AMENDMENT. Section 26.1-10-10.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-10.1. Recovery.

1. ~~Subject to other limitations of this section, if~~ an order for liquidation, conservation, or rehabilitation of a domestic ~~insurance company~~insurer has been entered, ~~and if distribution of payment identified in subdivision a or b is made at any time during the one year preceding the petition for liquidation, conservation, or rehabilitation,~~ the receiver appointed under the order may recover on behalf of the ~~insurance company~~insurer:
 - a. From any parent corporation, ~~limited liability company,~~ or holding company or person or affiliate ~~whethat~~ otherwise controlled the ~~insurance company~~insurer, the amount of distributions other than distributions of

- shares of the same class of stock, paid by the ~~insurance company~~insurer on its capital stock; or
- b. Any payment in the form of a bonus, termination settlement, or extraordinary lump sum salary adjustment made by the ~~insurance company~~insurer or its subsidiaries to a director, officer, or employee, if the distribution or payment under this subsection is made at any time during the one year preceding the petition for liquidation, conservation, or rehabilitation subject to the limitations of subsections 2, 3, and 4.
2. A distribution may not be recovered if the parent or affiliate shows that, when paid, the distribution was lawful and reasonable, and that the ~~insurance company~~insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the ~~insurance company~~insurer to fulfill its contractual obligations.
 3. Any person ~~whothat~~ was a parent corporation, ~~limited liability company~~, or holding company or a person ~~whothat~~ otherwise controlled the ~~insurance company~~insurer or affiliate at the time the distributions were paid is liable up to the amount of distributions or payments under subsection 1 the person received. Any person ~~whothat~~ otherwise controlled the ~~insurance company~~insurer at the time the distributions were declared is liable up to the amount of distributions the person would have received if the person had been paid immediately. If two or more persons are liable with respect to the same distributions, they are jointly and severally liable.
 4. The maximum amount recoverable under this ~~subsection~~section is the amount needed in excess of all other available assets of the impaired or insolvent ~~insurance company~~insurer to pay the contractual obligations of the impaired or insolvent ~~insurance company~~insurer and to reimburse any guaranty funds.
 5. To the extent that any person liable under subsection 3 is insolvent or otherwise fails to pay claims due from it pursuant to ~~subsection 3~~, its parent corporation, ~~limited liability company~~, or holding company or person ~~whothat~~ otherwise controlled it at the time the distribution was paid must be jointly and severally liable for any resulting deficiency in the amount recovered from the parent corporation, ~~limited liability company~~, or holding company or person ~~whothat~~ otherwise controlled it.

SECTION 16. AMENDMENT. Section 26.1-10-11 of the North Dakota Century Code is amended and reenacted as follows:

26.1-10-11. Criminal proceedings - Penalty.

1. Any ~~insurance company~~insurer failing, without just cause, to file any registration statement as required in this chapter must be required, after notice and hearing, to pay a penalty of one hundred dollars for each day's delay. The commissioner may reduce the penalty if the ~~insurance company~~insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the ~~insurance company~~insurer.
2. Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly permits any of the officers or agents of the ~~insurance company~~insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to sections 26.1-10-04 and 26.1-10-05, or which violate

this chapter, shall pay, in their individual capacity, a civil penalty of not more than one thousand dollars per violation, after notice and hearing before the commissioner. In determining the amount of the civil penalty, the commissioner shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

3. Whenever it appears to the commissioner that any ~~insurance company~~insurer subject to this chapter or any director, officer, employee, or agent thereof has engaged in any transaction or entered into a contract which is subject to section 26.1-10-05 and which would not have been approved had ~~such the~~approval been requested, the commissioner may order the ~~insurance company~~insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing, the commissioner may also order the ~~insurance company~~insurer to void ~~the any~~contracts and restore the status quo if it is in the best interest of the policyholders, creditors, or the public.
4. Whenever it appears to the commissioner that any ~~insurance company~~insurer or any director, officer, employee, or agent thereof has committed a willful violation of this chapter, the commissioner may institute criminal proceedings in the district court of the county in which the principal office of the ~~insurance company~~insurer is located or if the ~~insurance company~~insurer has no principal office in the state, then in the district court of Burleigh County against the ~~insurance company~~insurer or the responsible director, officer, employee, or agent of the company. Any ~~insurance company~~insurer that willfully violates this chapter ~~is guilty of a class B misdemeanor~~may be fined not more than fifty thousand dollars. Any individual who willfully violates this chapter ~~is guilty of a class A misdemeanor~~may be fined in the individual's capacity not more than ten thousand dollars.
5. Any officer, director, or employee of an insurance holding company system, who willfully and knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the commissioner in the performance of the commissioner's duties under this chapter, ~~may have criminal proceedings instituted against them~~Any individual who violates this chapter is guilty of a class A misdemeanor may be fined not more than fifty thousand dollars. Any fines imposed must be paid by the officer, director, or employee in the person's individual capacity.
6. If it appears to the commissioner any person has committed a violation of section 26.1-10-03 which prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with chapter 26.1-06.2.

SECTION 17. Section 26.1-10-13 of the North Dakota Century Code is created and enacted as follows:

26.1-10-13. Judicial review - Mandamus.

1. Any person aggrieved by any act, determination, rule, order, or any other action of the commissioner under this chapter may appeal to the district court for Burleigh County. The court shall conduct the review without a jury and by trial de novo, except if all parties, including the commissioner, so stipulate, the

review must be confined to the record. Portions of the record may be introduced into evidence by stipulation in a trial de novo as to those parties so stipulating.

2. The filing of an appeal under this section stays the application of any rule, order, or other action of the commissioner to the appealing party unless the court, after giving the party notice and an opportunity to be heard, determines a stay would be detrimental to the interest of policyholders, shareholders, creditors, or the public.
3. Any person aggrieved by any failure of the commissioner to act or make a determination required by this chapter may petition the district court for Burleigh County for a writ in the nature of a mandamus or a peremptory mandamus directing the commissioner to act or make a determination.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 208

SENATE BILL NO. 2131

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact chapter 26.1-10.2 of the North Dakota Century Code, relating to own risk and solvency assessments of insurers; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 26.1-10.2 of the North Dakota Century Code is created and enacted as follows:

26.1-10.2-01. Definitions.

1. "Insurance group" means those insurers and affiliates included within an insurance holding company system as defined in chapter 26.1-10.
2. "Insurer" has the same meaning as set forth in section 26.1-29-02, except the term does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.
3. "Own risk and solvency assessment" means a confidential internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group, conducted by that insurer or insurance group of the material and relevant risks associated with the insurer or insurance group's current business plan, and the sufficiency of capital resources to support those risks.
4. "Own risk and solvency assessment guidance manual" means the current version of the own risk and solvency assessment guidance manual developed and adopted by the national association of insurance commissioners and adopted by the commissioner and as amended from time to time. A change in the own risk and solvency assessment guidance manual is effective on the January first following the calendar year in which the changes have been adopted by the national association of insurance commissioners and the commissioner.
5. "Own risk and solvency assessment summary report" means a confidential high-level summary of an insurer or insurance group's own risk and solvency assessment.

26.1-10.2-02. Risk management framework.

An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on the material and relevant risks of the insurer. This requirement may be satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

26.1-10.2-03. Own risk and solvency assessment requirement.

Subject to section 26.1-10.2-05, an insurer, or the insurance group of which the insurer is a member, regularly shall conduct an own risk and solvency assessment consistent with a process comparable to the own risk and solvency assessment guidance manual. The own risk and solvency assessment must be conducted no less than annually but also at any time there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

26.1-10.2-04. Own risk and solvency assessment summary report.

1. Upon the commissioner's request, and no more than once each year, an insurer shall submit to the commissioner an own risk and solvency assessment summary report or any combination of reports that together contain the information described in the own risk and solvency assessment guidance manual, applicable to the insurer or the insurance group of which it is a member. Notwithstanding any request from the commissioner, if the insurer is a member of an insurance group, the insurer shall submit the reports required by this subsection if the commissioner is the lead state commissioner of the insurance group as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.
2. The report must include a signature of the insurer or insurance group's chief risk officer or other executive having responsibility for the oversight of the insurer's enterprise risk management process attesting to the best of the individual's belief and knowledge that the insurer applies the enterprise risk management process described in the own risk and solvency assessment summary report and that a copy of the report has been provided to the insurer's board of directors or the appropriate committee of the board.
3. An insurer may comply with subsection 1 by providing the most recent and substantially similar report provided by the insurer or another member of an insurance group of which the insurer is a member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the own risk and solvency assessment guidance manual. Any report in a language other than English must be accompanied by a translation of that report into the English language.

26.1-10.2-05. Exemption.

1. An insurer is exempt from the requirements of this chapter if:
 - a. The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the federal crop insurance corporation and federal flood program, less than five hundred million dollars; and
 - b. The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium, including international direct and assumed premium, but excluding premiums reinsured with the federal crop insurance corporation and federal flood program, less than one billion dollars.

2. If an insurer qualifies for exemption under subdivision a of subsection 1, but the insurance group of which the insurer is a member does not qualify for exemption under subdivision b of subsection 1, then the own risk and solvency assessment summary report that may be required under section 26.1-10.2-04 must include every insurer within the insurance group. This requirement may be satisfied by the submission of more than one own risk and solvency assessment summary report for any combination of insurers provided any combination of reports includes every insurer within the insurance group.
3. If an insurer does not qualify for exemption under subdivision a of subsection 1, but the insurance group of which the insurer is a member qualifies for exemption under subdivision b of subsection 1, then the only own risk and solvency assessment summary report that may be required under section 26.1-10.2-04 must be the report applicable to that insurer.
4. An insurer that does not qualify for exemption under subsection 1 may apply to the commissioner for a waiver from the requirements of this chapter based upon unique circumstances. In deciding whether to grant the request for waiver, the commissioner may consider the type and volume of business written, the ownership and organizational structure of the insurer, and any other factor the commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.
5. Notwithstanding the exemptions stated in this section:
 - a. The commissioner may require an insurer maintain a risk management framework, conduct an own risk and solvency assessment, and file an own risk and solvency assessment summary report based on unique circumstances, including the type and volume of business written, the ownership and organizational structure of the insurer, a federal agency request, or an international supervisor request.
 - b. The commissioner may require an insurer maintain a risk management framework, conduct an own risk and solvency assessment, and file an own risk and solvency assessment summary report if the insurer has risk-based capital for company action level event as set forth in section 26.1-03.1-03; meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in section 26.1-06.1-11; or otherwise exhibits qualities of a troubled insurer as determined by the commissioner.
6. If an insurer that qualifies for an exemption under subsection 1 subsequently no longer qualifies for that exemption due to changes in premium as reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer has one year following the year the threshold is exceeded to comply with the requirements of this chapter.

26.1-10.2-06. Contents of an own risk and solvency assessment summary report.

1. The own risk and solvency assessment summary report must be prepared consistent with the own risk and solvency assessment guidance manual subject to the requirements of subsection 2. Documentation and supporting information must be maintained and made available upon examination or upon request of the commissioner.
2. The review of the own risk and solvency assessment summary report and any additional request for information must be made using similar procedures used in the analysis and examination of multi-state or global insurers and insurance groups.

26.1-10.2-07. Confidentiality.

1. Any document, material, or other information, including the own risk and solvency assessment summary report, in the possession of or control of the insurance department which is obtained by, created by, or disclosed to the commissioner or any other person under this chapter, is recognized by this state as being proprietary and to contain trade secrets. Any such document, material, or other information is confidential and privileged, not subject to section 44-04-18, not subject to subpoena, and not subject to discovery and not admissible in evidence in any private civil action. However, the commissioner may use any document, material, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner may not otherwise make the document, material, or other information public without the prior written consent of the insurer.
2. Neither the commissioner nor any person that received any document, material, or other own risk and solvency assessment-related information, through examination or otherwise, while acting under the authority of the commissioner or with whom such document, material, or other information is shared under this chapter may be permitted or required to testify in any private civil action concerning any confidential document, material, or information subject to subsection 1.
3. To assist in the performance of the commissioner's regulatory duties, the commissioner:
 - a. Upon request, may share any document, material, or other own risk and solvency assessment-related information, including any confidential and privileged document, material, or information subject to subsection 1 and any proprietary and trade secret document and material with any other state, federal, or international financial regulatory agency, including a member of any supervisory college as defined in section 26.1-10-06.1, the national association of insurance commissioners, or any third-party consultant designated by the commissioner, provided the recipient agrees in writing to maintain the confidentiality and privileged status of the own risk and solvency assessment-related document, material, or other information and has verified in writing the legal authority to maintain confidentiality.
 - b. May receive any document, material, or other own risk and solvency assessment-related information, including any otherwise confidential and

- privileged document, material, or information, and any proprietary and trade-secret information or document, from regulatory officials of other foreign or domestic jurisdictions, including a member of any supervisory college as defined in section 26.1-10-06.1 or from the national association of insurance commissioners, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.
- c. Shall enter a written agreement with the national association of insurance commissioners or a third-party consultant governing sharing and use of information provided under this chapter, consistent with this subsection which must:
- (1) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners or a third-party consultant under this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with other state regulators from states in which the insurance group has domiciled insurers. The agreement must provide the recipient agrees in writing to maintain the confidentiality and privileged status of any own risk and solvency assessment-related document, material, or other information and has verified in writing the legal authority to maintain confidentiality;
 - (2) Specify ownership of information shared with the national association of insurance commissioners or a third-party consultant under this chapter remains with the commissioner and the national association of insurance commissioner's or a third-party consultant's use of the information is subject to the direction of the commissioner;
 - (3) Prohibit the national association of insurance commissioners or third-party consultant from storing the information shared under this chapter in a permanent database after the underlying analysis is completed;
 - (4) Require prompt notice to be given to an insurer for which confidential information in the possession of the national association of insurance commissioners or a third-party consultant under this chapter is subject to a request or subpoena to the national association of insurance commissioners or a third-party consultant for disclosure or production;
 - (5) Require the national association of insurance commissioners or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners or a third-party consultant may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners or a third-party consultant under this chapter; and
 - (6) In the case of an agreement involving a third-party consultant, provide for the insurer's written consent.
4. The sharing of any information or document by the commissioner under this chapter does not constitute a delegation of regulatory authority or rulemaking.

and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

5. A waiver of any applicable privilege or claim of confidentiality in any document, proprietary and trade-secret material, or other own risk and solvency assessment-related information does not occur as a result of disclosure of the own risk and solvency assessment-related information or document to the commissioner under this section or as a result of sharing as authorized in this chapter.
6. Any document, material, or other information in the possession or control of the national association of insurance commissioners or a third-party consultant under this chapter is confidential and privileged, not subject to section 44-04-18, not subject to subpoena, and not subject to discovery and not admissible in evidence in any private civil action.

26.1-10.2-08. Sanctions - Penalty.

Any insurer failing, without just cause, to timely file the own risk and solvency assessment summary report as required in this chapter, after notice and hearing, shall pay a penalty of one thousand dollars for each day's delay. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner the imposition of the penalty would constitute a financial hardship to the insurer.

Approved March 27, 2015

Filed March 27, 2015

CHAPTER 209

HOUSE BILL NO. 1313

(Representatives Keiser, Kasper, Klemin)

AN ACT to create and enact chapter 26.1-12.2 of the North Dakota Century Code, relating to conversion of a mutual property and casualty insurance company to a stock insurance company; to amend and reenact section 26.1-12.1-10 and subdivision b of subsection 12 of section 26.1-17-33.1 of the North Dakota Century Code, relating to references to demutualization of domestic mutual insurance companies; and to repeal section 26.1-12-32 of the North Dakota Century Code, relating to demutualization of domestic mutual insurance companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-12.1-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-12.1-10. Applicability of certain provisions.

A mutual insurance holding company is deemed to be an insurer subject to chapter 26.1-06.1 and is automatically a mandatory party to any proceeding under that chapter involving an insurance company that, as a result of a reorganization according to section 26.1-12.1-02 or 26.1-12.1-03, is a subsidiary of the mutual insurance holding company. In any proceeding under chapter 26.1-06.1 involving the reorganized insurance company, the assets of the mutual insurance holding company are considered to be the assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the reorganized insurance company's policyholders. A mutual insurance holding company may not dissolve or liquidate without the approval of the commissioner or as ordered by the district court according to chapter 26.1-06.1. ~~Section 26.1-12-32~~ Chapter 26.1-12.2 is not applicable to a reorganization or merger accomplished under this chapter.

SECTION 2. Chapter 26.1-12.2 of the North Dakota Century Code is created and enacted as follows:

26.1-12.2-01. Definitions.

As used in this chapter:

1. "Capital stock" means common or preferred stock or any hybrid security or other equity security issued by a converted stock company or other company or entity pursuant to the exercise of subscription rights granted pursuant to the provisions of subdivision c of subsection 1 of section 26.1-12.2-03.
2. "Converted stock company" means a mutual company or mutual holding company that has converted to a stock company under this chapter.
3. "Converting mutual company" means a mutual company or mutual holding company that has adopted a plan of conversion under this chapter.

4. "Eligible member" means a member of a converting mutual company whose policy is in force on the date the governing body of the converting mutual company adopts a plan of conversion or such earlier date as the converting mutual company may establish with the consent of the commissioner. A person insured under a group policy is not an eligible member. A person whose policy becomes effective after the governing body adopts the plan of conversion but before the effective date of the plan of conversion is not an eligible member but has those rights established under section 26.1-12.2-09.
5. "Issued minority shares" means the number of shares issued by a subsidiary insurance company or subsidiary holding company of a mutual holding company in all minority stock offerings.
6. "Minority stock offering" means an offering of capital stock by a subsidiary insurance company or subsidiary holding company controlled by a mutual holding company in which less than fifty percent of the voting stock of the subsidiary insurance company or subsidiary holding company is offered and sold under this chapter or chapter 26.1-12.1.
7. "Mutual company" means a mutual property and casualty insurance company domiciled in this state.
8. "Mutual holding company" means:
 - a. A corporation resulting from a reorganization of a mutual company under chapter 26.1-12.1; or
 - b. A domestic corporation surviving or resulting from a merger or consolidation with a corporation that resulted from a reorganization of a mutual insurer under the laws of any other jurisdiction as provided by section 26.1-12.1-03.
9. "Participating policy" means a policy that grants a holder the right to receive dividends if, as, and when declared by the mutual company.
10. "Plan of conversion" or "plan" means a plan adopted by the governing body of a mutual company or mutual holding company to convert into a stock company or stock insurance holding company in accordance with the requirements of this chapter.
11. "Policy" means an insurance policy.
12. "Standby investor" means any person that has agreed in writing to purchase all or a portion of the capital stock to be sold in a conversion which is not subscribed by eligible members.
13. "Subscription right" means the nontransferable right to purchase, for a period of not less than forty-five days, the stock of the converted stock company, its proposed subsidiary holding company, or an unaffiliated stock insurance company or other corporation or entity that will acquire the stock of the converted stock company.
14. "Voting member" means a member who is an eligible member and is also a member of the converting mutual company as of a date not more than ninety

days before the date of the meeting at which the plan of conversion must be voted upon by members.

26.1-12.2-02. Adoption of plan of conversion.

1. A plan of conversion does not become effective unless the converting mutual company seeking to become a converted stock company adopted, by the affirmative vote of not less than two-thirds of its governing body, a plan of conversion consistent with the requirements of sections 26.1-12.2-03 and 26.1-12.2-04, or of section 26.1-12.2-05. At any time before approval of a plan of conversion by the commissioner, the converting mutual company, by the affirmative vote of not less than two-thirds of its governing body, may amend or withdraw the plan.
2. Before the eligible members of a converting mutual company may vote on approval of a plan of conversion, a converting mutual company whose governing body has adopted a plan shall file all of the following documents with the commissioner within ninety days after adoption of the plan of conversion together with the application fee:
 - a. The plan of conversion, including the independent evaluation required by subsection 4 of section 26.1-12.2-03.
 - b. The form of notice and proxy required by subsection 7 of section 26.1-12.2-02.
 - c. The form of notice required by section 26.1-12.2-09 to persons whose policies are issued after adoption of the plan of conversion but before the plan of conversion's effective date.
 - d. The proposed certificate of incorporation and bylaws of the converted stock company.
 - e. The acquisition of control statement, as required by section 26.1-10-03.
 - f. The application fee, equal to the greater of ten thousand dollars or an amount equal to one-tenth of one percent of the estimated pro forma market value of the converted stock company as determined in accordance with subsection 4 of section 26.1-12.2-03. If such value is expressed as a range of values, the application fee must be based upon the midpoint of the range. The application fee is in addition to other direct costs incurred by the commissioner in reviewing the proposed plan of conversion. For good cause shown, the commissioner may waive the application fee in whole or in part, or permit a portion of the application fee to be deferred until completion of the conversion.
 - g. Such other information as the commissioner may request.
3. Upon filing with the commissioner the documents required under subsection 2, the converting mutual company shall send to eligible members a notice advising eligible members of the adoption and filing of the plan of conversion, the ability of the eligible members to provide the commissioner and the converting mutual company with comments on the plan of conversion within thirty days of the date of such notice, and the procedure of providing such comments.

4. The commissioner shall approve the plan if the commissioner finds:
 - a. The plan complies with this chapter;
 - b. The plan is fair and equitable to the converting mutual company, the members of the converting mutual company, and the eligible members of the converting mutual company;
 - c. The plan's method of allocating subscription rights is fair and equitable;
 - d. The plan will not otherwise prejudice the interests of the members; and
 - e. The converted stock company will have the amount of capital and surplus deemed by the commissioner to be reasonable for its future solvency.
5. At the expense of the converting mutual company, the commissioner may retain any qualified expert not otherwise a part of the commissioner's staff, including counsel and financial advisors, to assist in reviewing the plan of conversion and the independent valuation required under subsection 4 of section 26.1-12.2-03.
6. The commissioner shall order a hearing on whether the terms of the plan of conversion comply with this chapter after giving written notice by mail or publication to the converting mutual company and other interested persons, all of whom have the right to appear at the hearing.
7. The commissioner shall give written notice of any decision to the converting mutual company and, in the event of disapproval, a detailed statement of the reasons for the decision.
8. All voting members must be sent notice of the members' meeting to vote on the plan of conversion no later than forty-five days before the meeting. The notice must describe the proposed plan of conversion, must inform the member how the proposed plan of conversion will affect the member's membership rights, must inform the voting member of the voting member's right to vote upon the plan of conversion, and must be sent to each voting member's last-known address, as shown on the records of the converting mutual company. The notice must provide instructions on how the member can obtain, either by mail or electronically, a full copy of the proposed plan of conversion. If the meeting to vote upon the plan of conversion is held during the annual meeting of policyholders, only a combined notice of meeting is required.
9. The plan of conversion must be voted upon by voting members and must be adopted upon receiving the affirmative vote of at least two-thirds of the votes cast by voting members at the meeting. Voting members entitled to vote upon the proposed plan of conversion may vote in person or by proxy. The number of votes each voting member may cast must be determined by the bylaws of the converting mutual company. If the bylaws are silent, each voting member may cast one vote.
10. The certificate of incorporation of the converted stock company must be considered at the meeting of the voting members called for the purpose of adopting the plan of conversion and must require for adoption the affirmative vote of at least two-thirds of the votes cast by voting members.

11. Within thirty days after the voting members have approved the plan of conversion in accordance with the requirements of this section, the converted stock company shall file with the commissioner:
 - a. The minutes of the meeting of the voting members at which the plan of conversion was approved, which must include the record of total votes cast in favor of the plan; and
 - b. The certificate of incorporation and bylaws of the converted stock company.

26.1-12.2-03. Required provisions of plan of conversion.

1. The following provisions must be included in the plan of conversion:
 - a. The reasons for proposed conversion.
 - b. The effect of conversion on existing policies, including all of the following:
 - (1) A provision that all policies in force on the effective date of conversion continue to remain in force under the terms of the policies, except that the following rights, to the extent the rights existed in the converting mutual company, must be extinguished on the effective date of the conversion:
 - (a) Any voting rights of the policyholders provided under the policies.
 - (b) Except as provided under paragraph 2, any right to share in the surplus of the converting mutual company, unless such right is expressly provided for under the provisions of the existing policy.
 - (c) Any assessment provisions provided for under certain types of policies.
 - (2) A provision that holders of participating policies in effect on the date of conversion continue to have a right to receive dividends as provided in the participating policies, if any.
 - c. The grant of subscription rights to eligible members.
 - (1) For purposes of any plan, the transfer of subscription rights from any of the following may not be deemed an unpermitted transfer for purposes of this chapter:
 - (a) An individual to such individual and the individual's spouse or children or to a trust or other estate or wealth planning entity established for the benefit of such individual or the individual's spouse or children;
 - (b) An individual to such individual's individual or joint individual retirement account or other tax-qualified retirement plan;
 - (c) An entity to the shareholders, partners, or members of such entity; or

(d) The holder of such rights back to the converting mutual company, its proposed subsidiary holding company, or an unaffiliated corporation or entity that will purchase the stock of the converted stock company as provided in item 3 of subparagraph a of paragraph 2 of subdivision c of subsection 1.

(2) The grant of subscription rights to eligible members must include:

(a) A provision that each eligible member is to receive, without payment, nontransferable subscription rights to purchase the capital stock of the converted stock company and that, in the aggregate, all eligible members have the right, before the right of any other party, to purchase one hundred percent of the capital stock of the converted stock company, exclusive of any shares of capital stock required to be sold or distributed to the holders of surplus notes, if any, and any capital stock purchased by the company's tax-qualified employee stock benefit plan which is in excess of the pro-forma market value of the capital stock established under subsection 4, as permitted by subsection 3 of section 26.1-12.2-04. As an alternative to subscription rights in the converting mutual company, the plan of conversion may provide each eligible member is to receive, without payment, nontransferable subscription rights to purchase a portion of the capital stock of one of the following:

[1] A corporation or entity organized for the purpose of becoming a holding company for the converted stock company;

[2] A stock insurance company owned by the mutual company into which the mutual company will be merged; or

[3] An unaffiliated stock insurer or other corporation or entity that will purchase the stock of the converted stock company.

(b) A provision that subscription rights must be allocated in whole shares among the eligible members using a fair and equitable formula. The formula need not allocate subscription rights to eligible members on a pro rata basis based on premium payments or contributions to surplus, but may take into account how the different classes of policies of the eligible members contributed to the surplus of the mutual company or any other factors that may be fair or equitable. Allocation of subscription rights on a per capita basis are entitled to a presumption that such method is fair, subject to a rebuttal of fairness by clear and convincing evidence. In accordance with subsection 5 of section 26.1-12.2-02, the commissioner may retain an independent consultant to assist in the determination that the allocation of subscription rights is fair and equitable.

2. The plan must provide a fair and equitable means for allocating shares of capital stock in the event of an oversubscription to shares by eligible members exercising subscription rights received under subdivision c of subsection 1.
3. The plan must provide any shares of capital stock not subscribed to by eligible members exercising subscription rights received under subdivision c of

subsection 1 or any other individuals or entities granted subscription rights pursuant to section 26.1-12.2-04 must be sold:

- a. In a public offering; however, if the number of shares of capital stock not subscribed by eligible members is so small in number or other factors exist that do not warrant the time or expense of a public offering, the plan of conversion may provide for sale of the unsubscribed shares through a private placement or other alternative method approved by the commissioner which is fair and equitable to eligible members; or
 - b. To a standby investor or to another corporation or entity that is participating in the plan of conversion, as provided in paragraph 2 of subdivision c of subsection 1.
4. The plan must provide for the preparation of a valuation by a qualified independent expert which establishes the dollar value of the capital stock for which subscription rights must be granted pursuant to subdivision c of subsection 1 which must be equal to the estimated pro forma market value of the converted stock company. The qualified independent expert may, to the extent feasible, determine the pro forma market value by reference to a peer group of stock companies and the application of generally accepted valuation techniques; state the pro forma market value of the converted stock company as a range of value; and establish the value as the value estimated to be necessary to attract full subscription for the shares.
 5. The dollar value of a subscription right based upon the application of the Black-Scholes option pricing model or another generally accepted option pricing model. In connection with the determination of stock price volatility or other valuation inputs used in option pricing models, the qualified independent expert may assume that the attributes of the converted stock company will be substantially similar to the attributes of the stock of the peer companies used to determine the estimated pro forma market value of the converted stock company. The term of a subscription right is a minimum of ninety days for the sole purpose of determining the value of a subscription right.
 6. The plan must provide that each eligible member has the right to require the mutual company to redeem such subscription rights, in lieu of exercising the subscription rights allocated to each eligible member, at a price equal to the number of subscription rights allocated to each eligible member multiplied by the dollar value of the subscription right as determined by the qualified independent expert pursuant to subsection 4. The obligation of the mutual company to redeem subscription rights arises only upon the effective date of the plan. The redemption price payable to each eligible member must be paid to the member within thirty days of the effective date of the plan. Alternatively, the converted stock company may offer each eligible member the option of receiving the redemption amount in cash or having the redemption amount credited against future premium payments. An eligible member that does not exercise the member's subscription rights, and which also fails to affirmatively request redemption of the member's subscription rights before the expiration of the subscription offering, nevertheless is deemed to have requested redemption of the member's subscription rights and shall receive the redemption amount in cash in the manner otherwise provided in this subsection.

7. The plan must set the purchase price per share of capital stock equal to any reasonable amount. However, the minimum subscription amount required of any eligible member may not exceed five hundred dollars, but the plan may provide that the minimum number of shares any person may purchase pursuant to the plan is twenty-five shares. The purchase price per share at which capital stock is offered to persons that are not eligible members may be greater than but not less than the purchase price per share at which capital stock is offered to eligible members.
8. The plan must provide that any person or group of persons acting in concert may not acquire, in the public offering or pursuant to the exercise of subscription rights, more than five percent of the capital stock of the converted stock company or the stock of another corporation that is participating in the plan of conversion, as provided in item 3 of subparagraph a of paragraph 2 of subdivision c of subsection 1, except with the approval of the commissioner. This limitation does not apply to any entity that is to purchase one hundred percent of the capital stock of the converted stock company as part of the plan of conversion approved by the commissioner or to any person that acts as a standby investor for the capital stock of the converted stock company for an amount equal to ten percent or more of the capital stock of the converted stock company, if in each case such purchase is approved by the commissioner in accordance with the provisions of North Dakota law following the filing of an acquisition of control statement under section 26.1-10-03.
9. The plan must provide that a director or officer or person acting in concert with a director or officer of the mutual company may not acquire any capital stock of the converted stock company or the stock of another corporation that is participating in the plan of conversion, as provided in item 3 of subparagraph a of paragraph 2 of subdivision c of subsection 1, for three years after the effective date of the plan of conversion, except through a broker-dealer, without the permission of the commissioner. This provision does not prohibit the directors and officers from:
 - a. Making block purchases of one percent or more of the outstanding common stock other than through a broker-dealer if approved in writing by the insurance department;
 - b. Exercising subscription rights received under the plan; or
 - c. Participating in a stock benefit plan permitted by subsection 3 of section 26.1-12.2-04 or approved by shareholders pursuant to subsection 2 of section 26.1-12.2-11.
10. The plan must provide that a director or officer may not sell stock purchased pursuant to this section or subsection 1 of section 26.1-12.2-04 within one year after the effective date of the conversion, except that nothing contained in this section may be deemed to restrict a transfer of stock by such director or officer if the stock is the stock of an unaffiliated corporation that is participating in the plan of conversion as provided in item 3 of subparagraph a of paragraph 2 of subdivision c of subsection 1 and has a class of stock registered under the federal Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.], or if the transfer is to the spouse or minor children of such director or officer, or to a trust or other estate or wealth planning entity established for the benefit of such director or officer, or the spouse or minor children of such director or officer.

11. The plan of conversion must provide the rights, if any, of a holder of a surplus note to participate in the conversion are governed by the terms of the surplus note.
12. The plan of conversion must provide that without the prior approval of the commissioner, for a period of two years from the date of the completion of the conversion, a converted stock company or any corporation participating in the plan of conversion pursuant to item 1 of subparagraph a of paragraph 2 of subdivision c of subsection 1 or item 2 of subparagraph a of paragraph 2 of subdivision c of subsection 1, may not repurchase any of its capital stock from any person. However, this restriction does not apply to a:
 - a. Repurchase on a pro rata basis pursuant to an offer made to all shareholders of the converted stock company or any corporation participating in the plan of conversion pursuant to, or item 1 of subparagraph a of paragraph 2 of subdivision c of subsection 1, or item 2 of subparagraph a of paragraph 2 of subdivision c of subsection 1; or
 - b. Purchase in the open market by a tax-qualified or nontax-qualified employee stock benefit plan in an amount reasonable and appropriate to fund the plan.

26.1-12.2-04. Optional provisions of plan of conversion.

1. The plan of conversion may allocate to a tax-qualified employee benefit plan nontransferable subscription rights to purchase up to ten percent of the capital stock of the converting mutual company or the stock of another corporation that is participating in the plan of conversion, as provided in item 3 of subparagraph a of paragraph 2 of subdivision c of subsection 1 of section 26.1-12.2-03. A tax-qualified employee benefit plan may exercise subscription rights granted under this subsection regardless of the total number of shares purchased by eligible members. If eligible members purchase shares sufficient to yield gross proceeds equal to the maximum of the valuation range established by subsection 4 of section 26.1-12.2-03, then the tax-qualified employee benefit plan may purchase additional shares of capital stock of the converting mutual company or the stock of another corporation that is participating in the plan of conversion, as provided in item 3 of subparagraph a of paragraph 2 of subdivision c of subsection 1 of section 26.1-12.2-03 in an amount sufficient to equal ten percent of the total shares of capital stock of the converted stock company outstanding.
2. The plan may provide that other classes of subscribers approved by the commissioner shall receive nontransferable subscription rights to purchase capital stock of the converting stock company or the stock of another corporation that is participating in the plan of conversion, as provided in item 3 of subparagraph a of paragraph 2 of subdivision c of subsection 1 of section 26.1-12.2-03 provided that such subscription rights are subordinate to the subscription rights of eligible members. Other classes of subscribers that may be approved by the commissioner include:
 - a. Members of the converting mutual company which became members after the date fixed for establishing eligible members;
 - b. The shareholders of another corporation that is participating in the plan of conversion, as provided in item 3 of subparagraph a of paragraph 2 of subdivision c of subsection 1 of section 26.1-12.2-03; or

- c. The shareholders of another corporation that is a party to an acquisition, merger, consolidation, or other similar transaction with the converting mutual company.

26.1-12.2-05. Alternative plan of conversion.

The governing body of the converting mutual company may adopt a plan of conversion that does not rely in whole or in part upon issuing nontransferable subscription rights to members to purchase stock of the converting stock company if the commissioner finds the plan of conversion does not prejudice the interests of the members, is fair and equitable, and is not inconsistent with the purpose and intent of this chapter. Subject to a finding of the commissioner that an alternative plan of conversion is fair and equitable and is not inconsistent with the purpose and intent of this chapter, an alternative plan of conversion may:

1. Include the merger of a domestic mutual insurance company into a domestic or foreign stock insurance company.
2. Provide for the issuance of transferable or redeemable subscription rights.
3. Provide for issuing stock, cash, policyholder credits, or other consideration, or any combination of the foregoing, to policyholders instead of subscription rights.
4. Set forth another plan of conversion containing any other provisions approved by the commissioner.

26.1-12.2-06. Minority stock offering by a mutual holding company.

A mutual holding company may make a minority stock offering in accordance with the provisions of chapter 26.1-12.1 or this chapter. A minority stock offering pursuant to chapter 26.1-12.1 may not include the grant of subscription rights to policyholders. Except as otherwise provided in section 26.1-12.2-05 concerning an alternative plan of conversion, a minority stock offering pursuant to this chapter must include the grant of subscription rights to policyholders.

26.1-12.2-07. Conversion of a mutual holding company.

1. If a mutual holding company converts from a mutual to stock form, the conversion must comply with the provisions of this chapter.
2. If a mutual holding company seeks to convert to stock form under this chapter and it has previously completed one or more minority stock offerings in which policyholders were granted subscription rights pursuant to this chapter, the valuation required by subsection 4 of section 26.1-12.2-03 must take into account the existence of this minority interest as provided in this section. The amount of capital stock required to be offered by the mutual holding company or another corporation that is participating in the plan of conversion as provided in item 3 of subparagraph a of paragraph 2 of subdivision c of subsection 1 of section 26.1-12.2-03 may be expressed as a range of value and must equal: the pro forma fair market value of the mutual holding company, multiplied by one minus a quotient equal to the number of issued minority shares, divided by the sum of the issued minority shares and the number of shares held by the mutual holding company.

3. The plan of conversion of a mutual holding company must provide that any outstanding issued minority shares must be exchanged for stock issued by the converting mutual company or the stock of any corporation participating in the conversion of the mutual holding company pursuant to subparagraph a of paragraph 2 of subdivision c of subsection 1 of section 26.1-12.2-03. The mutual holding company shall demonstrate to the satisfaction of the commissioner that the basis for the exchange is fair and reasonable. An exchange in which the holders of outstanding issued minority shares retain approximately the same percentage ownership in the resulting company as the quotient of the number of issued minority shares, divided by the sum of issued minority shares and the number of shares held by the mutual holding company, is presumed to be fair and reasonable.
4. If a mutual holding company seeking to convert under this chapter previously completed one or more minority stock offerings, the conversion of the mutual holding company to stock form may not be consummated unless a majority of the shares issued and outstanding to persons other than the mutual holding company vote in favor of the conversion. This vote requirement is in addition to the required policyholder vote.

26.1-12.2-08. Effective date of plan of conversion.

A plan of conversion is effective when the commissioner has approved the plan of conversion, the voting members have approved the plan of conversion and adopted the certificate of incorporation of the converted stock company, and the certificate of incorporation is filed in the office of the secretary of state of this state.

26.1-12.2-09. Rights of members whose policies are issued after adoption of the plan of conversion and before effective date.

1. All members whose policies are issued after the proposed plan of conversion has been adopted by the governing body and before the effective date of the plan of conversion must be sent a written notice regarding the plan of conversion upon issuance of such policy.
2. Except as provided in subsection 3, each member of a property or casualty insurance company entitled to receive the notice provided for in subsection 1 must be advised of the member's right of cancellation and to a pro rata refund of unearned premiums.
3. A member of a property or casualty insurance company who has made or filed a claim under such member's insurance policy is not entitled to any right to receive any refund under subsection 2. A person that has exercised the rights provided by subsection 2 is not entitled to make or file any claim under such person's insurance policy.

26.1-12.2-10. Corporate existence.

1. On the effective date of the conversion, the corporate existence of the converting mutual company continues in the converted stock company. On the effective date of the conversion, all the assets, rights, franchises, and interests of the converting mutual company in and to every species of property, real, personal, and mixed, and any accompanying things in action, are vested in the converted stock company without any deed or transfer and the converted stock company assumes all the obligations and liabilities of the converting mutual company.

2. Unless otherwise specified in the plan of conversion, the individuals who are directors and officers of the converting mutual company on the effective date of the conversion shall serve as directors and officers of the converted stock company until new directors and officers of the converted stock company are elected pursuant to the certificate of incorporation and bylaws of the converted stock company.

26.1-12.2-11. Conflict of interest.

1. A director, officer, agent, or employee of the converting mutual company may not receive any fee, commission, or other valuable consideration, other than such person's usual regular salary or compensation, for aiding, promoting, or assisting in a conversion under this chapter. This provision does not prohibit the payment of reasonable fees and compensation to attorneys, accountants, financial advisors, and actuaries for services performed in the independent practice of their professions, even if the attorney, accountant, financial advisor, or actuary is also a director or officer of the converting mutual company.
2. For a period of two years after the effective date of the conversion, a converted stock company may not implement any nontax-qualified stock benefit plan unless the plan is approved by a majority of votes cast at a duly convened meeting of shareholders held not less than six months after the effective date of the conversion.
3. All the costs and expenses connected with a plan of conversion must be paid for or reimbursed by the converting mutual company or the converted stock company. However, if the plan of conversion provides for participation by another entity in the plan pursuant to subparagraph a of paragraph 2 of subdivision c of subsection 1 of section 26.1-12.2-03, such entity may pay for or reimburse all or a portion of the costs and expenses connected with the plan of conversion.

26.1-12.2-12. Failure to give notice.

If the converting mutual company complies substantially and in good faith with the notice requirements of this chapter, the failure of the converting mutual company to send a member the required notice does not impair the validity of any action taken under this chapter.

26.1-12.2-13. Limitation on actions.

Any action challenging the validity of or arising out of acts taken or proposed to be taken under this chapter must be commenced on or before the later of:

1. Sixty days after the approval of the plan of conversion by the commissioner; or
2. Thirty days after notice of the meeting of voting members to approve the plan of conversion is first mailed or delivered to voting members or posted on the website of the converting mutual company.

26.1-12.2-14. Converting mutual company insolvent or in hazardous financial condition.

1. If a converting mutual company seeking to convert under this chapter is insolvent or is in hazardous financial condition according to information supplied in the mutual company's most recent annual or quarterly statement

filed with the insurance department or as determined by a financial examination performed by the insurance department, the requirements of this chapter, including notice to and policyholder approval of the plan of conversion, may be waived at the discretion of the commissioner. If a waiver under this section is ordered by the commissioner, the converting mutual company shall specify in the mutual company's plan of conversion:

- a. The method and basis for the issuance of the converted stock company's shares of its capital stock to an independent party in connection with an investment by the independent party in an amount sufficient to restore the converted stock company to a sound financial condition.
 - b. That the conversion must be accomplished without granting subscription rights or other consideration to policyholders.
2. This section does not alter or limit the authority of the commissioner under any other provisions of law, including receivership and liquidation provisions applicable to insurance companies.

26.1-12.2-15. Rules.

The commissioner may adopt rules to administer and enforce this chapter.

26.1-12.2-16. Laws applicable to converted stock company.

1. A converting mutual company is not permitted to convert under this chapter if, as a direct result of the conversion, any person or any affiliate thereof acquires control of the converted stock company, unless that person and such person's affiliates comply with the provisions of North Dakota law regarding the acquisition of control of an insurance company.
2. Except as otherwise specified in this chapter, a converted stock company has and may exercise all the rights and privileges and is subject to all of the requirements and regulations imposed on stock insurance companies under the laws of North Dakota relating to the regulation and supervision of insurance companies, but the converting stock company may not exercise rights or privileges that other stock insurance companies may not exercise.

26.1-12.2-17. Commencement of business as a stock insurance company.

A converting mutual company may not engage in the business of insurance as a stock company until the converting stock company complies with all provisions of this chapter.

26.1-12.2-18. Amendment of policies.

A mutual company, by endorsement or rider approved by the commissioner and sent to the policyholder, may simultaneously with or at any time after the effective date of the conversion amend any outstanding insurance policy for the purpose of extinguishing the membership rights of such policyholder.

26.1-12.2-19. Prohibition on acquisitions of control.

Except as otherwise specifically provided in section 26.1-12.2-03, from the date a plan of conversion is adopted by the governing body of a converting mutual company until three years after the effective date of the plan of conversion, a person may not directly or indirectly offer to acquire, make any announcement to acquire, or acquire

in any manner, including making a filing with the insurance department for such acquisition under a statute or regulation of this state, the beneficial ownership of ten percent or more of a class of a voting security of the converted stock company or of a person that controls the voting securities of the converted stock company, unless the converted stock company or a person that controls the voting securities of the converted stock company consents to such acquisition and such acquisition is otherwise approved by the commissioner.

SECTION 3. AMENDMENT. Subdivision b of subsection 12 of section 26.1-17-33.1 of the North Dakota Century Code is amended and reenacted as follows:

- b. The restructured company must be treated as a mutual insurance company subject to the provisions of chapter 26.1-12, except for sections 26.1-12-01, 26.1-12-02, 26.1-12-03, 26.1-12-05, 26.1-12-06, 26.1-12-07, 26.1-12-08, 26.1-12-09, 26.1-12-10, 26.1-12-14, 26.1-12-16, 26.1-12-18, 26.1-12-19, 26.1-12-23, 26.1-12-24, 26.1-12-25, 26.1-12-26, 26.1-12-29, and 26.1-12-30, and 26.1-12-32.

SECTION 4. REPEAL. Section 26.1-12-32 of the North Dakota Century Code is repealed.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 210

HOUSE BILL NO. 1310

(Representatives Monson, Keiser)
(Senators Campbell, Klein)

AN ACT to amend and reenact section 26.1-13-15 of the North Dakota Century Code, relating to the territorial limits of a county mutual company's operations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-13-15 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-15. Territorial limits of county mutual company's operations - Terms of policies - Property insurable.

1. A county mutual insurance company may not insure any property beyond the company's authorized territory of operation except as provided in subsection 3 of section 26.1-13-12 and except that this territorial limitation does not apply to reinsurance contracts.
2. A policy may not be issued to exceed five years.
3. A policy may not be issued covering property located within the platted limits of an incorporated city in this state, except the policy may provide coverage as specified under sections 26.1-13-14 and 26.1-13-16 within the platted limits of the incorporated city on:
 - a. The place of residence; or
 - b. A rental property that is no larger than a four residential rental unit.
4. The company may insure all property located outside of incorporated cities within the limits of the company's territory comprised in the formation of the company, as provided under section 26.1-13-02.
5. Policies issued under subsection 3 on property located within the platted limits of an incorporated city with a population over ten thousand must conform to rules adopted by the commissioner establishing requirements for underwriting risks and safeguarding financial solvency. ~~A company may not exceed thirty-five percent of the company's gross net written premiums of the previous current year for in cities with a population over ten thousand may not exceed thirty-five percent of the gross written premiums in cities with a population over ten thousand of the previous year.~~
6. A policy issued by the company, if it so provides, may cover loss or damage to livestock, personal property, vehicles, and farm machinery while temporarily removed from the premises of the insured to other locations.

Approved March 27, 2015
Filed March 27, 2015

CHAPTER 211

HOUSE BILL NO. 1312

(Representatives Keiser, Klemin)
(Senator Klein)

AN ACT to amend and reenact section 26.1-20-04 of the North Dakota Century Code, relating to title insurance limitation on risks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-20-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-20-04. Limitation on risks.

~~A title insurance company transacting business in this state may not expose itself to loss on any one risk or hazard to an amount exceeding fifty percent of its paid-up capital and surplus if a stock company, or fifty percent of its surplus if a mutual company, unless the excess is reinsured.~~

1. Except as provided in subsection 2, a title insurance company may issue a title insurance policy on property located in this state involving a potential policy liability up to ninety percent of the sum of the company's surplus as regards policyholders and statutory premium reserves as stated in the most recent annual statement of the company.
2. A title insurance company may exceed the limit established in subsection 1 if the excess liability is reinsured in due course with an authorized title insurance company or in compliance with subsection 3 or 4.
3. Notwithstanding contrary provisions of this section, a title insurance company may acquire reinsurance on an individual policy or facultative basis from a title insurance company not authorized to engage in the business of title insurance in this state if the title insurance company from which the reinsurance is acquired:
 - a. Has a combined capital and surplus of at least twenty million dollars as stated in the company's most recent annual statement preceding the acceptance of reinsurance; and
 - b. Is domiciled in another state and is authorized to engage in the business of title insurance in one or more states.
4. Notwithstanding contrary provisions in this section, a title insurance company may obtain reinsurance by a reinsurance treaty or other reinsurance agreement from an assuming insurer with a financial strength rating of B+ or better from the A.M. Best Company, Inc., or with an alternative rating the commissioner may approve which the commissioner determines is an equivalent rating by another recognized rating organization.

Approved March 27, 2015

Filed March 27, 2015

CHAPTER 212

SENATE BILL NO. 2283

(Senators Klein, O'Connell, Oehlke)
(Representatives Kasper, Kelsh, Ruby)

AN ACT to create and enact sections 26.1-26-54 and 26.1-26-55 of the North Dakota Century Code, relating to lines of insurance and procedures for travel insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 26.1-26-54 of the North Dakota Century Code is created and enacted as follows:

26.1-26-54. Insurance licenses for limited lines travel insurance producers.

1. Travel insurance, as that term is defined in this section, is a limited line of insurance.
2. As used in this section:
 - a. "Limited lines travel insurance producer" means a:
 - (1) Licensed managing general agent or third-party administrator; or
 - (2) Licensed insurance producer, including a limited lines producer, designated by an insurer as the travel insurance supervising entity as set forth under subsection 9.
 - b. "Offer and disseminate" means to provide general information, including a description of the coverage and price, as well as to process the application, collect premiums, and perform other nonlicensable activities permitted by the state.
 - c. "Travel insurance" means insurance coverage for personal risks incident to planned travel, including interruption or cancellation of a trip or event, loss of baggage or personal effects, damages to accommodations or rental vehicles, or sickness, accident, disability, or death occurring during travel. The term does not include a major medical plan that provides comprehensive medical protection for an individual on a trip lasting at least six months.
 - d. "Travel retailer" means a business entity that makes, arranges, or offers travel services and which may offer and disseminate travel insurance as a service to customers on behalf of and under the direction of a limited lines travel insurance producer.
3. Notwithstanding any other provision of law:
 - a. The commissioner may issue a limited lines travel insurance producer license to an individual or business entity that files an application with the commissioner in a form and manner prescribed by the commissioner. A

licensed limited lines travel insurance producer may sell, solicit, or negotiate travel insurance through a licensed insurer.

b. A travel retailer may offer and disseminate travel insurance, if:

(1) The limited lines travel insurance producer or travel retailer provide:

(a) The actual material terms of the insurance coverage;

(b) A description of the claim filing process;

(c) A description of the policy review or cancellation process; and

(d) The identity and contact information of the insurer and limited lines producer.

(2) At the time of licensure, the limited lines travel insurance producer establishes and maintains a register of each travel retailer that offers insurance on the behalf of the producer. The register must be on a form prescribed by the commissioner. Annually, the register must be updated by the limited lines travel insurance producer. The register must include the name, address, and contact information of the travel retailer and a person that controls the travel retailer's operations. The register must include the travel retailer's federal tax identification number. Upon request, the limited lines travel insurance producer shall submit the register to the insurance department. The limited lines producer shall certify that the travel retailer complies with the Violent Crime and Law Enforcement Act of 1994 [Pub. L. 103-322; 108 Stat. 1796; 18 U.S.C. 1033 et seq.].

(3) The limited lines travel insurance producer designates one of the producer's licensed insurance employees as the individual responsible for the compliance with the state's travel insurance laws, rules, and regulations.

(4) The designated employee, president, secretary, treasurer, or any other individual who controls the producer's insurance operations complies with the fingerprinting requirements applicable to insurance producers in the resident state of the limited lines travel insurance producer.

(5) The limited lines travel insurance producer pays all applicable licensing fees as set forth in state law.

(6) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer, who offer and disseminate travel insurance, to receive training. The commissioner may review the training procedures. The training material must contain instructions on the type of insurance offered, ethical sales practices, and required disclosures to prospective customers, and upon request must be provided to the commissioner for inspection.

4. The limited lines travel insurance producer and any travel retailer and the travel retailer's employees offering and disseminating travel insurance under the limited lines travel insurance producer license shall be subject to the provisions of chapters 26.1-04 and 26.1-26.

5. The travel retailer and its employees act on behalf of the limited lines producer and the producer is responsible for any representations made by the employees of the travel retailer relating to insurance products offered or disseminated through the travel retailer.
6. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee has violated any provision of this chapter or any other provision of this title, the commissioner may:
 - a. Direct the limited lines travel insurance producer to implement a corrective action plan with the travel retailer; or
 - b. Revoke the authorization of the travel retailer to transact travel insurance on behalf of the limited lines travel insurance producer under its license and direct the limited lines travel insurance producer to remove the travel retailer's name from its register.
7. If the insurance commissioner determines that a travel retailer, or a travel retailer's employee, has violated any provision in this chapter or any other provision of this title, the commissioner may:
 - a. Suspend or revoke the license of the limited lines travel insurance producer;
 - b. Issue a cease and desist order against the license of the limited lines travel insurance producer; and
 - c. Impose a monetary fine on the limited lines travel insurance producer.
8. Limited lines travel insurance producers, and those registered under the producer's license, are exempt from continuing education requirements.
9. A travel retailer shall make brochures or other written materials available to prospective purchasers which:
 - a. Provide the identity and contact information of the insurer and the limited lines travel insurance producer;
 - b. Explain purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and
 - c. Explain an unlicensed travel retailer may provide general information about the insurance offered by the travel retailer, including a description of the coverage and price. An unlicensed travel retailer may not answer technical questions about the terms and conditions of the insurance offered by the travel retailer or evaluate the adequacy of existing insurance coverage.
10. An unlicensed employee or authorized representative of a travel retailer may not:
 - a. Evaluate or interpret the technical terms, benefits, or conditions of the offered travel insurance coverage;

- b. Evaluate or advise a prospective purchaser regarding existing insurance coverage;
 - c. Be held out as a licensed insurer, licensed producer, or insurance expert; or
 - d. Be directly paid a commission or any other compensation by an insurer for the sale of insurance.
11. Notwithstanding any other provision of law, a travel retailer who is in compliance with all requirements of this section may receive fair compensation for offering and disseminating travel insurance.
12. Travel insurance may be provided under an individual policy or under a group or master policy.
13. The limited lines travel insurance producer is responsible for the acts of the travel retailer. The limited lines travel insurance producer shall ensure the travel retailer complies with this chapter.

SECTION 2. Section 26.1-26-55 of the North Dakota Century Code is created and enacted as follows:

26.1-26-55. Rulemaking.

The commissioner may adopt rules for the implementation and administration of this chapter.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 213

SENATE BILL NO. 2270

(Senators Armstrong, Casper, Hogue)
(Representatives Maragos, Nathe)

AN ACT to amend and reenact section 26.1-26.6-08 of the North Dakota Century Code, relating to commissions, premiums, fees, and mileage reimbursement charged by bail bond agents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-26.6-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26.6-08. Maximum commission or fee - Mileage.

A bail bond agent may not charge a premium, commission, or fee for a bond in an amount more than ~~ten~~twenty percent of the amount of bail furnished by the bail bond agent, or ~~seventy-five~~one hundred fifty dollars, whichever is greater. In addition to the premium, commission, or fee charged under this section, a bail bond agent may charge for mileage reimbursement, which may not exceed mileage reimbursement rates provided for state employees under section 54-06-09.

Approved April 1, 2015

Filed April 1, 2015

CHAPTER 214

HOUSE BILL NO. 1384

(Representatives Louser, Beadle, Kasper)
(Senators Casper, Murphy, Oehlke)

AN ACT to create and enact chapter 26.1-26.7 of the North Dakota Century Code, relating to portable electronics insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 26.1-26.7 of the North Dakota Century Code is created and enacted as follows:

26.1-26.7-01. Definitions.

For purposes of this chapter:

1. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.
2. "Customer" means a person that purchases a portable electronic device or services related to the use of a portable electronic device.
3. "Enrolled customer" means a customer that elects coverage under a portable electronics insurance policy issued to a vendor of portable electronic devices.
4. "Location" means any physical location in this state or any website, call center site, or similar location directed to residents of this state.
5. "Person" means an individual or a business entity.
6. "Portable electronic device":
 - a. Means personal, self-contained, easily carried by hand, battery-operated electronic communication, viewing, listening, recording, gaming, computing, or global positioning devices, including cellular or satellite phones, personal global positioning satellite units, portable computers, portable audio listening, video viewing or recording devices, digital cameras, video camcorders, portable gaming systems, docking stations, and accessories for any of these devices with a retail value of less than five thousand dollars.
 - b. Does not include telecommunications switching equipment, transmission wires, cell site transceiver equipment, or other equipment and systems used by telecommunications companies to provide telecommunications service to consumers.
7. "Portable electronics insurance" means insurance providing coverage for the repair or replacement of portable electronic devices due to one or more of the following causes of loss: loss, theft, inoperability due to mechanical failure, malfunction, damage, or other similar cause of loss. The term includes any

agreement whereby a person, in exchange for consideration paid, agrees to provide for the future repair or replacement of a portable electronic device. The term does not include:

- a. A property service contract as defined under section 9-01-21;
 - b. A policy of insurance covering a seller's or a manufacturer's obligations under a warranty; or
 - c. A homeowner's, renter's, private passenger automobile, commercial multi-peril, or similar policy.
8. "Portable electronics transaction" means the sale or lease of portable electronic devices by a vendor to a customer or the sale of a service related to the use of a portable electronic device by a vendor to a customer.
9. "Vendor" means a person in the business of engaging in portable electronics transactions, directly or indirectly.

26.1-26.7-02. Licensure of vendors.

1. A vendor shall hold a limited lines license under this section to sell or offer coverage under a policy of portable electronics insurance.
2. A limited lines license issued under this section is limited to authorizing a vendor and the vendor's employees or authorized representatives to sell or offer coverage under a policy of portable electronics insurance to a customer to whom the vendor and the vendor's employees or authorized representatives sells or leases a portable electronic device or services related to the use of a portable electronic device.
3. A limited lines license issued under this section authorizes a vendor and the vendor's employees or authorized representatives to sell or offer portable electronics insurance coverage at each location at which the vendor engages in portable electronics transactions.
4. The vendor shall maintain a registry of locations that are authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the commissioner, and with five days' notice to the vendor, the vendor shall provide the registry to the commissioner for inspection and examination.
5. Notwithstanding any other provision of law, a license issued under this section authorizes the licensee and the licensee's employees or authorized representatives to engage only in those activities that are permitted in this chapter in connection with the business of insurance unless authorized to do so under an existing license issued by the commissioner.

26.1-26.7-03. Requirements for sale of portable electronics insurance.

1. At every location where portable electronics insurance is offered to customers, the vendor shall make available to a prospective customer brochures or other written materials that:
 - a. Disclose portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage.

- b. State the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease a portable electronic device or services.
 - c. Summarize the material terms of the insurance coverage, including:
 - (1) The identity of the insurer;
 - (2) The amount of any applicable deductible and how the deductible is to be paid;
 - (3) Benefits of the coverage; and
 - (4) Key terms and conditions of coverage, such as whether a portable electronic device may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment.
 - d. Summarize the process for filing a claim, including a description of how to return a portable electronic device and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements.
 - e. State an enrolled customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and the person paying the premium shall receive a refund of any applicable unearned premium.
2. The written materials required by this section are not subject to filing or approval requirements with the commissioner.
 3. Portable electronics insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronic devices for the vendor's enrolled customers.
 4. A policy of portable electronics insurance must provide primary coverage in the event of a covered loss under more than one policy.
 5. Eligibility and underwriting standards for customers electing to enroll in coverage must be established for each portable electronics insurance program.

26.1-26.7-04. Authority of vendors of portable electronic devices.

1. An employee and an authorized representative of a vendor may sell or offer portable electronics insurance to customers and are not subject to licensure as an insurance producer under this chapter if:
 - a. The vendor obtains a limited lines license to authorize the vendor's employees or authorized representatives to sell or offer portable electronics insurance under this chapter.
 - b. The vendor files an acknowledgment with the commissioner in a form and manner directed by the commissioner which the vendor's counter sales personnel and authorized representatives act on the vendor's behalf and the vendor is responsible for any representations made by the counter sales personnel or authorized representatives relating to insurance

- products offered through the vendor. The acknowledgment must state the commissioner may take any administrative action contemplated in this title.
- c. The insurer issuing the portable electronics insurance either directly supervises or the vendor supervises the development of a training program for employees and authorized representatives of the vendors. The training required by this subdivision must comply with the following:
- (1) The training must be delivered to employees and authorized representatives of vendors who are directly engaged in the activity of selling or offering portable electronics insurance, and the training materials must be maintained by the vendor and be made available to the commissioner for inspection upon request; and
- (2) Each employee and authorized representative shall receive basic instruction about the portable electronics insurance offered to customers and the disclosures required under section 26.1-26.7-03; and
- d. An employee or authorized representative of a vendor of portable electronic devices may not advertise, represent, or otherwise hold out to the public as a nonlimited lines-licensed insurance producer.
2. A vendor's employees and authorized representatives may not be paid directly by an insurance company, a commission, or any other compensation for the sale of insurance. However, this section does not prevent a vendor from including the insurance products in an overall employee performance compensation incentive program.
3. The vendor of portable electronic devices may bill and collect charges for portable electronic devices insurance coverage. Any charge to the enrolled customer for coverage that is not included in the cost associated with the purchase or lease of a portable electronic device or related service must be separately itemized on the enrolled customer's bill. If the portable electronics insurance coverage is included with the purchase or lease of a portable electronic device or related services, the vendor clearly and conspicuously shall disclose to the enrolled customer any portable electronics insurance coverage included with the portable electronic device or related service, and the stand-alone cost of the premium for the same or similar insurance must be made on the customer's bill and in any marketing materials made available at the point of sale. A vendor billing and collecting the charges are not required to maintain the funds in a segregated account if the vendor is authorized by the insurer to hold the funds in an alternative manner. All funds received by a vendor from an enrolled customer for the sale of portable electronics insurance must be considered funds held in trust by the vendor in a fiduciary capacity for the benefit of the insurer. A vendor may receive compensation for billing and collection services.

26.1-26.7-05. Termination of portable electronics insurance.

Notwithstanding any other provision of law:

1. An insurer may terminate or otherwise change the terms and conditions of a policy of portable electronics insurance only upon providing the policyholder and enrolled customers with at least thirty days notice.

2. If the insurer changes the terms and conditions, the insurer shall provide the vendor policyholder with a revised policy or endorsement and each enrolled customer with a revised certificate, endorsement, updated brochure, or other evidence indicating a change in the terms and conditions has occurred and a summary of material changes.
3. Notwithstanding subsection 1, an insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon thirty days notice for discovery of fraud or material misrepresentation in obtaining coverage or in the presentation of a claim under the policy.
4. Notwithstanding subsection 1, an insurer may terminate an enrolled customer's enrollment under a portable electronics insurance policy upon ten days notice for nonpayment of premium.
5. Notwithstanding subsection 1, an insurer immediately may terminate an enrolled customer's enrollment under a portable electronics insurance policy without prior notice:
 - a. If the enrolled customer ceases to have an active service with the vendor of portable electronic devices; or
 - b. If an enrolled customer exhausts the aggregate limit of liability, if any, under the terms of the portable electronics insurance policy and the insurer sends notice of termination to the enrolled customer within thirty calendar days after exhaustion of the limit. However, if notice is not timely sent, coverage must continue, notwithstanding the aggregate limit of liability until the insurer sends notice of termination to the enrolled customer.
6. If a portable electronics insurance policy is terminated by a policyholder, the policyholder shall mail or deliver written notice to each enrolled customer advising the enrolled customer of the termination of the policy and the effective date of termination. The written notice must be mailed or delivered to the enrolled customer at least thirty days before the termination.
7. If notice or correspondence with respect to a policy of portable electronics insurance is required under this section or is otherwise required by law, the notice or correspondence must be in writing and sent within the notice period, if any, specified within the statute or regulation requiring the notice or correspondence. Notwithstanding any other provision of law, notices and correspondence may be sent by mail or by electronic means as set forth in this subsection. If the notice or correspondence is mailed, it must be sent to the vendor of portable electronic devices at the vendor's mailing address specified for this purpose and to the vendor's affected enrolled customers' last known mailing addresses on file with the insurer. The insurer or vendor of portable electronic devices, as the case may be, shall maintain proof of mailing in a form authorized or accepted by the United States postal service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, the notice or correspondence must be sent to the vendor of portable electronic devices at the vendor's electronic mail address specified for this purpose and to the vendor's affected enrolled customers' last known electronic mail address as provided by each enrolled customer to the insurer or vendor of portable electronic devices, as the case may be. For purposes of this subsection, an enrolled customer's provision of an electronic mail address

to the insurer or vendor of portable electronic devices, as the case may be, is deemed consent to receive notices and correspondence by electronic means. The insurer or vendor of portable electronic devices, as the case may be, shall maintain proof the notice or correspondence was sent.

8. Notice or correspondence required by this section or otherwise required by law may be sent on behalf of an insurer or vendor, as the case may be, by a business entity that is a licensed insurance producer and that is appointed by the insurer issuing the portable electronics insurance policy to assist with the administration of the portable electronics insurance program.

26.1-26.7-06. Application for license and fees.

1. A vendor shall apply for licensure under subsection 2 of section 26.1-26-13.3.
2. An applicant shall apply for licensure under the provisions of section 26.1-26-13.3. In lieu of providing the information for all officers, directors, and shareholders owning more than ten percent of the applicant, the requirements for the applicant are limited to requiring the applicant to provide the name, residence address, and other information required by the commissioner for an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor's compliance with the requirements of this chapter. However, if the vendor derives more than fifty percent of the vendor's revenue from the sale of portable electronics insurance the information required under this subsection must be provided for all officers, directors, and shareholder of record having beneficial ownership of ten percent or more.
3. Each vendor of portable electronic devices licensed under this chapter shall pay to the commissioner a fee as prescribed by the commissioner.
4. Any vendor engaging in portable electronics insurance transactions before July 1, 2015, shall apply for licensure within ninety days of the application being made available by the commissioner. Any applicant commencing operations after July 1, 2015, shall obtain a license before offering portable electronics insurance. The provisions and penalties under this section are in addition to those provided under chapter 26.1-26.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 215

SENATE BILL NO. 2130

(Industry, Business and Labor Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact sections 26.1-31.2-01, 26.1-31.2-02, 26.1-31.2-03, and 26.1-31.2-04 of the North Dakota Century Code, relating to reinsurance credit of insurers; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-31.2-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-31.2-01. Credit allowed a domestic ceding insurer.

Credit for reinsurance must be allowed a domestic ceding insurer as either an asset or a ~~deduction~~reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of ~~either~~ subsection 1, 2, 3, 4, ~~or 5, or 6.~~ Credit will be allowed under subsection 1, 2, or 3 only with respect to cessions of a kind or class of business that the assuming insurer is licensed or otherwise ~~allowed~~permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. ~~If meeting the requirements of Credit must be allowed under subsection 3 or 4, only if the applicable requirements of subsection 6 must also be met~~7 have been satisfied.

1. Credit must be allowed when the reinsurance is ceded to an assuming insurer ~~or nonprofit health service corporation which~~that is licensed to transact insurance or reinsurance in this state.
2. Credit must be allowed when the reinsurance is ceded to an assuming insurer which is accredited by the commissioner as a reinsurer in this state. ~~An accredited~~In order to be eligible for accreditation, a reinsurer is one which:
 - a. ~~Files~~Shall file with the commissioner evidence of its submission to this state's jurisdiction;
 - b. ~~Submits~~Shall submit to this state's authority to examine its books and records;
 - c. ~~Is~~Must be licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, ~~is~~be entered through and licensed to transact insurance or reinsurance in at least one state; and
 - d. ~~Files annually~~Annually, shall file with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and either

(1) Maintains

e. Shall demonstrate to the satisfaction of the commissioner the assuming insurer has adequate financial capacity to meet the assuming insurer's reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of application the assuming insurer maintains a surplus as regards policyholders in an amount which is not less than twenty million dollars and whose the assuming insurer's accreditation has not been denied by the commissioner within ninety days of its after submission;~~or~~

(2) ~~Maintains a surplus as regards policyholders in an amount less than twenty million dollars and whose accreditation has been approved by the commissioner.~~

~~No credit may be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the commissioner after notice and hearing of its application.~~

3. a. Credit must be allowed when the reinsurance is ceded to an assuming insurer ~~which is domiciled and licensed in, or in the case of a United States branch of an alien assuming insurer, is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:~~

a- (1) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars; and

b- (2) Submits to the authority of this state to examine its books and records.

~~Provided, however, that the~~

b. The requirement of subdivision a does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

4. a. Credit must be allowed when the reinsurance is ceded to an assuming insurer ~~which that~~ maintains a trust fund in a qualified United States financial institution, as defined in subsection 2 of section 26.1-31.2-03, for the payment of valid claims of its United States ~~policyholders and ceding insurers, their assigns, and successors in interest. The~~ To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of. The assuming insurer shall submit to examination of the insurer's books and records by the commissioner and bear the expense of examination.

b. (1) Credit for reinsurance may not be granted under this subsection unless the form of the trust and any amendments to the trust have been approved by:

- (a) The commissioner of the state in which the trust is domiciled; or
 - (b) The commissioner of another state who, pursuant to the terms of the trust instrument, accepted principal regulatory oversight of the trust.
 - (2) The form of the trust and any trust amendments also must be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to the trust's assets in the trust's trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer are subject to examination as determined by the commissioner.
 - (3) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February twenty-eighth of each year the trustee of the trust shall report to the commissioner in writing the balance of the trust and listing of the trust's investments at the preceding year-end and shall certify the date of termination of the trust, if so planned, or certify the trust will not expire before the following December thirty-first.
- c. The following requirements apply to the following categories of assuming insurer:
- (1) The trust fund for a single assuming insurer, ~~the trust must consist of a trustee account representing the~~ must consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars, ~~except as provided in paragraph 2.~~
 - (2) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and must consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than thirty percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.
 - (3) (a) In the case of a group, including incorporated and individual unincorporated underwriters;

- [1] For reinsurance ceded under a reinsurance agreement with an inception, amendment, or renewal date after December 31, 1992, the trust must consist of a trustee account representing the group's liabilities in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;
- [2] For reinsurance ceded under a reinsurance agreement with an inception date before January 1, 1993, and not amended or renewed after that date, notwithstanding the other provisions of this chapter, the trust must consist of a trustee account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and, in
- [3] In addition to these trusts, the group shall maintain a trustee surplus of which one hundred million dollars which must be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account; the,
- (b) The incorporated members of the group may not be engaged in any business other than underwriting as a member of the group and are subject to the same level of solvency regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.
- (c) Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements prepared by each underwriter's independent public accountants of each underwriter member of the group.
- b. (4) In the case of a group of incorporated insurers/underwriters under common administration which complies with the filing requirements contained in subdivision a, and which has, the group:
- (a) Must have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation and submits to this state's authority to examine its books and records and bears the expense of the examination, and which has;
- (b) Shall maintain aggregate policyholders' surplus of at least ten billion dollars; the
- (c) Shall maintain a trust must be fund in an amount equal to not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such the group plus the group shall;

- (d) ~~Shall maintain a joint trustee surplus of which one hundred million dollars must be held jointly and exclusively for the benefit of United States domiciled ceding insurers of any member of the group as additional security for any such these liabilities; and~~
- (e) ~~Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, each member of the group shall make available to the commissioner an annual certification of the each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.~~
- e. ~~The trust and any amendments to the trust must be established in a form approved by the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust. The form of the trust and any trust amendments also must be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims must be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer are subject to examination as determined by the commissioner. The trust described herein must remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, has outstanding obligations due under the reinsurance agreements subject to the trust.~~
- d. ~~No later than February twenty eighth of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding yearend and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the next following December thirty first.~~
5. Credit must be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer in this state and secures the assuming insurer's obligations in accordance with the requirements of this subsection.
- a. In order to be eligible for certification, the assuming insurer shall meet the following requirements:
- (1) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to subdivision c;
 - (2) The assuming insurer shall maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner pursuant to rule;
 - (3) The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner pursuant to rule;

- (4) The assuming insurer shall agree to submit to the jurisdiction of this state, appoint the commissioner as its agent for service of process in this state, and agree to provide security for one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if the assuming insurer resists enforcement of a final United States judgment;
 - (5) The assuming insurer shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and
 - (6) The assuming insurer shall satisfy any other requirements for certification deemed relevant by the commissioner.
- b. An association, including incorporated and individual unincorporated underwriters, may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying requirements of subdivision a:
- (1) The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and the association's members which must include a joint central fund that may be applied to any unsatisfied obligation of the association or any of the association's members, in an amount determined by the commissioner to provide adequate protection;
 - (2) The incorporated members of the association may not be engaged in any business other than underwriting as a member of the association and are subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and
 - (3) Within ninety days after the association's financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.
- c. The commissioner shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the commissioner as a certified re-insurer.
- (1) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to re-insurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the commissioner with respect to all certified re-insurers domiciled within that jurisdiction. A jurisdiction

may not be recognized as a qualified jurisdiction if the commissioner has determined the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.

- (2) A list of qualified jurisdictions must be published through the national association of insurance commissioner committee process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified which does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification in accordance with criteria to be developed under regulations.
 - (3) United States jurisdictions that meet the requirement for accreditation under the national association of insurance commissioners financial standards and accreditation program must be recognized as qualified jurisdictions.
 - (4) If a certified re-insurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, in lieu of revocation, the commissioner may suspend the re-insurer's certification indefinitely.
- d. The commissioner shall assign a rating to each certified re-insurer. Giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the commissioner pursuant to rule. The commissioner shall publish a list of all certified re-insurers and the re-insurer's ratings.
- e. A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level consistent with the certified reinsurer's rating, as specified in rules adopted by the commissioner.
- (1) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the commissioner and consistent with the provisions of section 26.1-31.2-02 or in a multibeneficiary trust in accordance with subsection 4, except as otherwise provided in this subsection.
 - (2) If a certified reinsurer maintains a trust to fully secure the certified reinsurer's obligations subject to subsection 4, and chooses to secure the certified reinsurer's obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for the certified reinsurer's obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for the certified reinsurer's obligations subject to subsection 4. As a condition to the grant of certification under subsection 5, the certified reinsurer must have bound itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

- (3) The minimum trusteed surplus requirements provided in subsection 4 are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that such trust must maintain a minimum trusteed surplus of ten million dollars.
- (4) With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, the commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and may impose further reductions in allowable credit upon finding there is a material risk the certified reinsurer's obligations will not be paid in full when due.
- (5) For purposes of this subsection, a certified reinsurer whose certification has been terminated for any reason must be treated as a certified reinsurer required to secure one hundred percent of the certified reinsurer's obligations.
- (a) As used in this subsection, "terminated" refers to revocation, suspension, voluntary surrender, and inactive status.
- (b) If the commissioner continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.
- f. If an applicant for certification has been certified as a reinsurer in a national association of insurance commissioners accredited jurisdiction, the commissioner may defer to that jurisdiction's certification, and may defer to the rating assigned by that jurisdiction, and such assuming insurer must be considered to be a certified reinsurer in this state.
- g. A certified reinsurer that ceases to assume new business in this state may request to maintain the certified reinsurer's certification in inactive status in order to continue to qualify for a reduction in security for the certified reinsurer's in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.
6. Credit must be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subsection 1, 2, 3, ~~or 4,~~ or 5 but only with respect ~~as~~ to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.
- 6-7. a. If the assuming insurer is not licensed ~~or~~ accredited, ~~or~~ certified to transact insurance or reinsurance in this state, the credit permitted by subsections 3 and 4 may not be allowed unless the assuming insurer agrees in the reinsurance agreements:
- a. (1) In the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give

- ~~such~~the court jurisdiction, and will abide by the final decision of ~~such~~the court or of any appellate court in the event of an appeal; and
- b. (2) To designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding ~~company~~insurer.
- b. This ~~provisionsubsection~~ is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if ~~such an~~this obligation is created in the agreement.
8. If the assuming insurer does not meet the requirements of subsection 1, 2, or 3, the credit permitted by subsection 4 or 5 may not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:
- a. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because the trust fund contains an amount less than the amount required by subdivision c of subsection 4, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.
- b. The assets must be distributed by and claims must be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled which are applicable to the liquidation of domestic insurers.
- c. If the commissioner with regulatory oversight determines the assets of the trust fund or any part of this trust fund are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part of the assets must be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.
- d. The grantor shall waive any right otherwise available to the grantor under United States law that is inconsistent with this provision.
9. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.
- a. The commissioner shall give the reinsurer notice and opportunity for a hearing. The suspension or revocation may not take effect until after the commissioner's order on a hearing, unless:
- (1) The reinsurer waives the reinsurer's right to a hearing;
- (2) The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in the reinsurer's domiciliary jurisdiction or in the

primary certifying state of the reinsurer under subdivision f of subsection 5; or

- (3) The commissioner finds an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.
- b. During the period of suspension of a reinsurer's accreditation or certification, a reinsurance contract issued or renewed after the effective date of the suspension does not qualify for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with section 26.1-31.2-02. If a reinsurer's accreditation or certification is revoked, credit for reinsurance may not be granted after the effective date of the revocation, except to the extent the reinsurer's obligations under the contract are secured in accordance with subdivision e of subsection 5 or section 26.1-31.2-02.
10. a. A ceding insurer shall take steps to manage the ceding insurer's reinsurance recoverables proportionate to the ceding insurer's own book of business. A domestic ceding insurer shall notify the commissioner within thirty days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceed fifty percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate the exposure is safely managed by the domestic ceding insurer.
- b. A ceding insurer shall take steps to diversify the ceding insurer's reinsurance program. A domestic ceding insurer shall notify the commissioner within thirty days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent of the ceding insurer's gross written premium in the prior calendar year, or after the ceding insurer's determined the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate the exposure is safely managed by the domestic ceding insurer.
- c. Credit for reinsurance ceded to a certified reinsurer is limited to reinsurance contracts entered or renewed on or after the effective date of the commissioner's certification of the assuming insurer.

SECTION 2. AMENDMENT. Section 26.1-31.2-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-31.2-02. ReductionAsset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 26.1-31.2-01.

An asset or reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of section 26.1-31.2-01 must be allowed in an amount not exceeding the liabilities carried by the ceding insurer and such. The reduction must be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to

withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in subsection 2 of section 26.1-31.2-03. This security may be in the form of:

1. Cash;
2. Securities listed by the securities valuation office of the national association of insurance commissioners, including those securities deemed exempt from filing as defined by the purposes and procedures manual of the securities valuation office, and qualifying as admitted assets;
3.
 - a. Clean, irrevocable, unconditional, ~~and evergreen~~ letters of credit issued or confirmed by a qualified United States institution, as defined in subsection 1 of section 26.1-31.2-03, effective no later than December thirty-first in respect of the year for which the filing is being made, and in the possession of, or in trust for, the ceding ~~company~~insurer on or before the filing date of its annual statement; ~~or~~
 - b. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation must, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or
4. Any other form of security acceptable to the commissioner.

SECTION 3. AMENDMENT. Section 26.1-31.2-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-31.2-03. Qualified United States financial institutions.

1. For purposes of subsection 3 of section 26.1-31.2-02, a "qualified United States financial institution" means an institution that:
 - a. Is organized, or in case of a United States office of a foreign banking organization, is licensed, under the laws of the United States or any state thereof;
 - b. Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and
 - c. Has been determined by either the commissioner, or the securities valuation office of the national association of insurance commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.
2. A "qualified United States financial institution" means, for purposes of those provisions of this chapter specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:
 - a. Is organized, or in the case of a United States branch or agency office of a foreign banking organization, is licensed, under the laws of the United

States or any state thereof and has been granted authority to operate with fiduciary powers; and

- b. Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

SECTION 4. AMENDMENT. Section 26.1-31.2-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-31.2-04. Rulemaking authority.

The commissioner may adopt reasonable rules for the implementation and administration of this chapter.

SECTION 5. EFFECTIVE DATE. This Act becomes effective on January 1, 2016.

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 216

HOUSE BILL NO. 1143

(Representative Keiser)
(Senator Klein)

AN ACT to amend and reenact sections 26.1-33-18, 26.1-33-19, 26.1-33-20, 26.1-33-21, 26.1-33-22, 26.1-33-23, 26.1-33-24, 26.1-33-25, 26.1-33-27, and 26.1-33-28 of the North Dakota Century Code, relating to the standard nonforfeiture law for life insurance; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-33-18 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-18. Required provisions relating to lapsing policyholder Nonforfeiture benefits.

In the case of policies issued after December 31, 1978, ~~no~~ a life insurance policy, except as stated in section 26.1-33-28, may not be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements ~~hereinafter specified in this section~~ and are essentially in compliance with section 26.1-33-27:

1. In the event of default in any premium payment, the ~~company insurer~~ will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of the due date, of the amount as may be hereinafter specified. In lieu of the stipulated paid-up nonforfeiture benefit, the ~~company insurer~~ may substitute, upon proper request not later than sixty days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit that provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.
2. Upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the ~~company insurer~~ will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of the amount as may be hereinafter specified.
3. A specified paid-up nonforfeiture benefit becomes effective as specified in the policy unless the person entitled to make the election elects another available option not later than sixty days after the due date of the premium in default.
4. If the policy has become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, then the

~~companyinsurer~~ will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of the amount as may be hereinafter specified.

5. In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate or rates used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the ~~companyinsurer~~ on the policy.
6. A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of ~~this~~the state in which the policy is delivered. An explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the ~~companyinsurer~~ on the policy. If a detailed statement of the method of computation of the values and benefits shown in the policy is not stated in the policy, a statement that the method of computation has been filed with the commissioner. A statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The ~~companyinsurer~~ shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

SECTION 2. AMENDMENT. Section 26.1-33-19 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-19. MinimumComputation of cash surrender value.

1. Any cash surrender value available under a life insurance policy in the event of default in a premium payment due on any policy anniversary, whether or not required by section 26.1-33-18, must be an amount not less than the excess, if any, of the present value, on the anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:
 - a. The then present value of the adjusted premiums as defined in sections 26.1-33-21 through 26.1-33-24 corresponding to premiums which would have fallen due on and after ~~such~~the anniversary; and

- b. The amount of any indebtedness to the ~~company~~insurer on the policy.
2. Any life insurance policy issued on or after the operative date of section 26.1-33-24, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in subsection 1 must be an amount not less than the sum of the cash surrender value ~~as defined in that subsection~~ for an otherwise similar policy issued at the same age without the rider or supplemental policy provision and the cash surrender value as defined in ~~that subsection~~ 1 for a policy which provides only the benefits otherwise provided by the rider or supplemental policy provision.
 3. For any family life ~~insurance~~ policy issued on or after the operative date of section 26.1-33-24, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one, the cash surrender value referred to in subsection 1 must be an amount not less than the sum of the cash surrender value ~~as defined in that subsection~~ for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in ~~that subsection~~ 1 for a policy which provides only the benefits otherwise provided by ~~such~~ term insurance on the life of the spouse.
 4. Any cash surrender value available within thirty days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by section 26.1-33-18, must be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the ~~company~~insurer on the policy.

SECTION 3. AMENDMENT. Section 26.1-33-20 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-20. Minimum Computation of paid-up nonforfeiture benefit~~benefits~~.

Any paid-up nonforfeiture benefit available under a ~~life insurance~~the policy in the event of default in a premium payment due on any policy anniversary must be such that its present value as of the anniversary must be at least equal to the cash surrender value then provided ~~for~~ by the policy or, if none is provided ~~for~~, that cash surrender value which would have been required by sections 26.1-33-18 through 26.1-33-28 in the absence of the condition that premiums must have been paid for at least a specified period.

SECTION 4. AMENDMENT. Section 26.1-33-21 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-21. Definition~~Calculation~~ of adjusted premiums used in ~~obtaining~~ minimum cash surrender value.

1. ~~This section does not apply to policies issued on or after the operative date of section 26.1-33-24.~~ Except as provided in subsection 3, the adjusted premiums for any policy must be calculated on an annual basis and must be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts stated in the policy as extra premiums to

cover impairments or special hazards, that the present value, at the date of issue of the policy, of all the adjusted premiums equals the sum of:

- a. The then present value of the future guaranteed benefits provided for by the policy.
- b. Two percent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy.
- c. Forty percent of the adjusted premium for the first policy year.
- d. Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life insurance policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

In applying the percentages specified in subdivisions c and d, no adjusted premium may be deemed to exceed four percent of the amount of insurance or level amount equivalent uniform amount. The date of issue of a policy for the purpose of this section is the date as of which the rated age of the insured is determined.

2. In the case of a ~~life insurance~~ policy providing an amount of insurance varying with duration of the policy, the equivalent ~~uniform~~level amount of insurance for the purpose of this section is ~~deemed to be~~ the level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the ~~date of issue~~inception of the ~~policy~~insurance as ~~do~~ the benefits under the policy.
3. The adjusted premiums for any life insurance policy providing term insurance benefits by rider or supplemental policy provision must be equal to ~~(a) the~~ :
 - a. ~~The~~ adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for the term insurance benefits are payable, by ~~(b) the~~ :
 - b. ~~The~~ adjusted premiums for such term insurance, ~~the foregoing items (a) and (b) must be~~ subdivisions a and b being calculated separately and as specified in subsections 1 and 2 except that, for the purposes of subdivisions b, c, and d of subsection 1, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in ~~(b)~~subdivision b of subsection 1 must be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in ~~(a)~~subdivision a.
4. ~~This section does not apply to life insurance policies issued on or after the operative date of section 26.1-33-24~~Except as otherwise provided in sections 26.1-33-22 and 26.1-33-23, all adjusted premiums and present values referred to in sections 26.1-33-18 through 26.1-33-28, for all policies of ordinary insurance, must be calculated on the basis of the commissioners 1941

standard ordinary mortality table. However, for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to any age not more than three years younger than the actual age of the insured and such calculations for all policies of industrial insurance must be made on the basis of the 1941 standard industrial mortality table. All calculations must be made on the basis of the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred thirty percent of the rates of mortality according to the applicable table. For insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

SECTION 5. AMENDMENT. Section 26.1-33-22 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-22. Mortality and interest bases for Calculation of adjusted premiums and present values - Ordinary insurance policies.

This section does not apply to ordinary policies issued on or after the operative date of section 26.1-33-24. In the case of ordinary policies issued on or after the operative date of this section, all adjusted premiums and present values referred to in sections 26.1-33-18 through 26.1-33-28 must be calculated on the basis of the ~~commissioners'~~commissioners' 1958 standard ordinary mortality table and the rate of rates of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. ~~No such, provided that the rate of interest may not exceed three and one-half percent per annum except that a rate of interest may exceed~~not exceeding five and one-half percent per year may be used for policies issued after June 30, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per year may be used. ~~For, and provided that for~~ any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not ~~greater~~more than those shown in the ~~commissioners'~~commissioners' 1958 extended term insurance table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the ~~company~~insurer and approved by the commissioner. ~~This section does not apply to ordinary life insurance policies issued on or after the operative date of section 26.1-33-24. Upon the operative date of this section, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1966. After the filing of such notice, upon the specified date, which must be the operative date of this section for that insurer, this section becomes operative with respect to the ordinary policies issued by the insurer after that date. If an insurer makes no election, the operative date of this section for the insurer is January 1, 1966.~~

SECTION 6. AMENDMENT. Section 26.1-33-23 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-23. Mortality and interest bases for Calculation of adjusted premiums and present values - Industrial insurance policies.

This section does not apply to industrial policies issued on or after the operative date of section 26.1-33-24. In the case of industrial policies issued on or after the operative date of this section, all adjusted premiums and present values referred to in sections 26.1-33-18 through 26.1-33-28 must be calculated on the basis of the commissioners' 1961 standard industrial mortality table and the rate or rates of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. No such, provided that such rate of interest may not exceed three and one-half percent per annum except that a rate of interest may exceed not exceeding five and one-half percent per year may be used for policies issued after June 30, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent per year may be used. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not greater more than those shown in the commissioners' 1961 industrial extended term insurance table. For insurance issued on a substandard basis, the calculations of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company insurer and approved by the commissioner. This section does not apply to industrial policies issued on or after the operative date of section 26.1-33-24. Upon the operative date of this section, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1968. After the filing of such notice, upon the specified date, which must be the operative date of this section for that insurer, this section must become operative with respect to the industrial policies issued after that date by the insurer. If an insurer makes no election, the operative date of this section for the insurer is January 1, 1968.

SECTION 7. AMENDMENT. Section 26.1-33-24 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-24. Determination of minimum values Calculations of adjusted premiums by the nonforfeiture net level premium method.

1. This section applies to all policies issued on or after the operative date of this section. Except as provided in subsection 7, the adjusted premiums for any policy must be calculated on an annual basis and must be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums equals the sum of:
 - a. The then present value of the future guaranteed benefits provided for by the policy;
 - b. One percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and
 - c. One hundred twenty-five percent of the nonforfeiture net level premium as hereinafter defined.

In applying the percentage specified in subdivision c, no nonforfeiture net level premium may exceed four percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of this section is the date as of which the rated age of the insured is determined.

2. The nonforfeiture net level premium is equal to the present value, at the date of issue of the life insurance policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of ~~such~~the policy on which a premium falls due.
3. In the case of life insurance policies that cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or that provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values must initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any ~~such~~ change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums, and present values must be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.
4. Except as otherwise provided in subsection 7, the recalculated future adjusted premiums for any life insurance policy must be ~~such~~the uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums equals the excess of:
 - a. The sum of ~~the~~:
 - (1) ~~The~~ then present value of the then future guaranteed benefits provided for by the policy, ~~and the~~, plus
 - (2) ~~The~~ additional expense allowance, if any; ~~over~~divided by
 - b. The then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.
5. The additional expense allowance, at the time of the change to the newly defined benefits or premiums, is the sum of:
 - a. One percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and

- b. One hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.
6. The recalculated nonforfeiture net level premium is equal to the result obtained by dividing the sum of:
 - a. ~~The~~ the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred; and
 - b. ~~The~~ the present value of the increase in future guaranteed benefits provided for by the policy; by
 - e. ~~The~~ the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.
 7. Notwithstanding any other provision of this section to the contrary, in the case of a life insurance policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for the substandard policy may be calculated as if it were issued to provide the higher uniform amounts of insurance on the standard basis.
 8. All adjusted premiums and present values referred to in sections 26.1-33-18, ~~26.1-33-19, 26.1-33-24 through 26.1-33-26, and 26.1-33-28~~ must for all ordinary life insurance policies be calculated on the basis of the ~~commissioners'commissioners~~ 1980 standard ordinary mortality table, or at the election of the ~~companyinsurer~~ for any one or more specified plans of life insurance, the ~~commissioners'commissioners~~ 1980 standard ordinary mortality table with ten-year select mortality factors; must for all policies of industrial insurance be calculated on the basis of the ~~commissioners'commissioners~~ 1961 standard industrial mortality table; and must for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section for policies issued in that calendar year. However:
 - a. At the option of the ~~companyinsurer~~, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year.
 - b. Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by section 26.1-33-18, must be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.
 - c. ~~A company~~An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

- d. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the ~~commissioners'~~commissioners' 1980 extended term insurance table for ordinary life insurance policies and not more than the ~~commissioners'~~commissioners' 1961 industrial extended term insurance table for industrial insurance policies.
- e. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the tables.
- f. ~~Any~~For policies issued before the operative date of the valuation manual, ~~any commissioners standard~~ ordinary mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the ~~commissioners'~~commissioners' 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the ~~commissioners'~~commissioners' 1980 extended term insurance table. For policies issued on or after the operative date of the valuation manual, the valuation manual must provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table. If the commissioner approves by rule any commissioners standard ordinary mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.
- g. ~~Any~~For policies issued before the operative date of the valuation manual, ~~any commissioners standard~~ industrial mortality tables, adopted after 1980 by the national association of insurance commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the ~~commissioners'~~commissioners' 1961 standard industrial mortality table or the ~~commissioners'~~commissioners' 1961 industrial extended term insurance table. For policies issued on or after the operative date of the valuation manual, the valuation manual must provide the commissioners standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table. If the commissioner approves by rule any commissioners standard industrial mortality table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.
9. The nonforfeiture interest rate is defined:

- a. For policies issued before the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent of the calendar year statutory valuation interest rate for such policy as defined in sections 26.1-35-01 through 26.1-35-10chapter 26.1-35, rounded to the nearer one quarter of one percent, but the nonforfeiture interest rate may not be less than four percent.
- b. For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year must be provided by the valuation manual.
10. Notwithstanding any other provision in this title to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values does not require refiling of any other provisions of that policy form.
11. ThisUpon the operative date of this section applies to all life insurance policies issued after December 31, 1988, unless the insurance company, by written notice filed with the commissioner, opts for an earlier operative date, any insurer may file with the commissioner a written notice of its election to comply with the provision of this section after a specified date before January 1, 1989, which must be the operative date of this section for the insurer. If an insurer makes no election, the operative date of this section for the insurer is January 1, 1989.

SECTION 8. AMENDMENT. Section 26.1-33-25 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-25. Determination of minimum value of policies with future premium determination — Indeterminable valueNonforfeiture benefits for indeterminate premium plans.

In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the ~~insurance company~~insurer based on ~~then~~ estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in sections 26.1-33-18 through 26.1-33-24, then:

1. The commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by sections 26.1-33-18 through 26.1-33-24;
2. The commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds; and
3. The cash surrender values and paid-up nonforfeiture benefits provided by the plan may not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of sections 26.1-33-18 through 26.1-33-28, as determined by rules adopted by the commissioner; and

4. Notwithstanding any other provision in the laws of this state, any policy, contract, or certificate providing life insurance under any plan must be affirmatively approved by the commissioner before it can be marketed, issued, delivered, or used in this state.

SECTION 9. AMENDMENT. Section 26.1-33-27 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-27. Determination of minimum values after January 1, 1987.

1. This section, in addition to all other applicable sections of this law, applies to all policies issued after December 31, 1986. Any cash surrender value available under a life insurance policy in the event of default in a premium payment due on any policy anniversary must be in an amount which does not differ by more than two-tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum of:
 - a. The greater of zero and the basic cash value hereinafter specified; and
 - b. The present value of any existing paid-up additions less the amount of any indebtedness to the ~~company~~insurer under the policy.
2. The basic cash value is equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the ~~company~~insurer, if there had been no default, less the then present value of the nonforfeiture factors, as defined in this chapter, corresponding to premiums that would have fallen due on and after ~~such~~the anniversary. However, the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in section 26.1-33-19 or 26.1-33-21, whichever is applicable, shall be the same as are the effects specified in section 26.1-33-19 or 26.1-33-21, whichever is applicable, on the cash surrender values defined in that section.
3. The nonforfeiture factor for each policy year is an amount equal to a percentage of the adjusted premium for the policy year, as defined in section 26.1-33-21 or 26.1-33-24, whichever is applicable. Except as is required by subsection 4, the percentage:
 - a. Must be the same percentage for each policy year between the second policy anniversary and the later of ~~the~~:
 - (1) The fifth policy anniversary; and ~~the~~
 - (2) The first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and
 - b. Must be such that no percentage after the later of the two policy anniversaries specified in subdivision a may apply to fewer than five consecutive policy years.

4. No basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in section ~~26.1-33-21 or 26.1-33-24, whichever is applicable,~~ were substituted for the nonforfeiture factors in the calculation of the basic cash value.
5. All adjusted premiums and present values referred to in this section must for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with sections ~~26.1-33-18, 26.1-33-19, 26.1-33-21 through 26.1-33-26, and~~ 26.1-33-28. The cash surrender values referred to in this section include any endowment benefits provided for by the policy.
6. Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment must be determined in manners consistent with the manners specified for determining the analogous minimum amounts in sections 26.1-33-18 through 26.1-33-20, 26.1-33-24, and 26.1-33-26. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed in subsections 1 through 6 of section 26.1-33-26 must conform with the principles of this section.
7. ~~This section, in addition to all other applicable provisions of sections 26.1-33-18, 26.1-33-19, 26.1-33-21 through 26.1-33-26, and 26.1-33-28, applies to all policies issued on or after January 1, 1987.~~

SECTION 10. AMENDMENT. Section 26.1-33-28 of the North Dakota Century Code is amended and reenacted as follows:

26.1-33-28. Exemptions from nonforfeiture provisionsExceptions.

Sections 26.1-33-18 through 26.1-33-27 do not apply to:

1. Reinsurance;
2. Group insurance;
3. Pure endowment;
4. An annuity or reversionary annuity contract;
5. A term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;
6. A term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in sections 26.1-33-21 through 26.1-33-24 is less than the adjusted premium so calculated on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy;

7. A policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in sections 26.1-33-19 through 26.1-33-24, exceeds two and one-half percent of the amount of insurance at the beginning of the same policy year; nor
8. A policy delivered outside this state through an insurance producer or other representative of the ~~company~~insurer issuing the policy.

For purposes of determining the applicability of sections 26.1-33-18 through 26.1-33-28, the age of expiry for a joint term life insurance policy is the age of expiry of the oldest life.

SECTION 11. CONTINGENT EFFECTIVE DATE. This Act is effective on the January first following the date the insurance commissioner certifies to the secretary of state and the legislative council that all of the following have occurred:

1. The valuation manual has been adopted by the national association of insurance commissioners by an affirmative vote of the greater of at least forty-two members or three-fourths of the members voting.
2. The standard valuation law, as amended by the national association of insurance commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements, health annual statements, or fraternal annual statements.
3. The standard valuation law, as amended by the national association of insurance commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions:
 - a. The fifty states of the United States of America;
 - b. American Samoa;
 - c. The United States Virgin Islands;
 - d. The District of Columbia;
 - e. Guam; and
 - f. The Commonwealth of Puerto Rico.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 217

HOUSE BILL NO. 1142

(Representative Keiser)
(Senator Klein)

AN ACT to create and enact sections 26.1-35-00.1, 26.1-35-00.2, 26.1-35-11, 26.1-35-12, 26.1-35-13, and 26.1-35-14 of the North Dakota Century Code, relating to the standard valuation law for life insurance policies and annuities; to amend and reenact sections 26.1-35-01, 26.1-35-01.1, 26.1-35-02, 26.1-35-03, 26.1-35-04, 26.1-35-05, 26.1-35-06, 26.1-35-07, 26.1-35-08, 26.1-35-09, and 26.1-35-10 of the North Dakota Century Code, relating to the standard valuation law for life insurance; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 26.1-35-00.1 of the North Dakota Century Code is created and enacted as follows:

26.1-35-00.1. Definitions.

In this chapter, the following definitions apply on or after the operative date of the valuation manual:

1. "Accident and health insurance" means a contract that incorporates morbidity risk and provides protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.
2. "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection 2 of section 26.1-35-01.1.
3. "Deposit-type contract" means a contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual.
4. "Insurer" means an entity that has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state:
 - a. And has at least one such policy in force or on claim; or
 - b. Is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state.
5. "Life insurance" means a contract that incorporates mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.
6. "Policyholder behavior" means any action a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this chapter, including lapse.

withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract. The term does not include events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

7. "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with section 26.1-35-12 as specified in the valuation manual.
8. "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American academy of actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.
9. "Tail risk" means a risk that occurs either when the frequency of low probability events is higher than expected under a normal probability distribution or when there are observed events of very significant size or magnitude.
10. "Valuation manual" means the manual of valuation instructions adopted by the national association of insurance commissioners and approved by the commissioner as specified in this chapter.

SECTION 2. Section 26.1-35-00.2 of the North Dakota Century Code is created and enacted as follows:

26.1-35-00.2. Application of valuation manual - Changes to valuation manual - Requirements of valuation manual.

1. Except as provided under subsections 4 or 6 of section 26.1-35-00.2, for policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection 2 of section 26.1-35-01.
2. Unless the commissioner or a change in the valuation manual specifies a later effective date, changes to the valuation manual become effective on January first following the date the commissioner adopts the changes. The commissioner may adopt changes to the valuation manual if the valuation manual has been adopted by the national association of insurance commissioners by an affirmative vote representing:
 - a. At least three-fourths of the members of the national association of insurance commissioners voting, but not less than a majority of the total membership; and
 - b. Members of the national association of insurance commissioners representing jurisdictions totaling greater than seventy-five percent of the direct premiums written as reported in the following annual statements most recently available before the vote in paragraph a: life, accident and health annual statements; health annual statements; or fraternal annual statements.
3. The valuation manual must specify all of the following:

-
- a. Minimum valuation standards for and definitions of the policies or contracts subject to subsection 2 of section 26.1-35-01. The minimum valuation standards must be:
- (1) The commissioners reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection 2 of section 26.1-35-01;
 - (2) The commissioners annuity reserve valuation method for annuity contracts subject to subsection 2 of section 26.1-35-01; and
 - (3) Minimum reserves for all other policies or contracts subject to subsection 2 of section 25.1-35-01.
- b. Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subsection 1 of section 26.1-35-12 and the minimum valuation standards consistent with those requirements.
- c. For policies and contracts subject to a principle-based valuation under section 26.1-35-12.
- (1) Requirements for the format of reports to the commissioner under subdivision c of subsection 2 of section 26.1-35-12 and which must include information necessary to determine if the valuation is appropriate and in compliance with this chapter;
 - (2) Assumptions must be prescribed for risks over which the insurer does not have significant control or influence; and
 - (3) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures.
- d. For policies not subject to a principle-based valuation under section 26.1-35-12, the minimum valuation standard must:
- (1) Be consistent with the minimum standard of valuation before the operative date of the valuation manual; or
 - (2) Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.
- e. Other requirements, including those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of insurer experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls.
- f. The data and form of the data required under section 26.1-35-13, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

4. In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this chapter, with respect to such requirements, the insurer shall comply with minimum valuation standards prescribed by the commissioner by rule.
5. The commissioner may employ or contract with a qualified actuary, at the expense of the insurer, to perform an actuarial examination of the insurer and opine on the appropriateness of any reserve assumption or method used by the insurer, or to review and opine on an insurer's compliance with any requirement set forth in this chapter. The commissioner may rely upon the opinion regarding provisions contained within this chapter, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States.
6. The commissioner may require an insurer to change any assumption or method that, in the opinion of the commissioner, is necessary in order to comply with the requirements of the valuation manual or this chapter; and the insurer shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted under this title.

SECTION 3. AMENDMENT. Section 26.1-35-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-35-01. Commissioner to annually value liabilities for life policies and annuities~~Reserve valuation.~~

1. The following apply to policies and contracts issued before the operative date of the valuation manual:
 - a. The commissioner shall annually value, or cause to be valued, the reserve liabilities, in this chapter referred to as reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance companylife insurer doing business in this state, and may certify the amount of the reserves, specifying the mortality table or tables, rate or rates of interest, and methods, net level premium method or other, used in the calculation of the reserves issued after June 30, 1977, and before the operative date of the valuation manual. In calculating the reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required of anya foreign or alien companyinsurer, the commissioner may accept anya valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction wherewhen the valuation complies with the minimum standards provided in this chapter, if the official of that state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when the certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.
 - b. Except sections 26.1-35-00.2 and 26.1-35-12, this chapter applies to all policies and contracts, as appropriate, subject to this chapter issued after June 30, 1977, and before the operative date of the valuation manual; however, sections 26.1-35-00.2 and 26.1-35-12 do not apply to such policies and contracts.

- c. The minimum standard for the valuation of policies and contracts issued before July 1, 1977, are the standards provided by the laws in effect immediately before that date.
2. The following apply to policies and contracts issued on or after the operative date of the valuation manual:
- a. Annually, the commissioner shall value, or cause to be valued, the reserve liabilities, in this chapter referred to as reserves, for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every insurer issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien insurer, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this chapter.
- b. The provisions set forth in sections 26.1-35-00.2 and 26.1-35-12 apply to all policies and contracts issued on or after the operative date of the valuation manual.

SECTION 4. AMENDMENT. Section 26.1-35-01.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-35-01.1. Actuarial opinion of reserves.

This section becomes operative at the end of the first full calendar year following the year of enactment:

1. The following apply to the actuarial opinions issued before the operative date of the valuation manual:
- a. Every life insurance ~~company~~insurer doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner by rule shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.
- 2-b. Actuarial analysis of reserves and assets supporting such reserves.
- a-(1) Every life insurance ~~company~~insurer, except as exempted by or pursuant to rule, shall also annually include in the opinion required by subsection 1, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by ~~regulation~~rule, when considered in light of the assets held by the ~~company~~insurer with respect to the reserves and related actuarial items, including the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the ~~company's~~insurer's obligations under the policies and contracts, including the benefits under and expenses associated with the policies and contracts.

- ~~b.(2)~~ The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section.
- 3-c. Requirement for opinion under ~~subsection 2~~subdivision b. Each opinion required by ~~subsection 2~~subdivision b must be governed by the following provisions:
- a.(1) A memorandum, in form and substance acceptable to the commissioner as specified by rule, must be prepared to support each actuarial opinion.
- ~~b.(2)~~ If the ~~insurance—companyinsurer~~ fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or the commissioner determines that the supporting memorandum provided by the ~~insurance—companyinsurer~~ fails to meet the standards prescribed by rule or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the ~~companyinsurer~~ to review the opinion and the basis for the opinion and prepare ~~such~~the supporting memorandum ~~as is~~ required by the commissioner.
- 4-d. Requirement for all opinions subject to subsection 1. Every opinion subject to subsection 1 must be governed by the following provisions:
- a.(1) The opinion must be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1994.
- ~~b.(2)~~ The opinion must apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rule.
- e.(3) The opinion must be based on standards adopted from time to time by the actuarial standards board and on such additional standards as the commissioner may by rule prescribe.
- ~~d.(4)~~ In the case of an opinion required to be submitted by a foreign or alien ~~companyinsurer~~, the commissioner may accept the opinion filed by that ~~companyinsurer~~ with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a ~~companyan insurer~~ domiciled in this state.
- e.(5) For the purposes of this section, "qualified actuary" means a member in good standing of the American academy of actuaries who meets the requirements set forth in ~~such regulation~~the rule.
- f.(6) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the ~~insurance—companyinsurer~~ and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.
- g.(7) Disciplinary action by the commissioner against the ~~companyinsurer~~ or the qualified actuary must be defined in rules by the commissioner.

- ~~h.~~(8) Any Except as provided in paragraphs 12, 13, and 14, documents, materials, or other information in the possession or control of the insurance department that are a memorandum in support of the opinion, and any other material provided by the company insurer to the commissioner in connection therewith with the memorandum, must be kept confidential by the commissioner and may not be made public and is not subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules adopted hereunder; provided, however, that the records not subject to section 44-04-18 and are privileged, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.
- (9) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to paragraph 8.
- (10) In order to assist in the performance of the commissioner's duties, the commissioner:
- (a) May share documents, materials, or other information including the confidential and privileged documents, materials, or information subject to paragraph 8 with other state, federal, and international regulatory agencies; with the national association of insurance commissioners and its affiliates and subsidiaries; and with state, federal, and international law enforcement authorities, if the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;
 - (b) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the national association of insurance commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and
 - (c) May enter agreements governing sharing and use of information consistent with paragraphs 8, 9, and 10.
- (11) A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information may not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph 10.
- (12) A memorandum in support of the opinion, and any other material provided by the insurer to the commissioner in connection with the

memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section or by rules adopted under this section.

(13) The memorandum or other material may otherwise be released by the commissioner with the written consent of the companyinsurer or to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

(14) Once any portion of the confidential memorandum is cited by the companyinsurer in its marketing or is cited before any governmental agency other than a state insurance department or is released by the companyinsurer to the news media, all portions of the confidential memorandum are no longer confidential.

2. The following apply to actuarial opinions of reserves issued after the operative date of the valuation manual:

a. Every insurer with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the commissioner annually shall submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The valuation manual prescribes the specifics of this opinion, including any items deemed to be necessary to its scope.

b. Every insurer with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to regulation by the commissioner, except as exempted in the valuation manual, also annually shall include in the opinion required by subdivision a an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the insurer's obligations under the policies and contracts, including the benefits under and expenses associated with the policies and contracts.

c. Each opinion required by this subsection is governed by the following provisions:

(1) A memorandum, in form and substance as specified in the valuation manual, and acceptable to the commissioner, must be prepared to support each actuarial opinion.

(2) If the insurer fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual.

or the commissioner determines that the supporting memorandum provided by the insurer fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

d. Under this subsection, every opinion is governed by the following provisions:

- (1) The opinion must be in a form and substance as specified in the valuation manual and acceptable to the commissioner.
- (2) The opinion must be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.
- (3) The opinion must apply to all policies and contracts subject to subdivision b, plus other actuarial liabilities as may be specified in the valuation manual.
- (4) The opinion must be based on standards adopted by the actuarial standards board or its successor and approved by the commissioner and on such additional standards as may be prescribed in the valuation manual.
- (5) In the case of an opinion required to be submitted by a foreign or alien insurer, the commissioner may accept the opinion filed by that insurer with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to an insurer domiciled in this state.
- (6) Except in cases of fraud or willful misconduct, the appointed actuary is not liable for damages to any person, other than the insurer and the commissioner, for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion.
- (7) Disciplinary action by the commissioner against the insurer or the appointed actuary must be defined in rules adopted by the commissioner.

SECTION 5. AMENDMENT. Section 26.1-35-02 of the North Dakota Century Code is amended and reenacted as follows:

~~26.1-35-02. Minimum standards of valuation for life or accident insurance~~Computation of minimum standard.

~~The~~Except as provided in sections 26.1-35-03, 26.1-35-04, and 26.1-35-11, the minimum standardstandard for the valuation of all life or accident insurance policies and contracts issued prior to July 1, 1977, are those provided by sections 26-03-33, 26-03-34, and 26-10-01 as they existed on June 30, 1977. ~~Except as otherwise provided in sections 26.1-35-03 and, 26.1-35-04, and 26.1-35-11, the minimum standard for the valuation of all life or accident insurance policies and contracts issued after June 30, 1977, is the commissioner's~~commissioners reserve valuation methods defined in sections 26.1-35-05, 26.1-35-06, ~~and 26.1-35-09; and 26.1-35-11,~~ five and one-half percent interest for single premium life insurance

policies and four and one-half percent interest for all other such policies and contracts issued after June 30, 1977, other than annuity and pure endowment contracts, and the following tables:

1. For ~~all ordinary~~ policies of ~~ordinary~~ life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies, the commissioners 1941 standard ordinary mortality table for policies issued before the operative date of section 26.1-33-22, the commissioners'commissioners 1958 standard ordinary mortality table for policies issued on or after the operative date of section 26.1-33-22 and prior to the earlier of a specified date filed by a companyan insurer with the commissioner in a written notice of the company'sinsurer's election to comply with this chapter or January 1, 1989, provided that for any category of policies issued on female risks, all modified net premiums and present values referred to in this chapter may be calculated according to an age not more than six years younger than the actual age of the insured; and for policies issued on or after the earlier of a specified date filed by a companyan insurer with the commissioner in a written notice of the company'sinsurer's election to comply with this chapter or January 1, 1989:
 - a. The ~~commissioners'commissioners~~ 1980 standard ordinary mortality table;
 - b. At the election of the ~~companyinsurer~~ for any one or more specified plans of life insurance, the ~~commissioners'commissioners~~ 1980 standard ordinary mortality table with ten-year select mortality factors; or
 - c. Any ordinary mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies.
2. For ~~all policies of~~ industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies, the 1941 standard industrial mortality table for policies issued before the operative date of section 26.1-33-23, and for policies issued on or after the operative date of section 26.1-33-23, the commissioners'commissioners 1961 standard industrial mortality table or any industrial mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies.
3. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies, the 1937 standard annuity mortality table, or at the option of the insurer, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.
4. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies, the group annuity mortality table for 1951, a modification of the table approved by the commissioner, or at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.
5. For total and permanent disability benefits in or supplementary to policies or contracts, for policies or contracts issued after December 31, 1965, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the

1952 disability study of the society of actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the national association of insurance commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for ~~thethose policies; for policies or contracts issued after December 31, 1960, and before January 1, 1966, either those tables or, at the option of the insurer, the class (3) disability table (1926); and for policies issued before January 1, 1961, the class (3) disability table (1926).~~ The table must, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

- 4-6. For accidental death benefits in or supplementary to policies ~~or contracts issued after December 31, 1965,~~ the 1959 accidental death benefits table or any accidental death benefits table, adopted after 1980 by the national association of insurance commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies. ~~The; for policies issued after December 31, 1960, and before January 1, 1966, either that table or, at the option of the insurer, the intercompany double indemnity mortality table; and for policies issued before January 1, 1961, the intercompany double indemnity mortality table. Either~~ table must be combined with a mortality table permitted for calculating the reserves for life insurance policies.
- 5-7. For group life insurance, life insurance issued on the substandard basis and other special benefits, any tables ~~that may be~~ approved by the commissioner.

SECTION 6. AMENDMENT. Section 26.1-35-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-35-03. Minimum standards of valuationComputation of minimum standard for annuities.

1. Except as provided in section 26.1-35-04, the minimum standards ~~for the standard of~~ valuation ~~of all for~~ individual annuity and pure endowment contracts ~~issued on or after the operative date of this section, and for all annuities and pure endowments purchased on or after the operative date~~ under group annuity and pure endowment contracts, must be the ~~commissioners'~~ ~~commissioners~~ reserve valuation methods defined in sections 26.1-35-05 and 26.1-35-06 and the following tables and interest rates:
- 4-a. For individual annuity and pure endowment contracts issued before July 1, 1977, excluding any disability and accidental death benefits in those contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts and four percent interest for all other individual annuity and pure endowment contracts.
- b. For individual single premium immediate annuity contracts, excluding any disability and accidental death benefits in the contracts issued after June 30, 1977, excluding any disability and accidental death benefits in those contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the contracts, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.

- 2-c. For individual annuity and pure endowment contracts issued after June 30, 1977, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in the contracts, the 1971 individual annuity mortality table or any individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the contracts, or any modification of these tables approved by the commissioner, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other individual annuity and pure endowment contracts.
- d. For annuities and pure endowments purchased prior to July 1, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts, the 1971 group annuity mortality table or any modification of this table approved by the commissioner, and six percent interest.
- 3-e. For all annuities and pure endowments purchased after June 30, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under these contracts, the 1971 group annuity mortality table or any group annuity mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the annuities and pure endowments, or any modification of these tables approved by the commissioner, and seven and one-half percent interest.
2. After June 30, 1977, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1979, which must be the operative date of this section for that insurer. If an insurer makes no election, the operative date of this section for that insurer must be January 1, 1979.

SECTION 7. AMENDMENT. Section 26.1-35-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-35-04. Determination ~~Computation~~ of minimum standard for valuation -- Interest rates by calendar year of issue.

The calendar year statutory valuation interest rates as defined in this section are:

1. The interest rates used in determining the minimum standard for the valuation of the following are the calendar year statutory valuation interest rates as defined in this section:
 - a. All ~~life~~Life insurance policies issued in a particular calendar year, on or after the earlier of a specified date filed by a ~~company~~an insurer with the commissioner in a written notice of the ~~company's~~insurer's election to comply with this chapter or January 1, 1989.
 - b. All ~~individual~~Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1984.

- c. ~~All annuities~~ Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1984, under group annuity and pure endowment contracts.
- d. The net increase, if any, in a particular calendar year after January 1, 1984, in amounts held under guaranteed interest contracts.
2. The calendar year statutory valuation interest rates, I, must be determined as follows and the results rounded to the nearer one-quarter of one percent:
- a. For life insurance:

$$I = .03 + W (R_1 - .03) + \frac{W}{2} (R_2 - .09)$$

- b. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$$I = .03 + W (R - .03)$$

where R_1 is the lesser of R and $.09$, R_2 is the greater of R and $.09$, R is the reference interest rate defined in this section, and W is the weighting factor defined in this section.

- c. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subdivision b, the formula for life insurance stated in subdivision a applies to annuities and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in subdivision b applies to annuities and guaranteed interest contracts with guarantee duration of ten years or less.
- d. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in subdivision b applies.
- e. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in subdivision b applies.

However, if the calendar year statutory valuation interest rate for ~~any~~ life insurance ~~policies~~ policy issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for the life insurance policies must equal the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year must be determined for 1980 by using the reference interest rate defined for 1979, and must be determined for each subsequent calendar year regardless of when section ~~26-1-33~~ 26-1-33-24 becomes operative.

3. The weighting factors referred to in the formulas in subsection 2 are given in the following tables:

- a. The weighting factors for life insurance are:

Guarantee Duration	Weighting Factors
10 years or less	.50
More than 10 years, but not more than 20 years	.45
More than 20 years	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

- b. The weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options is eighty hundredths.
- c. The weighting factors for other annuities and for guaranteed interest contracts, except as stated in subdivision b, are as specified in paragraphs 1, 2, and 3, according to the requirements and definitions in paragraphs 4, 5, and 6:

- (1) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration	Weighting Factor for Plan Type		
	A	B	C
5 years or less	.80	.60	.50
More than 5 years, but not more than 10 years	.75	.60	.50
More than 10 years, but not more than 20 years	.65	.50	.45
More than 20 years	.45	.35	.35

- (2) For annuities and

guaranteed interest contracts valued on a change in fund basis, the factors shown in paragraph 1 increased by	.15	.25	.05
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- (3) For annuities and

guaranteed interest
contracts valued on
an issue year basis,
other than those with
no cash settlement

options, which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in paragraph 1 or derived in paragraph 2 increased by

.05

.05

.05

- (4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the ~~guarantee~~~~guaranteed~~ duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.
- (5) The plan type as used in the tables in this subsection is defined as follows:
- (a) Plan type A: At any time the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the ~~insurance company~~~~insurer~~, without such adjustment but in installments over five years or more, as an immediate life annuity, or no withdrawal permitted.
 - (b) Plan type B: Before expiration of the interest rate guarantee, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the ~~insurance company~~~~insurer~~, without ~~such an~~ adjustment but in installments over five years or more, or no withdrawal permitted. At the end of the interest rate guarantee, funds may be withdrawn without ~~such an~~ adjustment in a single sum or installments over less than five years.
 - (c) Plan type C: The policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or installments over less than five years either without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the ~~insurance company~~~~insurer~~, or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

- (6) ~~A company~~An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. ~~As used in this section, an~~ issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract. A change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.
4. The reference interest rate referred to in subsection 2 is defined as follows:
- a. For all life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June thirtieth of the calendar year next preceding the year of issue, ~~of Moody's corporate bond yield average—the monthly average corporatesof the~~ composite yield on seasoned corporate bonds, as published by Moody's investors service, incorporated.
 - b. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on June thirtieth of the calendar year of issue or year of purchase, ~~of Moody's corporate bond yield average—the monthly average corporatesof the~~ composite yield on seasoned corporate bonds, as published by Moody's investors service, incorporated.
 - c. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subdivision b with guarantee duration in excess of ten years, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June thirtieth of the calendar year of issue or purchase, ~~of Moody's corporate bond yield average—the monthly average corporatesof the~~ composite yield on seasoned corporate bonds, as published by Moody's investors service, incorporated.
 - d. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subdivision b with guaranteed duration of ten years or less, the average over a period of twelve months, ending on June thirtieth of the calendar year of issue or purchase, ~~of Moody's corporate bond yield average—the monthly average corporatesof the~~ composite yield on seasoned corporate bonds, as published by Moody's investors service, incorporated.

- e. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months, ending on June thirtieth of the calendar year of issue or purchase, of ~~Moody's corporate bond yield average—the monthly average~~ corporates of the composite yield on seasoned corporate bonds, as published by Moody's investors service, incorporated.
 - f. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in subdivision b the average over a period of twelve months, ending on June thirtieth of the calendar year of the change in the fund, of ~~Moody's corporate bond yield average—the monthly average~~ corporates of the composite yield on seasoned corporate bonds, as published by Moody's investors service, incorporated.
5. If ~~Moody's corporate bond yield average—the monthly average~~ corporates of the composite yield on seasoned corporate bonds is no longer published by Moody's investors service, incorporated, or if the national association of insurance commissioners determines that ~~Moody's corporate bond yield average—the monthly average~~ corporates of the composite yield on seasoned corporate bonds as published by Moody's investors service, incorporated, is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, ~~which is~~ adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, may be substituted.

SECTION 8. AMENDMENT. Section 26.1-35-05 of the North Dakota Century Code is amended and reenacted as follows:

26.1-35-05. Reserves by commissioners' reserve Reserve valuation method - Life insurance and endowment benefits.

1. Except as otherwise provided in sections 26.1-35-06 ~~and~~, 26.1-35-09, ~~and~~ 26.1-35-11, reserves according to the ~~commissioners'~~ commissioners' reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, must be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided ~~for~~ by ~~the~~ those policies, over the then present value of any future modified net premiums for the policies. The modified net premiums for a policy must be the uniform percentage of the respective contract premiums for the benefits that the present value, at the date of issue of the policy, of all the modified net premiums equals the sum of the present value of the benefits provided by the policy and the excess of subdivision a over subdivision b as follows:
 - a. A net level annual premium equal to the present value, at the date of issue, of the benefits provided ~~for~~ after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due; ~~provided, however, that~~ However, the net level annual premium may not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of the policy.
 - b. A net one-year term premium for the benefits provided in the first policy year.

2. For ~~any~~ life insurance policy issued after December 31, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the reserve according to the ~~commissioners'~~commissioners' reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, which is defined as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium, except as otherwise provided in section 26.1-35-09, must be the greater of the reserve as of ~~such~~the policy anniversary calculated as described in this section and the reserve as of ~~such~~the policy anniversary calculated as described in this section, but with the value defined in ~~subdivision a~~ of subsection 1 being reduced by fifteen percent of the amount of such excess first year premium; all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date; the policy being assumed to mature on such date as an endowment; and the cash surrender value provided on ~~such~~that date being considered as an endowment benefit. In making the above comparison, the mortality and interest bases stated in sections 26.1-35-02 and 26.1-35-04 must be used.
3. Reserves according to the ~~commissioners'~~commissioners' reserve valuation method must be calculated by a method consistent with the principles as described in this section for life:
 - a. Life insurance policies providing a varying amount of insurance or requiring the payment of varying premiums; ~~group~~
 - b. Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership, limited liability company, or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the federal Internal Revenue Code, as amended; ~~disability~~
 - c. Disability and accidental death benefits in all policies and contracts; and ~~all~~
 - d. All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, ~~must be calculated by a method consistent with the principles of this section.~~

SECTION 9. AMENDMENT. Section 26.1-35-06 of the North Dakota Century Code is amended and reenacted as follows:

26.1-35-06. Reserves by commissioners' annuity reserve Reserve valuation - Annuity and pure endowment benefits method.

1. This section applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement

accounts or individual retirement annuities under section 408 of the federal Internal Revenue Code of 1954, as amended.

2. Reserves according to the ~~commissioners'~~ commissioner annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in the contracts, must be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by the contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of the contracts, that become payable prior to the end of ~~such~~ the respective contract year. The future guaranteed benefits must be determined by using the mortality tables, if any, and the interest rate, or rates, specified in the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

SECTION 10. AMENDMENT. Section 26.1-35-07 of the North Dakota Century Code is amended and reenacted as follows:

~~26.1-35-07. Minimum aggregate reserves for life policies issued after June 30, 1977.~~

1. ~~A company's~~ An insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued after June 30, 1977, may not be less than the aggregate reserves calculated in accordance with the methods set forth in sections 26.1-35-05, 26.1-35-06, ~~and 26.1-35-09, and 26.1-35-10~~ and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.
2. ~~In no event may the~~ The aggregate reserves for all policies, contracts, and benefits ~~may not~~ be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by section 26.1-35-01.1.

SECTION 11. AMENDMENT. Section 26.1-35-08 of the North Dakota Century Code is amended and reenacted as follows:

~~26.1-35-08. Calculation of minimum aggregate reserves by other standards~~ Optional reserve calculation.

1. Reserves for all policies and contracts issued prior to July 1, 1977, may be calculated, at the option of the ~~company~~ insurer, according to any standards which produce greater aggregate reserves for the policies and contracts than the minimum reserves required by the laws in effect on June 30, 1977.
2. Reserves for any category of policies, contracts, or benefits, as established by the commissioner, issued on or after July 1, 1977, may be calculated, at the option of the ~~company~~ insurer, according to any standards which produce greater aggregate reserves for the category than those calculated according to the minimum standard provided in this chapter, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, may not be ~~higher~~ greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided in the policies and contracts.

3. ~~Any company~~An insurer that has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this chapter may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum provided in this chapter; provided, however, that for the purposes of this section, the holding of additional reserves previously determined by a ~~qualified~~the appointed actuary to be necessary to render the opinion required by section 26.1-35-01.1 may not be deemed to be the adoption of a higher standard of valuation.

SECTION 12. AMENDMENT. Section 26.1-35-09 of the North Dakota Century Code is amended and reenacted as follows:

26.1-35-09. ~~Minimum reserve if~~Reserve calculation - Valuation net premium exceedsexceeding the gross premium charged.

1. If in any contract year the gross premium charged by ~~any life insurance company~~an insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve ~~on the policy or contract~~ but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract is the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in sections 26.1-35-02 and 26.1-35-04.
2. For ~~any~~ life insurance policy issued after December 31, 1986, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, ~~subsection 4~~the provisions of this section must be applied as if the method actually used in calculating the reserve for the policy was the method described in section 26.1-35-05, ignoring subsection 2 of that section. The minimum reserve at each policy anniversary must be the greater of the minimum reserve calculated in accordance with section 26.1-35-05, including subsection 2 of that section, and the minimum reserve calculated in accordance with this section.

SECTION 13. AMENDMENT. Section 26.1-35-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-35-10. ~~Future premium determination~~Reserve calculation - Indeterminate premium plans.

In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the ~~insurance company~~insurer based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in sections 26.1-35-05, 26.1-35-06, and 26.1-35-09, the reserves which are held under the plan must be appropriate in

relation to the benefits and the pattern of premiums for that plan, and must be computed by a method that is consistent with the principles of this chapter, as determined by rules adopted by the commissioner.

SECTION 14. Section 26.1-35-11 of the North Dakota Century Code is created and enacted as follows:

26.1-35-11. Minimum standard for accident and health insurance contracts.

For an accident and health insurance contract issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection 2 of section 26.1-35-01. For an accident and health insurance contract issued after June 30, 1977, and before the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by rule.

SECTION 15. Section 26.1-35-12 of the North Dakota Century Code is created and enacted as follows:

26.1-35-12. Requirements of a principle-based valuation.

1. An insurer shall establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:
 - a. Quantify the benefits and guarantees and the funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, reflects conditions appropriately adverse to quantify the tail risk.
 - b. Incorporate assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the insurer's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.
 - c. Incorporate assumptions that are derived in one of the following manners:
 - (1) The assumption is prescribed in the valuation manual.
 - (2) For assumptions that are not prescribed, the assumptions must:
 - (a) Be established utilizing the insurer's available experience, to the extent the experience is relevant and statistically credible; or
 - (b) To the extent that insurer data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience.
 - d. Provide margins for uncertainty, including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

2. An insurer using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:
 - a. Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.
 - b. Provide to the commissioner and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. The controls must be designed to assure that all material risks inherent in the liabilities and associated assets subject to the valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification must be based on the controls in place as of the end of the preceding calendar year.
 - c. Develop, and file with the commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.
3. A principle-based valuation may include a prescribed formulaic reserve component.

SECTION 16. Section 26.1-35-13 of the North Dakota Century Code is created and enacted as follows:

26.1-35-13. Experience reporting for policies in force on or after the operative date of the valuation manual.

An insurer shall submit mortality, morbidity, policyholder behavior, and expense experience and other data as prescribed in the valuation manual.

SECTION 17. Section 26.1-35-14 of the North Dakota Century Code is created and enacted as follows:

26.1-35-14. Confidentiality.

1. For purposes of this section, "confidential information" means:
 - a. A memorandum in support of an opinion submitted under section 26.1-35-01.1 and any other documents, materials, and other information, including all working papers, and copies thereof, created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such memorandum;
 - b. All documents, materials, and other information, including all working papers and copies of working papers, created, produced, or obtained by or disclosed to the commissioner or any other person in the course of an examination made under subsection 5 of section 26.1-35-00.2. However, if an examination report or other material prepared in connection with an examination made under chapter 26.1-03 is not held as private and confidential information under chapter 26.1-03, an examination report or other material prepared in connection with an examination made under subsection 5 of section 26.1-35-00.2 may not be confidential information to the same extent as if such examination report or other material had been prepared under chapter 26.1-03;

- c. Any reports, documents, materials, and other information developed by an insurer in support of, or in connection with, an annual certification by the insurer under subdivision b of subsection 2 of section 26.1-35-12 evaluating the effectiveness of the insurer's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including all working papers and copies of working papers created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such reports, documents, materials, and other information;
 - d. Any principle-based valuation report developed under subdivision c of subsection 2 of section 26.1-35-12 and any other documents, materials, and other information, including all working papers and copies of working papers created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such report; and
 - e. Any documents, materials, data, and other information submitted by an insurer under section 26.1-35-13, collectively referred to as experience data, and any other documents, materials, data, and other information, including all working papers and copies of working papers created or produced in connection with such experience data, in each case that include any potentially insurer-identifying or personally identifiable information, that is provided to or obtained by the commissioner, together with any experience data, the experience materials, and any other documents, materials, data, and other information, including all working papers and copies of working papers created, produced, or obtained by or disclosed to the commissioner or any other person in connection with such experience materials.
2. a. Except as provided in this section, an insurer's confidential information is confidential and privileged, and is not subject to section 44-04-18, is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use the confidential information in the furtherance of any regulatory or legal action brought against the insurer as a part of the commissioner's official duties.
- b. Neither the commissioner nor any person that received confidential information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential information.
- c. In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information with other state, federal, and international regulatory agencies and with the national association of insurance commissioners and its affiliates and subsidiaries, and in the case of confidential information specified in subdivisions a and d of subsection 1 only, with the actuarial board for counseling and discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials, provided that such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner.

- d. The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the national association of insurance commissioners and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the actuarial board for counseling and discipline or its successor and shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.
 - e. The commissioner may enter agreements governing sharing and use of information consistent with this subsection.
 - f. A waiver of any applicable privilege or claim of confidentiality in the confidential information may not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subdivision c.
 - g. A privilege established under the law of any state or jurisdiction which is substantially similar to the privilege established under this subsection is available and must be enforced in any proceeding in and in any court of this state.
 - h. In this section, reference to regulatory agency, law enforcement agency, and the national association of insurance commissioners, includes the employees, agents, consultants, and contractors of these entities.
3. Notwithstanding subsection 2, any confidential information specified in subdivisions a and d of subsection 1:
- a. May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under section 26.1-35-01.1 or principle-based valuation report developed under subdivision c of subsection 2 of section 26.1-35-12 by reason of an action required by this chapter or by rules adopted under this chapter;
 - b. May otherwise be released by the commissioner with the written consent of the insurer; and
 - c. Once any portion of a memorandum in support of an opinion submitted under section 26.1-35-01.1 or a principle-based valuation report developed under subdivision c of subsection 2 of section 26.1-35-12 is cited by the insurer in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the insurer to the news media, all portions of such memorandum or report are no longer confidential.

SECTION 18. CONTINGENT EFFECTIVE DATE. This Act is effective on the January first following the date the insurance commissioner certifies to the secretary of state and the legislative council that all of the following have occurred:

1. The valuation manual has been adopted by the national association of insurance commissioners by an affirmative vote of the greater of at least forty-two members or three-fourths of the members voting.

2. The standard valuation law, as amended by the national association of insurance commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; or fraternal annual statements.
3. The standard valuation law, as amended by the national association of insurance commissioners in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions:
 - a. The fifty states of the United States of America;
 - b. American Samoa;
 - c. The United States Virgin Islands;
 - d. The District of Columbia;
 - e. Guam; and
 - f. The Commonwealth of Puerto Rico.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 218

HOUSE BILL NO. 1072

(Representatives Maragos, Delmore, Beadle, Dockter)
(Senator Dever)

AN ACT to create and enact a new section to chapter 26.1-36 and a new section to chapter 54-52.1 of the North Dakota Century Code, relating to insurance coverage of cancer treatment medications; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 26.1-36 of the North Dakota Century Code is created and enacted as follows:

Coverage of cancer treatment medications.

1. As used in this section:
 - a. "Cancer treatment medications" means prescription drugs and biologics that are used to kill, slow, or prevent the growth of cancerous cells.
 - b. "Insurer" means an insurance company, nonprofit health service corporation, or health maintenance organization.
 - c. "Patient-administered" includes oral administration and self-injection.
 - d. "Policy" means an accident and health insurance policy, contract, or evidence of coverage on a group, individual, blanket, franchise, or association basis.
2. An insurer may not deliver, issue, execute, or renew a policy that provides coverage for cancer treatment medications that are injected or are intravenously administered by a health care provider and that provides coverage for patient-administered cancer treatment medications unless the policy copayment, deductible, and coinsurance amounts for patient-administered cancer treatment medications do not exceed the amounts for cancer treatment medications that are injected or are intravenously administered by a health care provider, regardless of the formulation or benefit category.
3. An insurer may not increase a copayment, deductible, or coinsurance amount for covered cancer treatment medications that are injected or intravenously administered in order to avoid compliance with subsection 2. An insurer may not reclassify benefits with respect to cancer treatment medications in a manner that is inconsistent with this section.

SECTION 2. A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Coverage of cancer treatment medications.

The board shall provide medical benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 which provides coverage of cancer treatment medications in the same manner as provided under section 1 of this Act.

SECTION 3. APPLICATION. This Act is not subject to section 54-03-28, and therefore is not required to be accompanied by a cost-benefit analysis; is not limited in application to the public employees retirement system's health insurance programs; does not require that during the 2015-16 interim the public employees retirement system study the effect of the cancer treatment medication coverage requirements; and does not expire in two years.

Approved April 13, 2015

Filed April 13, 2015

CHAPTER 219

SENATE BILL NO. 2105

(Senators Krebsbach, Oehlke)
(Representative Frantsvog)

AN ACT to amend and reenact section 26.1-39-05 of the North Dakota Century Code, relating to property and casualty insurance valuation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-39-05 of the North Dakota Century Code is amended and reenacted as follows:

26.1-39-05. Face of policy to be paid in case of covered loss.

1. Whenever any insurance policy is written or renewed to insure any real property in this state, including structures owned by persons other than the insured, against loss caused by or resulting from any covered cause of loss and the insured property is wholly or completely destroyed by any covered cause of loss without fraud on the part of the insured or the insured's assigns, the amount of the insurance written in the policy is the true value of the property insured and the true amount of loss and measure of damages, subject to the following conditions:
 - a. If the covered loss occurred within ninety days after the policy ~~was issued~~effective date or within ninety days after the policy limits were increased by twenty-five percent or more at the insured's request, the loss payable to the insured for covered loss incurred during the first ninety days is the lesser of:
 - (1) ~~The full value of the policy;~~ or the
 - (2) ~~The actual cash value or replacement cost of the property, whichever is less depending on the policy provisions applicable to the structure.~~
This
 - b. ~~subsection~~Subdivision a does not apply to ~~unchanged renewal~~:
 - (1) ~~Renewal policies or policies with policy limits increases of less than twenty-five percent;~~
 - (2) ~~with inflation adjustment limits~~Policies for which limits have increased twenty-five percent or more due to the construction of additions; or
 - (3) Policies for which the increased limits were approved by the insurer before the loss.
 - b-c. Builder risk policies of insurance covering property in the process of being constructed must be valued and settled according to the actual value of that portion of construction completed at the time of any covered cause of loss.

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- e.d. In case of double insurance, each insurer shall contribute proportionally toward the loss without regard to the dates of the insurance policies.
2. This section does not apply as to personal property or any interest ~~therein~~ the personal property.
 3. This section does not apply to any claim for loss of an appurtenant structure or separate structure. Any claim for loss of an appurtenant or separate structure must be settled for actual replacement cost or actual cash value, depending on the policy provisions applicable to the structure, unless an appurtenant or separate structure is individually described in the policy and a value is assigned to that specific structure before the loss.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 220

HOUSE BILL NO. 1365

(Representatives Lefor, Beadle, Keiser, Meier)
(Senators Armstrong, Krebsbach)

AN ACT to amend and reenact subsection 2 of section 26.1-39-13, subsection 1 of section 26.1-39-16, and section 26.1-40-07 of the North Dakota Century Code, relating to proof of mailing of insurance notices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 26.1-39-13 of the North Dakota Century Code is amended and reenacted as follows:

2. A written notice of cancellation must be mailed or delivered to the named insured, at the last-known address of the named insured, at least thirty days ~~prior to before~~ the effective date of cancellation or when the cancellation is for nonpayment of premium at least ten days ~~prior to before~~ the effective date of cancellation. ~~A postal service certificate of mailing to the named insured at the insured's last-known address is conclusive~~Conclusive proof of mailing and receipt on the third calendar day after the mailing of the notice is established if the insurer produces:
 - a. A United States postal service certificate of mailing to the named insured at the insured's last-known address; or
 - b. Proof or acknowledgment of United States postal service mailing to the named insured at the insured's last-known address using:
 - (1) IMb tracing; or
 - (2) A similar method of first-class mail tracking which identifies the named insured, the insured's last-known address, and the date of mailing.

SECTION 2. AMENDMENT. Subsection 1 of section 26.1-39-16 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~No~~An insurer ~~may fail to shall~~ renew a property insurance policy unless a written notice of nonrenewal is mailed or delivered to the named insured, at the last-known address of the named insured, at least forty-five days ~~prior to before~~ the expiration date of the policy, except ~~that when~~if the policy provides professional liability coverage for legal and medical services, the nonrenewal notice must be mailed or delivered at least ninety days ~~prior to before~~ the policy expiration date. ~~A postal service certificate of mailing to the named insured at the insured's last-known address is conclusive~~Conclusive proof of mailing and receipt on the third calendar day after the mailing of the notice is established if the insurer produces:
 - a. A United States postal service certificate of mailing to the named insured at the insured's last-known address; or

- b. Proof or acknowledgment of United States postal service mailing to the named insured at the insured's last-known address using:

(1) IMb tracing; or

(2) A similar method of first-class mail tracking which identifies the named insured, the insured's last-known address, and the date of mailing.

SECTION 3. AMENDMENT. Section 26.1-40-07 of the North Dakota Century Code is amended and reenacted as follows:

26.1-40-07. Proof of notice of termination.

~~A postal service certificate of mailing to the named insured at the address shown in the policy is sufficient proof of notice.~~

1. Proof of mailing a notice of cancellation or a notice of an intention not to renew, or business records of the notice of the insured's willingness to renew, must be retained for a period of one year by the insurer or insurance producer giving the notice.
2. Sufficient proof of mailing a notice under this section is established if the producer or insurer produces:
 - a. A United States postal service certificate of mailing to the named insured at the address shown on the insured's policy; or
 - b. Proof or acknowledgment of United States postal service mailing to the named insured at the address shown on the insured's policy using:
 - (1) IMb tracing; or
 - (2) A similar method of first-class mail tracking which identifies the named insured, the address shown on the insured's policy, and the date of mailing.

Approved April 2, 2015
Filed April 2, 2015

CHAPTER 221

HOUSE BILL NO. 1311

(Representatives Keiser, Klemin)
(Senators Campbell, Klein)

AN ACT to create and enact a new section to chapter 26.1-39 of the North Dakota Century Code, relating to electronic delivery of property and casualty insurance notices and documents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 26.1-39 of the North Dakota Century Code is created and enacted as follows:

Electronic notices and documents.

1. As used in this section:
 - a. "Delivered by electronic means" includes:
 - (1) Delivery to an electronic mail address at which a party has consented to receive notices or documents; or
 - (2) Posting on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet, or any other electronic device, together with separate notice to a party directed to the electronic mail address at which the party has consented to receive notice of the posting.
 - b. "Party" means any recipient of any notice or document required as part of an insurance transaction, including an applicant, an insured or a policyholder.
2. Subject to the requirements of this section, any notice to a party or any other document required under applicable law in an insurance transaction or any other document that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means if it meets the requirements of chapter 9-16. Electronic means may not be the sole method of providing a notice of cancellation or nonrenewal.
3. Delivery of a notice or document in accordance with this section is equivalent to any delivery method required under applicable law, including delivery by first class mail; first class mail, postage prepaid; or registered mail.
4. A notice or document may be delivered by electronic means by an insurer to a party under this section if all of the following are met:
 - a. The party has affirmatively consented to that method of delivery and has not withdrawn the consent.

- b. The party, before giving consent, is provided with a clear and conspicuous statement informing the party of each of the following:
 - (1) The right of the party at any time to withdraw consent to have a notice or document delivered by electronic means and any conditions or consequences imposed in the event consent is withdrawn.
 - (2) The means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means.
 - (3) The procedure a party shall follow to withdraw consent to have a notice or document delivered by electronic means and to update the party's electronic mail address.
 - c. The party:
 - (1) Before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of a notice or document delivered by electronic means; and
 - (2) Consents electronically, or confirms consent electronically, in a manner that demonstrates the party can access information in the electronic form that will be used for notices or documents delivered by electronic means as to which the party has given consent.
 - d. After consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to access or retain a notice or document delivered by electronic means creates a material risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies, provides the party with a statement of the revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means and complies with subdivision b.
- 5. This section does not affect requirements related to content or timing of any notice or document required under applicable law.
 - 6. If a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.
 - 7. The legal effectiveness, validity, or enforceability of any contract or policy of insurance executed by a party may not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with paragraph 2 of subdivision c of subsection 4.
 - 8. a. A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

b. A withdrawal of consent by a party is effective within a reasonable period of time not to exceed five days after receipt of the withdrawal by the insurer.

9. This section does not apply to a notice or document delivered by an insurer in an electronic form before August 1, 2015, to a party that, before that date, has consented to receive notices or documents in an electronic form otherwise allowed by law.
10. If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before August 1, 2015, and pursuant to this section, an insurer intends to deliver additional notices or documents to such party in an electronic form, then before delivering such additional notices or documents electronically, the insurer shall provide the insured with a statement that describes:
 - a. The notices or documents that must be delivered by electronic means under this section which were not previously delivered electronically; and
 - b. The party's right to withdraw consent to have notices or documents delivered by electronic means.
11. a. Except as otherwise provided by law, if an oral communication or a recording of an oral communication from a party can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as a notice or document delivered by electronic means for purposes of this section.
 - b. If a provision of this title or applicable law requires a signature, notice, or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the individual authorized to perform those acts, together with all other information required to be included by the provision, is attached to or logically associated with the signature, notice, or document.
12. This section may not be construed to modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National Commerce Act [Pub. L. 106-229; 114 Stat. 464; 15 U.S.C. ch. 96].

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 222

SENATE BILL NO. 2179

(Senators Oehlke, Poolman, Unruh)
(Representatives Oversen, Owens)

AN ACT to amend and reenact section 26.1-40-25 of the North Dakota Century Code, relating to evidence of motor vehicle insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-40-25 of the North Dakota Century Code is amended and reenacted as follows:

26.1-40-25. Proof of insurance.

An insurer who issues a policy shall provide proof of insurance to the insured in the form of written or electronic evidence of the policy's terms as to type, duration, and the vehicle covered by the policy.

Approved March 23, 2015

Filed March 23, 2015

CHAPTER 223

HOUSE BILL NO. 1144

(Representative Keiser)
(Senator Klein)

AN ACT to create and enact chapters 26.1-40.1 and 39-34 of the North Dakota Century Code, relating to insurance coverage of motor vehicles participating in transportation network company networks and services, priority of coverage, and minimum limits; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 26.1-40.1 of the North Dakota Century Code is created and enacted as follows:

26.1-40.1-01. Definitions.

As used in this chapter and chapter 39-34, unless the context otherwise requires:

1. "Application off stage" of operation means the time period when the driver is operating the vehicle for personal noncommercial reasons and not engaged in any manner or operation for the transportation network company.
2. "Application on stage" means the time period the driver is logged onto the online-enabled application of a transportation network company and available for hire but not engaged and there is no passenger on board.
3. "Engaged stage" means the time period from the moment a participating driver accepts a ride request on the transportation network company's online-enabled application or platform until the driver completes the transaction on the online-enabled application or platform or until the ride is complete, whichever is later.
4. "Participating driver" or "driver" means an individual who:
 - a. Receives connections to potential passengers and related services from a transportation network company in exchange for payment or a fee to the transportation network company; and
 - b. Uses a personal vehicle to offer or provide prearranged transportation services to a passenger upon connection through an online-enabled application or platform controlled by a transportation network company in return for compensation or payment of a fee.
5. "Passengers on-board stage" means the time period when there are passengers in the vehicle pursuant to the driver's participation in a transportation network company.
6. "Personal injury protection" means basic no-fault benefits as defined under subsection 2 of section 26.1-41-01.

7. "Transportation network company" means a person operating in this state which uses an online-enabled application or platform to connect a passenger with an independent participating driver who provides prearranged transportation services using a personal vehicle. A transportation network company may not be deemed to control, direct, or manage the personal vehicles or participating drivers that connect to the transportation network company's online-enabled application or platform, unless agreed to by written contract.
8. "Transportation network company insurance" means an insurance policy that covers a driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform.

26.1-40.1-02. Required disclosures.

1. A transportation network company shall disclose in writing or electronic form to participating drivers, as part of its agreement with those drivers, the insurance coverage and limits of liability that the transportation network company provides while the driver uses a vehicle in connection with a transportation network company's online-enabled application or platform and shall advise a participating driver that the driver's personal automobile insurance policy may not provide coverage under the agreement.
2. A transportation network company shall disclose in writing or electronic form to participating drivers, as part of its agreement with those drivers, of when the driver's personal automobile insurance policy may not provide collision or comprehensive coverage, under the agreement.
3. A transportation network company shall provide notice in writing or electronically to the driver instructing the driver to notify the driver's personal automobile insurer of the driver's participation in the transportation network.

26.1-40.1-03. Coverage required when transportation network company application is engaged until completion of ride when the passenger has exited the vehicle.

1. A transportation network company and any participating driver shall maintain transportation network company insurance that provides for the following requirements that apply to transportation network company insurance during the engaged stage and during the passenger on-board stage.
 - a. Transportation network company liability insurance is primary and in the amount of one million dollars for death, bodily injury, and property damage. The requirements for the coverage required by this subdivision may be satisfied by any of the following:
 - (1) Transportation network company insurance maintained by a participating driver.
 - (2) Transportation network company insurance maintained by a transportation network company.
 - (3) Any combination of paragraphs 1 and 2.

- b. Transportation network company insurance coverage provided under this section for uninsured motorist coverage must meet the requirements under section 26.1-40-15.2, which is primary coverage.
- c. Transportation network company insurance coverage provided under this section for underinsured motorist coverage must meet the requirements under section 26.1-40-15.3, which is primary coverage.
- d. Transportation network company insurance coverage must provide primary personal injury protection to drivers, passengers, and pedestrians under chapter 26.1-41.
- e. The primary insurer, in the case of insurance coverage provided under subdivision a, has the sole duty to defend and indemnify the insured.
- f. Coverage under a transportation network company insurance policy may neither be dependent on a driver's personal automobile insurance policy carrier first denying a claim nor a personal automobile insurance policy carrier being required to first deny a claim.
- g. If transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section has excluded coverage according to its policy or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

26.1-40.1-04. Insurance coverage during the application on stage with no passengers in vehicle.

1. During the application on stage, the transportation network company insurance must include:
 - a. Motor vehicle liability coverage that is primary coverage. The coverage must include at least fifty thousand dollars per person and one hundred thousand dollars per incident for death and bodily injury and at least twenty-five thousand dollars for property damage.
 - b. Uninsured motorist coverage under section 26.1-40-15.2 which is primary coverage.
 - c. Underinsured motorist coverage under section 26.1-40-15.3 which is primary coverage.
 - d. Personal injury protection under chapter 26.1-41 which is primary coverage.
2. The requirements for coverage under this section may be satisfied by:
 - a. Transportation network company insurance maintained by a participating driver;
 - b. Transportation network company insurance maintained by a transportation network company; or
 - c. Any combination of subdivisions a and b.

3. The following apply to insurance requirements under this section:
- a. The primary insurer, in the case of insurance coverage provided under subdivision a of subsection 1, has the sole duty to defend and indemnify the insured.
 - b. Coverage under a transportation network company insurance policy may neither be dependent on a driver's personal automobile insurance policy carrier first denying a claim nor a personal automobile insurance policy carrier being required to first deny a claim.
 - c. If transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of this section has excluded coverage according to its policy or ceased to exist, the transportation network company shall provide the coverage required by this section beginning with the first dollar of a claim.

26.1-40.1-05. Automobile insurers.

Insurers that write personal automobile insurance may allow no-fault insurance coverage to be conditional on transportation network company no-fault insurance coverage under sections 26.1-40.1-03 and 26.1-40.1-04.

26.1-40.1-06. Liability of transportation network company beyond required limits.

This chapter does not limit the liability of a transportation network company arising out of an automobile accident involving a participating driver in any action for damages against a transportation network company for an amount above the required insurance coverage.

26.1-40.1-07. Discretionary personal insurance where offered by personal automobile insurer.

A personal automobile insurer may offer an automobile liability insurance policy, or an amendment or endorsement to an existing policy that covers a private passenger vehicle or similar type of vehicle with a passenger capacity of less than eight persons, including the driver, while used in connection with a transportation network company's online-enabled application or platform.

26.1-40.1-08. Duty to cooperate.

In a claims coverage investigation involving a participating driver, a transportation network company or its insurer shall cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred involving a participating driver and the precise times that the participating driver logged on and off the transportation network company's online-enabled application or platform.

26.1-40.1-09. Financial responsibility.

Transportation network company insurance that meets the requirements of this chapter is deemed to satisfy the financial responsibility requirements of chapter 39-16.

26.1-40.1-10. Proof of insurance.

A participating driver of a transportation network company shall carry proof of transportation network company insurance coverage at all times during the driver's use of a vehicle in connection with a transportation network company's online-enabled application or platform. In the event of an accident, a participating driver shall provide this insurance coverage information to any other party involved in the accident and to a police officer, upon request.

26.1-40.1-11. Authorized or eligible carrier.

Transportation network company insurance required by this chapter may be placed with an insurer authorized to do business in the state or with a surplus lines insurer eligible under section 26.1-44-03.

SECTION 2. Chapter 39-34 of the North Dakota Century Code is created and enacted as follows:

39-34-01. Agent.

The transportation network company must maintain a registered agent with the secretary of state for service of process in this state.

39-34-02. Fare charged for services.

The transportation network company shall provide passengers with the applicable rates being charged and the option to receive an estimated fare before the passenger enters the transportation network company driver's vehicle.

39-34-03. Transportation driver requirements.

1. Before permitting an individual to act as a transportation network company driver on its digital platform, the transportation network company shall:
 - a. Require the individual to submit an application to the transportation network company, which includes information regarding the individual's address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance, and other information required by the transportation network company;
 - b. Conduct, or have a third party conduct, a local and national criminal background check for each applicant that must include:
 - (1) Multistate and multijurisdiction criminal records locator or other similar commercial nationwide database with validation; and
 - (2) National sex offender registry database; and
 - c. Obtain and review a driving history research report for the individual.
2. The transportation network company may not permit an individual to act as a transportation network company driver on its digital platform who:
 - a. Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period, including attempting to evade the police, reckless driving, or driving on a suspended or revoked license;

- b. Has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, a sexual offense, use of a motor vehicle to commit a felony, a crime involving property damage, theft, an act of violence, or an act of terror;
- c. Is a match in the national sex offender registry database;
- d. Does not possess a valid driver's license;
- e. Does not possess proof of registration for the motor vehicle used to provide transportation network company services;
- f. Does not possess proof of automobile liability insurance for the motor vehicle used to provide transportation network company services; or
- g. Is not at least twenty-one years of age.

39-34-04. Personally identifiable information.

A transportation network company may not disclose any personally identifiable information of a transportation network company passenger, except pursuant to the publicly disclosed terms of the transportation network company's privacy policy. For any other disclosure not governed by the privacy policy, the transportation network company must obtain the passenger's consent before the company may disclose the passenger's personally identifiable information.

39-34-05. Transportation network company reporting requirements - Legislative management report - Penalty.

1. A transportation network company shall report the following information to the department of transportation on June fifteenth and December fifteenth of each year for the previous six calendar months:
 - a. A list of political subdivisions in which the transportation network company operates;
 - b. The number of accidents that were reported to the transportation network company during the passenger on-board stage; and
 - c. The number and types of traffic violations and any other violations that were reported to the transportation network company during the passenger on-board stage.
2. The department of transportation shall report the information collected from transportation network companies during each biennium to the legislative management.
3. The department of transportation may impose a civil penalty of up to five hundred dollars for the failure of a transportation network company to report as required under this section. A transportation network company with two or more violations of this section may be prohibited by the department of transportation from operating within the state for one hundred eighty days from the date of the department's notification to the transportation network company.

4. All civil penalties collected under this section must be deposited in the state highway fund.

39-34-06. Controlling authority.

Notwithstanding any other provision of law, transportation network companies and transportation network company drivers are governed exclusively by this chapter and chapter 26.1-40.1 and any rules adopted consistent with this chapter and by the insurance commissioner under section 1 of this Act. A political subdivision may not impose a tax on, or require a license for, a transportation network company or a transportation network company driver or subject a transportation network company to the political subdivision's rate, entry, operational, or other requirements. A political subdivision may prohibit a transportation network company from operating without a state permit within the jurisdiction of the political subdivision.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 224

HOUSE BILL NO. 1146

(Representative Keiser)
(Senator Klein)

AN ACT to amend and reenact sections 26.1-44-01.1, 26.1-44-03.1, and 26.1-44-06.1 of the North Dakota Century Code, relating to surplus lines of insurance; to repeal section 26.1-44-11 of the North Dakota Century Code, relating to the surplus lines insurance multistate compliance compact; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-44-01.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-44-01.1. Definitions.

1. "Admitted insurer" means an insurer licensed to engage in the business of insurance in this state.
2. "Eligible surplus lines insurer" means a nonadmitted insurer with which a surplus lines producer may place surplus lines insurance pursuant to section 26.1-44-03.
3. "Exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:
 - a. The person employs or retains a qualified risk manager to negotiate insurance coverage.
 - b. The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of one hundred thousand dollars in the immediately preceding twelve months.
 - c. (1) The person meets at least one of the following criteria:
 - (a) The person possesses a net worth in excess of twenty million dollars, as such amount is adjusted pursuant to paragraph 2.
 - (b) The person generates annual revenues in excess of fifty million dollars, as such amount is adjusted pursuant to paragraph 2.
 - (c) The person employs more than five hundred full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand employees in the aggregate.
 - (d) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least thirty million dollars, as such amount is adjusted pursuant to paragraph 2.

- (e) The person is a municipality with a population in excess of fifty thousand persons.
- (2) Each fifth January first occurring after July 21, 2010, and ongoing thereafter, the amounts in subparagraphs a, b, and d of paragraph 1 will be adjusted to reflect the percentage change for such five-year period in the consumer price index for all urban consumers published by the bureau of labor statistics of the department of labor.
4. "Home state".
- a. Except as provided in subdivision b, "home state" means, with respect to an insured:
- (1) The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or
- (2) If one hundred percent of the insured risk is located out of the state referred to in paragraph 1, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.
- b. If more than one insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term "home state" means the home state, as determined pursuant to subdivision a, of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.
5. "Independently procured insurance" means insurance procured directly by an insured from a nonadmitted insurer.
6. "Kind of insurance" means one of the types of insurance required to be reported in the annual statement which must be filed with the commissioner by admitted insurers.
7. "Nonadmitted insurance" means any property and casualty insurance permitted to be placed directly or through a surplus lines producer with a nonadmitted insurer eligible to accept such insurance pursuant to section 26.1-44-03.
8. "Nonadmitted insurer" means an insurer not licensed to engage in the business of insurance in this state but does not include a risk retention group as defined in paragraph 4 of subdivision a of section 2 of the Liability Risk Retention Act of 1986 [15 U.S.C. 3901(a)(4)].
9. "Reciprocal state" means a state that has:
- a. ~~Entered into a nonadmitted insurance compact; or~~
- b. ~~Otherwise adopted the allocation schedule and reporting forms prescribed by a multistate agreement for nonadmitted insurance.~~
- ~~10. "Surplus lines insurance" means any property and casualty insurance in this state on properties, risks, or exposures, located or to be performed in this state, permitted to be placed through a surplus lines producer with a~~

nonadmitted insurer eligible to accept such insurance pursuant to section 26.1-44-03.

~~44-10.~~ "Surplus lines producer" means a person licensed under chapter 26.1-26 to place insurance on properties, risks, or exposures ~~located or to be performed in this state~~ with nonadmitted insurers eligible to accept such insurance pursuant to section 26.1-44-03.

~~42-11.~~ "Type of insurance" means coverage afforded under the particular policy that is being placed.

¹³⁰ **SECTION 2. AMENDMENT.** Section 26.1-44-03.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-44-03.1. Surplus lines tax.

1. If the insured's home state is this state, in addition to the full amount of gross premiums charged by the insurer for the insurance on properties, risks, or exposures located or to be performed in this state or another state, every surplus lines producer shall collect and pay to the commissioner a sum equal to one and three-fourths percent of the gross premiums charged, assessments, membership fees, subscriber fees, policy fees, and service fees, less any return premiums, for surplus lines insurance provided by the surplus lines producer. ~~Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum-payable must be computed based on:~~
 - a. ~~An amount equal to one and three-fourths percent on that portion of the gross premiums allocated to this state plus;~~
 - b. ~~An amount equal to the portion of the premiums allocated to other states or territories on the basis of the tax rates and fees applicable to other properties, risks, or exposures located or to be performed outside of this state less;~~
 - c. ~~The amount of gross premiums allocated to this state and returned to the insured.~~
2. The tax on any portion of the premium unearned at termination of insurance having been credited by the state to the surplus lines producer must be returned to the policyholder directly by the surplus lines producer. The surplus lines producer is prohibited from rebating, for any reason, any part of the tax.
3. ~~Under section 26.1-44-11, the state has entered the surplus lines insurance multistate compliance compact for the purpose of collecting, allocating, and disbursing to reciprocal states any funds collected pursuant to subdivision b of subsection 1 applicable to other properties, risks, or exposures located or to be performed outside of this state. To the extent that other states where portions of the properties, risks, or exposures reside have failed to enter into a compact or reciprocal allocation procedure with this state, the net premium tax collected must be retained by this state.~~

¹³⁰ Section 26.1-44-03.1 was also amended by section 11 of Senate Bill No. 2010, chapter 44.

4. At the time of filing the verified report as set forth in section 26.1-44-06.1, each surplus lines producer shall pay the premium tax due for the policies written during the period covered by the report.
5. ~~If the insured's home state is this state, in determining the amount of premiums taxable in this state, all premiums written, procured, or received in this state must be considered written on properties, risks, or exposures located or to be performed in this state, except premiums which are properly allocated or apportioned and reported as taxable premiums of a reciprocal state.~~

¹³¹ **SECTION 3. AMENDMENT.** Section 26.1-44-06.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-44-06.1. Reports – ~~Summary of exported business.~~

1. If the insured's home state is this state, on or before April first of each year, each surplus lines producer shall file with the commissioner on forms prescribed by the commissioner a verified report of all surplus lines insurance transacted during the preceding calendar year, including:
 1. a. Aggregate gross premiums written;
 2. b. Aggregate return premiums;
 3. c. Amount of aggregate tax remitted on risks located or to be performed in this state; and
 4. d. Amount of aggregate tax ~~due or remitted~~ on risks located or to each other state for which an allocation is made pursuant to section 26.1-44-03.1 be performed in another state.
2. A verified report is not required to be filed when a surplus lines producer has transacted no surplus lines insurance during the preceding calendar year.

SECTION 4. REPEAL. Section 26.1-44-11 of the North Dakota Century Code is repealed.

SECTION 5. EFFECTIVE DATE. This Act becomes effective on June 1, 2015.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 20, 2015
Filed March 20, 2015

¹³¹ Section 26.1-44-06.1 was also amended by section 1 of Senate Bill No. 2187, chapter 225.

CHAPTER 225

SENATE BILL NO. 2187

(Senator Klein)
(Representative Keiser)

AN ACT to amend and reenact sections 26.1-44-06.1 and 26.1-44-08 of the North Dakota Century Code, relating to surplus lines insurance filings; to provide a penalty; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³² **SECTION 1. AMENDMENT.** Section 26.1-44-06.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-44-06.1. Reports – ~~Summary of exported business.~~

1. If the insured's home state is this state, ~~on or before April first~~ March second of each year, each surplus lines producer shall file with the commissioner on forms prescribed by the commissioner ~~a verified report~~ an annual tax statement of all surplus lines insurance transacted during the preceding calendar year, including:
 - 1-a. Aggregate gross premiums written;
 - 2-b. Aggregate return premiums;
 - 3-c. Amount of aggregate tax remitted to this state; and
 - 4-d. Amount of aggregate tax due or remitted to each other state for which an allocation is made pursuant to section 26.1-44-03.1.
2. ~~A verified report~~ An annual tax statement is not required to be filed when a surplus lines producer has transacted no surplus lines insurance during the preceding calendar year.

SECTION 2. AMENDMENT. Section 26.1-44-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-44-08. Civil penalty for failure to file ~~statement~~ report of placement and affidavit, file annual tax statement, and pay tax - Action for recovery - Revocation of license - Conditions prerequisite to reissuance - Hearing procedure and judicial review.

1. ~~Every~~ A surplus lines producer who fails is liable for a fine of twenty-five dollars for each day of delinquency if the producer:
 - a. Fails or refuses to file the report of placement or affidavit within sixty days as required under section 26.1-44-02;

¹³² Section 26.1-44-06.1 was also amended by section 3 of House Bill No. 1146, chapter 224.

- b. Fails or refuses to file the endorsement, audit, or cancellation within sixty days after any change to the initial placement which changes the insurance premium amount, except a surplus lines producer that is able to provide written proof of the date the producer obtained knowledge of the change to the initial placement which changes the insurance premium amount has sixty days from the date the producer obtained knowledge of this change:
 - c. Fails or refuses to make and file the verified report annual tax statement required by under section 26.1-44-06.1, and; or
 - d. Fails or refuses to pay the taxes required to be paid prior to before the first second day of May March after such tax is due, is liable for a fine of twenty-five dollars for each day of delinquency.
2. The tax and fine may be recovered in an action to be instituted by the commissioner in the name of the state, the attorney general representing the commissioner, in any court of competent jurisdiction, and the fine, when so collected, must be paid to the state treasurer and placed to the credit of the general fund. The commissioner, if satisfied that the delay in filing the verified report annual tax statement, report of placement, endorsement, audit cancellation, or affidavit and the payment of the tax was excusable, may waive all or any part of the fine. The commissioner may revoke or suspend the surplus lines producer's license if any surplus lines producer fails to make and file the verified report annual tax statement and pay the taxes, or refuses to allow the commissioner to inspect and examine the producer's records of the business transacted by the producer pursuant to this chapter, or fails to keep the records in the manner required by the commissioner, or falsifies the affidavit referred to in section 26.1-44-02.
 3. If the license of a surplus lines producer is revoked, whether by the action of the commissioner or by judicial proceedings, another license may not be issued to that surplus lines producer until two years have elapsed from the effective date of the revocation, nor until all taxes and fines are paid, nor until the commissioner is satisfied that full compliance with this chapter will be had.

SECTION 3. EFFECTIVE DATE. This Act becomes effective June 1, 2015.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 26, 2015

Filed March 26, 2015

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 226

HOUSE BILL NO. 1076

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact sections 27-02.1-01, 27-0.1-02, 27-02.1-03, 27-02.1-04, 27-02.1-05, 27-02.1-06, 27-02.1-07, 27-02.1-08, and 27-02.1-09 of the North Dakota Century Code, relating to the temporary court of appeals; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-01. (Effective through January 1, ~~2016~~2020) Temporary court of appeals established - Jurisdiction - Writ authority - Administration.

A temporary court of appeals is established to exercise appellate and original jurisdiction as delegated by the supreme court. Panels of the temporary court of appeals may issue original and remedial writs necessary to properly exercise jurisdiction in cases assigned to them. The panels of the temporary court of appeals are subject to administration by the supreme court pursuant to sections 3 and 8 of article VI of the Constitution of North Dakota.

SECTION 2. AMENDMENT. Section 27-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-02. (Effective through January 1, ~~2016~~2020) Number, assignment, and compensation of judges.

1. The supreme court may provide for the assignment of active or retired district court judges, retired justices of the supreme court, and lawyers, to serve on three-judge panels of the temporary court of appeals if the chief justice certifies to the governor that the supreme court has disposed of two hundred fifty cases in the twelve months preceding September first of any year. Assignments may be made for a time certain, not to exceed one year from the date of assignment, or specifically for one or more cases on the docket of the supreme court.
2. An active or retired district court judge serving on the temporary court of appeals may not be assigned to hear cases in which the judge participated while serving on the district court. An active district court judge may not be assigned to hear cases that originated in the judicial district of the judge.

3. An active district court judge serving on the temporary court of appeals is not entitled to additional compensation, but is entitled to reimbursement for expenses as provided by sections 44-08-04 and 54-06-09.
4. Retired justices of the supreme court, retired district court judges, and lawyers serving as judges on panels of the temporary court of appeals are entitled to receive as compensation for each day of service in the performance of duties pursuant to the assignment an amount equal to five percent of the gross monthly salary as provided for a regularly elected or appointed justice of the supreme court, or one-half of the daily compensation for services of one-half day or less. The compensation must be paid upon certification by the judge that the services were performed for the number of days shown on the certificate and must be paid in the same manner as the salaries of the regularly elected or appointed judges are paid.

SECTION 3. AMENDMENT. Section 27-02.1-03 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-03. (Effective through January 1, 20162020) Assignment and reassignment of cases - Quorum for decision of cases - Authority in furtherance of jurisdiction.

1. Panels of the temporary court of appeals have jurisdiction to hear and to decide all cases assigned by the supreme court.
2. The supreme court may order reassignment of any case from a panel of the temporary court of appeals to the supreme court.
3. A majority of the three judges of a panel of the temporary court of appeals hearing a case is necessary to pronounce a decision.
4. When a judgment or order is reversed, modified, or confirmed by a panel of the temporary court of appeals, the reasons must be concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the supreme court, and preserved with the record of the case. Any judge concurring or dissenting may give the reasons for the judge's concurrence or dissent in writing over the judge's signature.

SECTION 4. AMENDMENT. Section 27-02.1-04 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-04. (Effective through January 1, 20162020) Administration - Employees and clerical assistance - Court of record - Place of sessions.

1. The clerk of the supreme court shall provide clerk services to panels of the temporary court of appeals.
2. Panels of the temporary court of appeals may hold court in any place the panel considers convenient and efficient for conducting its business.
3. All proceedings of the panels of the temporary court of appeals must be pursuant to the rules adopted by the supreme court.

SECTION 5. AMENDMENT. Section 27-02.1-05 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-05. (Effective through January 1, 2016~~2020~~) Chief judge.

The chief justice of the supreme court shall designate a chief judge of each panel of the temporary court of appeals who shall preside pursuant to rules of the supreme court.

SECTION 6. AMENDMENT. Section 27-02.1-06 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-06. (Effective through January 1, 2016~~2020~~) Review of decisions of panels.

Any party in interest who is aggrieved by a judgment or order of a panel of the temporary court of appeals may petition the supreme court for review of the judgment or order pursuant to rules of the supreme court. Upon the filing of a petition for review by the supreme court, the order or judgment and mandate of the panel of the temporary court of appeals is stayed pending action of the supreme court. The supreme court has discretion to grant or deny the petition.

SECTION 7. AMENDMENT. Section 27-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-07. (Effective through January 1, 2016~~2020~~) Right to appeal not created.

This chapter does not provide or create a right of appeal if that right is not otherwise provided by law. An appeal assigned to a panel of the temporary court of appeals fulfills the right of appeal provided by section 28-27-02.

SECTION 8. AMENDMENT. Section 27-02.1-08 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-08. (Effective through January 1, 2016~~2020~~) Unitary appeal - Filing of appeal - Filing fee.

All appeals must be treated as one appeal process under the jurisdiction of the supreme court. In any appeal there may be only one filing and one filing fee required. The filing fee is as prescribed by section 27-03-05.

SECTION 9. AMENDMENT. Section 27-02.1-09 of the North Dakota Century Code is amended and reenacted as follows:

27-02.1-09. (Effective through January 1, 2016~~2020~~) Publication of opinions.

Opinions of the panels of the temporary court of appeals may be published pursuant to rules of the supreme court.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 227

HOUSE BILL NO. 1166

(Representatives Maragos, K. Koppelman)
(Senators Hogue, Luick)

AN ACT to amend and reenact section 27-05-08 of the North Dakota Century Code, relating to district court chambers locations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-05-08 of the North Dakota Century Code is amended and reenacted as follows:

27-05-08. Chambers - Residence.

1. The locations of the chambers of the district judges in each of the respective districts shall be as determined by rule of the supreme court. ~~However, not more than seventy percent of the chambers of the district judges may be located in cities with a population of more than ten thousand.~~
2. Each district judge shall reside within the district where the judge's chambers are located, and, for the purposes of this section, the chief justice of the supreme court shall designate the respective chambers within the district to which each district judge is assigned.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 228

HOUSE BILL NO. 1141

(Representatives Larson, Beadle, Boschee, Hanson, Louser)

AN ACT to amend and reenact section 27-08.1-01 of the North Dakota Century Code, relating to inclusion of a dispute over disposition of earnest money or other money deposit arising from a contract to purchase real property within the jurisdiction and venue of small claims court proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

27-08.1-01. Small claims court - Jurisdictional limits - Venue.

1. All judges of the district courts may exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction must be known and referred to as the "small claims court". The jurisdiction of this court is confined to cases for recovery of money, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, when the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed fifteen thousand dollars.
2. The proceedings in this court must be commenced:
 - a. If the defendant is a corporation, limited liability company, or a partnership, in any county in which the defendant has a place of business or in any county in which the subject matter of the claim occurred.
 - b. If the claim is for collection of a check written without sufficient funds or without an account, in the county where the check was passed, or in the county of the defendant's residence or place of business.
 - c. If the defendant is an individual and the claim is for collection of an open account on which credit has been extended:
 - (1) In the county of the defendant's residence or place of business; or
 - (2) If the amount of the claim is less than one thousand dollars and is not from a telephone or mail order transaction, in the county where the transaction occurred or in the county of the defendant's residence or place of business.
 - d. If the defendant is an individual and the claim is not made under subdivision b or c, in the county of the defendant's residence.
 - e. If the defendant is an individual and the claim arose as the result of the defendant's lease of real property or as the result of a dispute over disposition of earnest money or other money deposit arising from a contract to purchase real property, in the county where the defendant

resides or in the county where the real property is located unless the plaintiff and the defendant consent in writing to a proceeding in a different county.

- f. If the plaintiff is a political subdivision and the claim is for a public utility debt, in the county in which the political subdivision is located.
3. Except for an action under subdivision c, e, or f of subsection 2, the defendant may elect to remove the action to a small claims court in the defendant's county of residence. A claim may not be filed by an assignee of that claim. A garnishment or attachment may not issue from this court until after judgment is entered.

Approved April 15, 2015

Filed April 15, 2015

CHAPTER 229

SENATE BILL NO. 2064

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 15 of section 27-20-02, sections 27-20-30.1 and 27-20-38 of the North Dakota Century Code, relating to the definition of permanency hearing, a foster care agreement with an agency or tribal council of a recognized Indian reservation in North Dakota, and the rights and duties of legal custodian.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³³ **SECTION 1. AMENDMENT.** Subsection 15 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

15. "Permanency hearing" means a hearing, conducted with respect to a child who is in foster care, to determine the permanency plan for the child which includes:
 - a. Whether and, if applicable, when the child will be returned to the parent;
 - b. Whether and, if applicable, when the child will be placed for adoption and the state will file a petition for termination of parental rights;
 - c. Whether and, if applicable, when a fit and willing relative or other appropriate individual will be appointed as a legal guardian;
 - d. Whether and, if applicable, to place siblings in the same foster care, relative, guardianship, or adoptive placement, unless it is determined that the joint placement would be contrary to the safety or well-being of any of the siblings;
 - e. Whether and, if applicable, in the case of siblings removed from their home who are not jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless it is determined to be contrary to the safety or well-being of any of the siblings;
 - f. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, whether and, if applicable, when the child, aged sixteen or older, will be placed in another planned permanent living arrangement. The court shall:

(1) Ask the child whether the child has a desired permanency outcome of another planned permanent living arrangement.

¹³³ Section 27-20-02 was also amended by section 4 of House Bill No. 1029, chapter 127, section 4 of House Bill No. 1186, chapter 111, and section 2 of House Bill No. 1347, chapter 112.

- (2) Make a judicial determination explaining why another planned permanent living arrangement is the best permanency plan for the child, and
- (3) Identify the compelling reasons it continues not to be in the best interest of the child to return home, be placed for adoption, be placed with a legal guardian, or be placed with a fit and willing relative;
- g. In the case of a child who has been placed in foster care outside the state in which the home of the parents is located, or if the parents maintain separate homes, outside the state in which the home of the parent who was the child's primary caregiver is located, whether out-of-state placements have been considered. If the child is currently in an out-of-state placement, the court shall determine whether the placement continues to be appropriate and in the child's best interests; and
- h. In the case of a child who has attained age sixteen, the services needed to assist the child to make the transition from foster care to independent living.

SECTION 2. AMENDMENT. Section 27-20-30.1 of the North Dakota Century Code is amended and reenacted as follows:

27-20-30.1. Disposition of child needing continued foster care services.

1. For purposes of this section, "child" means an individual between the ages of eighteen and twenty-one years who is in need of continued foster care services.
2. A petition to commence an action under this section must contain information required under section 27-20-21 along with an affidavit either prepared by the administrative county, as determined by the department of human services, or prepared by an agency or tribal council of a recognized Indian reservation in North Dakota.
3. The court shall issue a summons in accordance with section 27-20-22 upon the filing of a petition and affidavit.
4. If a child is in need of continued foster care services as determined by the department of human services and as set forth in a continued foster care agreement, the court shall make the following judicial determination:
 - a. That the child is not deprived, delinquent, or unruly but is in need of continued foster care services;
 - b. That the child will remain in or will return to foster care pursuant to the child's continued foster care agreement;
 - c. That the child's continued foster care agreement has been willfully entered between:
 - (1) ~~the~~The department of human services or its agent, the child, and the foster care provider; or

- (2) An agency or tribal council of a recognized Indian reservation in North Dakota if the child is not subject to the jurisdiction of the state of North Dakota, the child, and the foster care provider;
- d. That it is in the best interest of the child to remain in or return to foster care;
 - e. That reasonable efforts were made in accordance with subsection 7 of section 27-20-32.2;
 - f. That the child has attained the age of eighteen or older but does not exceed the age of twenty-one years;
 - g. That the child has satisfied the education, employment, or disability requirements under the Fostering Connections to Success and Increasing Adoptions Act of 2008 [Pub. L. 110-351] and as set forth by the department of human services;
 - h. That the administrative county, as determined by the department, or that an agency or tribal council of a recognized Indian reservation in North Dakota, shall continue foster care case management, unless otherwise agreed to or required by the department;
 - i. That the administrative county ~~or division of juvenile services~~ an agency or tribal council of a recognized Indian reservation in North Dakota must have care and placement responsibility of the child;
 - j. That permanency hearing must be as set forth in section 27-20-36; and
 - k. That there are no grounds to file a petition to terminate parental rights under chapter 27-20.
5. Pursuant to ~~section 27-20-37~~ N.D.R.Juv.P., Rule 16, a court may modify or vacate the judicial determination made under subsection 4.

SECTION 3. AMENDMENT. Section 27-20-38 of the North Dakota Century Code is amended and reenacted as follows:

27-20-38. Rights and duties of legal custodian.

A custodian to whom legal custody has been given by the court under this chapter has:

1. The right to the physical custody of the child and the right to determine the nature of the care, placement, and treatment of the child, including ordinary medical care as well as medical or surgical treatment for a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, except for any limits the court may impose.
2. The right and duty to provide for the care, protection, training, and education and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.
3. A duty within thirty days after the removal of a child from the custody of the parent or parents of the child for the purpose of placement into foster care, to

exercise due diligence to identify and provide notice to the following relatives: all parents of a sibling of the child entering foster care who have legal custody of the sibling, all adult grandparents, and any other adult relative suggested by the parents and grandparents, subject to exceptions due to family or domestic violence, that:

- a. Specifies that the child has been or is being removed from the custody of the parent or parents of the child;
 - b. Explains the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;
 - c. Describes the requirements and standards to become a foster family home and the additional services and supports that are available for children placed in that home; and
 - d. Describes how the relative of the child may enter into an agreement with the department to receive a subsidized guardianship payment.
4. For purposes of this section, "sibling of the child entering foster care" means:
- a. A brother or sister who has at least one biological or adoptive parent in common;
 - b. A fictive brother or sister with a significant bond as identified by the child or parent; or
 - c. A child that would have been considered a sibling but for the termination or other disruption of parental rights, including a death of a parent.

Approved March 13, 2015
Filed March 13, 2015

CHAPTER 230

HOUSE BILL NO. 1119

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact subsection 1 of section 27-20-03, section 27-20-08, subsection 1 of section 27-20-30, and subsection 2 of section 27-20-31 of the North Dakota Century Code, relating to the disposition of a nonresident child; and to repeal sections 27-20-39, 27-20-40, 27-20-41, 27-20-42, and 27-20-43 and chapter 27-22 of the North Dakota Century Code, relating to the transfer and supervision of a child in another state or from another state and to the interstate compact on juveniles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 27-20-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this chapter:
 - a. Proceedings in which a child is alleged to be delinquent, unruly, or deprived;
 - b. Proceedings for the termination of parental rights except when a part of an adoption proceeding;
 - c. ~~Proceedings arising under sections 27-20-39 through 27-20-42;~~
 - d. Proceedings arising under section 27-20-30.1; and
 - e-d. Civil forfeiture proceedings arising under chapter 19-03.1 or section 29-31.1-04 for which a child is alleged to have possessed forfeitable property. The juvenile court shall conduct the proceedings in accordance with the procedures provided for under sections 19-03.1-36 through 19-03.1-37.

SECTION 2. AMENDMENT. Section 27-20-08 of the North Dakota Century Code is amended and reenacted as follows:

27-20-08. Commencement of proceedings.

A proceeding under this chapter may be commenced:

1. By transfer of a case from another court as provided in section 27-20-09; or
2. ~~By the court accepting jurisdiction as provided in section 27-20-40 or accepting supervision of a child as provided in section 27-20-42; or~~
3. In other cases by the filing of a petition as provided in this chapter. The petition and all other documents in the proceeding must be entitled "In the

interest of _____, a child". If a child is in shelter care, the petition must be filed within thirty days of the shelter care hearing under section 27-20-17. If the petition is not filed, the child must be released from shelter care.

¹³⁴ **SECTION 3. AMENDMENT.** Subsection 1 of section 27-20-30 of the North Dakota Century Code is amended and reenacted as follows:

1. If the child is found to be a deprived child, the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child:
 - a. Permit the child to reside with the child's parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child.
 - b. Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the following:
 - (1) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child.
 - (2) The director of the county social service board or other public agency authorized by law to receive and provide care for the child.
 - c. ~~Without making any of the orders otherwise provided in this section, transfer custody of the child to the juvenile court of another state if authorized by and in accordance with section 27-20-39 if the child is or is about to become a resident of that state.~~
 - d. Require the parents, guardian, or other custodian to participate in treatment.
 - e.d. Appoint a fit and willing relative or other appropriate individual as the child's legal guardian.
 - f.e. In cases in which a compelling reason has been shown that it would not be in the child's best interests to return home, to have parental rights terminated, to be placed for adoption, to be placed with a fit and willing relative, or to be placed with a legal guardian, establish, by order, some other planned permanent living arrangement.

¹³⁵ **SECTION 4. AMENDMENT.** Subsection 2 of section 27-20-31 of the North Dakota Century Code is amended and reenacted as follows:

2. Placing the child on probation under the supervision of the director, probation officer, or other appropriate officer of the court ~~or of the court of another state as provided in section 27-20-44~~ or the director of the county social service board under conditions and limitations the court prescribes;

¹³⁴ Section 27-20-30 was also amended by section 2 of House Bill No. 1210, chapter 231.

¹³⁵ Section 27-20-31 was also amended by section 2 of Senate Bill No. 2052, chapter 268.

SECTION 5. REPEAL. Sections 27-20-39, 27-20-40, 27-20-41, 27-20-42, and 27-20-43 and chapter 27-22 of the North Dakota Century Code are repealed.

Approved March 23, 2015

Filed March 23, 2015

CHAPTER 231

HOUSE BILL NO. 1210

(Representatives Klemin, D. Anderson, Damschen)
(Senator J. Lee)

AN ACT to create and enact subsection 4 of section 27-20-13 and subdivision g of subsection 1 of section 27-20-30 of the North Dakota Century Code, relating to time for beneficial transition of a child to or from temporary legal custody.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subsection 4 to section 27-20-13 of the North Dakota Century Code is created and enacted as follows:

4. Without a compelling reason to the contrary, a court order transferring a child into custody shall provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved.

¹³⁶ **SECTION 2.** Subdivision g of subsection 1 of section 27-20-30 of the North Dakota Century Code is created and enacted as follows:

- g. Without a compelling reason to the contrary, a court order that transfers the child from the current protective placement to a parent or other biological family must provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved.

Approved April 22, 2015
Filed April 22, 2015

¹³⁶ Section 27-20-30 was also amended by section 3 of House Bill No. 1119, chapter 230.

CHAPTER 232

SENATE BILL NO. 2028

(Legislative Management)
(Commission on Alternatives to Incarceration)

AN ACT to amend and reenact subdivision b of subsection 1 of section 27-20-34 of the North Dakota Century Code, relating to transfers from juvenile to adult court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision b of subsection 1 of section 27-20-34 of the North Dakota Century Code is amended and reenacted as follows:

- b. The child was fourteen years of age or more at the time of the alleged conduct and the court determines that there is probable cause to believe the child committed the alleged delinquent act and the delinquent act involves the offense of murder or attempted murder; gross sexual imposition or the attempted gross sexual imposition of a victim by force or by threat of imminent death, serious bodily injury, or kidnapping; or ~~the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance in violation of subdivision a or b of subsection 1 of section 19-03.1-23, except for the manufacture, delivery, or possession with intent to manufacture or deliver marijuana in an amount less than one pound [.45 kilogram]; or the gratuitous delivery of a controlled substance not a narcotic drug or methamphetamine which is a singular and isolated event involving an amount of controlled substance sufficient solely for a single personal use; or~~

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 233

SENATE BILL NO. 2063

(Judiciary Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact section 27-20-45 of the North Dakota Century Code, relating to the department of human services receiving a copy of the termination of parental rights petition and summons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-45 of the North Dakota Century Code is amended and reenacted as follows:

27-20-45. Proceeding for termination of parental rights.

1. The petition must comply with section 27-20-21 and state clearly that an order for termination of parental rights is requested and that the effect will be as stated in section 27-20-46.
2. If both of the natural parents of the child are not named in the petition either as petitioner or as respondent, the court shall cause inquiry to be made of the petitioner and other appropriate persons in an effort to identify an unnamed parent. The inquiry must include, to the extent necessary and appropriate, all of the following:
 - a. Whether any man is presumed to be the father of the child under chapter 14-20.
 - b. Whether the natural mother of the child was cohabiting with a man at the time of conception or birth of the child.
 - c. Whether the natural mother of the child has received from any man support payments or promises of support with respect to the child or in connection with her pregnancy.
 - d. Whether any person has formally or informally acknowledged or declared that person's possible parentage of the child.
 - e. Whether any person claims any right to custody of the child.
3. The court shall add as respondent to the petition and cause to be served with a summons any person identified by the court as an unnamed parent, unless the person has relinquished parental rights, or parental rights have been previously terminated by a court.
4. If the court, after inquiry, is unable to identify an unnamed parent and no person has appeared in the proceeding claiming to be an unnamed parent of the child or to have any right of custody of the child, the court shall enter an order terminating all parental rights of the unnamed parent with reference to the child and the parent and child relationship.

5. If a petition for termination of parental rights is made by a parent of the child under this section or if a parent consents to termination of parental rights under section 27-20-44, that parent is entitled under section 27-20-26 to legal counsel during all stages of a proceeding to terminate the parent and child relationship.
6. Subject to the disposition of an appeal, upon the expiration of thirty days after an order terminating parental rights is issued under this section, the order cannot be questioned by any person, including the petitioner, in any manner, or upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, unless the person retained custody of the child.
7. At least ten days before the petition is heard, the clerk of district court or juvenile court shall provide a copy of the petition and summons, if any, to the department of human services.

Approved March 12, 2015

Filed March 12, 2015

JUDICIAL PROCEDURE, CIVIL

CHAPTER 234

SENATE BILL NO. 2331

(Senators Wanzek, Heckaman)
(Representatives Brandenburg, Hogan)

AN ACT to amend and reenact sections 28-01-25.1 and 29-04-03.1 of the North Dakota Century Code, relating the statute of limitations on the prosecution of and claim for relief on actions alleging childhood sexual abuse.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-01-25.1 of the North Dakota Century Code is amended and reenacted as follows:

28-01-25.1. Limitation on actions alleging childhood sexual abuse.

Notwithstanding section 28-01-25, a claim for relief resulting from childhood sexual abuse must be commenced within seventen years after the plaintiff knew or reasonably should have known that a potential claim exists resulting from alleged childhood sexual abuse. For purposes of this section, "childhood sexual abuse" means any act committed by the defendant against the plaintiff which occurred when the plaintiff was under eighteen years of age and which would have been a violation of chapter 12.1-20 or 12.1-27.2. In a claim for relief under this section, the plaintiff is not required to establish which act in a continuous series of sexual abuse acts by the defendant caused the injury.

SECTION 2. AMENDMENT. Section 29-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

29-04-03.1. Prosecution for sexual abuse of minors.

1. Except as provided in subsection 2, a prosecution for a violation of sections 12.1-20-03 through 12.1-20-08 or of section 12.1-20-11 if the victim was under eighteen years of age at the time the offense was committed must be commenced in the proper court within seventen years after the commission of the offense or, if the victim failed to report the offense within this limitation period, within three years after the offense was reported to law enforcement authorities.
2. If, based upon evidence containing deoxyribonucleic acid obtained at the time of offense, a suspect is conclusively identified by deoxyribonucleic acid testing after the time period prescribed in subsection 1 has expired, a prosecution may be commenced within three years after the suspect is conclusively identified by the deoxyribonucleic acid testing.

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 235

HOUSE BILL NO. 1086

(Representatives Klemin, K. Koppelman, Olson)
(Senators Armstrong, Hogue, Casper)

AN ACT to amend and reenact subsection 10 of section 28-22-02 and subsection 1 of section 28-22-03.1 of the North Dakota Century Code, relating to absolute exemptions from process, levy, or sale.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 10 of section 28-22-02 of the North Dakota Century Code is amended and reenacted as follows:

10. In lieu of the homestead, and subject to the same value limitations that exist with respect to the homestead exemption, any housetrailer or mobile home occupied as a residence by the debtor or the debtor's family, except that it is not exempt from process, levy, or sale for taxes levied on it pursuant to chapter 57-55. This section does not preclude the debtor from claiming a mobile home as a dwelling house as part of the homestead. The exemption in this subsection is not available if the debtor has chosen the exemption provided for under subsection 1 of section 28-22-03.1.

SECTION 2. AMENDMENT. Subsection 1 of section 28-22-03.1 of the North Dakota Century Code is amended and reenacted as follows:

1. In lieu of the homestead exemption, up to ~~seventen~~ seventen thousand ~~five hundred~~ dollars. This exemption is not available if the resident exemption claimant, the spouse of the resident exemption claimant, or other head of the family of the resident exemption claimant has chosen the homestead exemption provided for under subsection 7 of section 28-22-02.

Approved April 9, 2015
Filed April 9, 2015

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 236

SENATE BILL NO. 2232

(Senators Armstrong, Carlisle, Nelson)
(Representatives Mooney, Sanford, Zubke)

AN ACT to amend and reenact sections 29-04-02.1 and 29-04-03.2 of the North Dakota Century Code, relating to the statute of limitations for the crime of human trafficking.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-04-02.1 of the North Dakota Century Code is amended and reenacted as follows:

29-04-02.1. Prosecution for gross sexual imposition or human trafficking.

Except as otherwise provided by law, a prosecution for a violation of subdivision a of subsection 1 of section 12.1-20-03 or for the crime of human trafficking must be commenced in the proper court within seven years after the commission of the offense.

SECTION 2. AMENDMENT. Section 29-04-03.2 of the North Dakota Century Code is amended and reenacted as follows:

29-04-03.2. Statute of limitations as to child victim.

If the victim of a violation of chapter 12.1-20 or of the crime of human trafficking is under the age of fifteen, the applicable period of limitation, if any, does not begin to run until the victim has reached the age of fifteen.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 237

HOUSE BILL NO. 1467

(Representatives Monson, K. Koppelman)
(Senator Hogue)

AN ACT to amend and reenact sections 29-06-05.2 and 29-06-15 of the North Dakota Century Code, relating to the authority of federal agents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

29-06-05.2. Federal law enforcement officer - Authority to make arrests.

1. "Federal agent" means an employee of the federal bureau of investigation ~~or~~, the federal drug enforcement administration, or the United States customs and border protection who is authorized to arrest, with or without a warrant, any individual for a violation of the United States Code and carry a firearm in the performance of the employee's duties as a federal law enforcement officer.
2. A federal agent has the same authority and immunity as a peace officer in this state when making an arrest for a nonfederal crime if any of the following exist:
 - a. The federal agent has reasonable grounds to believe that a felony offense was committed and the individual arrested committed the offense.
 - b. The federal agent is rendering assistance to a peace officer in an emergency or at the request of the peace officer.
 - c. The federal agent is working as a part of a task force composed of North Dakota peace officers and federal law enforcement officers.

SECTION 2. AMENDMENT. Section 29-06-15 of the North Dakota Century Code is amended and reenacted as follows:

29-06-15. Arrest without warrant - Peace officer - Officer in the United States ~~customs service or the immigration and naturalization service~~ and border protection.

1. A law enforcement officer, without a warrant, may arrest a person:
 - a. For a public offense, committed or attempted in the officer's presence and for the purpose of this subdivision, a crime must be deemed committed or attempted in the officer's presence when what the officer observes through the officer's senses reasonably indicates to the officer that a crime was in fact committed or attempted in the officer's presence by the person arrested.

- b. When the person arrested has committed a felony, although not in the officer's presence.
 - c. When a felony in fact has been committed, and the officer has reasonable cause to believe the person arrested to have committed it.
 - d. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested.
 - e. For the public offenses, not classified as felonies and not committed in the officer's presence as provided for under section 29-06-15.1.
 - f. On a charge, made upon reasonable cause, of driving or being in actual physical control of a vehicle while under the influence of alcoholic beverages.
 - g. For the offense of violating a protection order under section 14-07.1-06, an order prohibiting contact under section 12.1-31.2-02, or for an assault involving domestic violence under section 14-07.1-11.
 - h. On a charge, made upon reasonable cause, of being under the influence of volatile chemical vapors in violation of section 19-03.1-22.1.
2. An officer of the United States customs service or the immigration and naturalization service and border protection, without a warrant, may arrest a person if all of the following circumstances exist:
- a. The officer is on duty.
 - b. One or more of the following situations exist:
 - (1) The person commits an assault or other crime, defined and punishable under chapter 12.1-17, against the officer or against any other person in the presence of the officer.
 - (2) The officer has reasonable cause to believe that a crime, as defined in paragraph 1, has been committed and reasonable cause to believe that the person to be arrested has committed it.
 - (3) The officer has reasonable cause to believe that a felony has been committed and reasonable cause to believe that the person to be arrested has committed it.
 - (4) The officer has received positive information from an authoritative source that a peace officer holds a warrant for the person's arrest.
 - e. ~~The officer has received training in the laws of this state equivalent to the training provided for a police officer under chapter 12-62.~~
3. If a law enforcement officer has reasonable cause to believe an individual has violated a lawful order of a court of this state which requires the individual to participate in the twenty-four seven sobriety program authorized in sections 54-12-27 through 54-12-31, the law enforcement officer may immediately take the individual into custody without a warrant. An individual taken into custody under this subsection may not be released on bail or on the individual's

personal recognizance unless the individual has made a personal appearance before a magistrate.

Approved April 2, 2015
Filed April 2, 2015

CHAPTER 238

SENATE BILL NO. 2098

(Judiciary Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact section 29-28-07 of the North Dakota Century Code, relating to appeals by the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-28-07 of the North Dakota Century Code is amended and reenacted as follows:

29-28-07. From what the state may appeal.

An appeal may be taken by the state from:

1. An order quashing an information or indictment or any count thereof.
2. An order granting a new trial.
3. An order arresting judgment.
4. An order made after judgment affecting any substantial right of the state.
5. An order granting the return of property or suppressing evidence, or suppressing a confession or admission, when accompanied by a statement of the prosecuting attorney asserting that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding. The statement must be filed with the clerk of district court and a copy must accompany the notice of appeal.

Approved March 19, 2015
Filed March 19, 2015

CHAPTER 239

HOUSE BILL NO. 1328

(Representatives Rick C. Becker, Beadle, Boehning, Kasper, Klemin, Ruby, Thoreson,
Toman)
(Senators Anderson, Hogue, Larsen, Unruh)

AN ACT to provide for limitations on the use of an unmanned aerial vehicle for surveillance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Definitions.

As used in this Act:

1. "Flight data" means imaging or other observation recording.
2. "Flight information" means flight duration, flight path, and mission objective.
3. "Law enforcement agency or agents" has the meaning provided for law enforcement officer in section 12.1-01-04.
4. "Unmanned aerial vehicle" means any aerial vehicle that is operated without the possibility of direct human intervention within or on the aerial vehicle. The term does not include satellites.
5. "Unmanned aerial vehicle system" means an unmanned aerial vehicle and associated elements, including communication links and the components that control the unmanned aerial vehicle, which are required for the pilot in command to operate safely and efficiently in state airspace.

SECTION 2.

Limitations on use of unmanned aerial vehicle system.

1. Information obtained from an unmanned aerial vehicle is not admissible in a prosecution or proceeding within the state unless the information was obtained:
 - a. Pursuant to the authority of a search warrant; or
 - b. In accordance with exceptions to the warrant requirement.
2. Information obtained from the operation of an unmanned aerial vehicle may not be used in an affidavit of probable cause in an effort to obtain a search warrant, unless the information was obtained under the circumstances described in subdivision a or b of subsection 1 or was obtained through the monitoring of public lands or international borders.

SECTION 3.

Warrant requirements.

A warrant for the use of an unmanned aerial vehicle must satisfy the requirements of the Constitution of North Dakota. In addition, the warrant must contain a data collection statement that includes:

1. The persons that will have the power to authorize the use of the unmanned aerial vehicle;
2. The locations in which the unmanned aerial vehicle system will operate;
3. The maximum period for which the unmanned aerial vehicle system will operate in each flight; and
4. Whether the unmanned aerial vehicle system will collect information or data about individuals or groups of individuals, and if so:
 - a. The circumstances under which the unmanned aerial vehicle system will be used; and
 - b. The specific kinds of information or data the unmanned aerial vehicle system will collect about individuals and how that information or data, as well as conclusions drawn from that information or data, will be used, disclosed, and otherwise handled, including:
 - (1) The period for which the information or data will be retained; and
 - (2) Whether the information or data will be destroyed, and if so, when and how the information or data will be destroyed.

SECTION 4.

Exceptions.

This Act does not prohibit any use of an unmanned aerial vehicle for surveillance during the course of:

1. Patrol of national borders. The use of an unmanned aerial vehicle to patrol within twenty-five miles [40.23 kilometers] of a national border, for purposes of policing that border to prevent or deter the illegal entry of any individual, illegal substance, or contraband.
2. Exigent circumstances. The use of an unmanned aerial vehicle by a law enforcement agency is permitted when exigent circumstances exist. For the purposes of this subsection, exigent circumstances exist when a law enforcement agency possesses reasonable suspicion that absent swift preventative action, there is an imminent danger to life or bodily harm.
3. An environmental or weather-related catastrophe. The use of an unmanned aerial vehicle by state or local authorities to preserve public safety, protect property, survey environmental damage to determine if a state of emergency should be declared, or conduct surveillance for the assessment and evaluation of environmental or weather-related damage, erosion, flood, or contamination.

4. Research, education, training, testing, or development efforts undertaken by or in conjunction with a school or institution of higher education within the state and its political subdivisions, nor to public and private collaborators engaged in mutually supported efforts involving research, education, training, testing, or development related to unmanned aerial vehicle systems or unmanned aerial vehicle system technologies and potential applications.

SECTION 5.

Prohibited use.

1. A law enforcement agency may not authorize the use of, including granting a permit to use, an unmanned aerial vehicle armed with any lethal weapons.
2. This Act prohibits any use of an unmanned aerial vehicle for:
 - a. Domestic use in private surveillance. A law enforcement agency may not authorize the use of, including granting a permit to use, an unmanned aerial vehicle to permit any private person to conduct surveillance on any other private person without the express, informed consent of that other person or the owner of any real property on which that other private person is present.
 - b. Surveillance of the lawful exercise of constitutional rights, unless the surveillance is otherwise allowed under this chapter.

SECTION 6.

Documentation of unmanned aerial vehicle use.

1. The person authorized to conduct the surveillance under this Act shall document all use of an unmanned aerial vehicle for surveillance. The person shall document all surveillance flights as to duration, flight path, and mission objectives.
2. The flight information must be verified as accurate and complete by the supervising person authorized by a court to conduct the surveillance.
3. The flight information required under this section must be retained for five years.
4. Any imaging or any other forms of data lawfully obtained under this Act which are not accompanied by a reasonable and articulable suspicion that the images or data contain evidence of a crime, or are relevant to an ongoing investigation or trial, may not be retained for more than ninety days.
5. Except for the operational capabilities of the unmanned aerial vehicle system and other operational information strictly related to the technical conduct and physical security of the surveillance operation, a person accused of a crime that includes evidence gathered through the use of an unmanned aerial vehicle system surveillance may obtain all information relating to the person acquired in the course of the surveillance through subpoena and discovery proceedings available in criminal proceedings.
6. Any other person that has an interest in obtaining the documentation required by this section may obtain that documentation pursuant to chapter 44-04.

UNIFORM PROBATE CODE

CHAPTER 240

SENATE BILL NO. 2168

(Senators J. Lee, Armstrong, Nelson)
(Representatives Delmore, Klemin, Weisz)

AN ACT to create and enact a new section to chapter 30.1-28 of the North Dakota Century Code, relating to confidentiality of reports and personal information in guardianship proceedings; and to amend and reenact section 30.1-28-03, subsection 5 of section 30.1-28-04, subsection 2 of section 30.1-28-05, subsections 1 and 2 of section 30.1-28-09, section 30.1-28-10.1, subsections 5, 8, and 9 of section 30.1-28-12, and subsection 2 of section 30.1-29-01 of the North Dakota Century Code, relating to petitions, guardians ad litem, reports, contents of court orders, service of orders and notice requirements in guardianship proceedings, emergency guardians, guardian duties and annual reports, and the appointment of a conservator.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 30.1-28-03 of the North Dakota Century Code is amended and reenacted as follows:

30.1-28-03. (5-303) Procedure for court appointment of a guardian of an incapacitated person.

1. Any person interested in the welfare of an allegedly incapacitated person may petition for the appointment of a guardian. No filing fee under this or any other section may be required when a petition for guardianship of an incapacitated person is filed by a member of the individual treatment plan team for the alleged incapacitated person or by any state employee in the performance of official duties.
2. The petition for appointment of a guardian must state:
 - a. The name, address, and corporate or agency status of the petitioner, and its connection with or relationship to the proposed ward;
 - b. The name, age, and address of the proposed ward;
 - c. The name and address of any person or institution having care or custody over the proposed ward;
 - d. The names and addresses of the spouse, parents, and adult children or, if none, any adult siblings and any adult with whom the proposed ward resides in a private residence, or, if none, the nearest adult relative;

- e. A brief description of and the approximate value of the real and personal property and income of the proposed ward, so far as they are known to the petitioner;
 - f. ~~The extent of the guardianship authority sought, including whether the nominated guardian seeks to have full authority, limited authority, or no authority in each area of residential, educational, medical, legal, vocational, and financial decisionmaking unless the petitioner is undecided on the extent of authority in any area, in which case the petition must state the specific areas in which the authority is sought;~~
 - g. The occupation and qualifications of the proposed guardian;
 - h. The name and address of the attorney, if known, who most recently represented the proposed ward; ~~and~~
 - i. A statement alleging specific facts establishing the necessity for the appointment of a guardian;
 - j. The name and address of any current conservator appointed for the proposed ward;
 - k. The name and address of any person designated as an attorney in fact or agent in a power of attorney or as an agent in a health care directive;
 - l. The name and address of any representative payee for the proposed ward;
 - m. That less intrusive alternatives to guardianship have been considered; and
 - n. In the form of an attached recent statement, the physical, mental, and emotional limitations of the proposed ward, from a physician, mental health services provider, or other healthcare provider, if available.
3. Upon the filing of a petition, the court promptly shall set a date for hearing on the issues of incapacity, appoint an attorney to act as guardian ad litem, appoint a physician or clinical psychologist to examine the proposed ward, and appoint a visitor to interview the proposed guardian and the proposed ward. The proposed guardian shall attend the hearing on the petition unless excused by the court for good cause.
 4. The duties of the attorneyguardian ad litem include:
 - a. Personally interviewing the proposed ward;
 - b. Explaining the guardianship proceeding to the proposed ward in the language, mode of communication, and terms that the proposed ward is most likely to understand, including the nature and possible consequences of the proceeding, the right to which the proposed ward is entitled, and the legal options that are available, including the right to retain an attorney to represent the proposed ward; and
 - c. ~~Representing~~Advocating for the best interests of the proposed ward as guardian ad litem. ~~If the~~ The appointed attorney ~~or other attorney is retained by the proposed ward to act as an advocate, the attorney shall~~

~~promptly notify the court, and the court may determine whether the attorney should be discharged from the duties of guardian ad litem serving as legal guardian ad litem may not represent the proposed ward or ward in a legal capacity; and~~

- d. Submitting a written report to the court containing the guardian ad litem's response to the petition.
5. The physician or clinical psychologist shall examine the proposed ward and submit a written report to the court. The written report must contain:
 - a. A description of the nature and degree of any current incapacity or disability, including the medical or psychological history, if reasonably available;
 - b. A medical prognosis or psychological evaluation specifying the estimated severity and duration of any current incapacity or disability;
 - c. A statement as to how or in what manner any underlying condition of physical or mental health affects the proposed ward's ability to provide for personal needs; and
 - d. A statement as to whether any current medication affects the demeanor of the proposed ward or the ability of the proposed ward to participate fully in any court proceeding or in any other procedure required by the court or by court rule.
6. The visitor shall have the following duties:
 - a. To meet, interview, and consult with the proposed ward regarding the guardianship proceeding, including explaining the purpose for the interview in a manner the proposed ward can reasonably be expected to understand.
 - b. To ascertain the proposed ward's views concerning the proposed guardian, the powers and duties of the proposed guardian, the proposed guardianship, and the scope and duration thereof.
 - c. To interview the person seeking appointment as guardian.
 - d. To visit the proposed ward's present place of residence.
 - e. To discuss an alternative resource plan with the proposed ward, if appropriate.
 - f. To obtain other relevant information as directed by the court.
 - g. To submit a written report to the court.
 - h. The visitor's written report must contain:
 - (1) A description of the nature and degree of any current impairment of the proposed ward's understanding or capacity to make or communicate decisions;

- (2) A statement of the qualifications and appropriateness of the proposed guardian;
- (3) Recommendations, if any, on the powers to be granted to the proposed guardian, including an evaluation of the proposed ward's capacity to perform the functions enumerated under subsections 3 and 4 of section 30.1-28-04; and
- (4) An assessment of the capacity of the proposed ward to perform the activities of daily living.
7. In determining whether appointment of a guardian is appropriate, the court shall consider the reports ordered by the court under this section from a guardian ad litem, visitor, and either a physician or a clinical psychologist. The court, guardian ad litem, petitioner, or proposed ward may subpoena the individual who prepared and submitted the report to appear, testify, and be cross-examined.
8. The proposed ward must be present at the hearing in person, unless good cause is shown for the absence. Good cause does not consist only of the physical difficulty of the proposed ward to attend the hearing. The proposed ward has the right to present evidence, and to cross-examine witnesses, including the court-appointed physician and the visitor. The issue may be determined at a closed hearing if the proposed ward or the proposed ward's counsel so requests.
- ~~8-9.~~ The court shall take all necessary steps to make the courts and court proceedings accessible and understandable to impaired persons. Accordingly, the court may convene temporarily, or for the entire proceeding, at any other location if it is in the best interest of the proposed ward.
- ~~9-10.~~ If the court approves a visitor, lawyer, physician, guardian, or ~~temporary~~emergency guardian appointed in a guardianship proceeding, that person may receive reasonable compensation from the ward's estate if the compensation will not unreasonably jeopardize the ward's well-being.

SECTION 2. A new section to chapter 30.1-28 of the North Dakota Century Code is created and enacted as follows:

Confidentiality - Reports - Personal information.

1. A written report prepared and submitted under subsection 5 or 6 of section 30.1-28-03 is closed to the public and is not open to inspection except by the court, parties to the proceeding or their counsel, other persons for those purposes as the court may order for good cause, and others authorized by court rule.
2. Medical, psychological, or other treatment information protected by federal law or regulation and any financial account numbers related to a ward or proposed ward are confidential and may not be disclosed except to parties to the proceeding, their counsel, and others authorized by court rule. The court may permit access by other persons for good cause.

SECTION 3. AMENDMENT. Subsection 5 of section 30.1-28-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The order appointing a guardian confers upon the guardian only those powers and duties specified in the order. In addition to any other powers conferred upon the guardian, the court's order must state whether the guardian has no authority, general authority, or limited authority to make decisions on behalf of the ward in each of the areas of residential, educational, medical, legal, vocational, and financial decisionmaking. A grant of limited authority must specify the limitations upon the authority of the guardian or the authority retained by the ward. The court's order must require the guardian to provide within ninety days from the date of the order a beginning inventory of all assets owned by the ward or in which the ward has an interest. The guardian shall provide a copy of the beginning inventory to the ward and any interested persons designated by the court in its order. Unless terminated earlier by the court, an order appointing or reappointing a guardian under this section is effective for up to five years. At least ninety days before the expiration of the initial order of appointment or any following order of reappointment, the court shall request and consider information submitted by the guardian, ward, ward's attorney, if any, and any interested persons regarding whether the need for a guardian continues to exist. If it is recommended that the guardianship continue, the court may appoint a guardian ad litem or visitor, or both, in accordance with section 30.1-28-03. The court shall hold a hearing on whether the guardianship should continue. Following the hearing and consideration of submitted information, the court may reappoint the guardian for up to another five years, allow the existing order to expire, or appoint a new guardian in accordance with this section. The supreme court, by rule or order, shall provide for the regular review of guardianship in existence on the effective date of this Act.

SECTION 4. AMENDMENT. Subsection 2 of section 30.1-28-05 of the North Dakota Century Code is amended and reenacted as follows:

2. A copy of the order appointing the guardian must be served ~~upon the ward and the ward's attorney~~ by the petitioner to those given notice under section 30.1-28-09. The order must contain the name and address of the guardian as well as notice of the ward's right to appeal the guardianship appointment and of the ward's right to seek alteration or termination of the guardianship at any time.

SECTION 5. AMENDMENT. Subsections 1 and 2 of section 30.1-28-09 of the North Dakota Century Code are amended and reenacted as follows:

1. In a proceeding for the appointment or removal of a guardian or for an alteration or termination of a guardianship other than for the appointment of an emergency guardian or for the temporary suspension of a guardian, notice of hearing shall be given by the petitioning party, unless otherwise directed by the court, to each of the following:
 - a. The ward or the proposed ward and the ward's or proposed ward's spouse, parents, and adult children;
 - b. Any person, corporation, or institution who is serving as the ward's guardian, attorney in fact, representative payee for public benefits, or conservator, or who has the ward's care and custody;
 - c. If no other person is notified under subdivision a, then the adult siblings and any adult with whom the proposed ward resides in a private residence, or if none can be found, any known adult relative; and

- d. The attorney for the proposed ward, the visitor, and the physician or clinical psychologist, together with a copy of the respective order of appointment for each.
2. ~~Notice must~~The petitioning party, unless otherwise directed by the court, shall cause notice to be served personally on the ward or proposed ward, and the ward's or proposed ward's spouse and parents if they can be found within the state. Notice to the spouse and parents, if they cannot be found within the state, and to all other persons except the ward or proposed ward must be given as provided in section 30.1-03-01. Waiver of notice by the ward or proposed ward is not effective unless the ward or proposed ward attends the hearing or the ward's or proposed ward's waiver of notice is confirmed in an interview with the visitor.

SECTION 6. AMENDMENT. Section 30.1-28-10.1 of the North Dakota Century Code is amended and reenacted as follows:

30.1-28-10.1. Emergency guardian.

1. ~~On petition by a person interested in the alleged incapacitated individual's welfare, the court may appoint an emergency guardian if the court finds that compliance with the procedures of this chapter likely will result in substantial harm to the alleged incapacitated individual's health, safety, or welfare, and that no other person appears to have authority and willingness to act in the circumstances, the court, on petition by a person interested in the alleged incapacitated individual's welfare, may appoint an emergency guardian whose authority may not exceed sixty days and who may exercise only the powers specified in the order. The court may appoint the guardian for a specified period of time, not to exceed ninety days.~~ Immediately upon receipt of the petition for an emergency guardianship, the court shall appoint an attorney to represent a guardian ad litem to advocate for the best interests of the alleged incapacitated individual in the proceeding and any subsequent proceeding. Except as otherwise provided in subsection 2, reasonable notice of the time and place of a hearing on the petition must be given to the alleged incapacitated individual, the individual's spouse, if any, and any other person as the court directs.
2. An emergency guardian may be appointed without notice to the alleged incapacitated individual and the alleged incapacitated individual's attorney guardian ad litem only if the court finds from affidavit or other sworn testimony that the alleged incapacitated individual will be substantially harmed before a hearing on the appointment can be held. If the court appoints an emergency guardian without notice to the alleged incapacitated individual, the alleged incapacitated individual and the individual's spouse, if any, must be given notice of the appointment within forty-eight hours after the appointment. The court shall hold a hearing on the appropriateness of the appointment within ~~five~~ten days after the appointment.
3. If a conservator has not been appointed for the alleged incapacitated individual and the emergency guardian has authority for financial decisionmaking, the court's order of appointment must state that the guardian shall safeguard any assets held by the alleged incapacitated individual and, during the period of appointment and subject to any further order of the court, may expend the individual's assets only for the necessary support and care of the individual.

4. Appointment of an emergency guardian, with or without notice, is not a determination of the alleged incapacitated individual's incapacity.
- 4-5. The court may remove an emergency guardian at any time. An emergency guardian shall make any report the court requires. In all other respects, the provisions of this chapter concerning guardians apply to an emergency guardian.

SECTION 7. AMENDMENT. Subsections 5, 8, and 9 of section 30.1-28-12 of the North Dakota Century Code are amended and reenacted as follows:

5. When exercising the authority granted by the court, the guardian shall safeguard the civil rights and personal autonomy of the ward to the fullest extent possible by:
 - a. Meeting with the ward following the hearing, unless the ward is represented by an attorney, and explaining to the fullest extent possible the contents of the court's order and the extent of the guardian's authority;
 - b. Involving the ward as fully as is practicable in making decisions with respect to the ward's living arrangements, health care, and other aspects of the ward's care; and
 - b-c. Ensuring the ward's maximum personal freedom by using the least restrictive forms of intervention and only as necessary for the safety of the ward or others.
8. A guardian shall file an annual report with the court ~~informing the court~~ regarding the exercise of powers and duties in areas of authority specified in the court's order of appointment. The report must describe the status or condition of the ward, including any change of residence and reasons for the change, any medical treatment received by or withheld from the ward, any expenditure and income affecting the ward, any sale or transfer of property affecting the ward, and any exercise of legal authority by the guardian affecting the ward. The report must include changes that have occurred since the previous reporting period and an accounting of the ward's estate. The guardian also shall report ~~whether the ward has resided in an institution,~~ whether the ward continues to require guardianship; and whether any powers of the guardian should be increased or limited. ~~The filing of a report and its acceptance by the court or must be filed with the clerk of district court. The filing of the report~~ does not constitute an adjudication or a determination of the merits of the report nor does the filing of the report constitute the court's approval of the report. The court may approve a report and allow and settle an accounting only upon notice to the ward's guardian ad litem and other interested persons who have made an appearance or requested notice of proceedings. The office of the state court administrator shall provide printed forms that may be used to fulfill reporting requirements. Any report must be similar in substance to the state court administrator's form. The forms must be available in the office of clerk of district court or obtainable through the supreme court's internet website.
9. Copies of the guardian's annual report to the court and of any other reports required by the court must be mailed to the ward and any interested persons designated by the court in its order. The ward's copy must be accompanied by a statement, printed with not less than double-spaced twelve-point type, of the

ward's right to seek alteration, limitation, or termination of the guardianship at any time.

SECTION 8. AMENDMENT. Subsection 2 of section 30.1-29-01 of the North Dakota Century Code is amended and reenacted as follows:

2. Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court determines that:
 - a. The person is unable to manage the person's property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, ~~advanced age~~, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance.
 - b. The person has property which will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care, and welfare of the person or those entitled to be supported by the person and that protection is necessary or desirable to obtain or provide funds.

Approved March 26, 2015

Filed March 26, 2015

JUDICIAL REMEDIES

CHAPTER 241

SENATE BILL NO. 2348

(Senators Heckaman, Erbele)
(Representatives Mock, Nathe, Oversen)

AN ACT to amend and reenact section 32-03.1-02.3 of the North Dakota Century Code, relating to training in the use of automated external defibrillators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-03.1-02.3 of the North Dakota Century Code is amended and reenacted as follows:

32-03.1-02.3. Automated external defibrillators - Requirements.

1. Except for a medical services facility or prehospital emergency medical services provider, every person who acquires an automated external defibrillator shall:
 - a. Require every individual expected to use the automated external defibrillator to receive American heart association or American red cross training in the most recent nationally recognized course in cardiopulmonary resuscitation and automated external defibrillator use or an equivalent nationally recognized course in cardiopulmonary resuscitation and automated external defibrillator use;
 - b. Maintain and test the automated external defibrillator according to the manufacturer's operational guidelines;
 - c. Establish an automated external defibrillator use protocol that provides any person who provides emergency care or treatment to an individual in cardiac arrest by using the automated external defibrillator shall contact, as soon as possible, an appropriate health care provider or emergency medical services provider; and
 - d. Consider recommendations of a licensed physician in establishing the training, notification, and maintenance requirements of this subsection.
2. Any person who in good faith and without compensation provides emergency care or emergency treatment by using an automated external defibrillator is immune from civil liability for any personal injury resulting from the emergency care or emergency treatment and for any act or failure to act in providing or arranging further medical treatment if the person providing the emergency care or emergency treatment acted as an ordinary, reasonable, prudent person would act under the same or similar circumstances. This subsection does not apply if a personal injury results from the gross negligence or from

the willful or wanton misconduct of the person providing the emergency care or emergency treatment.

3. The immunity provision of subsection 2 applies to a licensed physician under subdivision d of subsection 1, the person who provides the training under subdivision a of subsection 1, and the person responsible for the site on which the automated external defibrillator is located.
4. This section does not limit civil liability protection provided by any other law.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 242

SENATE BILL NO. 2315

(Senators Campbell, Anderson, Luick)
(Representatives Monson, Paur, Trottier)

AN ACT to amend and reenact section 32-12.1-03 of the North Dakota Century Code, relating to liability of political subdivisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-12.1-03 of the North Dakota Century Code is amended and reenacted as follows:

32-12.1-03. Liability of political subdivisions - Limitations.

1. Each political subdivision is liable for money damages for injuries when the injuries are proximately caused by the negligence or wrongful act or omission of any employee acting within the scope of the employee's employment or office under circumstances in which the employee would be personally liable to a claimant in accordance with the laws of this state, or injury caused from some condition or use of tangible property, real or personal, under circumstances in which the political subdivision, if a private person, would be liable to the claimant. The enactment of a law, rule, regulation, or ordinance to protect any person's health, safety, property, or welfare does not create a duty of care on the part of the political subdivision, its employees, or its agents, if that duty would not otherwise exist.
2. The liability of political subdivisions under this chapter is limited to a total of two hundred fifty thousand dollars per person and five hundred thousand one million dollars for injury to three or more persons during any number of claims arising from any single occurrence regardless of the number of political subdivisions, or employees of such political subdivisions, which are involved in that occurrence. A political subdivision may not be held liable, or be ordered to indemnify an employee held liable, for punitive or exemplary damages.
3. A political subdivision or a political subdivision employee may not be held liable under this chapter for any of the following claims:
 - a. A claim based upon an act or omission of a political subdivision employee exercising due care in the execution of a valid or invalid statute or regulation.
 - b. The decision to undertake or the refusal to undertake any legislative or quasi-legislative act, including the decision to adopt or the refusal to adopt any statute, charter, ordinance, order, regulation, resolution, or resolve.
 - c. The decision to undertake or the refusal to undertake any judicial or quasi-judicial act, including the decision to grant, to grant with conditions, to refuse to grant, or to revoke any license, permit, order, or other administrative approval or denial.

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- d. The decision to perform or the refusal to exercise or perform a discretionary function or duty, whether or not such discretion is abused and whether or not the statute, charter, ordinance, order, resolution, regulation, or resolve under which the discretionary function or duty is performed is valid or invalid.
 - e. Injury directly or indirectly caused by a person who is not employed by the political subdivision.
 - f. A claim relating to injury directly or indirectly caused by the performance or nonperformance of a public duty, including:
 - (1) Inspecting, licensing, approving, mitigating, warning, abating, or failing to so act regarding compliance with or the violation of any law, rule, regulation, or any condition affecting health or safety.
 - (2) Enforcing, monitoring, or failing to enforce or monitor conditions of sentencing, parole, probation, or juvenile supervision.
 - (3) Providing or failing to provide law enforcement services in the ordinary course of a political subdivision's law enforcement operations.
 - (4) Providing or failing to provide fire protection services in the ordinary course of a political subdivision's fire protection operations.
 - g. "Public duty" does not include action of the political subdivision or a political subdivision employee under circumstances in which a special relationship can be established between the political subdivision and the injured party. A special relationship is demonstrated if all of the following elements exist:
 - (1) Direct contact between the political subdivision and the injured party.
 - (2) An assumption by the political subdivision, by means of promises or actions, of an affirmative duty to act on behalf of the party who allegedly was injured.
 - (3) Knowledge on the part of the political subdivision that inaction of the political subdivision could lead to harm.
 - (4) The injured party's justifiable reliance on the political subdivision's affirmative undertaking, occurrence of the injury while the injured party was under the direct control of the political subdivision, or the political subdivision action increases the risk of harm.
4. This chapter does not obligate political subdivisions for an amount that is more than the limitations upon liability imposed by this chapter. Subject to this chapter, any payments to persons constitute payment in full of any compromised claim or judgment or any final judgment under this chapter.
 5. Notwithstanding this chapter, a political subdivision or its insurance carrier is not liable for any claim arising out of the conduct of a ridesharing arrangement, as defined in section 8-02-07.

6. A political subdivision is not liable for any claim based on an act or omission in the designation, repair, operation, or maintenance of a minimum maintenance road if that designation has been made in accordance with sections 24-07-35 through 24-07-37 and if the road has been maintained at a level to serve occasional and intermittent traffic.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 243

HOUSE BILL NO. 1305

(Representatives K. Koppelman, Brabandt, Klemin, Louser, Olson, Paur, Schreiber
Beck)
(Senator Armstrong)

AN ACT to amend and reenact section 32-28-02 of the North Dakota Century Code, relating to requirements for a change of name.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-28-02 of the North Dakota Century Code is amended and reenacted as follows:

32-28-02. Change of name of person - Petition - Criminal history record checks - Exceptions.

1. Any person desiring to change that person's name may file a petition in the district court of the county in which the person is a resident, setting forth:
 - a. That the petitioner is a citizen or permanent resident alien of the United States.
 - b. That the petitioner has been a bona fide resident of the county for at least six months before the filing of the petition.
 - b-c. The reason for which the change of the petitioner's name is sought.
 - e-d. The name requested.
2. When an individual files a petition for a name change, the court shall determine whether the petitioner has a criminal history in this state or any other state. The court may require the petitioner to submit to a statewide and nationwide criminal history record check. The criminal history record check must be conducted in the manner provided for in section 12-60-24. All costs associated with the criminal history record check are the responsibility of the petitioner. This subsection does not apply to a request for a name change as part of an application for a marriage license under section 14-03-20, to a request for a name change in conjunction with the annulment of a marriage under chapter 14-04 or the dissolution or separation of a marriage under chapter 14-05, or to the change of a minor's name unless the court has reason to believe the request is being made to defraud or mislead, is not being made in good faith, will cause injury to an individual, or will compromise public safety. If the individual petitioning for a name change has a felony conviction under a law of this state or a law of another state or the federal government, the request is presumed to be made in bad faith, to defraud or mislead, to cause injury to an individual, or to compromise public safety. The name change may not be granted unless the individual requesting the name change proves by clear and convincing evidence that the request is not based upon an intent to defraud or mislead, is made in good faith, will not cause injury to an individual, and will not compromise public safety.

3. The judge of the district court, upon being duly satisfied by affidavit or proof in open court of the truth of the allegations set forth in the petition, that there exists proper and reasonable cause for changing the name of the petitioner, and that thirty days' previous notice of the intended application has been given in the official newspaper of the county in which the petitioner resides, shall order a change of the name of the petitioner. Proper and reasonable cause does not exist if the court determines that the request for a name change is made to defraud or mislead, is not made in good faith, will cause injury to an individual, or will compromise public safety. The court may waive publication of the notice when the proposed change relates only to a first or given name as distinguished from a surname or upon evidence satisfactory to the court that the petitioner has been the victim of domestic violence as defined in section 14-07.1-01.
4. If the person whose name is to be changed is a minor, the court shall consider the appointment of a guardian ad litem, and notice of the intended application must be published in the official newspaper of the county in which the minor resides and, if different, the official newspaper of the county in which each of the minor's parents reside. If the minor has a noncustodial parent, a copy of the notice must be deposited in a post office in this state, postage prepaid, not later than ten days after the publication of the notice, and directed to the noncustodial parent's last reasonably ascertained post-office address. An affidavit of mailing of the notice prepared in accordance with the North Dakota Rules of Civil Procedure must be filed with the court.
5. If the court issues a name change order for a petitioner who has a criminal history in this or any other state, the court, within ten days after the issuance of the change of name order, shall report the name change to the bureau of criminal investigation.
6. The provisions of this section may not delay the granting of a marriage license under section 14-03-20, which may be granted without the change of name.

Approved April 15, 2015
Filed April 15, 2015

LABOR AND EMPLOYMENT

CHAPTER 244

SENATE BILL NO. 2285

(Senators Holmberg, Campbell, Poolman)
(Representatives Delmore, Owens, Thoreson)

AN ACT to amend and reenact section 34-02-01 of the North Dakota Century Code, relating to exceptions from the duty of an employer to indemnify an employee for expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-02-01 of the North Dakota Century Code is amended and reenacted as follows:

34-02-01. Employer must indemnify employee for losses and expenses - Exception.

An employer shall indemnify the employer's employee, except as prescribed in section 34-02-02, for all that the employee necessarily expends or loses in direct consequence of the discharge of the employee's duties as such or of the employee's obedience to the directions of the employer even though such directions were unlawful, unless the employee at the time of obeying such directions believed them to be unlawful. The obligation to indemnify does not include expenses incurred to purchase or rent tools of a trade or any other equipment that is also used by the employee outside the scope of employment.

Approved April 1, 2015

Filed April 1, 2015

CHAPTER 245

HOUSE BILL NO. 1257

(Representatives Oversen, Haak, Mooney, Muscha, Schneider, Wallman)
(Senators Heckaman, Nelson, Oban)

AN ACT to amend and reenact sections 34-06.1-03, 34-06.1-05, 34-06.1-06, and 34-06.1-07 of the North Dakota Century Code, relating to unequal pay for men and women; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

34-06.1-03. Prohibition of discrimination.

1. ~~No~~An employer may not discriminate between employees in the same establishment on the basis of gender, by paying wages to any employee in any occupation in this state at a rate less than the rate at which the employer pays any employee of the opposite gender for comparable work on jobs ~~which~~that have comparable requirements relating to skill, effort, and responsibility. Differentials that are paid pursuant to established seniority systems, ~~job-descriptive systems that measure earnings by quantity or quality of production,~~ merit increase systems, or ~~executive training programs~~a bona fide factor other than gender, such as education, training, or experience, and which do not discriminate on the basis of gender, are not within this prohibition.
2. An employer ~~who~~that is paying a wage differential in violation of this chapter may not, in order to comply with this chapter, reduce the wage rates of any employee. ~~No~~
3. A person may not cause or attempt to cause an employer to discriminate against any employee in violation of this chapter. ~~No~~
4. An employer may not discharge or discriminate against ~~any~~an employee by reason of any action taken by the employee to invoke or assist in any manner the enforcement of this chapter, except when proven that the act of the employee is fraudulent.
5. An unlawful employment practice occurs under this section when a discriminatory compensation decision or other practice is adopted; when an individual becomes subject to a discriminatory compensation decision or other practice; or when an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.

SECTION 2. AMENDMENT. Section 34-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

34-06.1-05. Collection of unpaid wages and other relief - District court - Commissioner.

1. ~~Any~~An employer ~~who~~that violates the provisions of section 34-06.1-03 is liable to the employee or employees affected in the amount of their unpaid wages, and in instances of willful violation in employee suits up to an additional equal amount as liquidated damages. ~~Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of the employee or group of employees and other employees similarly situated. The~~
2. Any one or more individuals claiming to be aggrieved by an unlawful employment practice under section 34-06.1-03 may bring an action in the district court in the judicial district in which the unlawful employment practice is alleged to have been committed, in the district in which the records relevant to the alleged unlawful employment practice are maintained and administered, or in the district in which the individual would have worked or obtained credit were it not for the alleged unlawful employment practice. In an action brought under this chapter, the court in such action shall, in cases of violation in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.
3. An agreement by ~~any~~such an employee to work for less than the wage to which ~~such~~the employee is entitled under this chapter ~~is~~does not a bar ~~to any such an~~ action or ~~to a~~ voluntary wage restitution of the full amount due under this chapter.
4. At the written request of ~~any~~an employee claiming to have been paid less than the wage to which the employee may be entitled under this chapter, the commissioner may bring any legal action necessary ~~in~~on behalf of the employee to collect ~~such~~the claim for unpaid wages. The commissioner ~~may~~is not be required to pay the filing fee, or other costs, in connection with ~~such an~~ action under this section. The commissioner ~~has the power to~~may join various claims against the employer in one claim for relief. In proceedings under this section, the court may order other affirmative action as appropriate, including reinstatement of employees discharged in violation of this chapter. The commissioner ~~has the power to~~may petition ~~any~~the district court of competent jurisdiction to restrain violations of section 34-06.1-03, and for ~~such~~ affirmative relief as the court may deem appropriate, including restoration of unpaid wages and reinstatement of employees, consistent with the purpose of this chapter.
5. If a person elects to bring an action in district court under this chapter, the commissioner shall dismiss any action pending before the commissioner which is based on the same alleged unlawful employment practice.

SECTION 3. AMENDMENT. Section 34-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

34-06.1-06. Statute of limitations.

Court action under this chapter may be commenced no later than two years after the claim for relief occurs unlawful employment practice occurred. However, if a complaint of a discriminatory practice is first filed with the commissioner, this period of limitation for bringing an action in the district court is tolled until the commissioner

completes an investigation or otherwise notifies the complainant the commissioner will be taking no further action on the complaint.

SECTION 4. AMENDMENT. Section 34-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

34-06.1-07. Records and reporting.

~~Every~~An employer subject to this chapter shall make, keep, and maintain ~~such~~ records of the wages and wage rates, job classifications, and other terms and conditions of employment of the ~~persons~~individuals employed by the employer, ~~and;~~ shall preserve such records for ~~such periods of time;~~as long as the employee is employed and two years thereafter; and shall make such reports ~~therefrom~~from the records as the commissioner prescribes.

Approved March 19, 2015

Filed March 19, 2015

CHAPTER 246

HOUSE BILL NO. 1047

(Legislative Management)
(Human Services Committee)

AN ACT to amend and reenact section 34-13-01 of the North Dakota Century Code, relating to licensing employment agents and agencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-13-01 of the North Dakota Century Code is amended and reenacted as follows:

34-13-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" means the labor commissioner.
2. "Employee" means any ~~person~~individual, whether employed or unemployed, seeking or entering into any arrangement for employment or change of employment through the medium of service of an employment agent.
3. "Employer" means any ~~person~~individual, firm, corporation, limited liability company, or association employing or seeking to enter into an arrangement to employ any ~~person~~individual through the medium or service of an employment agent.
4. "Employment agent" or "employment agency" ~~means:~~
 - a. ~~Means any person~~Means any individual, firm, corporation, limited liability company, or association in this state engaged for hire or compensation in the business of furnishing:
 - a-(1) ~~Persons~~Individuals seeking employment or changing employment, with information or other service enabling or tending to enable such ~~persons~~individuals to procure employment, by or with employers, other than such employment agent; or
 - b-(2) Any other ~~person~~individual, firm, corporation, limited liability company, or association ~~whethat~~ may be seeking to employ or may be in the market for help of any kind, with information enabling or tending to enable such other ~~person~~individual, firm, corporation, limited liability company, or association to procure such help.

The term "employment agent" or "employment agency" does

b. ~~Does not include any person:~~

- (1) ~~An individual~~, firm, corporation, limited liability company, or association employing individuals to render part-time or temporary services to or

for a third person, if the ~~person~~individual, firm, corporation, limited liability company, or association employing the individuals, in addition to wages or salaries, pays social security and unemployment insurance taxes, provides workforce safety and insurance coverage, and is responsible for the acts of the employees while rendering services to or for a third person. ~~The term "employment agent" or "employment agency" does not include a person~~

(2) An individual, firm, corporation, limited liability company, or association charging service fees or any other charges exclusively to employers.

(3) An individual, firm, corporation, limited liability company, or association licensed or certified by the department of human services to provide employment related services, to the extent the employment-related services are being provided for the clientele identified by the department in the issuance of the license or certificate.

5. "Gross misconduct" means misconduct involving assault and battery, the malicious destruction of property, or the theft of money or property.

Approved March 26, 2015

Filed March 26, 2015

CHAPTER 247

HOUSE BILL NO. 1202

(Representatives Ruby, Rick C. Becker, Kasper, Louser)
(Senators Campbell, Hogue, Laffen)

AN ACT to amend and reenact section 34-14-09.2 of the North Dakota Century Code, relating to withholding of awarded paid time off; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-14-09.2 of the North Dakota Century Code is amended and reenacted as follows:

34-14-09.2. Limitations on accrued paid time off - Investigation.

1. If an employee separates from employment voluntarily, a private employer may withhold payment for accrued paid time off if:
 - a. At the time of hiring, the employer provided the employee written notice of the limitation on payment of accrued paid time off;
 - b. The employee has been employed by the employer for less than one year; and
 - c. The employee gave the employer less than five days' written or verbal notice.
2. If an employee separates from employment, a private employer may withhold payment for paid time off if:
 - a. The paid time off was awarded by the employer but not yet earned by the employee; and
 - b. Before awarding the paid time off, the employer provided the employee written notice of the limitation on payment of awarded paid time off.
3. As provided under section 34-14-05, an employee may report a violation under this section. If a report of violation is made within thirty days of the alleged violation, the labor commissioner shall investigate the merits of the claim. If a report is made more than thirty days following the alleged violation, the commissioner may investigate the merits of the claim.

SECTION 2. APPLICATION. This Act applies to separations from employment which occur on or after the effective date of this Act.

Approved April 9, 2015
Filed April 9, 2015

MILITARY

CHAPTER 248

HOUSE BILL NO. 1104

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 37-01-43, 37-04-16, 37-07.2-01, subsection 6 of 37-28-02, and section 37-28-03 of the North Dakota Century Code, relating to the operation of the North Dakota national guard; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-01-43 of the North Dakota Century Code is amended and reenacted as follows:

37-01-43. North Dakota military civil relief act.

A person called or ordered to active service for thirty consecutive days or longer has all of the protections afforded to persons in the military service of the United States under the Servicemembers Civil Relief Act [50 App. U.S.C. sections 501-596] in effect on ~~December 19, 2003~~December 31, 2014.

SECTION 2. AMENDMENT. Section 37-04-16 of the North Dakota Century Code is amended and reenacted as follows:

37-04-16. Retirement and discharge of national guard officers.

Any officer of the national guard who has ~~reached the age of sixty-four years~~federal recognition removed due to age, as proscribed by federal law, must be placed on the retired list by the governor. Any officer who has served as such under a commission in the military service of this state for a continuous period of eight years may be placed, at the officer's own request, upon the retired list with an advance in grade and withdrawn from active service and command by the governor. A commissioned officer must be withdrawn from active service and placed upon the retired list whenever the officer becomes disabled and incapable of performing the duties of the officer's office. A commissioned officer, upon the recommendation of the officer's commanding officer or of an inspecting officer, must be placed by the governor upon the retired list whenever the officer becomes unfit or incompetent for service and thereby incapable of performing the duties of the officer's office. The governor, however, may not order the retirement of an officer until the provisions of section 37-04-17 have been complied with. Vacancies in the commissioned personnel of the national guard caused by the operation of this section must be filled in the same manner as other vacancies in the commissioned personnel are filled.

SECTION 3. AMENDMENT. Section 37-07.2-01 of the North Dakota Century Code is amended and reenacted as follows:

37-07.2-01. National guard tuition grants - Terms of grants.

Any qualifying member of the national guard who enrolls in an accredited postsecondary institution in North Dakota may, subject to the limitations of available appropriated funds and subject to national guard rules adopted by the adjutant general, receive a grant in an amount not to exceed the cost of tuition and fees for similar courses and credit hours for each qualifying member of the national guard who is enrolled at ~~the university of North Dakota~~ North Dakota university system school with the highest tuition and fee rate. Any accredited postsecondary institution that agrees to participate in such a program must waive twenty-five percent of the tuition for qualifying national guardsmen. These grants must be distributed according to rules promulgated by the adjutant general and are available only so long as the member maintains satisfactory performance with the guard, meets the qualification requirements of the rules, and pursues a course of study which satisfies the normal requirements of the school.

SECTION 4. AMENDMENT. Subsection 6 of section 37-28-02 of the North Dakota Century Code is amended and reenacted as follows:

6. "Period of service" means the period of time beginning December 5, 1992, and ending June 30, ~~2011~~2017.

SECTION 5. AMENDMENT. Section 37-28-03 of the North Dakota Century Code is amended and reenacted as follows:

37-28-03. Payment of adjusted compensation for domestic and foreign service.

Each national guard or reserve component resident veteran mobilized stateside is entitled to fifty dollars for each month or major fraction thereof for domestic service. Each national guard, reserve, or active component resident veteran of foreign service who received the expeditionary medal or campaign badge is entitled to one hundred dollars for each month or major fraction thereof. If the veteran received a purple heart for foreign service, the veteran is entitled to a payment of two thousand five hundred dollars in lieu of monthly payments for adjusted compensation related to the mobilization during which the purple heart was earned. If the veteran is deceased, the veteran's beneficiary is entitled to any payments under this chapter to which the veteran would have been entitled. Applications for adjusted compensation may be filed with the adjutant general through June 30, ~~2011~~2017, or in the case of a soldier mobilized on June 30, ~~2011~~2017, not later than six months after the end of the mobilization period of service.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 249

SENATE BILL NO. 2323

(Senators Sorvaag, Burckhard, Carlisle)
(Representatives Kasper, Rohr, Thoreson)

AN ACT to amend and reenact section 37-01-45 of the North Dakota Century Code, relating to the record of veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-01-45 of the North Dakota Century Code is amended and reenacted as follows:

37-01-45. ~~Book~~Record of veterans.

~~The adjutant general shall initiate and coordinate the writing, publishing, and distribution of a record of all North Dakota veterans, including a record of all North Dakotans killed in action and missing in action since statehood. The adjutant general shall determine the projected costs for the completion of the writing, publishing, and distribution of the records and present those projections to the legislative management.~~ collecting of information on North Dakotans who served in a theatre or area of armed conflict since the Vietnam conflict. The adjutant general shall make the information available to the public in a manner that the adjutant general deems advisable.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 250

HOUSE BILL NO. 1208

(Representatives Klemin, Amerman, Belter, Fehr, Hunskor, Keiser, Klein, Maragos,
Trottier)
(Senators Carlisle, Dever, Marcellais)

AN ACT to create and enact a new section to chapter 37-01 of the North Dakota Century Code, relating to honoring certain members of the national guard, the armed forces reserve of the United States, and the active duty forces of the United States as veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-01 of the North Dakota Century Code is created and enacted as follows:

Honoring as veterans individuals who have performed military service.

An individual who has performed service in the national guard, the armed forces reserve of the United States, or active duty armed forces of the United States, has received an honorable discharge from service, and is not otherwise included within the definition of a veteran under federal or state law is, at the completion of that individual's term of service, honored as a veteran, but is not entitled to any benefits or preferences available to veterans by reason of this section.

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 251

HOUSE BILL NO. 1112

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact section 37-17.1-22, subsection 1 of section 37-17.1-23, and section 37-17.1-27 of the North Dakota Century Code, relating to the funding of state disaster or emergency response and recovery; and to provide for an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-17.1-22 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-22. Disaster or emergency response and recovery costs.

Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a disaster or emergency declared by the president of the United States, the director of the division of homeland security shall determine and record the costs of the state and local response and recovery operations in accordance with an agreement with the federal government or, in accordance with procedures established by the governor in the case of a state-declared disaster or emergency, and in accordance with procedures established by the state emergency response plan. If the event has met the Stafford Act minimum for a presidential disaster declaration and for which the request is denied, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state and fifty percent of the public infrastructure recovery costs above statutorily maintained emergency funds for counties that exceeds twice the individual county federal declaration eligibility threshold, limited to a maximum amount available per disaster of one million dollars and a maximum amount available per biennium of three million dollars. Immediately following the response or recovery operations, or prior thereto if determined necessary by the governor, the governor shall make application to the state emergency commission for a grant of funds in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon receipt by the emergency commission of such application from the governor that a disaster or emergency exists, and the commission immediately shall grant and direct the transfer to the department of the governor's designated representative of an amount equal to that certified in such application by the governor.

SECTION 2. AMENDMENT. Subsection 1 of section 37-17.1-23 of the North Dakota Century Code is amended and reenacted as follows:

1. When approved by the emergency commission, the office of the adjutant general is authorized to borrow from the Bank of North Dakota, to respond and recover from state disasters if the event has met the Stafford Act minimum for a presidential disaster declaration for which the request is denied, and to match federal funds under the Robert T. Stafford Disaster

Emergency Assistance Act [Public Law 93-288, as amended]. In addition to the principal repayment, the Bank of North Dakota shall receive interest on the loan at a rate equal to other state agency borrowings. On behalf of the state, the office of the adjutant general shall administer the disaster or emergency recovery program according to state procedures based on federal laws or regulations. After a county or group of counties have been declared a major disaster or emergency area by the governor or president, the office of the adjutant general shall submit a request to the emergency commission for:

- a. Approval to make an application for a loan from the Bank of North Dakota;
- b. Approval for additional personnel required to perform the anticipated recovery activities; and
- c. Authority to spend additional state and federal funds for the recovery program.

SECTION 3. AMENDMENT. Section 37-17.1-27 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-27. State disaster relief fund - Creation - Uses.

There is created in the state treasury a state disaster relief fund. Moneys in the fund are to be used subject to legislative appropriations and emergency commission and budget section approval for providing the required state share of funding for expenses associated with governor-declared or presidential-declared disasters in the state and for the purposes of reimbursing costs under section 37-17.1-28. Any interest or other fund earnings must be deposited in the fund.

SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 2017, and after that date is ineffective.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 252

HOUSE BILL NO. 1107

(Political Subdivisions Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact section 37-17.3-09 of the North Dakota Century Code, relating to public safety answering point service by the division of state radio; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-17.3-09 of the North Dakota Century Code is amended and reenacted as follows:

37-17.3-09. Public safety answering point service and fees.

The division may provide 911 primary public safety answering point services to a political subdivision ~~with that has~~ a population of fewer than ~~twenty thousand and twenty-five thousand at the time an agreement is signed for services with the division.~~ The division shall charge the apportioned amount consistent with the actual costs of providing the primary service per telephone access line and wireless access line ~~for 911 services provided to political subdivisions.~~ The fee for 911 wireless primary public safety answering point services must be charged to and paid by the political subdivision receiving services from the division under this section from and after the date of the agreement entered into by the political subdivision or its designee under section 57-40.6-05, ~~whether the date of that agreement is before or after April 4, 2003.~~ The division may provide primary public safety answering point services and other public safety answering point related services during emergencies and other times of need as agreed in a mutual aid agreement. Charges for services must be specified in the mutual aid agreement. Each ~~county~~ political subdivision currently receiving 911 primary public safety answering point services from the division shall abide by the standards established by law.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 253

HOUSE BILL NO. 1131

(Representatives Schatz, Rohr, Louser, Belter)
(Senators Dever, Armstrong, Klein, Miller)

AN ACT to amend and reenact section 37-19.1-02 of the North Dakota Century Code, relating to the employment preference for veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-19.1-02 of the North Dakota Century Code is amended and reenacted as follows:

37-19.1-02. Public employment preference to veterans - Residency requirements.

1. Veterans are entitled to preference, over all other applicants, in recruitment and selection processes by governmental agencies, provided that such veteran is a United States citizen at the time of application for employment. Veterans qualified for preference may not be disqualified from holding any position with an agency because of physical or mental disability, unless the disability renders them unable to properly perform the duties of the position applied for. To receive veterans' preference, an applicant must submit the following documentation:
 - a. An applicant claiming veterans' preference shall provide a copy of report of separation DD-214.
 - b. An applicant claiming disabled veterans' preference shall provide a copy of report of separation DD-214 and a letter less than one year old from the veterans' administration indicating the veteran's disability status.
 - c. An applicant claiming veterans' preference as an eligible spouse of a deceased veteran shall provide a copy of the marriage certificate, the veteran's report of separation DD-214, and the veteran's death certificate.
 - d. An applicant claiming disabled veterans' preference as an eligible spouse of a disabled veteran shall provide a copy of the marriage certificate, the veteran's report of separation DD-214, and a letter less than one year old from the veterans' administration indicating the veteran's disability status.
2. When a veteran applies for employment to a position that is not being filled through a competitive personnel system, the officer, board, or person whose duty it is to employ an individual to fill the available position shall investigate the qualifications of the veteran. If the veteran is found to possess the qualifications required for the position applied for, whether educational or by way of prior experience, and is physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall employ the veteran. A disabled veteran is entitled to a preference superior to that given other veterans under this section, which preference must be accorded in the manner provided in this section. If the group of eligible individuals includes

either veterans or disabled veterans, the employing authority of that particular agency or governmental agency shall make a selection for the available position as follows:

- a. A disabled veteran is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed. If the list includes two or more disabled veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A disabled veteran from the group of eligible individuals is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed.
 - b. If the group of eligible individuals does not include one or more disabled veterans and consists only of veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A veteran from the group of eligible individuals is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed.
 - c. If the group of eligible individuals includes nonveterans and veterans, but not disabled veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A veteran from the group of eligible individuals is first entitled to the position and must be employed unless there is justifiable cause that is documented in writing for not employing that veteran.
3. When a veteran applies for employment to a position that is being filled through a competitive personnel system, the officer, board, or person whose duty it is to employ an individual to fill the available position shall investigate the qualifications of the veteran. If the veteran is found to possess the qualifications required for the position applied for, whether educational or by way of prior experience, and is physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall employ the following:
- a. No distinction or discrimination may be made in the administration of the competitive personnel system examination because the applicant may be a veteran.
 - b. Upon receipt of proof required in subsection 1, on a one hundred point scale, the examiner shall add five points for a veteran and ten points for a disabled veteran to the examination grade of the applicant. The total is the veteran's examination score. If a scale other than a one hundred point scale is used, the examiner shall add five percent of the scale used for a veteran and ten percent of the scale used for a disabled veteran to the

- examination grade of the applicant. The total is the veteran's examination score.
- c. The employing authority shall designate a prescribed number of eligible individuals to be considered from the top number of the group of eligible candidates in rank order, from highest to lowest, based on the applicant's final score.
 - d. The employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing.
4. This section does not apply when the position to be filled is that of a ~~superintendent of schools, teacher, an~~ administrative head of a department required by law; or the chief deputy or private secretary of an elected or appointed official; ~~the chancellor and vice chancellors of the board of higher education; and presidents or executive deans, vice presidents, assistants to the president, provosts, instructors, and athletic team coaches of board institutions.~~ Temporary committees and individual or group appointments made by the governor or legislative assembly are also excepted from the provisions of this section. If an exempt position is advertised, the advertisement must state that veterans' preference does not apply to the position being advertised.
5. An employee of a state agency is not eligible for preference when applying for a different job within the same state agency or other state agencies. An employee of a political subdivision is not eligible for preference when applying for a different job within the same political subdivision.

Approved March 16, 2015

Filed March 16, 2015

MINING AND GAS AND OIL PRODUCTION

CHAPTER 254

HOUSE BILL NO. 1358

(Representatives D. Anderson, Hatlestad, J. Nelson, Porter, Weisz)
(Senators Bekkedahl, O'Connell)

AN ACT to create and enact a new section to chapter 38-08 and a new subsection to section 38-08-26 of the North Dakota Century Code, relating to the operation of underground gathering pipelines and the sharing of information by a surface owner; to amend and reenact subsection 18 of section 38-08-02, subdivisions d and l of subsection 1 of section 38-08-04, subsection 6 of section 38-08-04, and section 38-08-04.5 of the North Dakota Century Code, relating to an exception to confidentiality of well data, to underground gathering pipelines, to temporarily abandoned status, and the uses of the abandoned oil and gas well plugging and site reclamation fund; to provide a report to the legislative management; to provide a transfer; to provide an appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 18 of section 38-08-02 of the North Dakota Century Code is amended and reenacted as follows:

18. "Underground gathering pipeline" means an underground gas or liquid pipeline ~~that with associated above ground equipment which~~ is designed for or capable of transporting crude oil, natural gas, carbon dioxide, or water produced in association with oil and gas which is not subject to chapter 49-22. As used in this subsection, "associated above ground equipment" means equipment and property located above ground level, which is incidental to and necessary for or useful for transporting crude oil, natural gas, carbon dioxide, or water produced in association with oil and gas from a production facility. As used in this subsection, "equipment and property" includes a pump, a compressor, storage, leak detection or monitoring equipment, and any other facility or structure.

SECTION 2. A new section to chapter 38-08 of the North Dakota Century Code is created and enacted as follows:

Controls, inspections, and engineering design on crude oil and produced water underground gathering pipelines.

The application of this section is limited to an underground gathering pipeline that is designed or intended to transfer crude oil or produced water from a production facility for disposal, storage, or sale purposes and which was placed into service after August 1, 2015. Upon request, the operator shall provide the commission the underground gathering pipeline engineering construction design drawings and specifications, list of independent inspectors, and a plan for leak protection and

monitoring for the underground gathering pipeline. Within sixty days of an underground gathering pipeline being placed into service, the operator of that pipeline shall file with the commission an independent inspector's certificate of hydrostatic or pneumatic testing of the underground gathering pipeline.

¹³⁷ **SECTION 3. AMENDMENT.** Subdivision d of subsection 1 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

- d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with this chapter, and the rules and orders of the industrial commission, including without limitation a bond covering the operation of any underground gathering pipeline transferring oil or produced water from a production facility for disposal, storage, or sale purposes, except that if the commission requires a bond to be furnished, the person required to furnish the bond may elect to deposit under such terms and conditions as the industrial commission may prescribe a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, by which an operator assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.

¹³⁸ **SECTION 4. AMENDMENT.** Subdivision l of subsection 1 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

- l. The placing of wells in abandoned-well status which have not produced oil or natural gas in paying quantities for one year. A well in abandoned-well status must be promptly returned to production in paying quantities, approved by the commission for temporarily abandoned status, or plugged and reclaimed within six months. If none of the three preceding conditions are met, the industrial commission may require the well to be placed immediately on a single-well bond in an amount equal to the cost of plugging the well and reclaiming the well site. In setting the bond amount, the commission shall use information from recent plugging and reclamation operations. After a well has been in abandoned-well status for one year, the well's equipment, all well-related equipment at the well site, and salable oil at the well site are subject to forfeiture by the commission. If the commission exercises this authority, section 38-08-04.9 applies. After a well has been in abandoned-well status for one year, the single-well bond referred to above, or any other bond covering the well if the single-well bond has not been obtained, is subject to forfeiture by the commission. A surface owner may request a review of the temporarily abandoned status of a well that has been on temporarily abandoned status for at least seven years. The commission shall require notice and hearing to review the temporarily abandoned status. After notice and hearing, the surface owner may request a review of the temporarily abandoned status every two years.

¹³⁷ Section 38-08-04 was also amended by section 1 of House Bill No. 1068, chapter 256, section 4 of House Bill No. 1358, chapter 254, section 5 of House Bill No. 1358, chapter 254, and section 1 of House Bill No. 1476, chapter 466.

¹³⁸ Section 38-08-04 was also amended by section 1 of House Bill No. 1068, chapter 256, section 3 of House Bill No. 1358, chapter 254, section 5 of House Bill No. 1358, chapter 254, and section 1 of House Bill No. 1476, chapter 466.

¹³⁹ **SECTION 5. AMENDMENT.** Subsection 6 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

6. To provide for the confidentiality of well data reported to the commission if requested in writing by those reporting the data for a period not to exceed six months. However, the commission may release:
 - a. Volumes injected into a saltwater injection well.
 - b. Information from the spill report on a well on a site at which more than ten barrels of fluid, not contained on the well site, was released for which an oilfield environmental incident report is required by law.

¹⁴⁰ **SECTION 6. AMENDMENT.** Section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04.5. Abandoned oil and gas well plugging and site reclamation fund - Budget section report.

There is hereby created an abandoned oil and gas well plugging and site reclamation fund.

1. Revenue to the fund must include:
 - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
 - b. Moneys received from the forfeiture of drilling and reclamation bonds.
 - c. Moneys received from any federal agency for the purpose of this section.
 - d. Moneys donated to the commission for the purposes of this section.
 - e. Moneys received from the state's oil and gas impact fund.
 - f. Moneys recovered under the provisions of section 38-08-04.8.
 - g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.
 - h. Moneys transferred from the cash bond fund under section 38-08-04.11.
 - i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
 - j. Civil penalties assessed under section 38-08-16.
2. Moneys in the fund may be used for the following purposes:

¹³⁹ Section 38-08-04 was also amended by section 1 of House Bill No. 1068, chapter 256, section 3 of House Bill No. 1358, chapter 254, section 4 of House Bill No. 1358, chapter 254, and section 1 of House Bill No. 1476, chapter 466.

¹⁴⁰ Section 38-08-04.5 was also amended by section 1 of Senate Bill No. 2190, chapter 255.

- a. Contracting for the plugging of abandoned wells.
 - b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.
 - c. To pay mineral owners their royalty share in confiscated oil.
 - d. Defraying costs incurred under section 38-08-04.4 in reclamation of oil and gas-related pipelines and associated facilities.
 - e. Reclamation and restoration of land and water resources impacted by oil and gas development, including related pipelines and facilities that were abandoned or were left in an inadequate reclamation status before August 1, 1983, and for which there is not any continuing reclamation responsibility under state law. Land and water degraded by any willful act of the current or any former surface owner are not eligible for reclamation or restoration. The commission may expend up to one million five hundred thousand dollars per biennium from the fund in the following priority:
 - (1) For the restoration of eligible land and water that are degraded by the adverse effects of oil and gas development including related pipelines and facilities.
 - (2) For the development of publicly owned land adversely affected by oil and gas development including related pipelines and facilities.
 - (3) For administrative expenses and cost in developing an abandoned site reclamation plan and the program.
 - (4) Demonstration projects for the development of reclamation and water quality control program methods and techniques for oil and gas development, including related pipelines and facilities.
3. All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities.
 4. The commission shall report to the budget section of the legislative management on the balance of the fund and expenditures from the fund each biennium.

SECTION 7. A new subsection to section 38-08-26 of the North Dakota Century Code is created and enacted as follows:

The surface owner may share information contained in the geographic information system database.

SECTION 8. TRANSFER - ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND TO OIL AND GAS RESEARCH FUND - PRODUCED WATER PIPELINE STUDY - REPORT TO LEGISLATIVE MANAGEMENT. The director of the office of management and budget shall transfer the sum of \$1,500,000 from the abandoned oil and gas well plugging and site reclamation fund to the oil and gas research fund for the purpose of funding a special

project through the energy and environmental research center at the university of North Dakota during the biennium beginning July 1, 2015, and ending June 30, 2017. The special project must focus on conducting an analysis of crude oil and produced water pipelines including the construction standards, depths, pressures, monitoring systems, maintenance, types of materials used in the pipeline including backfill, and an analysis of the ratio of spills and leaks occurring in this state in comparison to other large oil and gas-producing states with substantial volumes of produced water. The industrial commission shall contract with the energy and environmental research center to compile the information and the center shall work with the department of mineral resources to analyze the existing regulations on construction and monitoring of crude oil and produced water pipelines, determine the feasibility and cost effectiveness of requiring leak detection and monitoring technology on new and existing pipeline systems, and provide a report with recommendations to the industrial commission and the energy development and transmission committee by December 1, 2015. The industrial commission shall adopt the necessary administrative rules necessary to improve produced water and crude oil pipeline safety and integrity. In addition, the industrial commission shall contract for a pilot project to evaluate a pipeline leak detection and monitoring system.

SECTION 9. APPROPRIATION. Notwithstanding section 38-08-04.5, there is appropriated out of any moneys in the abandoned oil and gas well plugging and site reclamation fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the industrial commission for the purpose of conducting a pilot program involving the oil and gas research council in conjunction with research facilities in this state to determine the best techniques for remediating salt and any other contamination from the soil surrounding waste pits reclaimed by trenching between 1951 and 1984 in the north central portion of this state, for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 10. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 255

SENATE BILL NO. 2190

(Senators Armstrong, Bekkedahl, Schaible)
(Representative Kempenich)

AN ACT to amend and reenact section 38-08-04.5 of the North Dakota Century Code, relating to the abandoned oil and gas well plugging and site reclamation fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴¹ **SECTION 1. AMENDMENT.** Section 38-08-04.5 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04.5. Abandoned oil and gas well plugging and site reclamation fund - Budget section report.

There is hereby created an abandoned oil and gas well plugging and site reclamation fund.

1. Revenue to the fund must include:
 - a. Fees collected by the oil and gas division of the industrial commission for permits or other services.
 - b. Moneys received from the forfeiture of drilling and reclamation bonds.
 - c. Moneys received from any federal agency for the purpose of this section.
 - d. Moneys donated to the commission for the purposes of this section.
 - e. Moneys received from the state's oil and gas impact fund.
 - f. Moneys recovered under the provisions of section 38-08-04.8.
 - g. Moneys recovered from the sale of equipment and oil confiscated under section 38-08-04.9.
 - h. Moneys transferred from the cash bond fund under section 38-08-04.11.
 - i. Such other moneys as may be deposited in the fund for use in carrying out the purposes of plugging or replugging of wells or the restoration of well sites.
 - j. Civil penalties assessed under section 38-08-16.
2. Moneys in the fund may be used for the following purposes:
 - a. Contracting for the plugging of abandoned wells.

¹⁴¹ Section 38-08-04.5 was also amended by section 6 of House Bill No. 1358, chapter 254.

- b. Contracting for the reclamation of abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads.
 - c. To pay mineral owners their royalty share in confiscated oil.
 - d. Defraying costs incurred under section 38-08-04.4 in reclamation of oil and gas-related pipelines and associated facilities.
 - e. For transfer by the office of management and budget, upon request of the industrial commission, to the environmental quality restoration fund for use by the state department of health for the purposes provided under chapter 23-31, if to address environmental emergencies relating to oil and natural gas development, including the disposal of oilfield waste and oil or natural gas production and transportation by rail, road, or pipeline. If a transfer requested by the industrial commission has been made under this subdivision, the state department of health shall request the office of management and budget to transfer from subsequent deposits in the environmental quality restoration fund an amount sufficient to restore the amount transferred from the abandoned oil and gas well plugging and site reclamation fund.
3. ~~All moneys collected under this section must be deposited in the abandoned oil and gas well plugging and site reclamation fund. This fund must be maintained as a special fund and all moneys transferred into the fund are appropriated and must be used and disbursed solely for the purpose of defraying the costs incurred in carrying out the plugging or replugging of wells, the reclamation of well sites, and all other related activities purposes in this section.~~
4. The commission shall report to the budget section of the legislative management on the balance of the fund and expenditures from the fund each biennium.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 256

HOUSE BILL NO. 1068

(Representatives Porter, Hofstad)
(Senators Armstrong, Schaible, Wardner)

AN ACT to create and enact a new subsection to section 38-08-26 of the North Dakota Century Code, relating to access to pipeline information by the Three Affiliated Tribes; and to amend and reenact subsection 5 of section 38-08-04 of the North Dakota Century Code, relating to decisions of the industrial commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴² **SECTION 1. AMENDMENT.** Subsection 5 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

5. To adopt and to enforce rules and orders to effectuate the purposes and the intent of this chapter and the commission's responsibilities under chapter 57-51.1. When adopting a rule, issuing an order, or creating a policy, the commission shall give due consideration to the effect of including locations within this state which may also be under the jurisdiction of the federal government or a tribal government. When reporting information resulting from adopting a rule, issuing an order, or creating a policy that affects locations within this state which may also be under the jurisdiction of the federal government or a tribal government, the commission shall provide sufficient information to indicate the effect of including locations that may also be under the regulatory jurisdiction of the federal government or a tribal government.

Approved April 20, 2015
Filed April 20, 2015

¹⁴² Section 38-08-04 was also amended by section 3 of House Bill No. 1358, chapter 254, section 4 of House Bill No. 1358, chapter 254, section 5 of House Bill No. 1358, chapter 254, and section 1 of House Bill No. 1476, chapter 466.

CHAPTER 257

SENATE BILL NO. 2377

(Senators Bekkedahl, Bowman, Rust)
(Representative Hatlestad)

AN ACT to amend and reenact subsection 5 of section 38-11.2-01, sections 38-12.1-01, 38-12.1-02, 38-12.1-03, 38-12.1-04, 38-12.1-05, and 38-14.1-02, subsection 3 of section 38-14.1-05, subsection 3 of section 38-14.1-13, subdivisions r and s of subsection 1 of section 38-14.1-14, subdivision c of subsection 2 of section 38-14.1-14, paragraph 2 of subdivision e of subsection 3 of section 38-14.1-21, subdivision b of subsection 4 of section 38-14.1-21, subsections 1 and 1.1 of section 38-14.1-24, subdivision b of subsection 3 of section 38-14.1-24, subsections 5, 10, and 18 of section 38-14.1-24, section 38-14.1-25, subdivision b of subsection 1 of section 38-14.1-27, subsections 1, 3, and 4 of section 38-14.1-37, sections 38-15-01, 38-15-02, 38-18-05, 38-18-07, 57-61-01, and 57-61-01.2, subsection 1 of section 57-61-01.5, sections 57-61-01.7, 57-61-02, and 57-61-03, and subsection 1 of section 57-61-04 of the North Dakota Century Code, relating to the definition of coal and commercial leonardite and the taxation of commercial leonardite.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 38-11.2-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Subsurface mineral" means any naturally occurring element or compound recovered under the provisions of chapter 38-12, but for the purpose of this chapter excludes coal, commercial leonardite, oil and gas, sand and gravel, and rocks crushed for sand and gravel.

SECTION 2. AMENDMENT. Section 38-12.1-01 of the North Dakota Century Code is amended and reenacted as follows:

38-12.1-01. Legislative findings.

The legislative assembly of the state of North Dakota finds that:

1. The discovery and evaluation of coal or commercial leonardite deposits is advantageous in an industrial society.
2. Coal or commercial leonardite occurs hidden under the ground and must be searched for by diverse techniques, and that the search, exploration, or prospecting for coal or commercial leonardite is a necessary and expensive prerequisite to coal or commercial leonardite extraction and for land use planning in coal-bearing or commercial leonardite-bearing areas.
3. It is to the benefit of society to allow coal or commercial leonardite exploration and to require the information generated from exploration to be available to the office of the state geologist.

SECTION 3. AMENDMENT. Section 38-12.1-02 of the North Dakota Century Code is amended and reenacted as follows:

38-12.1-02. Declaration of policy.

It is hereby declared to be in the public interest to have persons engaged in coal or commercial leonardite exploration or evaluation report their findings to the office of the state geologist so that data on the location, quantity, and quality of coal or commercial leonardite, and the characteristics of associated material, will be available to assist the state in determining what the attitude of the state should be regarding future development of coal or commercial leonardite resources.

SECTION 4. AMENDMENT. Section 38-12.1-03 of the North Dakota Century Code is amended and reenacted as follows:

38-12.1-03. Definitions.

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

1. "Coal" means a dark-colored, compact, and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes lignite in both oxidized and nonoxidized forms, whether or not the material is enriched in radioactive materials. The term does not include commercial leonardite.
2. "Coal exploration" means:
 - a. The use of any technique which when applied to the surface of the land will aid in the discovery or evaluation of coal or commercial leonardite or aid in determining the quantity and quality of coal or commercial leonardite present. It includes drilling or digging, excavating, core sample drilling and collection, diamond drilling, trenching, or any other type of penetration of the surface of the earth; or
 - b. Environmental data gathering activities conducted for the purpose of establishing the conditions of an area prior to applying for a permit under chapter 38-14.1. The provisions of sections 38-12.1-04 and 38-12.1-05 are not applicable to such environmental data gathering activities unless the natural land surface will be substantially disturbed or such activities are located on lands designated unsuitable for mining under section 38-14.1-05.
3. "Commercial leonardite" means a dark-colored, soft, earthy rock formed from the oxidation of lignite coal, and is produced from a mine that has as its only function for supply for purposes other than gasification or combustion to generate electricity.
4. "Commission" means the industrial commission of the state of North Dakota.
- 4-5. "Permit area" means a county.
- 5-6. "Person" means and includes any natural person, corporation, limited liability company, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental

subdivision thereof; the masculine gender, in referring to a person, includes the feminine and the neuter genders.

~~6-7.~~ "Road" means a surface or right of way for purposes of travel by land vehicles used in coal or commercial leonardite exploration. A road consists of the entire area of the right of way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface.

SECTION 5. AMENDMENT. Section 38-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

38-12.1-04. Jurisdiction of commission.

The commission has jurisdiction and authority over all persons and property, both public and private, necessary to effectively enforce the provisions of this chapter. The director of mineral resources shall act as a supervisor charged with the duty of enforcing the regulations and orders of the commission applicable to the provisions of this chapter. The commission has authority to make such investigations as it deems proper to determine whether facts exist which justify action by the commission. The commission acting through the director of mineral resources has the authority:

1. To require:
 - a. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and orders of the commission prescribed to govern the exploration for coal or commercial leonardite on state and private lands and roads used in coal or commercial leonardite exploration within the state of North Dakota. The person required to furnish the bond may elect to deposit a collateral bond, self-bond, cash, or any alternative form of security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter and the rules and orders of the industrial commission.
 - b. The delivery, free of charge, to the state geologist of the basic data collected during the course of the exploration within a reasonable time as may be prescribed by the state geologist. The data so submitted is confidential and available only to the office of the state geologist for official purposes for a period of two years, and such period of confidentiality must, upon application, be extended for one-year periods by the state geologist, for a total period not to exceed ten years unless it is demonstrated that such period should be further extended in order to prevent possible resulting harm to the person, or the person's successors and assigns, who delivered such basic data to the state geologist. The basic data must include, if specifically requested by the state geologist and if the information has been developed by or for a person conducting the exploration:
 - (1) Sample cuts.
 - (2) Drillers' logs, sample logs, radioactivity logs, resistivity logs, or other types of electrical or mechanical logs.
 - (3) Elevation and location information on the data collection points.
 - (4) Other pertinent information as may be required by the state geologist.

2. To require the plugging, covering, or reburial in an appropriate manner so as to protect environmental quality, general health and safety, and economic values of all holes, pits, or trenches excavated during the course of coal or commercial leonardite exploration.
3. To promulgate and enforce rules, regulations, and orders to effectuate the provisions, purpose, and intent of this chapter.
4. To inspect all drilling or exploration sites. For the purposes of this subsection, the director of mineral resources or the director's representative shall have access to all drilling or exploration installations regulated by this chapter for the purpose of inspection and sampling and shall have the authority to require the operators' aid if the director finds it necessary and requests it.
5. Notwithstanding any of the other provisions of this section, the commission acting through the director of mineral resources shall require that any lands substantially disturbed in coal or commercial leonardite exploration, including excavations, roads, and drill holes, and the removal of necessary facilities and equipment be reclaimed in accordance with the applicable performance standards of section 38-14.1-24. Reclamation must be accomplished to protect environmental quality, general health and safety, and economic values.

SECTION 6. AMENDMENT. Section 38-12.1-05 of the North Dakota Century Code is amended and reenacted as follows:

38-12.1-05. Notice and drilling permit required - Exceptions - Limits on coal or commercial leonardite removal.

1. It is unlawful to commence operations for drilling for the exploration for coal or commercial leonardite without first obtaining a permit from the director of mineral resources, under such rules and regulations as may be prescribed by the commission, and paying to the commission a fee of one hundred dollars for each such permit area. The permit application must include a description of the exploration area and the period of proposed exploration. The permit must be granted within thirty days after a proper application has been submitted.
2. This permit may not be required:
 - a. In an area where a permit to conduct surface coal mining operations is in effect pursuant to chapter 38-14.1;
 - b. For holes drilled to guide excavating equipment in an operating mine;
 - c. In areas where a drill hole is required by any other state agency; or
 - d. For environmental data gathering activities that do not substantially disturb the land, unless the environmental data gathering activities are located on land designated unsuitable for mining under section 38-14.1-05.
3. No person may remove more than two hundred fifty tons [226.80 metric tons] of coal or commercial leonardite pursuant to an exploration permit without first obtaining a permit from the public service commission.

SECTION 7. AMENDMENT. Section 38-14.1-02 of the North Dakota Century Code is amended and reenacted as follows:

38-14.1-02. Definitions.

Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

1. "Alluvial valley floors" means the unconsolidated stream-laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of sediment from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation, and windblown deposits.
2. "Approximate original contour" means that surface configuration achieved by backfilling and grading an area affected by surface coal mining operations so that the reclaimed area closely resembles the general surface configuration of the land prior to being affected by surface coal mining operations and blends into and complements the surrounding undisturbed land.
3. "Coal" means a dark-colored compact and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes consolidated lignitic coal, in both oxidized and nonoxidized forms, having less than eight thousand three hundred British thermal units per pound [453.59 grams], moist and mineral matter free, whether or not the material is enriched in radioactive materials. The term does not include commercial leonardite.
4. "Commercial leonardite" means a dark-colored, soft, earthy organic rock formed from the oxidation of lignite coal, and is produced from a mine that has as its only function for supply for purposes other than gasification or combustion to generate electricity.
5. "Commission" means the public service commission, or such other department, bureau, or commission as may lawfully succeed to the powers and duties of that commission. The commission is the state regulatory authority for all purposes relating to the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201 et seq.].
- 5-6. "Extended mining plan" means a written statement setting forth the matters specified in section 38-14.1-15 and covering the estimated life of the surface coal mining operation.
- 6-7. "Final cut" means the last pit created in a surface mining pit sequence.
- 7-8. "Highwall" and "endwall" mean those sides of the pit adjacent to unmined land.
- 8-9. "Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose the person's self to the danger during the time necessary for abatement.

- 9-10. "Operator" means any individual, person, partnership, firm, association, society, joint stock company, company, cooperative, corporation, limited liability company, or other business organization, or any department, agency, or instrumentality of the state, local, or federal government, or any governmental subdivision thereof including any publicly owned utility or publicly owned corporation of the state, local, or federal government, engaged in or controlling a surface coal mining operation. Operator does not include those who remove or intend to remove two hundred fifty tons [226.80 metric tons] or less of coal or commercial leonardite from the earth by coal or commercial leonardite mining within twelve consecutive calendar months in any one location or who remove any coal or commercial leonardite pursuant to reclamation operations under chapter 38-14.2.
- 40-11. "Other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value occurring within five hundred feet [152.4 meters] or less of the land surface and which are excavated in solid form from natural deposits on or in the earth, exclusive of coal or commercial leonardite and those minerals which occur naturally in liquid or gaseous form.
- 44-12. "Other suitable strata" means those portions of the overburden determined by the commission to be suitable for meeting the requirements of subsections 2 and 17 of section 38-14.1-24 and based on data submitted by the permit applicant.
- 42-13. "Overburden" means all of the earth and other materials, with the exception of suitable plant growth material, which lie above natural deposits of coal or commercial leonardite and also means such earth and other materials, with the exception of suitable plant growth material, disturbed from their natural state by surface coal or commercial leonardite mining operations.
- 42-1-14. "Performance bond" means a surety bond, collateral bond, self-bond, deposit, a bond issued under the state surface mining and reclamation bond fund, any alternative form of security approved by the commission, or combination thereof, by which a permittee assures faithful performance of all requirements of this chapter.
- 43-15. "Permit" means a permit to conduct surface coal mining and reclamation operations issued by the commission.
- 44-16. "Permit applicant" means a person or operator applying for a permit.
- 45-17. "Permit area" means the area of land approved by the commission for surface coal mining operations which shall be readily identifiable by appropriate markers on the site.
- 46-18. "Permit renewal" means the extension of the permit term for areas within the boundaries of the initial or existing permit, upon the expiration of the initial or existing permit term.
- 47-19. "Permit revision" means the modification of permit provisions during the term of the permit and includes changes in the mining and reclamation plans, incidental boundary extensions, and the transfer, assignment, or sale of rights granted under the permit.

- 18-20. "Permit term" means a period of time beginning with the date upon which a permit is given for surface coal mining and reclamation operations under the provisions of this chapter, and ending with the expiration of the next succeeding five years plus any renewal of the permit granted under this chapter.
- 19-21. "Permittee" means a person or operator holding a permit.
- 20-22. "Person" means an individual, partnership, firm, association, society, joint stock company, company, cooperative, corporation, limited liability company, or other business organization.
- 21-23. "Pit" means a tract of land, from which overburden, or coal, or commercial leonardite, or both; any combination of overburden, coal, or commercial leonardite has been or is being removed for the purpose of surface coal mining operations.
- 22-24. "Prime farmland" means lands as prescribed by commission regulation that have the soil characteristics and moisture supply needed to produce sustained high yields of adapted crops economically when treated and managed, including management of water, according to modern farming methods. Furthermore, such lands historically have been used for intensive agricultural purposes and are large enough in size to constitute a viable economic unit.
- 23-25. "Prime soils" means those soils that have the required soil characteristics (including slope and moisture supply) needed to produce sustained high yields of adapted crops, as determined by the state conservationist of the United States department of agriculture soil conservation service.
- 24-26. "Reclaimed" or "reclaim" means conditioning areas affected by surface coal mining operations to make them capable of supporting the uses which they were capable of supporting prior to any mining, or higher or better uses, pursuant to subsection 2 of section 38-14.1-24.
- 25-27. "Reclamation plan" means a plan submitted by an applicant for a permit which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to subsection 2 of section 38-14.1-14.
- 26-28. "Refuse" means all waste material directly connected with the production of coal or commercial leonardite mined by surface coal mining operations.
- 27-29. "Soil amendments" means those materials added by the operator to the replaced overburden or suitable plant growth material, or both, to improve the physical or chemical condition of the soil in its relation to plant growth capability.
- 28-30. "Soil classifier" means a professional soil classifier as defined in subsection 4 of section 43-36-01.
- 29-31. "Soil survey" means the identification and location of all suitable plant growth material within the proposed permit area and an accompanying report that describes, classifies, and interprets for use such materials.
- 30-32. "State program" means the program established by the state of North Dakota in accordance with the requirements of section 503 of the federal Surface

Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 470; 30 U.S.C. 1253] to regulate surface coal mining and reclamation operations on lands within the state of North Dakota.

34-33. "Suitable plant growth material" means that soil material (normally the A, B, and portions of the C horizons) located within the proposed permit area which, based upon a soil survey, is found by the commission to be the most acceptable as a medium for plant growth when respread on the surface of regraded areas.

32-34. "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incidental to the reclamation of such operations after July 1, 1979.

33-35. "Surface coal mining operations" means:

- a. Activities affecting the surface of lands in connection with a surface coal or commercial leonardite mine. Such activities include extraction of coal or commercial leonardite from coal or commercial leonardite refuse piles, excavation for the purpose of obtaining coal or commercial leonardite, including such common methods as contour, strip, auger, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, and loading of coal or commercial leonardite at or near the minesite, except that such activities do not include coal or commercial leonardite exploration subject to chapter 38-12.1, or the extraction of coal or commercial leonardite incidental to reclamation operations under chapter 38-14.2; and
- b. The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all adjacent lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

34-36. "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of the permittee's permit or any requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

SECTION 8. AMENDMENT. Subsection 3 of section 38-14.1-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Prior to designating any land area as unsuitable for surface coal mining operations, the commission shall prepare a detailed statement on:
 - a. The potential coal or commercial leonardite resources of the area;

- b. The demand for coal or commercial leonardite resources; and
- c. The impact of such designation on the environment, the economy, and the supply of coal or commercial leonardite.

SECTION 9. AMENDMENT. Subsection 3 of section 38-14.1-13 of the North Dakota Century Code is amended and reenacted as follows:

3. Upon request by the permit applicant, the commission, in its discretion, may designate specific information included in the plans required by subdivisions c and d of subsection 1 as exempt from disclosure under section 44-04-18, provided such specific information pertains only to the analysis of the chemical and physical properties of the coal or commercial leonardite (excepting information regarding such mineral or elemental contents which is potentially toxic in the environment). Each request must be accompanied by a statement specifying the need for nondisclosure, which statement must be considered part of the permit application to be filed for public inspection as specified in subsection 2. The confidential information is exempt for a period not to exceed ten years subsequent to the date on which the request for nondisclosure was filed, unless it is demonstrated by the permit applicant that such period should be further extended in order to prevent possible resulting harm to the permit applicant, or the applicant's successors and assigns.

¹⁴³ **SECTION 10. AMENDMENT.** Subdivisions r and s of subsection 1 of section 38-14.1-14 of the North Dakota Century Code are amended and reenacted as follows:

- r. Cross sections, maps or plans of the land to be affected, including the actual area to be mined, prepared by or under the direction of and certified by a registered professional engineer, a registered land surveyor, or a qualified professional geologist with assistance from experts in related fields, showing pertinent elevation and location of test borings or core samplings and depicting all of the following information:
 - (1) The nature and depth of the various strata of overburden.
 - (2) The location of subsurface water, if encountered, and its quality.
 - (3) The nature and thickness of any coal, commercial leonardite, or rider seam above the coal or commercial leonardite seam to be mined.
 - (4) The nature of the stratum immediately beneath the coal or commercial leonardite seam to be mined.
 - (5) All mineral crop lines and the strike and dip of the coal or commercial leonardite to be mined, within the area of land to be affected.
 - (6) Existing or previous surface mining limits.
 - (7) The location and extent of known workings of any underground mines, including mine openings to the surface.
 - (8) The location of aquifers.

¹⁴³ Section 38-14.1-14 was also amended by section 11 of Senate Bill No. 2377, chapter 257.

- (9) The estimated elevation of the water table.
 - (10) The location of spoil, waste, or refuse areas, suitable plant growth material stockpiling areas and, if necessary, stockpiling areas for other suitable strata.
 - (11) The location of all impoundments for waste or erosion control.
 - (12) Any settling or water treatment facility.
 - (13) Constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto.
 - (14) Profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the applicant's proposed reclamation plan.
- s. A statement by the applicant of the result of test borings or core samplings from the permit area, including logs of the drill holes, the thickness of the coal or commercial leonardite seam found, an analysis of the chemical properties of such coal or commercial leonardite, the sulfur content of any coal or commercial leonardite seam, chemical analysis of potentially toxic forming sections of the overburden, and chemical analysis of the stratum lying immediately underneath the coal or commercial leonardite to be mined. The provisions of this subdivision may be waived by the commission with respect to the specific application by a written determination that such requirements are unnecessary.

¹⁴⁴ **SECTION 11. AMENDMENT.** Subdivision c of subsection 2 of section 38-14.1-14 of the North Dakota Century Code is amended and reenacted as follows:

- c. The consideration which has been given to maximize the utilization and conservation of the coal or commercial leonardite being recovered so that reffecting the land in the future can be minimized.

¹⁴⁵ **SECTION 12. AMENDMENT.** Paragraph 2 of subdivision e of subsection 3 of section 38-14.1-21 of the North Dakota Century Code is amended and reenacted as follows:

- (2) Not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors. This subdivision does not affect those surface coal mining operations which on July 1, 1979, produce coal or commercial leonardite in commercial quantities and are located within or adjacent to alluvial valley floors or have obtained specific permit approval by the commission to conduct surface coal mining operations within said alluvial valley floors.

¹⁴⁴ Section 38-14.1-14 was also amended by section 10 of Senate Bill No. 2377, chapter 257.

¹⁴⁵ Section 38-14.1-21 was also amended by section 13 of Senate Bill No. 2377, chapter 257.

¹⁴⁶ **SECTION 13. AMENDMENT.** Subdivision b of subsection 4 of section 38-14.1-21 of the North Dakota Century Code is amended and reenacted as follows:

- b. The commission finds that the proposed surface coal mining operation will constitute a hazard to a dwelling house, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake, or other public or private property other than property subject to a coal or commercial leonardite lease.

¹⁴⁷ **SECTION 14. AMENDMENT.** Subsections 1 and 1.1 of section 38-14.1-24 of the North Dakota Century Code are amended and reenacted as follows:

1. Conduct surface coal mining operations so as to maximize the utilization and conservation of the coal or commercial leonardite being recovered so that reaffected the land in the future through surface coal mining can be minimized.
- 1.1. Conduct any auger mining associated with surface coal mining operations in a manner that will maximize recoverability of coal or commercial leonardite and other mineral reserves remaining after mining activities and reclamation operations are completed, and seal or fill all auger holes as necessary to ensure long-term stability of the area and minimize any adverse impact to the environment or hazard to public health or safety. The commission may prohibit auger mining if necessary to maximize the utilization, recoverability, or conservation of coal or commercial leonardite resources, to ensure long-term stability, or to protect against any adverse impact to the environment or hazard to public health or safety.

¹⁴⁸ **SECTION 15. AMENDMENT.** Subdivision b of subsection 3 of section 38-14.1-24 of the North Dakota Century Code is amended and reenacted as follows:

- b. The permittee, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade (not to exceed the angle of repose), to provide adequate drainage, and to contain all toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region, in those instances where:
 - (1) Surface coal mining operations are carried out over a substantial period of time at the same location where the operation transects the coal or commercial leonardite deposit;
 - (2) The thickness of the coal or commercial leonardite deposits relative to the volume of overburden is large; and
 - (3) The permittee demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area are insufficient, giving due

¹⁴⁶ Section 38-14.1-21 was also amended by section 12 of Senate Bill No. 2377, chapter 257.

¹⁴⁷ Section 38-14.1-24 was also amended by section 15 of Senate Bill No. 2377, chapter 257, and section 16 of Senate Bill No. 2377, chapter 257.

¹⁴⁸ Section 38-14.1-24 was also amended by section 14 of Senate Bill No. 2377, chapter 257, and section 16 of Senate Bill No. 2377, chapter 257.

consideration to volumetric expansion, to restore the approximate original contour.

¹⁴⁹ **SECTION 16. AMENDMENT.** Subsections 5, 10, and 18 of section 38-14.1-24 of the North Dakota Century Code are amended and reenacted as follows:

5. Remove, segregate, and respread suitable plant growth material as required by the commission within the permit area. The commission may require the permittee to segregate suitable plant growth material in two or more soil layers. The commission shall determine the soil layer or layers to be removed based upon the quality and quantity of suitable plant growth material inventoried by the soil survey required in subdivision t of subsection 1 of section 38-14.1-14. Based on the soil survey, the commission shall also determine whether other suitable strata are necessary to meet revegetation requirements. If other strata can be shown to be suitable and necessary to meet revegetation requirements, the commission may require the permittee to determine the areal extent of other suitable strata within the proposed permit area, and to remove, segregate, protect, and respread such material. If the suitable plant growth material or other suitable strata cannot be replaced on an approved graded area within a time short enough to avoid deterioration of such material, the permittee shall stockpile and stabilize such materials by establishing a successful cover of quick-growing plants or by other means thereafter so that the suitable plant growth material or other suitable strata will be protected from wind and water erosion and will remain free from any contamination by toxic material. In the interest of achieving the maximum reclamation provided for in this chapter, the permittee may, or at the discretion of the commission shall, utilize such soil amendments as described in ~~of subsection 27~~ section 38-14.1-02.
10. Remove or bury all debris and other similar material resulting from the operation and bury all mine wastes ~~and coal and commercial leonardite~~ processing wastes unless the commission approves the surface disposal of such wastes. If the commission approves the surface disposal of such wastes, the permittee shall stabilize all waste piles in designated areas through construction in compacted layers, including the use of incombustible and impervious materials if necessary, to assure that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this chapter.
18. Assume the responsibility for successful revegetation, as required by subsection 17, for a period of ten full years after the last year of augmented seeding, fertilizing, irrigation, or other work, provided that, when the commission approves a long-term intensive agricultural postmining land use, the ten-year period of responsibility for revegetation commences at the date of initial planting. However, for previously mined areas that are affected by remaining, the operator's responsibility for successful revegetation will extend for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, and other work in order to assure compliance with the applicable standards. For the purposes of this subsection, "previously mined areas" are lands that were affected by coal or commercial leonardite mining activities prior to January 1, 1970, and "augmented seeding, fertilizing, irrigation, or other work" does not include normal conservation practices recognized locally as good management for the postmining land use.

¹⁴⁹ Section 38-14.1-24 was also amended by section 14 of Senate Bill No. 2377, chapter 257, and section 15 of Senate Bill No. 2377, chapter 257.

SECTION 17. AMENDMENT. Section 38-14.1-25 of the North Dakota Century Code is amended and reenacted as follows:

38-14.1-25. Prohibited mining practices.

1. ~~No~~A permittee may not use any coal or commercial leonardite mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid or solid wastes either temporarily or permanently as dams or embankments unless approved by the commission, after consultation with the state engineer.
2. ~~No~~A permittee may not locate any part of the surface coal mining and reclamation operations or deposit overburden, debris, or waste materials outside the permit area for which bond has been posted, except as provided in subsection 24 of section 38-14.1-03.
3. ~~No~~A permittee may not deposit overburden, debris, or waste materials in such a way that normal erosion or slides brought about by natural causes will permit the same to go beyond or outside the permit area for which bond has been posted.

SECTION 18. AMENDMENT. Subdivision b of subsection 1 of section 38-14.1-27 of the North Dakota Century Code is amended and reenacted as follows:

- b. For those surface coal mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly ensure the hydrologic balance of water use either on or off the mining site, the commission, in consultation with other appropriate state agencies, shall specify those:
 - (1) Monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence.
 - (2) Monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal or commercial leonardite seam to be mined.
 - (3) Records of well logs and borehole data to be maintained.
 - (4) Monitoring sites to record precipitation.

The monitoring data collection and analysis required by this section must be conducted according to standards and procedures set forth by the commission in consultation with other appropriate state agencies in order to assure their reliability and validity.

SECTION 19. AMENDMENT. Subsections 1, 3, and 4 of section 38-14.1-37 of the North Dakota Century Code are amended and reenacted as follows:

1. The provisions of this chapter do not apply to any of the following activities:
 - a. Extraction of coal or commercial leonardite by a landowner for the landowner's own noncommercial use from land owned or leased by the landowner.

- b. Extraction of coal or commercial leonardite as an incidental part of federal, state, or local government-financed highway or other construction under regulations established by the commission.
3. The commission may provide or assume the cost of training coal or commercial leonardite operators who meet the qualifications in subsection 2 concerning the preparation of permit applications and compliance with the regulatory program.
4. An operator who has received assistance under subsection 2 or 3 shall reimburse the commission for the cost of the services rendered if the commission finds that the operator's actual and attributed annual production of coal or commercial leonardite for all locations exceeds three hundred thousand tons [272155.41 metric tons] during the twelve months immediately following the date the operator is issued a surface coal mining and reclamation permit.

SECTION 20. AMENDMENT. Section 38-15-01 of the North Dakota Century Code is amended and reenacted as follows:

38-15-01. Policy.

It is hereby declared to be in the public interest to foster, encourage, and promote the development, production, and utilization of all natural resources of coal, commercial leonardite, oil, gas, and subsurface minerals in a manner as will prevent waste and allow a greater ultimate recovery of the natural resources, and to protect the rights of all owners so that the greatest possible economic recovery of natural resources be obtained in the state, to the end that landowners, royalty owners, producers, and the general public realize and enjoy the greatest possible good from these vital natural resources.

SECTION 21. AMENDMENT. Section 38-15-02 of the North Dakota Century Code is amended and reenacted as follows:

38-15-02. Definitions.

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

1. "Coal" means all kinds of coal, and includes what is known as lignite coal, unless a contrary intention plainly appears.
2. "Commercial leonardite" means a dark-colored, soft, earthy rock formed from the oxidation of lignite coal, and is produced from a mine that has as its only function for supply for purposes other than gasification or combustion to generate electricity.
3. "Commission" means the industrial commission.
- 3-4. "Conflicting interests" means those interests of producers which are in conflict, so that full production and utilization by one producer is prohibited or impeded by the interests of another producer of a separate natural resource.
- 4-5. "Gas" means all natural gas and other fluid hydrocarbons not hereinbelow defined as oil.

- 5-6. "Natural resources" means coal, oil, gas, and subsurface minerals as defined herein.
- 6-7. "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the wellhead in liquid form, and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas other than gas produced in association with oil and commonly known as casinghead gas.
- 7-8. "Owner" means the person who has the right to produce natural resources either for that person or others.
- 8-9. "Person" means any natural person, corporation, limited liability company, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, instrumentality, or political subdivision of the state. The masculine gender, in referring to a person, includes the feminine and the neuter genders.
- 9-10. "Producer" means the owner of a well or wells, or mine or mines, capable of producing coal, commercial leonardite, oil, gas, or subsurface minerals.
- 10-11. "Subsurface minerals" means all naturally occurring elements and their compounds, volcanic ash, precious metals, carbonates, and natural mineral salts of boron, bromine, calcium, fluorine, iodine, lithium, magnesium, phosphorus, potassium, sodium, thorium, uranium, and sulfur, and their compounds but does not include sand and gravel and rocks crushed for sand and gravel.
- 11-12. "Waste" means the inefficient utilization of reserves of oil, gas, subsurface minerals, or coal, or commercial leonardite, as the case may be.

SECTION 22. AMENDMENT. Section 38-18-05 of the North Dakota Century Code is amended and reenacted as follows:

38-18-05. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Agricultural production" means the production of any growing grass or crop attached to the surface of the land, whether or not the grass or crop is to be sold commercially, and the production of any farm animals, including farmed elk, whether or not the animals are to be sold commercially.
2. "Disturbed" means any alteration of the topsoil of the land whether the alteration is for the purpose of exploring for coal or commercial leonardite, or for the purpose of carrying out an actual mining operation.
3. "Mineral developer" means the person who acquires at least seventy-five percent of the mineral rights or a lease of at least seventy-five percent of the mineral rights for the purpose of extracting or using the mineral for nonagricultural purposes.
4. "Mineral estate" means an estate in or ownership of all or part of the minerals under a specified tract of land.

5. "Mineral lease" means any lease which purports to convey the minerals or rights relating to the minerals under a specified tract of land separate from the surface, and any other type of lease which gives or conveys rights to minerals.
6. "Mineral owner" means any person or persons who presently own the mineral estate, their successors, assigns, or predecessors in title, under a specified tract of land by means of a mineral deed, or by an exception or reservation in the deed, grant, or conveyance of the surface, or by any other means whatsoever.
7. "Minerals" means coal or commercial leonardite.
8. "Mining operation" means any type of activity, the aim of which is to discover the presence of minerals, or to remove the minerals so discovered from their original position on or in the land by any means whatsoever.
9. "Surface estate" means an estate in or ownership of the surface of a particular tract of land.
10. "Surface owner" means the person or persons who presently have valid title to the surface of the land, their successors, assigns, or predecessors in title, regardless of whether or not a portion of the land surface is occupied for a residence.

SECTION 23. AMENDMENT. Section 38-18-07 of the North Dakota Century Code is amended and reenacted as follows:

38-18-07. Surface damage and disruption payments.

1. Unless the mineral lease, surface lease, or consent statement executed by the surface owner provides for payments to the surface owner, the mineral developer shall annually pay to the surface owner a sum of money equal to the amount of damages sustained by the surface owner for loss of agricultural production caused by mining activity, provided that it can be shown that the land disturbed or to be disturbed has regularly been used for agricultural production. The amount of damages may be determined by any formula mutually agreeable between the surface owner and the mineral developer. The payments contemplated by this section only cover land actually mined, disturbed, or to be mined during the year or years during which agricultural production was actually interrupted and which land has not been restored to the level of agricultural productivity required by the plan submitted pursuant to chapter 38-14.1. The payments to be made hereunder must be made before December thirty-first of that calendar year in which the loss occurred.
2. Unless waived by the owner of a farm building, if the coal or commercial leonardite removal area of a surface mining operation comes within five hundred feet [152.4 meters] of any farm building, the mineral developer shall pay to the owner of the farm building either the fair market value of the farm building or the entire cost of removing the farm building to a location where the coal or commercial leonardite removal area of the mining operation will not come within five hundred feet [152.4 meters] of such building or buildings. The payments contemplated hereunder are in addition to any payments required by the terms of any mineral lease, unless the surface owner is a party to the lease and the lease provides for damages as contemplated in this subsection in an amount not less than the amount which would be recoverable under this section.

3. The rights granted to the surface owner by this section are hereby declared to be absolute and unwaivable, except as provided in subsection 2. Any instrument which purports to waive rights granted by this section is null and void and of no legal effect.

SECTION 24. AMENDMENT. Section 57-61-01 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01. Severance tax upon coal - Imposition - In lieu of sales and use taxes - Payment to the tax commissioner.

There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax of thirty-seven and one-half cents per ton of two thousand pounds [907.18 kilograms]. ~~Such~~The severance tax is in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit ~~such~~the tax for each month, within twenty-five days after the end of each month, to the state tax commissioner ~~upon such~~on reports and forms as the tax commissioner deems necessary. For the purposes of this chapter, commercial leonardite is taxed in the same manner as coal.

SECTION 25. AMENDMENT. Section 57-61-01.2 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01.2. When coal or commercial leonardite considered severed.

Coal or commercial leonardite is considered to be severed for the purposes of this chapter when it is first removed from where it was placed by nature, unless within thirty days of first removal it is placed into a long-term inventory storage deposit, in which case it is considered to be severed when removed from the deposit or it is pledged as collateral on a loan. A long-term inventory storage deposit is one which is so identified in a mining plan approved by the public service commission pursuant to chapter 38-14.1 and which as part of that plan is covered with soil and subjected to reclamation requirements during the time it serves as a deposit and before coal or commercial leonardite is removed therefrom.

SECTION 26. AMENDMENT. Subsection 1 of section 57-61-01.5 of the North Dakota Century Code is amended and reenacted as follows:

1. There is imposed upon all coal or commercial leonardite severed for sale or for industrial purposes by coal or commercial leonardite mines within the state a tax, separate from and additional to the tax imposed by section 57-61-01, of two cents per ton of two thousand pounds [907.18 kilograms]. All of the provisions of this chapter for administration of the coal or commercial leonardite severance tax apply to the tax imposed under this section. The state tax commissioner shall transfer revenue from the tax imposed by this section to the state treasurer for deposit in a special fund in the state treasury, known as the lignite research fund. Such moneys must be used for contracts for land reclamation research projects and for research, development, and marketing of lignite and products derived from lignite. The industrial commission shall adopt rules for submission and consideration of research, development, and marketing proposals and entering into contracts under the lignite research, development, and marketing program.

SECTION 27. AMENDMENT. Section 57-61-01.7 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01.7. Severance tax reduction for coal or commercial leonardite mined for out-of-state shipment.

For coal or commercial leonardite subject to taxes under this chapter which is shipped out of state after June 30, 2001:

1. The coal or commercial leonardite is subject to thirty percent of the taxes imposed under section 57-61-01 and the entire revenue under this subsection must be deposited in the coal development trust fund for use as provided in subsection 1 of section 57-62-02 and allocation to the lignite research fund as provided in subsection 2 of section 57-61-01.5.
2. In addition to the taxes under subsection 1, the coal or commercial leonardite may be subject to up to seventy percent of the severance taxes imposed under section 57-61-01 at the option of the county in which the coal or commercial leonardite is mined. The board of county commissioners, by resolution, may grant to the operator of a mine from which the coal or commercial leonardite is shipped out of state a partial or complete exemption from this portion of the severance tax. Any tax revenue from full or partial taxation under this subsection must be allocated to the county under subsection 2 of section 57-62-02.
3. Taxes imposed under section 57-61-01.5 apply to coal or commercial leonardite subject to this section and must be allocated as provided in section 57-61-01.5.

SECTION 28. AMENDMENT. Section 57-61-02 of the North Dakota Century Code is amended and reenacted as follows:

57-61-02. When tax due - When delinquent.

The severance tax as provided in this chapter is due within twenty-five days after the end of each month, and if not received by the twenty-fifth day, becomes delinquent and must be collected as herein provided. The tax commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax, and when such a request is granted, the tax is not delinquent until the extended period has expired. The tax commissioner shall require a report to be filed monthly by each owner or operator of a coal or commercial leonardite mine, in such form as the tax commissioner may specify, to list a full description of the mine, the number of tons of coal or commercial leonardite severed, the amount of tax due and remitted, and any other information deemed necessary by the tax commissioner for the proper administration of this chapter.

SECTION 29. AMENDMENT. Section 57-61-03 of the North Dakota Century Code is amended and reenacted as follows:

57-61-03. Powers of state tax commissioner.

The state tax commissioner has the power to require any person engaged in such production, and the agent or employee of such person, or purchaser of such coal or commercial leonardite, or the owner of any royalty interest therein, to furnish any additional information the tax commissioner deems necessary for the purpose of correctly computing the amount of said tax; to examine the books, records, and files of such person; to conduct hearings and compel the attendance of witnesses, the production of books, records, and papers of any person; and to make any investigation or hold any inquest deemed necessary to a full and complete disclosure

of the true facts as to the amount of production from any coal or commercial leonardite mine or of any company or other producer thereof and as to the rendition thereof for taxing purposes.

SECTION 30. AMENDMENT. Subsection 1 of section 57-61-04 of the North Dakota Century Code is amended and reenacted as follows:

1. The tax commissioner has the power and authority to ascertain and determine whether or not any return or remittances filed with the tax commissioner are correct, and if the owner or operator has made an untrue or incorrect return or remittance or has failed to make the required return, the tax commissioner shall ascertain the correct amount of taxes due and give immediate notice to the owner or operator filing the incorrect return or remittance or who failed to file the required return. Any coal or commercial leonardite mine operator or owner receiving notice from the tax commissioner that the owner or operator has filed an incorrect return or remittance or failed to file the required return shall remit the tax assessed by the tax commissioner within fifteen days of such notice unless within fifteen days of the notice such person makes application in writing to the tax commissioner for a hearing under chapter 28-32 before the tax commissioner. The tax becomes delinquent if within fifteen days of the notice it is not paid or an application for a hearing is not made. Taxes assessed by decision of the tax commissioner pursuant to chapter 28-32, if not paid, become delinquent five days after the time for appeal from the tax commissioner's decision has expired, except that if an appeal from the tax commissioner's decision is taken to the district court of Burleigh County, such taxes if not paid become delinquent five days following final judicial determination.

Approved April 23, 2015
Filed April 23, 2015

MOTOR VEHICLES

CHAPTER 258

SENATE BILL NO. 2118

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact subsection 4 of section 39-01-15 of the North Dakota Century Code, relating to mobility impaired parking privilege applications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 39-01-15 of the North Dakota Century Code is amended and reenacted as follows:

4. The director may issue, for a fee of three dollars per year or part of a year, a special identifying certificate to any mobility-impaired applicant upon submission by the applicant of a completed application and a written or electronic statement issued by a qualified physician, physician assistant, chiropractor, or an advanced practice registered nurse to the director that the applicant is a mobility-impaired person within the criteria of subsection 2. The director shall waive the requirement for a written or electronic statement from a qualified physician, physician assistant, chiropractor, or an advanced practice registered nurse if the applicant has previously submitted an application containing a certification from a qualified physician, physician assistant, chiropractor, or an advanced practice registered nurse that the applicant's impairment is not reversible. The application must include the information required by the director. The physician's, physician assistant's, chiropractor's, or advanced practice registered nurse's statement must describe how the impairment limits the applicant's mobility and daily life functions of the applicant. The certificate is valid for a period, not to exceed three years, as determined by the director. A physician, physician assistant, chiropractor, or an advanced practice registered nurse who provides a false statement that an individual is mobility impaired for the purpose of that individual obtaining a certificate under this subsection is guilty of an infraction for which a minimum fine of one hundred dollars must be imposed. A certificate issued under this subsection must be nine and one-half inches [24.13 centimeters] in height and three inches [7.62 centimeters] in width and must bear, in white on blue, the internationally accepted symbol of access for the mobility impaired. The certificate must bear the expiration date and registration number assigned by the director. The director shall adopt rules governing the issuance of the certificate. A temporary certificate, valid for an initial period not to exceed three months, may be issued by the director for a fee of three dollars upon application supported by a physician's, physician assistant's, chiropractor's, or an advanced practice registered nurse's statement. The director may issue a maximum of one additional temporary certificate for a fee of three dollars. The temporary certificate may be extended an additional period, not to exceed three months, upon application supported

by a physician's, physician assistant's, chiropractor's, or an advanced practice registered nurse's statement that the extension is warranted. Temporary certificates must be the same size as other certificates issued under this section and must be white on red. The director may issue a maximum of one additional certificate, if the applicant does not have number plates issued under section 39-04-10.2 or under subdivision j of subsection 2 of section 39-04-18, for a fee of six dollars per certificate, to a mobility-impaired individual to whom a certificate has been issued under this subsection. The additional certificates may only be used by or on behalf of the mobility-impaired individual.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 259

HOUSE BILL NO. 1062

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System)

AN ACT to amend and reenact subsection 6 of section 39-03.1-01, sections 39-03.1-10.3 and 39-03.1-11.2, subsection 3 of section 39-03.1-14.1, subsection 1 of section 54-52-05, subsection 3 of section 54-52-17, subsection 1 of section 54-52-17.2, sections 54-52-17.14 and 54-52-28, subsection 1 of section 54-52.1-03, and sections 54-52.1-03.1, 54-52.1-03.4, 54-52.1-18, 54-52.6-09.4, and 54-52.6-21 of the North Dakota Century Code, relating to the highway patrolmen's retirement plan and the public employees retirement system defined benefit plan and defined contribution plan retirement benefits, health insurance plans, life insurance benefits, and employee assistance benefits coverage; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 39-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Salary" means the actual dollar compensation, excluding any bonus or overtime, or expense allowance, paid to or for a contributor for the contributor's services.

SECTION 2. AMENDMENT. Section 39-03.1-10.3 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-10.3. Military service under the Uniformed Services Employment and Reemployment Rights Act - Member retirement credit.

A member reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of qualified military service. The required contribution for the credit, including payment for retiree health benefits, must be made in the same manner and by the same party as would have been made had the employee been continuously employed. If the salary the member would have received during the period of service is not reasonably certain, the member's average rate of compensation during the twelve-month period immediately preceding the member's period of service or, if shorter, the period of employment immediately preceding that period, times the number of months of credit being purchased must be used. Employees must be allowed up to three times the period of military service or five years, whichever is less, to make any required payments. This provision applies to all qualifying periods of military service since October 1, 1994. Effective for years after December 31, 2008, compensation for purposes of Internal Revenue Code section 415 [26 U.S.C. 415], as amended, includes military differential wage payments, as defined in Internal Revenue Code section 3401(h) [26 U.S.C. 3401(h)], as amended. Any payments made by the member to receive qualifying credit inconsistent with this provision must be refunded. Employees shall make application to the employer for credit and provide a DD Form 214 to verify service. After December 31, 2006, if a participating member dies while

performing qualified military service, as defined in section 414(u)(5) of the Internal Revenue Code [26 U.S.C. 414(u)(5)], as amended, the deceased member's beneficiaries are entitled to any death benefits, other than credit for years of service for purposes of benefits, which would have been provided under the plan if the participating member had resumed employment and then terminated employment on account of death. The period of that member's qualified military service is treated as vesting service under the plan.

SECTION 3. AMENDMENT. Section 39-03.1-11.2 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-11.2. Internal Revenue Code compliance.

The board shall administer the plan in compliance with the following sections of the Internal Revenue Code, as amended, as it applies for governmental plans.

1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.
 - a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
 - b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.
 - c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. This reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.

3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

SECTION 4. AMENDMENT. Subsection 3 of section 39-03.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

3. Pursuant to rules adopted by the board, a member who has service credit in the system and in any of the alternate plans described in subdivision a or b of subsection 1 is entitled to benefits under this chapter. The employee may elect to have benefits calculated using the benefit formula in section 39-03.1-11 under either of the following calculation methods:
 - a. By using the final average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment in the highway patrolmen's retirement systems as calculated in section 39-03.1-11. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.
 - b. Using the final average of the highest salary received by the member for any thirty-six months during the last one hundred twenty months of employment as calculated in section 39-03.1-11, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

The board shall calculate benefits for an employee under this subsection by using only those years of service employment earned under this chapter.

SECTION 5. AMENDMENT. Subsection 1 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

1. Every eligible governmental unit participating political subdivision employee concurring in, at the time the political subdivision joins the plan must so state in writing if the employee concurs in the plan and all future eligible employees of the participating political subdivision are participating members in the plan and must be enrolled in the plan within the first month of employment. Except as otherwise provided by law, every other eligible governmental unit employee of a participating governmental unit is a participating member in the plan and must be enrolled in the plan within the first month of employment. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility, unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service. An employee who is eligible for normal retirement who

accepts a retirement benefit under this chapter and who subsequently becomes employed with a participating employer other than the employer with which the employee was employed at the time the employee retired under this chapter may, ~~before reenrolling~~being reenrolled in the retirement plan within the first month of employment, elect to permanently waive future participation in the retirement plan and the retiree health program and maintain that employee's retirement status. An employee making this election is not required to make any future employee contributions to the public employees retirement system nor is the employee's employer required to make any further contributions on behalf of that employee.

¹⁵⁰ **SECTION 6. AMENDMENT.** Subsection 3 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

3. Retirement dates are defined as follows:
 - a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:
 - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
 - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
 - b. Normal retirement date for a national guard security officer or firefighter is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment ~~as a national guard security officer or firefighter.~~
 - c. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
 - (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment ~~as a peace officer or correctional officer;~~ or
 - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
 - d. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
 - (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment ~~as a peace officer;~~ or

¹⁵⁰ Section 54-52-17 was also amended by section 27 of Senate Bill No. 2015, chapter 49, section 28 of Senate Bill No. 2015, chapter 49, and section 4 of Senate Bill No. 2102, chapter 424.

- (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- f. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- g. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:
- (1) Became disabled during the period of eligible employment; and
 - (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

SECTION 7. AMENDMENT. Subsection 1 of section 54-52-17.2 of the North Dakota Century Code is amended and reenacted as follows:

1. a. For the purpose of determining eligibility for benefits under this chapter, an employee's years of service credit is the total of the years of service credit

earned in the public employees retirement system and the years of service credit earned in any number of the following:

- (1) The teachers' fund for retirement.
- (2) The highway patrolmen's retirement system.
- (3) The teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF), for service credit earned while employed by North Dakota institutions of higher education.

Service credit may not exceed twelve months of credit per year.

- b. Pursuant to rules adopted by the board, an employee who has service credit in the system and in any of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter. The benefits of a temporary employee employed after July 31, 2015, must be calculated using the benefit formula in section 54-52-17. A permanent employee or a temporary employee employed before August 1, 2015, may elect to have benefits calculated using the benefit formula in section 54-52-17 under either of the following methods:

- (1) ~~The final average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment in the public employees retirement system as calculated in section 54-52-17.~~ If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.
- (2) ~~The final average of the highest salary received by the member for any thirty-six consecutive months during the last one hundred twenty months of as calculated in section 54-52-17 for employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.~~

The board shall calculate benefits for an employee under this subsection by using only those years of service credit earned under this chapter.

SECTION 8. AMENDMENT. Section 54-52-17.14 of the North Dakota Century Code is amended and reenacted as follows:

54-52-17.14. Military service under the Uniformed Services Employment and Reemployment Rights Act - Member retirement credit.

A member reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of qualified military service. The required contribution for the credit, including payment for retiree health benefits, must be made in the same manner and by the same party as would have been made had the employee been continuously employed. If the salary the member would have received during the period of service is not reasonably certain, the member's average rate of compensation during the twelve-month period immediately preceding the member's period of service or, if shorter, the period of employment immediately preceding that period, times the number of months of credit being purchased must be used. Employees must be allowed up to three times the

period of military service or five years, whichever is less, to make any required payments. This provision applies to all qualifying periods of military service since October 1, 1994. Effective for years after December 31, 2008, compensation for purposes of Internal Revenue Code section 415 [26 U.S.C. 415], as amended, includes military differential wage payments, as defined in Internal Revenue Code section 3401(h) [26 U.S.C. 3401(h)], as amended. Any payments made by the member to receive qualifying credit inconsistent with this provision must be refunded. Employees shall make application to the employer for credit and provide a DD Form 214 to verify service. If a participating member dies after December 31, 2006, while performing qualified military service, as defined in section 414(u)(5) [26 U.S.C. 414(u)(5)] of the Internal Revenue Code, as amended, the deceased member's beneficiaries are entitled to any death benefits, other than credit for years of service for purposes of benefits, that would have been provided under the plan if the participating member had resumed employment and then terminated employment on account of death. The period of such member's qualified military service is treated as vesting service under the plan.

SECTION 9. AMENDMENT. Section 54-52-28 of the North Dakota Century Code is amended and reenacted as follows:

54-52-28. Internal Revenue Code compliance.

The board shall administer the plan in compliance with the following sections of the Internal Revenue Code ~~in effect on August 1, 2013, as amended~~, as it applies for governmental plans.

1. Section 415, including the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code.
 - a. The defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as approved by the legislative assembly, must be adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session. The adjustment of the defined benefit dollar limitation under section 415(d) applies to participating members who have had a separation from employment, but that member's benefit payments may not reflect the adjusted limit prior to January first of the calendar year in which the adjustment applies.
 - b. If a participating member's benefit is increased by plan amendment after the commencement of benefit payments, the member's annual benefit may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted under section 415(d) for the calendar year in which the increased benefit is payable.
 - c. If a participating member is, or ever has been, a participant in another defined benefit plan maintained by the employer, the sum of the participant's annual benefits from all the plans may not exceed the defined benefit dollar limitation under section 415(b)(1)(A) of the Internal Revenue Code. If the participating member's employer-provided benefits under all such defined benefit plans would exceed the defined benefit dollar limitation, the benefit must be reduced to comply with section 415 of the Internal Revenue Code. The reduction must be made pro rata between the plans, in proportion to the participating member's service in each plan.

2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit requirements under section 401(a)(9)(G), and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).
4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

SECTION 10. AMENDMENT. Subsection 1 of section 54-52.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. If an eligible employee does not enroll in the uniform group insurance program at the time of beginning employment, in order to enroll at a later time the eligible employee must meet minimum requirements established by the board to enroll thereafter. An employing department may not require an active eligible employee to request coverage under the uniform group insurance program as a prerequisite to receive the minimum employer-paid life insurance benefits coverage or employee assistance program benefits coverage.

SECTION 11. AMENDMENT. Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution.

Alf eligible under federal law. a political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the board and a minimum period of participation of sixty months. If the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision shall make payment to the board in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the board. The Garrison Diversion

Conservancy District, and district health units required to participate in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same terms and conditions as state agencies. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this section, the retiree or surviving spouse must meet the minimum requirements established by the board. Each retiree or surviving spouse shall pay directly to the board the premiums in effect for the coverage then being provided. The board may require documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.

SECTION 12. AMENDMENT. Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.4. Temporary employees and employees on unpaid leave of absence.

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program if such election is made before January 1, 2015, and if the temporary employee is participating in the uniform group insurance program on January 1, 2015. ~~A temporary employee employed on or after August 1, 2007, is only eligible in order for a temporary employee employed after July 31, 2007, to qualify to participate in the uniform group insurance program if, the employee is must be employed at least twenty hours per week and; must be employed at least twenty weeks each year of employment; must make the election to participate before January 1, 2015; and must be participating in the uniform group insurance program as of January 1, 2015. A to be eligible to participate in the uniform group insurance program, a temporary employee first employed after December 31, 20132014, or any temporary employee not participating in the uniform group insurance program as of January 1, 2015, is eligible to participate in the uniform group insurance program only if the employee meets must meet the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)]. The Monthly the temporary employee or the temporary employee's employer shall pay monthly to the board the premiums in effect for the coverage being provided. In the case of a temporary employee who is an applicable taxpayer as defined in section 36B(c)(1)(A) of the Internal Revenue Code [26 U.S.C. 36B(c)(1)(A)], the temporary employee's required contribution for medical and hospital benefits self-only coverage may not exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)], and the employer shall pay any difference between the maximum employee required contribution for medical and hospital benefits self-only coverage and the cost of the premiums in effect for this coverage. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.~~

SECTION 13. AMENDMENT. Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-18. High-deductible health plan alternative with health savings account option.

1. The board shall develop and implement a high-deductible health plan as an alternative to the plan under section ~~54-52.1-06~~54-52.1-02. The high-deductible health plan alternative with a health savings account must be made available to state employees by January 1, 2012. ~~The~~After June 30, 2015, at the board's discretion, the high-deductible health plan alternative may be offered, ~~at the discretion of the board,~~ to political subdivisions ~~after June 30, 2013~~for coverage of political subdivision employees. If a political subdivision elects this high-deductible option the political subdivision may not offer the plan under section 54-52.1-02.
2. Health savings account fees for participating state employees must be paid by the employer. Subject
 - a. Except as provided in subdivision b, subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 233(b)], the difference between the cost of the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee.
 - b. If the public employees retirement system is unable to establish a health savings account due to the employee's ineligibility under federal or state law or due to failure of the employee to provide necessary information in order to establish the account, the system is not responsible for depositing the health savings account contribution. The member will remain a participant in the high-deductible health plan regardless of whether a health savings account is established.
3. Each new state employee of a participating employer under this section must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the board shall have provide an open enrollment period allowing existing state employees of a participating employer under this section ~~or a political subdivision~~ to change their coverage.

SECTION 14. AMENDMENT. Section 54-52.6-09.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-09.4. Military service under the Uniformed Services Employment and Reemployment Rights Act - Member retirement credit.

A member reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4333], is entitled to receive retirement credit for the period of qualified military service. The required contribution for the credit, including payment for retiree health benefits, must be made in the same manner and by the same party as would have been made had the employee been continuously employed. If the salary the member would have received during the period of service is not reasonably certain, the member's average rate of compensation during the twelve-month period immediately preceding the member's period of service or, if shorter, the period of employment immediately preceding that period, times the number of months of credit being purchased must be used. Employees must be allowed up to three times the period of military service or five years, whichever is less, to make any required

payments. This provision applies to all qualifying periods of military service since October 1, 1994. Effective for years after December 31, 2008, compensation for purposes of Internal Revenue Code section 415 [26 U.S.C. 415], as amended, includes military differential wage payments, as defined in Internal Revenue Code section 3401(h) [26 U.S.C. 3401(h)], as amended. Any payments made by the member to receive qualifying credit inconsistent with this provision must be refunded. Employees shall make application to the employer for credit and provide a DD Form 214 to verify service. After December 31, 2006, if a participating member dies while performing qualified military service, as defined in section 414(u)(5) of the Internal Revenue Code [26 U.S.C. 414(u)(5)], as amended, the deceased member's beneficiaries are entitled to any death benefits, other than credit for years of service for purposes of benefits, which would have been provided under the plan if the participating member had resumed employment and then terminated employment on account of death. The period of that member's qualified military service is treated as vesting service under the plan.

SECTION 15. AMENDMENT. Section 54-52.6-21 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-21. Internal Revenue Code compliance.

The board shall administer the plan in compliance with the following sections of the Internal Revenue Code in effect on August 1, 2013, as amended, as they apply to governmental plans:

1. Section 415, including the defined contribution limitations under section 415(c)(1)(A) and (B) of the Internal Revenue Code and the Treasury Regulations thereunder, which are incorporated herein by reference.
 - a. In accordance with the defined contribution limitations under section 415(c) of the Internal Revenue Code, annual additions (as defined in section 415(c)(2) of the Internal Revenue Code) under this plan may not exceed the limitations set forth in section 415(c)(1)(A) and (B), as adjusted under section 415(d) of the Internal Revenue Code, effective January first of each year following a regular legislative session.
 - b. If a participating member's aggregate annual additions exceed the defined contribution limitations under section 415(c) of the Internal Revenue Code, the member's annual additions must be reduced to the extent necessary to comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder.
2. The minimum distribution rules under section 401(a)(9) of the Internal Revenue Code and the regulations issued under that provision to the extent applicable to governmental plans. Accordingly, benefits must be distributed or begin to be distributed no later than a member's required beginning date, and the required minimum distribution rules override any inconsistent provision of this chapter. A member's required beginning date is April first of the calendar year following the later of the calendar year in which the member attains age seventy and one-half or terminates employment.
3. The annual compensation limitation under section 401(a)(17) of the Internal Revenue Code, as adjusted for cost-of-living increases under section 401(a)(17)(B).

4. The rollover rules under section 401(a)(31) of the Internal Revenue Code. Accordingly, a distributee may elect to have an eligible rollover distribution, as defined in section 402(c)(4) of the Internal Revenue Code, paid in a direct rollover to an eligible retirement plan, as defined in section 402(c)(8)(B) of the Internal Revenue Code, specified by the distributee.
5. If the plan of retirement benefits set forth in this chapter is terminated or discontinued, the rights of all affected participating members to accrued retirement benefits under this chapter as of the date of termination or discontinuance is nonforfeitable, to the extent then funded.

SECTION 16. RETROACTIVE APPLICATION. Sections 2, 8, and 14 are retroactive in application.

Approved March 26, 2015
Filed March 26, 2015

CHAPTER 260

SENATE BILL NO. 2117

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to repeal section 39-04-09.1 of the North Dakota Century Code, relating to Lewis and Clark license plates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 39-04-09.1 of the North Dakota Century Code is repealed.

Approved March 13, 2015
Filed March 13, 2015

CHAPTER 261

SENATE BILL NO. 2142

(Senators Mathern, Dever, Marcellais)
(Representatives Fehr, Wallman, Bellew)

AN ACT to create and enact a new subdivision to subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to a purple heart recipient exemption from motor vehicle registration fees; and to amend and reenact section 39-04-10.10 of the North Dakota Century Code, relating to veterans' number plates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-10.10 of the North Dakota Century Code is amended and reenacted as follows:

39-04-10.10. North Dakota veterans' number plates.

1. The director may issue distinctive number plates to individuals eligible for interment in the North Dakota veterans' cemetery. The director shall issue a number plate under this section upon receiving:
 - a. Payment of all other fees required under this chapter for registration of a motor vehicle;
 - b. Payment of an initial fee of fifteen dollars of which ten dollars is to be deposited in the highway tax distribution fund and five dollars is to be deposited in the veterans' cemetery maintenance fund unless for a plate issued to a veteran who has been awarded the purple heart, then there is not an initial fee; and
 - c. Verification of subsequent payments of an annual surcharge of ten dollars paid to the adjutant general unless for a plate issued to a veteran who has been awarded the purple heart, then there is not an annual surcharge.
2. The department shall collect the fees and the ten dollar surcharge under this section. The department shall report to the legislative assembly on the funds collected under this section during each legislative session. The department shall pay the funds collected under subdivisions b and c of subsection 1 to the adjutant general monthly, who then, within ten days of receipt of the funds, shall deposit five dollars of each initial fee in the veterans' cemetery maintenance fund and the ten dollar surcharge shall be divided with five dollars being deposited in the veterans' cemetery trust fund and five dollars being deposited in the veterans' cemetery maintenance fund in the state treasury. Investment of the fund is the responsibility of the state treasurer who shall have full authority to invest the fund only in the same manner as the state investment board is authorized to make investments. At the request of the adjutant general, the interest in the veterans' cemetery trust fund must be deposited in the veterans' cemetery maintenance fund for the purpose of funding salaries and maintenance of the veterans' cemetery.

3. The veterans' cemetery trust fund may accept funds from private and federal sources.

¹⁵¹ **SECTION 2.** A new subdivision to subsection 2 of section 39-04-18 of the North Dakota Century Code is created and enacted as follows:

Motor vehicles not exceeding twenty-six thousand pounds [11793.40 kilograms] registered gross weight owned and operated by a veteran who was awarded the purple heart is entitled to a distinctive license plate issued by the department. This exemption applies to one motor vehicle owned by a veteran who was awarded the purple heart.

Approved March 13, 2015
Filed March 13, 2015

¹⁵¹ Section 39-04-18 was also amended by section 2 of House Bill No. 1360, chapter 262.

CHAPTER 262

HOUSE BILL NO. 1360

(Representatives Meier, Fehr, Karls, Lefor, Owens, Porter, Steiner, Toman, Trottier)
(Senators Carlisle, Oehlke)

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to patriotic number plates; to amend and reenact subdivision j of subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to disabled veteran motor vehicle registration; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-04 of the North Dakota Century Code is created and enacted as follows:

Patriotic number plates.

1. The director shall issue patriotic plates under this section upon receiving:
 - a. Payment of all other fees required under this chapter for registration of a motor vehicle;
 - b. Payment of an initial fee of twenty-five dollars of which twenty dollars is deposited in the highway tax distribution fund and five dollars is deposited in the veterans' postwar trust fund; and
 - c. Payment of an annual surcharge of twenty-five dollars of which ten dollars is deposited in the highway tax distribution fund and fifteen dollars is deposited in the veterans' postwar trust fund.
2. The department shall collect the initial fees and the annual surcharges under this section. Deposits in the veterans' postwar trust fund under this section must be added to the principal of the fund. Investment of the fund is the responsibility of the state treasurer who shall have full authority to invest the fund only in the same manner as the state investment board is authorized to make investments.
3. Patriotic plates must include a flag of the United States decal plate, bald eagle decal plate, or boonie stomper decal plate.

¹⁵² **SECTION 2. AMENDMENT.** Subdivision j of subsection 2 of section 39-04-18 of the North Dakota Century Code is amended and reenacted as follows:

- j. Motor vehicles not exceeding twenty-six thousand pounds [11793.40 kilograms] registered gross weight owned and operated by a disabled veteran under the provisions of Public Law 79-663 [38 U.S.C. 3901], a disabled veteran who has a one hundred percent service-connected

¹⁵² Section 39-04-18 was also amended by section 2 of Senate Bill No. 2142, chapter 261.

disability as determined by the department of veterans' affairs, or a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs is entitled to display either a distinctive license plate or a standard plate that does not identify the veteran as a veteran or disabled veteran which is issued by the department. This exemption applies to no more than two such motor vehicles owned by a disabled veteran at any one time. A surviving spouse of a disabled veteran who has not remarried and who is receiving department of veterans' affairs dependency and indemnity compensation retains the exemption of the deceased veteran who qualified under this subdivision for one vehicle.

SECTION 3. EFFECTIVE DATE. This Act becomes effective for the issuance of United States flag and bald eagle plates on July 1, 2017, and for the issuance of boonie stomper plates on August 1, 2016.

Approved April 22, 2015

Filed April 22, 2015

CHAPTER 263

SENATE BILL NO. 2211

(Senators Hogue, Campbell, Klein, Miller)
(Representative Ruby)

AN ACT to amend and reenact subsection 2 of section 39-06.1-06 and section 39-08-20 of the North Dakota Century Code, relating to the offense of driving without liability insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

2. For a moving violation as defined in section 39-06.1-09, a fee of twenty dollars, except for:
 - a. A violation of section 39-10-26, 39-10-26.2, 39-10-41, or 39-10-42, a fee of fifty dollars.
 - b. A violation of section 39-10-05 involving failure to yield to a pedestrian or subsection 1 of section 39-10-28, a fee of fifty dollars.
 - c. A violation of section 39-21-41.2, a fee of twenty-five dollars.
 - d. A violation of subsection 1 of section 39-12-02 or section 39-08-23, a fee of one hundred dollars.
 - e. A violation of subdivision d of subsection 1 of section 39-12-04, a fee of one hundred dollars.
 - f. A violation of subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, a fee of one hundred dollars.
 - g. A violation of subsection 2 of section 39-10-21.1, a fee of two hundred fifty dollars.
 - h. A violation of section 39-10-59, a fee of one hundred dollars.
 - i. A violation of section 39-09-01, a fee of thirty dollars.
 - j. A violation of section 39-09-01.1, a fee of thirty dollars.
 - k. A violation of section 39-10-46 or 39-10-46.1, a fee of one hundred dollars.
 - l. A violation of subsection 1 of section 39-08-20, one hundred fifty dollars for a first violation and three hundred dollars for a second or subsequent violation in three years.

¹⁵³ **SECTION 2. AMENDMENT.** Section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

39-08-20. Driving without liability insurance prohibited - Penalty.

1. A person may not drive, or the owner may not cause or knowingly permit to be driven, a motor vehicle in this state without a valid policy of liability insurance in effect in order to respond in damages for liability arising out of the ownership, maintenance, or use of that motor vehicle in the amount required by chapter 39-16.1.
2. Upon being stopped by a law enforcement officer for the purpose of enforcing or investigating the possible violation of an ordinance or state law, the person driving the motor vehicle shall provide to the officer upon request satisfactory evidence, including written or electronic proof of insurance, of the policy required under this section. If unable to comply with the request, that person may be charged with a violation of this section. If that person produces satisfactory evidence, including written or electronic proof of insurance, of a valid policy of liability insurance in effect at the time of the alleged violation of this section to the office of the court under which the matter will be heard, that person may not be convicted or assessed any administration fee for found in violation of subsection 1.
3. Notwithstanding section 26.1-30-18, a person may be ~~convicted in violation of subsection 1~~ for failure to have a valid policy of liability insurance in effect under this section if the time of acquisition of the policy was after the time of the alleged incidence of driving without liability insurance. If the time of acquisition of the policy comes into question, the driver or owner has the burden of establishing the time of acquisition. If the driver is not an owner of the motor vehicle, the driver does not violate this section if the driver provides the court with evidence identifying the owner of the motor vehicle and describing circumstances under which the owner caused or permitted the driver to drive the motor vehicle.
4. ~~Violation of subsection 1 is an infraction and the sentence imposed must include a fine of at least one hundred fifty dollars which may not be suspended. A person convicted for a second or subsequent violation of driving without liability insurance within a three-year period must be fined at least three hundred dollars which may not be suspended. For a second or subsequent conviction for a violation of subsection 1 or equivalent ordinance, the court shall order the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the court. The person shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office of the police officer that made the arrest and notify the department of the order. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.~~
5. ~~Upon conviction for~~ For a violation of subsection 1 or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically

¹⁵³ Section 39-08-20 was also amended by section 1 of House Bill No. 1391, chapter 269.

transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of three years and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.

6. A person who has ~~been convicted for violation of~~ violated subsection 1 or equivalent ordinance shall surrender that person's operator's license and purchase a duplicate operator's license with a notation requiring that person to keep proof of liability insurance on file with the department. The fee for this license is fifty dollars and the fee to remove this notation is fifty dollars.
7. When an insurance carrier has certified a motor vehicle liability policy, the insurance carrier shall notify the director no later than ten days after cancellation or termination of the certified insurance policy by filing a notice of cancellation or termination of the certified insurance policy; except that a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

Approved March 13, 2015

Filed March 13, 2015

CHAPTER 264

SENATE BILL NO. 2166

(Senators Oehlke, Armstrong)

AN ACT to create and enact paragraph 40 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to entries against driving records; and to amend and reenact sections 39-06.1-05 and 39-06.1-09, subdivision b of subsection 3 of section 39-06.1-10, and sections 39-07-09 and 39-21-45.1 of the North Dakota Century Code, relating to authorized procedures for traffic violations, definitions of moving violations, entries against driving records, discretion for release upon promise to appear, and modified vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-05. Offenses excepted.

The procedures authorized under sections 39-06.1-02 and 39-06.1-03 may not be utilized by a person charged with one of the following offenses:

1. Driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance.
2. Reckless driving or aggravated reckless driving in violation of section 39-08-03, or an equivalent ordinance.
3. A violation of chapter 12.1-16 resulting from the operation of a motor vehicle.
4. Leaving the scene of an accident in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances.
5. Driving while license or driving privilege is suspended or revoked in violation of section 39-06-42, or an equivalent ordinance.
6. Violating subdivision b or c of subsection 5 of section 39-24-09.
7. ~~Operating a modified motor vehicle in violation of section 39-21-45.1.~~
8. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.
- 9.8. Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26.

SECTION 2. AMENDMENT. Section 39-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-09. Moving violation defined.

For the purposes of sections 39-06.1-06 and 39-06.1-13, a "moving violation" means a violation of section 39-04-22, subsection 1 of section 39-04-37, section 39-04-55, 39-06-01, 39-06-14, 39-06-14.1, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 39-09-01, 39-09-01.1, 39-09-04.1, or 39-09-09, subsection 1 of section 39-12-02, section 39-12-04, 39-12-05, 39-12-06, 39-12-09, 39-21-45.1, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5 of section 39-24-09, or equivalent ordinances; or a violation of the provisions of chapter 39-10, 39-10.2, or 39-21, or equivalent ordinances, except subsection 5 of section 39-10-26, ~~sections~~section 39-21-44, ~~and 39-21-45.1~~, subsections 2 and 3 of section 39-21-46, and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

SECTION 3. Paragraph 40 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

(40) Driving a modified motor vehicle in violation 1 point of section 39-21-45.1, or equivalent ordinance

SECTION 4. AMENDMENT. Subdivision b of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

b. Criminal Violations	Points Assigned:
Conviction of:	
(1) Reckless driving in violation of section 39-08-03, or equivalent ordinance	8 points
(2) Aggravated reckless driving in violation of section 39-08-03, or equivalent ordinance	12 points
(3) Leaving the scene of an accident damage in violation of section 39-08-05, 39-08-07, or 39-08-08, or equivalent ordinances	14 points
(4) Leaving the scene of an accident involving personal injury or death in violation of section 39-08-04, or equivalent ordinance	18 points
(5) Violating restrictions in a restricted license issued under section 39-06-17 and relating to the use of eyeglasses or contact lenses while driving	3 points
(6) Violating any restrictions other than those listed in paragraph 5, contained in a restricted license issued under section 39-06-17 or 39-06.1-11	4 points
(7) Knowingly driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance	2 points

(8)	Except as provided in paragraph 9 of knowingly operating an unsafe vehicle in violation of section 39-21-46, or equivalent ordinance	2 points
(9)(8)	Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance	24 points
(10)(9)	Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26, or equivalent ordinance	2 points
(11)(10)	Driving in violation of the conditions of an instruction permit	2 points

SECTION 5. AMENDMENT. Section 39-07-09 of the North Dakota Century Code is amended and reenacted as follows:

39-07-09. Offenses under which person halted may not be entitled to release upon promise to appear.

Section 39-07-07 does not apply to a person if:

1. The halting officer has good reason to believe the person guilty of any felony or if the person is halted and charged with an offense listed in section 39-06.1-05 but not listed in subsection 2; or
2. The halting officer, acting within the officer's discretion, determines that it is inadvisable to release the person upon a promise to appear and if the person has been halted and charged with any of the following offenses:
 - a. Reckless driving.
 - b. Driving in excess of speed limitations established by the state or by local authorities in their respective jurisdictions.
 - c. Driving while license or driving privilege is suspended or revoked for violation of section 39-06-42, or an equivalent ordinance.
 - d. ~~Operating a modified vehicle.~~
 - e. Driving without liability insurance in violation of section 39-08-20.
 - f.e. Failing to display a placard or flag, in violation of any rule implementing section 39-21-44, while transporting explosive or hazardous materials.
 - g.f. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.

The halting officer forthwith shall take any person not released upon a promise to appear before the nearest or most accessible magistrate.

SECTION 6. AMENDMENT. Section 39-21-45.1 of the North Dakota Century Code is amended and reenacted as follows:

39-21-45.1. Modification of motor vehicle.

1. ~~Except as otherwise provided in this section, a person may not operate upon a public highway a motor vehicle of a type required to be registered under the laws of this state with a weight of seven thousand pounds [3175.14 kilograms] or less with alterations or changes from the manufacturer's original design of the suspension, steering, or braking system of the motor vehicle. The weight must be computed on the basis of the unmodified and unloaded weight of the motor vehicle and without regard to any ballast that may be placed in the vehicle.~~

~~As to bumpers, motor vehicle height, and permitted modifications, the following requirements also apply:~~

1. ~~The motor vehicle must be equipped with front and rear bumpers.~~
2. ~~The maximum body height permitted for the motor vehicle is forty-two inches [106.68 centimeters]. Measurement of body height is made from a level ground surface to the floor of the cargo area.~~
3. ~~The maximum bumper height permitted is twenty-seven inches [68.58 centimeters]. Measurement of bumper height is made from a level ground surface to the highest point on the bottom of the bumper.~~
4. ~~The~~An individual who operates a registered motor vehicle on a highway may not modify that vehicle may be modified in accordance with the following unless the modification meets the following requirements:
 - a. ~~Any modifying equipment must meet specialty equipment marketing association standards~~any other requirement applicable to a vehicle under chapter 39-21.
 - b. ~~If tires placed on a motor vehicle have a diameter greater than that of the tires on the motor vehicle as manufactured, those tires must comply~~be branded with department of transportation requirementsa United States department of transportation tire identification number.
 - c. ~~The maximum outside diameter permitted for tires is forty-four inches [111.76 centimeters].~~The maximum body height permitted for a motor vehicle is forty-two inches [106.68 centimeters]. Measurement of body height is made from a level ground surface to the floor of the cargo area.
 - d. ~~A horizontal drop bumper may be used to comply with the bumper height requirement of subsection 3. The horizontal bumper must:~~
 - (1) ~~Be at least three inches [7.62 centimeters] in vertical width;~~
 - (2) ~~Extend the entire horizontal body width; and~~
 - (3) ~~Be horizontal, load bearing, and attached to the vehicle frame to effectively transfer impact when engaged.~~

- e. ~~The maximum lift permitted in the suspension system is four inches [10.16 centimeters].~~
- 5. ~~A person charged with violating this section has the burden of proceeding to show that the modifications are permitted under this section.~~
- 2. An individual may not operate a registered motor vehicle on a highway unless the motor vehicle is equipped with front and rear bumpers. The height of the bumper must not exceed twenty-seven inches [68.58 centimeters] and this measurement is made from a level ground surface to the highest point on the bottom of the bumper. A horizontal drop bumper may be used to comply with this subsection and must be at least three inches [7.62 centimeters] in vertical width; extend the entire horizontal body width; and be horizontal, load bearing, and attached to the vehicle frame to effectively transfer impact when engaged.
- 6.3. Vehicles owned by law enforcement agencies, the military, firefighting agencies, and ambulances may be modified without regard to this section.
- 7.4. The director may adopt rules to implement this section.

Approved April 23, 2015

Filed April 23, 2015

CHAPTER 265

SENATE BILL NO. 2112

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to create and enact a new subsection to section 39-06.1-10 of the North Dakota Century Code, relating to the disqualification of foreign commercial drivers; to amend and reenact section 39-06.2-02 and subsection 1 of section 39-06.2-06 of the North Dakota Century Code, relating to the definitions relating to commercial driver's licenses and to exceptions for commercial driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.
2. "Alcohol concentration" means:
 - a. The number of grams of alcohol per one hundred milliliters of blood;
 - b. The number of grams of alcohol per two hundred ten liters of breath; or
 - c. The number of grams of alcohol per sixty-seven milliliters of urine.
3. "Commercial learner's permit" means a permit issued under subsection 4 of section 39-06.2-07.
4. "Commercial driver's license" means a license issued under this chapter which authorizes an individual to drive a class of commercial motor vehicle.
5. "Commercial driver's license information system" means the information system established under the Commercial Motor Vehicle Safety Act to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
6. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property:
 - a. If the gross combination weight rating or gross combination weight is twenty-six thousand one pounds [11793.86 kilograms] or more, whichever is greater, provided the towed unit has a gross vehicle weight rating or gross vehicle weight of more than ten thousand pounds [4536 kilograms], whichever is greater;

- b. If the vehicle has a gross vehicle weight rating or gross vehicle weight of more than twenty-six thousand pounds [11793.40 kilograms], whichever is greater;
 - c. If the vehicle is designed to transport sixteen or more passengers, including the driver; or
 - d. If the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR part 172, subpart F or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
7. "Controlled substance" means any substance so classified under section 802(6) of the Controlled Substances Act [21 U.S.C. 802(6)], and includes all substances listed on schedules I through V, of 21 CFR part 1308, as they may be revised from time to time.
8. "Conviction" means an unvacated adjudication of guilt, or a determination that an individual has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the individual's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
9. "Covered farm vehicle" means a straight truck or articulated vehicle:
- a. Registered in a state with a licensed plate or other designation issued by the state of registration which allows law enforcement officials to identify it as a farm vehicle;
 - b. Operated by the owner or operator of a farm or ranch or an employee or family member of an owner or operator of a farm or ranch;
 - c. Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch; and
 - d. Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of subdivisions a, b, and c of this subsection by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement.
 - e. Meeting the requirements of subdivisions a, b, c, and d of this subsection:
 - (1) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, of twenty-six thousand one pounds [11793.86 kilograms] or less may utilize the exemptions in 40 CFR 390.39 anywhere in the United States; or
 - (2) With a gross vehicle weight or gross vehicle weight rating, whichever is greater, or more than twenty-six thousand one pounds [11793.86 kilograms] may utilize the exemptions in 40 CFR 390.39 anywhere in the state of registration or across the state lines within one hundred fifty air miles of the farm or ranch with respect to which the vehicle is being operated.

10. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.
- ~~40-11.~~ "Downgrade" means:
- a. A state allows the driver to change the driver's self-certification to interstate, but operating exclusively in transportation or operation excepted from 49 CFR part 391, as provided in 390.3(f), 391.2, 391.68, or 398.3;
 - b. A state allows the driver to change the driver's self-certification to intrastate only, if the driver qualifies under the state's physical qualification requirements for intrastate only;
 - c. A state allows the driver to change the driver's certification to intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver's qualification; or
 - d. A state removes the commercial driver's license privilege from the driver's license.
- ~~44-12.~~ "Drive" means to drive, operate, or be in physical control of a motor vehicle.
- ~~42-13.~~ "Driver" means an individual who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
- ~~43-14.~~ "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.
- ~~44-15.~~ "Drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and includes any controlled substance.
- ~~45-16.~~ "Electronic device" includes a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.
- ~~46-17.~~ "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an individual to drive a commercial motor vehicle.
- ~~47-18.~~ "Fatality" means the death of an individual as a result of a motor vehicle accident.
- ~~48-19.~~ "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.
20. "Foreign commercial driver" means an individual licensed to operate a commercial motor vehicle by an authority outside the United States or a citizen of a foreign country who operates a commercial motor vehicle in the United States.
- ~~49-21.~~ "Foreign jurisdiction" means any jurisdiction other than a state of the United States.

- 20-22. "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination or articulated vehicle. The gross vehicle weight rating of a combination or articulated vehicle, commonly referred to as the "gross combination weight rating", is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating or actual weight of the towed unit or units.
- 21-23. "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.
- 22-24. "Imminent hazard" means the existence of a condition ~~that presents a substantial of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood that death, of serious illness, severe personal injury, or death if not discontinued immediately or a condition relating to hazardous materials which presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial~~ endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury, or endangerment.
- 23-25. "Mobile telephone" means a mobile communication device that falls under or uses any commercial mobile radio service, as defined in regulations of the federal communications commission in 47 CFR 20.3. The term does not include two-way and citizens band radio services.
- 24-26. "Motor vehicle" means every vehicle that is self-propelled, and every vehicle that is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except vehicles moved solely by human power and motorized wheelchairs.
- 25-27. "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle.
- 26-28. "Nondomiciled commercial driver's license" means a commercial driver's license or a commercial learner's permit issued by a state to an individual domiciled in a foreign country meeting the requirements of 49 CFR 383.23(b) (1).
- 27-29. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.
- 28-30. "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
- a. Excessive speeding, involving a single charge of any speed fifteen miles [24.14 kilometers] per hour or more, above the posted speed limit;
 - b. Reckless driving, as defined under section 39-08-03 or local ordinance, including charges of driving a commercial motor vehicle in willful or wanton disregard for the safety of an individual or property, improper or erratic traffic lane changes, or following the vehicle ahead too closely;

- c. A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
- d. Driving a commercial motor vehicle without obtaining a commercial driver's license or commercial learner's permit;
- e. Driving a commercial motor vehicle without a commercial driver's license or commercial learner's permit in the driver's possession. An individual who provides proof to the enforcement authority that issued the citation, by the date the individual must appear in court or pay a fine for such violation, that the individual held a valid commercial driver's license or commercial learner's permit on the date the citation was issued, is not guilty of this offense;
- f. Driving a commercial motor vehicle without the proper class of commercial driver's license, endorsement, or commercial learner's permit, for the specific vehicle group being operated or for the passengers or type of cargo being transported;
- g. Violating a state or local law or ordinance prohibiting texting while driving; or
- h. Violating a state law or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand-held mobile telephone while driving a commercial motor vehicle.

29-31. "State" means a state of the United States or the District of Columbia.

30-32. "Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within one or more tanks having an individual rated capacity of more than one hundred nineteen gallons [450.46 liters] and an aggregate rated capacity of one thousand gallons [3785.41 liters] or more that is either permanently or temporarily attached to the vehicle or the chassis. A commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons [3785.41 liters] or more that is temporarily attached to a flatbed trailer is not considered a tank vehicle.

34-33. "Texting" means manually entering alphanumeric text into, or reading text from, an electronic device. This action includes short message service, e-mailing, instant messaging, a command or request to access a worldwide web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone or engaging in any other form of electronic text retrieval or entry, for present or future communication. "Texting" does not include:

- a. Pressing a single button to initiate or terminate a voice communication using a mobile telephone;
- b. Inputting, selecting, or reading information on a global positioning system or navigation system; or
- c. Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smartphones, citizens' band

radios, or music players, for a purpose that is not otherwise prohibited in 49 CFR part 383.

~~32-34.~~ "Third-party skills test examiner" means an individual employed by a third-party tester who is authorized by the state to administer the skills tests in 49 CFR part 383, subparts G and H.

~~33-35.~~ "Third-party tester" means a person, including another state, a motor carrier, a private driver training facility or other private institution, or a political subdivision authorized by the state to employ skills test examiners to administer the skills tests in 49 CFR part 383, subparts G and H.

~~34-36.~~ "United States" means the fifty states and the District of Columbia.

~~35-37.~~ "Use a hand-held mobile telephone" means using at least one hand to hold a mobile telephone to conduct a voice communication; dialing or answering a mobile telephone by pressing more than a single button; or reaching for a mobile telephone in a manner that requires a driver to maneuver so that the driver is no longer in a seated driving position, restrained by a seatbelt that is installed under 49 CFR 393.93 and adjusted in accordance with the vehicle manufacturer's instructions.

SECTION 2. AMENDMENT. Subsection 1 of section 39-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Except when driving under a commercial learner's permit and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, an individual may not drive a commercial motor vehicle on the highways of this state unless the individual holds and is in immediate possession of a commercial driver's license with applicable endorsements valid for the vehicle the individual is driving. This subsection does not apply:
 - a. When the vehicle being driven is a house car or a vehicle towing a travel trailer being used solely for personal rather than commercial purposes.
 - b. When the vehicle being driven constitutes emergency or firefighting equipment necessary to the preservation of life or property.
 - c. When the vehicle is being driven for military purposes, subject to any limitations imposed by 49 CFR part 383.3(c).
 - d. When the vehicle being driven is a covered farm vehicle as defined in this chapter.

SECTION 3. A new subsection to section 39-06.2-10 of the North Dakota Century Code is created and enacted as follows:

A foreign commercial driver is subject to disqualification under this section.

Approved March 13, 2015

Filed March 13, 2015

CHAPTER 266

HOUSE BILL NO. 1121

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact section 39-06.2-07 of the North Dakota Century Code, relating to commercial driver's license qualification standards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-07. Commercial driver's license qualification standards.

1. An individual may not be issued a commercial driver's license unless that individual is a resident of this state; has passed a knowledge and skills test; including that may include a skills test administered by another state or skill test results electronically submitted by another state, for driving a commercial motor vehicle which complies with minimum federal standards established by federal regulations enumerated in 49 CFR part 383, subparts G and H; and has satisfied all other requirements of state and federal law, including the Commercial Motor Vehicle Safety Act. The tests must be prescribed and conducted by the director. The applicant shall pay the fee listed in section 39-06.2-19 for each of the tests.
2. The director may authorize third-party testing, if:
 - a. The test is the same as that which would otherwise be administered by this state; and
 - b. The third party has entered an agreement with this state which complies with requirements of 49 CFR part 383.75.
3. The director may waive the skills test specified in this section for a commercial driver's license applicant who meets the requirements of 49 CFR part 383.77.
4. A commercial driver's license or commercial learner's permit may not be issued to an individual while the individual is subject to a disqualification from driving a commercial motor vehicle or while the individual's driver's license is suspended, revoked, or canceled in any state. A commercial driver's license may not be issued to an individual who has a commercial driver's license issued by any other state unless the individual first surrenders all licenses from other states. The director shall notify the issuing state of the surrender of the license.
5. An individual who has been a resident of this state for thirty days may not drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

6. a. A commercial learner's permit may be issued to an individual who holds a valid class D operator's license who has passed the vision and written tests required for an equivalent commercial driver's license.
- b. The commercial learner's permit may not be issued for a period to exceed one hundred eighty days. ~~Only one renewal or reissuance may be granted within a two-year period. The commercial learner's permit may be renewed for an additional one hundred eighty days without requiring the individual to retake the knowledge test. After this initial period, the~~ director may issue a letter of authority that authorizes the applicant to drive to a driver's license office, complete the road test, and return home. ~~The director may issue the letter of authority if all allowable permits have been issued, or the individual may retake the knowledge test and be issued another commercial learner's permit valid for one hundred eighty days.~~ The holder of a permit, unless otherwise disqualified, may drive a commercial motor vehicle only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. A holder of a permit is not eligible for a license until that individual has had the permit issued for at least fourteen days.

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 267

SENATE BILL NO. 2154

(Senators Armstrong, Casper, Hogue)
(Representatives Klemin, Maragos, Schatz)

AN ACT to amend and reenact subsection 5 of section 39-08-01 and section 39-08-01.4 of the North Dakota Century Code, relating to sentencing for driving while under the influence of alcohol or drugs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵⁴ **SECTION 1. AMENDMENT.** Subsection 5 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

5. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection. For purposes of this subsection, unless the context otherwise requires, "drug court program" means a district court-supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and chemical addiction treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug courts and the drug court program.
 - a. (1) For a first offense, the sentence must include both a fine of at least five hundred dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
 - (2) In addition, for a first offense when the convicted person has an alcohol concentration of at least sixteen one-hundredths of one percent by weight, the offense is an aggravated first offense and the sentence must include a fine of at least seven hundred fifty dollars and at least two days' imprisonment.
 - b. For a second offense within seven years, the sentence must include at least ten days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand five hundred dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least twelve months' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
 - c. For a third offense within seven years, the sentence must include at least one hundred twenty days' imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; at least one year's supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.

¹⁵⁴ Section 39-08-01 was also amended by section 6 of Senate Bill No. 2052, chapter 268.

- d. For a fourth or subsequent offense, the sentence must include at least one year and one day's imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed treatment program; at least two years' supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
- e. The imposition of sentence under this section may not be deferred under subsection 4 of section 12.1-32-02 for an offense subject to this section.
- f. If the offense is subject to subdivision a or b, a municipal court or district court may not suspend a sentence, but may convert each day of a term of imprisonment to ten hours of community service for an offense subject to paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district court may suspend a sentence, except for sixty days' imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation ~~and upon completion of the twenty-four seven sobriety program~~. If the offense is subject to subdivision d, the district court may suspend a sentence, except for one year's imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the defendant is found to be in need of alcohol and substance abuse treatment and rehabilitation, the district court may order the defendant placed under the supervision and management of the department of corrections and rehabilitation and is subject to the conditions of probation under section 12.1-32-07. The district court may require the defendant to complete alcohol and substance abuse treatment and rehabilitation under the direction of the drug court program as a condition of probation in accordance with rules adopted by the supreme court. If the district court finds that a defendant has failed to undergo an evaluation or complete treatment or has violated any condition of probation, the district court shall revoke the defendant's probation and shall sentence the defendant in accordance with this subsection.
- g. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this section.
- h. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program under subdivision g of subsection 1 of section 12.1-32-02 and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.
- i. If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the individual in an alcohol treatment program designated by the department.

Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to begin the court-ordered period of probation. If there is not any court-ordered period of probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation, which and the terms and conditions must include participation in the twenty-four seven sobriety program and any terms and conditions of probation previously imposed by the court. Probation under this subsection may include placement in another facility or treatment program. If an individual is placed in another facility or treatment program after release from imprisonment, the remainder of the individual's sentence of imprisonment must be considered time spent in custody. Individuals incarcerated under this section subsequent to a second probation revocation are not eligible for release from imprisonment upon the successful completion of treatment.

SECTION 2. AMENDMENT. Section 39-08-01.4 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.4. Driving while under the influence of alcohol while being accompanied by a minor - Penalty.

It is a class A misdemeanor for an individual who is at least twenty-one years of age to violate section 39-08-01 if the violation occurred while a minor was accompanying the individual in a motor vehicle. If an individual has a previous conviction for a violation of section 39-08-01.4, a violation of this section is a class C felony. An individual convicted under this section must be sentenced in accordance with subsection 5 of section 39-08-01.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 268

SENATE BILL NO. 2052

(Legislative Management)
(Judiciary Committee)

AN ACT to create and enact a new section to chapter 27-20, a new section to chapter 39-08, and a new section to chapter 54-12 of the North Dakota Century Code, relating to participation in the twenty-four seven sobriety program and the use of drug court for driving under the influence offenders; to amend and reenact sections 27-20-10, 27-20-31, 39-06-03, subdivision h of subsection 2 of section 39-06-49, section 39-08-01, subsection 2 of section 39-16-03.1, section 39-20-01, subsection 2 of section 39-20-04, subsections 2 and 3 of section 39-20-05, and section 39-20-15 of the North Dakota Century Code, relating to driving under the influence offenses and participation in the twenty-four seven sobriety and drug court programs; to provide for retroactive application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-20-10 of the North Dakota Century Code is amended and reenacted as follows:

27-20-10. Informal adjustment.

1. Before a petition is filed, the director of juvenile court or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties and impose conditions for the conduct and control of the child with a view to an informal adjustment if it appears:
 - a. The admitted facts bring the case within the jurisdiction of the court;
 - b. Counsel, advice, and conditions, if any, for the conduct and control of the child without an adjudication would be in the best interest of the public and the child; and
 - c. The child and the child's parents, guardian, or other custodian consent thereto with knowledge that consent is not obligatory.
2. The giving of counsel and advice and any conditions imposed for the conduct and control of the child cannot extend beyond nine months from the day commenced unless extended by the court for an additional period not to exceed six months and does not authorize the detention of the child if not otherwise permitted by this chapter. If the child admits to driving or being in actual physical control of a vehicle in violation of section 39-08-01 or an equivalent ordinance, the child may be required to pay a fine as a condition imposed under this section.
3. An incriminating statement made by a participant to the person giving counsel or advice and in the discussions or conferences incident thereto may not be used against the declarant over objection in any hearing except in a hearing on disposition in a juvenile court proceeding or in a criminal proceeding

against the declarant after conviction for the purpose of a presentence investigation.

- ~~4. If a child is subject to informal adjustment for a violation of section 39-08-01 or equivalent ordinance, or if a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle, the juvenile court shall require the child to participate in the twenty-four seven sobriety program under chapter 54-12 for up to nine months.~~

¹⁵⁵ **SECTION 2. AMENDMENT.** Section 27-20-31 of the North Dakota Century Code is amended and reenacted as follows:

27-20-31. Disposition of delinquent child.

If the child is found to be a delinquent child, the court may make any of the following orders of disposition best suited to the child's treatment, rehabilitation, and welfare:

1. Any order authorized by section 27-20-30 for the disposition of a deprived child;
2. Placing the child on probation under the supervision of the director, probation officer, or other appropriate officer of the court or of the court of another state as provided in section 27-20-41 or the director of the county social service board under conditions and limitations the court prescribes;
3. Ordering the child to pay a fine if the delinquent act committed by the child constitutes manslaughter resulting from the operation of a motor vehicle in violation of section 12.1-16-02; negligent homicide in violation of section 12.1-16-03; or driving or being in actual physical control of a vehicle in violation of section 39-08-01, or an equivalent ordinance. The court may suspend the imposition of a fine imposed pursuant to this subsection upon such terms and conditions as the court may determine. Fines collected pursuant to this subsection must be paid into the county treasury for disposition pursuant to section 29-27-02.1;
4. Committing the child to the division of juvenile services or to another state department to which commitment of delinquent or unruly children may be made. When necessary, the commitment order may provide that the child initially be placed in a secure facility;
5. Ordering the child to make monetary restitution to the victim of the offense or to complete a specified number of hours of community service as determined by the court, or both;
6. Ordering the periodic testing for the use of illicit drugs or alcohol pursuant to rules or policies adopted by the supreme court; or
7. Ordering the child's participation in a juvenile drug court program.

¹⁵⁵ Section 27-20-31 was also amended by section 4 of House Bill No. 1119, chapter 230.

- ~~8. If a child is adjudicated delinquent for a violation of section 39-08-01 or equivalent ordinance, or if a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle, the juvenile court shall require the child to participate in the twenty-four seven sobriety program under chapter 54-12.~~

SECTION 3. A new section to chapter 27-20 of the North Dakota Century Code is created and enacted as follows:

Twenty-four seven sobriety program - Participation.

1. If a child is subject to informal adjustment under section 27-20-10, is found to be delinquent under section 27-20-31, or is found to be unruly under section 27-20-32, the juvenile court shall require the child to participate in the twenty-four seven sobriety program under chapter 54-12 for a period of not less than thirty days:
 - a. If the child is found to have violated section 39-08-01 or equivalent ordinance; or
 - b. If a child is found to have an alcohol concentration of at least two one-hundredths of one percent by weight at the time of performance of a test within two hours after driving or being in physical control of a motor vehicle.
2. If a child is subject to informal adjustment under section 27-20-10 and is required to participate in the twenty-four seven sobriety program, the period of participation may not exceed nine months.
3. If a child required to participate in the twenty-four seven sobriety program under this section fails to comply with program requirements without being excused, the testing site shall notify the juvenile court and refer the child to the juvenile court for further disposition. The child may not be detained or otherwise taken into custody without authorization from the juvenile court.
4. If the juvenile court requires the child to participate in a juvenile drug court program, the juvenile court may waive the participation in the twenty-four seven sobriety program requirements of this section.

SECTION 4. AMENDMENT. Section 39-06-03 of the North Dakota Century Code is amended and reenacted as follows:

39-06-03. No operator's license to certain individuals.

The director may not issue an operator's license:

1. To an individual who is under the age of sixteen years, except that the director may issue an instructional permit under section 39-06-04, a restricted permit under section 39-06-05, or a license under section 39-06-17.
2. To an individual whose license has been suspended or revoked in this state or in any other state during the suspension, except under section 39-06.1-03 or 39-06.1-11, or to any person whose license has been revoked, except under sections 39-06-35, 39-06-36, and 39-06.1-11.

3. ~~To an individual who is a habitual drunkard, is a habitual user of narcotic drugs, or is a habitual user of any other drug to a degree that renders the individual incapable of safely operating a motor vehicle. The director has good cause to believe that an individual is a habitual drunkard or drug user if the individual has three or more convictions for violating section 39-08-01, or equivalent ordinance, or three or more administrative suspensions under chapter 39-20 within a five-year period. An individual who is a habitual drunkard or user may provide the director with adequate proof of the removal of the habit which may include satisfactory completion of a licensed alcohol or drug treatment program.~~
4. To an individual who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law.
- ~~5.4.~~ To an individual who is required by this chapter to take an examination, unless the individual has successfully passed such examination.
- ~~6.5.~~ To an individual who is required under the laws of this state to deposit security or file proof of financial responsibility and who has not deposited the security or filed the proof.
- ~~7.6.~~ To an individual if the director has good cause to believe that the individual by reason of physical or mental disability would not be able to operate a motor vehicle with safety .
- ~~8.7.~~ To an individual when the director has good cause to believe that the operation of a motor vehicle on the highways by that individual would be inimical to public safety or welfare.

SECTION 5. AMENDMENT. Subdivision h of subsection 2 of section 39-06-49 of the North Dakota Century Code is amended and reenacted as follows:

- h. Reinstatement after suspension is fifty dollars unless the suspension was the result of a suspension under subsection 4, ~~5, or 7.3, 4, or 6~~ of section 39-06-03 or subdivision b of subsection 1 of section 39-06-32, then the fee is twenty-five dollars, or unless the suspension was a result of a violation under section 39-08-01 or chapter 39-20, then the fee is one hundred dollars.

¹⁵⁶ **SECTION 6. AMENDMENT.** Section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01. Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle - Penalty.

1. A person may not drive or be in actual physical control of any vehicle upon a highway or upon public or private areas to which the public has a right of access for vehicular use in this state if any of the following apply:

¹⁵⁶ Section 39-08-01 was also amended by section 1 of Senate Bill No. 2154, chapter 267.

- a. That person has an alcohol concentration of at least eight one-hundredths of one percent by weight at the time of the performance of a chemical test within two hours after the driving or being in actual physical control of a vehicle.
- b. That person is under the influence of intoxicating liquor.
- c. That person is under the influence of any drug or substance or combination of drugs or substances to a degree which renders that person incapable of safely driving.
- d. That person is under the combined influence of alcohol and any other drugs or substances to a degree which renders that person incapable of safely driving.
- e. That individual refuses to submit to any of the following:
 - (1) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-06.2-10.2 if the individual is driving or is in actual physical control of a commercial motor vehicle; or
 - (2) A chemical test, or tests, of the individual's blood, breath, or urine to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, at the direction of a law enforcement officer under section 39-20-01; or
 - (3) An onsite screening test, or tests, of the individual's breath for the purpose of estimating the alcohol concentration in the individual's breath upon the request of a law enforcement officer under section 39-20-14.

The fact that any person charged with violating this section is or has been legally entitled to use alcohol or other drugs or substances is not a defense against any charge for violating this section, unless a drug which predominately caused impairment was used only as directed or cautioned by a practitioner who legally prescribed or dispensed the drug to that person. If the individual violated subdivisions a, b, c, or d of this subsection and subdivision e of this subsection and the violations arose from the same incident, for purposes of suspension or revocation of an operator's license, the violations are deemed a single violation and the court shall forward to the department of transportation only the conviction for driving under the influence or actual physical control.

2. a. An individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state who refuses to submit to a chemical test, or tests, required under section 39-06.2-10.2, 39-20-01, or 39-20-14, is guilty of an offense under this section.
- b. An individual is not subject to an offense under this section for refusal to submit to an onsite screening test under section 39-20-14 if the person submits to a chemical test under section 39-20-01 or 39-06.2-10.2 for the

same incident. Upon the individual's refusal to submit to an onsite screening test, the police officer shall inform the individual that the individual may remedy the refusal if the individual takes a chemical test under section 39-20-01 or 39-06.2-10.2 for the same incident.

3. An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a seven-year period, of a class A misdemeanor for a third offense in a seven-year period, and of a class C felony for any fourth or subsequent offense ~~regardless of the length of time since the previous offense~~ within a fifteen-year period. The minimum penalty for violating this section is as provided in subsection 5. The court shall take judicial notice of the fact that an offense would be a subsequent offense if indicated by the records of the director or may make a subsequent offense finding based on other evidence.
4. Upon conviction of a second or subsequent offense within seven years under this section or equivalent ordinance, the court may order the motor vehicle number plates of all of the motor vehicles owned and operated by the offender at the time of the offense to be destroyed by the office of the police officer that made the arrest. The offender shall deliver the number plates to the court without delay at a time certain as ordered by the court following the conviction. The court shall deliver the number plates to the office and notify the department of the order. An offender who does not provide the number plates to the court at the appropriate time is subject to revocation of probation. The court may make an exception to this subsection, on an individual basis, to avoid undue hardship to an individual who is completely dependent on the motor vehicle for the necessities of life, including a family member of the convicted individual and a coowner of the motor vehicle, or if the offender is participating in the twenty-four seven sobriety program.
5. A person convicted of violating this section, or an equivalent ordinance, must be sentenced in accordance with this subsection. ~~For purposes of this subsection, unless the context otherwise requires, "drug court program" means a district court supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and chemical addiction treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug courts and the drug court program.~~
 - a. (1) For a first offense, the sentence must include both a fine of at least five hundred dollars and an order for addiction evaluation by an appropriate licensed addiction treatment program.
 - (2) In addition, for a first offense when the convicted person has an alcohol concentration of at least sixteen one-hundredths of one percent by weight, the offense is an aggravated first offense and the sentence must include a fine of at least seven hundred fifty dollars and at least two days' imprisonment.
 - b. For a second offense within seven years, the sentence must include at least ten days' imprisonment, of which forty-eight hours must be served consecutively; a fine of one thousand five hundred dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; and at least ~~twelve months'~~ three hundred sixty days' participation

- in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
- c. For a third offense within seven years, the sentence must include at least one hundred twenty days' imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed addiction treatment program; at least ~~one year's~~three hundred sixty days' supervised probation; and at least three hundred sixty days' participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
 - d. For a fourth or subsequent offense within fifteen years, the sentence must include at least one year and one day's imprisonment; a fine of at least two thousand dollars; an order for addiction evaluation by an appropriate licensed treatment program; at least two years' supervised probation; and participation in the twenty-four seven sobriety program under chapter 54-12 as a mandatory condition of probation.
 - e. The imposition of sentence under this section may not be deferred under subsection 4 of section 12.1-32-02 for an offense subject to this section.
 - f. If the offense is subject to subdivision a or b, a municipal court or district court may not suspend a sentence, but may convert each day of a term of imprisonment to ten hours of community service for an offense subject to paragraph 2 of subdivision a. If the offense is subject to subdivision c, the district court may suspend a sentence, except for sixty days' imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation and upon completion of the twenty-four seven sobriety program. If the offense is subject to subdivision d, the district court may suspend a sentence, except for one year's imprisonment, under subsection 3 of section 12.1-32-02 on the condition that the defendant first undergo and complete an evaluation for alcohol and substance abuse treatment and rehabilitation. If the defendant is found to be in need of alcohol and substance abuse treatment and rehabilitation, the district court may order the defendant placed under the supervision and management of the department of corrections and rehabilitation and is subject to the conditions of probation under section 12.1-32-07. The district court may require the defendant to complete alcohol and substance abuse treatment and rehabilitation under the direction of the drug court program as a condition of probation in accordance with rules adopted by the supreme court. If the district court finds that a defendant has failed to undergo an evaluation or complete treatment or has violated any condition of probation, the district court shall revoke the defendant's probation and shall sentence the defendant in accordance with this subsection.
 - g. For purposes of this section, conviction of an offense under a law or ordinance of another state which is equivalent to this section must be considered a prior offense if such offense was committed within the time limitations specified in this section.
 - h. If the penalty mandated by this section includes imprisonment or placement upon conviction of a violation of this section or equivalent ordinance, and if an addiction evaluation has indicated that the defendant

needs treatment, the court may order the defendant to undergo treatment at an appropriate licensed addiction treatment program under subdivision g of subsection 1 of section 12.1-32-02 and the time spent by the defendant in the treatment must be credited as a portion of a sentence of imprisonment or placement under this section. A court may not order the department of corrections and rehabilitation to be responsible for the costs of treatment in a private treatment facility.

- i. If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the individual in an alcohol treatment program designated by the department. Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to serve the remainder of the sentence of imprisonment on probation, which may include placement in another facility or treatment program. If an individual is placed in another facility or treatment program after release from imprisonment, the remainder of the individual's sentence of imprisonment must be considered time spent in custody.
 - j. If the individual has participated in the twenty-four seven sobriety program as a condition of pretrial release or for the purpose of receiving a temporary restricted operator's license under section 39-06.1-11, the sentencing court may give credit for the time the individual has already served on the twenty-four seven sobriety program when determining the amount of time the individual must serve on the twenty-four seven sobriety program for the purposes of probation, if that individual has not violated the twenty-four seven sobriety program before sentencing.
6. As used in subdivisions b and c of subsection 5, the term "imprisonment" includes house arrest. As a condition of house arrest, a defendant may not consume alcoholic beverages. The house arrest must include a program of electronic home detention and the defendant shall participate in the twenty-four seven sobriety program. The defendant shall defray all costs associated with the electronic home detention. For an offense under subdivision b or c of subsection 5, no more than ninety percent of the sentence may be house arrest.
 7. As used in this title, participation in the twenty-four seven sobriety program under chapter 54-12 means compliance with sections 54-12-27 through 54-12-31, and requires sobriety breath testing twice per day seven days per week or electronic alcohol monitoring, urine testing, or drug patch testing. The offender is responsible for all twenty-four seven sobriety program fees and the court may not waive the fees. For purposes of this section, the twenty-four seven sobriety program is a condition of probation and a court may not order participation in the program as part of the sentence.

SECTION 7. A new section to chapter 39-08 of the North Dakota Century Code is created and enacted as follows:

Partial suspension of sentence for drug court completion.

1. Notwithstanding section 39-08-01, all but ten days of the minimum mandatory sentence required for a defendant charged with a third or subsequent violation of section 39-08-01 may be suspended on the condition the defendant successfully completes a drug court program approved by the supreme court.

2. For purposes of this section, unless the context otherwise requires, "drug court program" means a district court-supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and chemical addiction treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug courts and the drug court program.

SECTION 8. AMENDMENT. Subsection 2 of section 39-16-03.1 of the North Dakota Century Code is amended and reenacted as follows:

2. After the period of suspension ceases, an entry concerning a suspension under subsection ~~4, 5, 6, or 7~~3, 4, 5, or 6 of section 39-06-03 or subsection 2, 5, or 6 of section 39-06-32.

SECTION 9. AMENDMENT. Section 39-20-01 of the North Dakota Century Code is amended and reenacted as follows:

39-20-01. Implied consent to determine alcohol concentration and presence of drugs.

1. Any individual who operates a motor vehicle on a highway or on public or private areas to which the public has a right of access for vehicular use in this state is deemed to have given consent, and shall consent, subject to the provisions of this chapter, to a chemical test, or tests, of the blood, breath, or urine for the purpose of determining the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine. As used in this chapter, the word "drug" means any drug or substance or combination of drugs or substances which renders an individual incapable of safely driving, and the words "chemical test" or "chemical analysis" mean any test to determine the alcohol concentration or presence of other drugs, or combination thereof, in the individual's blood, breath, or urine, approved by the director of the state crime laboratory or the director's designee under this chapter.
2. The test or tests must be administered at the direction of a law enforcement officer only after placing the individual, except individuals mentioned in section 39-20-03, under arrest and informing that individual that the individual is or will be charged with the offense of driving or being in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor, drugs, or a combination thereof. For the purposes of this chapter, the taking into custody of a child under section 27-20-13 or an individual under twenty-one years of age satisfies the requirement of an arrest. The law enforcement officer shall determine which of the tests is to be used.
3.
 - a. The law enforcement officer shall inform the individual charged that North Dakota law requires the individual to take the test to determine whether the individual is under the influence of alcohol or drugs; that refusal to take the test directed by the law enforcement officer is a crime punishable in the same manner as driving under the influence; and that refusal of the individual to submit to the test directed by the law enforcement officer may result in a revocation for a minimum of one hundred eighty days and up to three years of the individual's driving privileges. ~~The law enforcement officer shall determine which of the tests is to be used.~~
 - b. A test administered under this section is not admissible in any criminal or administrative proceeding to determine a violation of section 39-08-01 or

this chapter if the law enforcement officer fails to inform the individual charged as required under subdivision a.

4. When an individual under the age of eighteen years is taken into custody for violating section 39-08-01 or an equivalent ordinance, the law enforcement officer shall attempt to contact the individual's parent or legal guardian to explain the cause for the custody. Neither the law enforcement officer's efforts to contact, nor any consultation with, a parent or legal guardian may be permitted to interfere with the administration of chemical testing requirements under this chapter. The law enforcement officer shall mail a notice to the parent or legal guardian of the minor within ten days after the test results are received or within ten days after the minor is taken into custody if the minor refuses to submit to testing. The notice must contain a statement of the test performed and the results of that test; or if the minor refuses to submit to the testing, a statement notifying of that fact. The attempt to contact or the contacting or notification of a parent or legal guardian is not a precondition to the admissibility of chemical test results or the finding of a consent to, or refusal of, chemical testing by the individual in custody.

SECTION 10. AMENDMENT. Subsection 2 of section 39-20-04 of the North Dakota Century Code is amended and reenacted as follows:

2. A person's driving privileges are not subject to revocation under ~~subdivision a of subsection 4~~ if all of the following criteria are met:
 - a. An administrative hearing is not held under section 39-20-05;
 - b. The person mails an affidavit to the director within twenty-five days after the temporary operator's permit is issued. The affidavit must state that the person:
 - (1) Intends to voluntarily plead guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
 - (2) Agrees that the person's driving privileges must be suspended as provided under section 39-06.1-10;
 - (3) Acknowledges the right to a section 39-20-05 administrative hearing and section 39-20-06 judicial review and voluntarily and knowingly waives these rights; and
 - (4) Agrees that the person's driving privileges must be revoked as provided under this section without an administrative hearing or judicial review, if the person does not plead guilty within twenty-five days after the temporary operator's permit is issued, or the court does not accept the guilty plea, or the guilty plea is withdrawn;
 - c. The person pleads guilty to violating section 39-08-01 or equivalent ordinance within twenty-five days after the temporary operator's permit is issued;
 - d. The court accepts the person's guilty plea and a notice of that fact is mailed to the director within twenty-five days after the temporary operator's permit is issued; and

- e. A copy of the final order or judgment of conviction evidencing the acceptance of the person's guilty plea is received by the director prior to the return or reinstatement of the person's driving privileges.

SECTION 11. AMENDMENT. Subsections 2 and 3 of section 39-20-05 of the North Dakota Century Code are amended and reenacted as follows:

2. If the issue to be determined by the hearing concerns license suspension for operating a motor vehicle while having an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, the hearing must be before a hearing officer assigned by the director and at a time and place designated by the director. The hearing must be recorded and its scope may cover only the issues of whether the arresting officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to an individual under twenty-one years of age, the individual had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the individual was placed under arrest, unless the individual was under twenty-one years of age and the alcohol concentration was less than eight one-hundredths of one percent by weight, then arrest is not required and is not an issue under any provision of this chapter; whether the individual was tested in accordance with section 39-20-01 or 39-20-03 and, if applicable, section 39-20-02; and whether the test results show the individual had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to an individual under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight. For purposes of this section, a copy of a certified copy of an analytical report of a blood or urine sample from the director of the state crime laboratory or the director's designee, or electronically posted by the director of the state crime laboratory or the director's designee on the crime laboratory information management system and certified by a law enforcement officer or individual who has authorized access to the crime laboratory management system through the criminal justice data information sharing system or a certified copy of the checklist and test records from a certified breath test operator, and a copy of a certified copy of a certificate of the director of the state crime laboratory designating the director's designees, establish prima facie the alcohol concentration or the presence of drugs, or a combination thereof, shown therein. ~~Whether the individual was informed that the privilege to drive might be suspended based on the results of the test is not an issue.~~
3. If the issue to be determined by the hearing concerns license revocation for refusing to submit to a test under section 39-20-01 or 39-20-14, the hearing must be before a hearing officer assigned by the director at a time and place designated by the director. The hearing must be recorded. The scope of a hearing for refusing to submit to a test under section 39-20-01 may cover only the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle in violation of section 39-08-01 or equivalent ordinance or, with respect to a person under twenty-one years of age, the person had been driving or was in actual physical control of a vehicle while having an alcohol concentration of at least two one-hundredths of one percent by weight; whether the person was placed under arrest; and whether that person refused

to submit to the test or tests. The scope of a hearing for refusing to submit to a test under section 39-20-14 may cover only the issues of whether the law enforcement officer had reason to believe the person committed a moving traffic violation or was involved in a traffic accident as a driver, whether in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol and, whether the person refused to submit to the onsite screening test. ~~Whether the person was informed that the privilege to drive would be revoked or denied for refusal to submit to the test or tests is not an issue.~~

SECTION 12. AMENDMENT. Section 39-20-15 of the North Dakota Century Code is amended and reenacted as follows:

39-20-15. Restricted license upon twenty-four seven sobriety program participation.

Any driver suspended under this chapter may elect to participate in the twenty-four seven sobriety program under chapter 54-12. The director may issue a temporary restricted license that takes effect after ~~fifteen~~fourteen days of the suspension have been served provided that the driver is not subject to any unrelated suspension. Notwithstanding any other provision of law, an individual may not receive a temporary restricted operator's license until after fourteen days after the administrative hearing on the offense under this chapter has been waived or held, or after fourteen days of the final appeal, whichever is longer.

SECTION 13. A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Law enforcement acceptance of department of transportation action.

A law enforcement agency shall accept, the same as if ordered by the court, an individual as part of the twenty-four seven program if the individual provides documentation that the individual will be issued a temporary restricted license by the department of transportation which is conditioned on participation in the twenty-four seven program.

SECTION 14. RETROACTIVE APPLICATION. Subsection 1 of section 39-01-08, as amended by section 6 of this Act, applies retroactively to violations of subdivision a, b, c, or d of subsection 1 of section 39-08-01 and subdivision e of subsection 1 of section 39-08-01 which arose from the same incident and which occurred on or after June 30, 2013.

SECTION 15. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 269

HOUSE BILL NO. 1391

(Representatives Hunskor, Froseth, Hatlestad)
(Senators Murphy, O'Connell)

AN ACT to amend and reenact subsection 5 of section 39-08-20 of the North Dakota Century Code, relating to a certificate of insurance for driving without liability insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵⁷ **SECTION 1. AMENDMENT.** Subsection 5 of section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

5. Upon conviction for a violation of subsection 1 or equivalent ordinance, the person who has been convicted shall provide proof of motor vehicle liability insurance to the department in the form of a written or electronically transmitted certificate from an insurance carrier authorized to do business in this state. This proof must be provided for a period of ~~three years~~one year and kept on file with the department. If the person fails to provide this information, the department shall suspend that person's driving privileges and may not issue or renew that person's operator's license unless that person provides proof of insurance.

Approved March 31, 2015

Filed March 31, 2015

¹⁵⁷ Section 39-08-20 was also amended by section 2 of Senate Bill No. 2211, chapter 263.

CHAPTER 270

HOUSE BILL NO. 1206

(Representatives Nathe, Karls, Larson)
(Senator Carlisle)

AN ACT to create and enact section 39-08-20.2 of the North Dakota Century Code, relating to special mobile equipment and liability insurance; to amend and reenact subsection 5 of section 39-16-01 of the North Dakota Century Code, relating to motor vehicle financial responsibility; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 39-08-20.2 of the North Dakota Century Code is created and enacted as follows:

39-08-20.2. Special mobile equipment and liability insurance - Report - Penalty.

Special mobile equipment is not subject to the requirement of a motor vehicle liability policy under section 39-08-20. However, special mobile equipment must be covered under a liability policy. Failure to provide satisfactory evidence of liability coverage required under this section within ten days after a police officer has requested evidence of liability coverage is an infraction punishable solely by a fine of one hundred fifty dollars for a first violation and is an infraction punishable solely by a fine of three hundred dollars for a second or subsequent violation in three years. A municipal court or district court shall make a report of a violation of this section to the secretary of state for any special mobile equipment owned or operated by a contractor licensed under chapter 43-07.

SECTION 2. AMENDMENT. Subsection 5 of section 39-16-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Motor vehicle" includes every self-propelled vehicle, including trailers and semitrailers designed for use with suchthese vehicles. The term does not include special mobile equipment.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 271

SENATE BILL NO. 2248

(Senators Casper, Axness, Oehlke)
(Representatives J. Nelson, Pollert, Schatz)

AN ACT to amend and reenact section 39-10-03.1 of the North Dakota Century Code, relating to the lights displayed by tow trucks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-10-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-10-03.1. Class B authorized emergency vehicles.

1. The driver of a class B authorized emergency vehicle may:
 - a. Park or stand, irrespective of the provisions of this chapter.
 - b. Exceed the speed limit so long as the driver does not endanger life or property during the time of a local or national disaster.
 - c. Disregard regulations governing direction of movement or turning in specified directions.
2. The exceptions herein granted in this section to a class B authorized emergency vehicle apply only when the authorized emergency vehicle is displaying an amber and white light visible under normal atmospheric conditions for a distance of five hundred feet [152.4 meters] in any direction, and:
 - a. When it is necessary for the authorized emergency vehicle to use these exemptions for the immediate protection of life or property;
 - b. When an authorized emergency vehicle is stopped on a highway for the purpose of performing a duty as required of the driver; or
 - c. When traveling at a speed slower than the normal flow of traffic.

Approved March 30, 2015
Filed March 31, 2015

CHAPTER 272

SENATE BILL NO. 2352

(Senators Oehlke, Rust)

AN ACT to amend and reenact sections 39-10-47 and 39-10-48 of the North Dakota Century Code, relating to vehicles obstructing highways and vehicles illegally parked on highways.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-10-47 of the North Dakota Century Code is amended and reenacted as follows:

39-10-47. Stopping, standing, or parking outside of business or residence districts.

1. ~~Upon any highway outside of a business or residence district no person~~An individual may not stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the any highway when if it is practicable to stop, park, or so leave such the vehicle off such part of said the paved or main-traveled part of the highway, but in every event an. There must be an unobstructed width of the highway of not less than twelve feet [3.66 meters] opposite a standing vehicle ~~must be left for the free passage of other vehicles and a clear view of such any stopped vehicles~~vehicle must be available from a distance of not less than two hundred feet [60.96 meters] in each direction upon such the highway.
2. ~~This~~Unless the vehicle is blocking the highway or is otherwise endangering public safety, this section and sections 39-10-49 and 39-10-50 do not apply to the driver of ~~any~~a vehicle which is disabled while on the paved or main-traveled portion of a highway ~~in such manner and to such extent that it is impossible to avoid, if~~ stopping and temporarily leaving ~~such the~~the disabled vehicle ~~in such position is unavoidable.~~
3. Without the consent of the owner or driver of a vehicle and if a vehicle or any personal property or cargo spilled from the vehicle is blocking the highway or is otherwise endangering public safety, a police officer may:
 - a. Remove the vehicle or cause the vehicle to be removed from the highway; and
 - b. Remove or cause to be removed any personal property or cargo that may have been spilled from the vehicle onto the highway.
4. If reasonable care is used in the removal process, a police officer and the police officer's employing agency, the department of transportation or an employee of the department of transportation, or a political subdivision or employee of a political subdivision authorized by a police officer is not liable in civil damages for loss or damage to any vehicle or to any personal property or cargo that may have spilled from a vehicle that is removed from a highway under this section.

5. The decision and method used to remove a vehicle or any personal property, or cause a vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take an action that may damage a vehicle or property removed under this section.

SECTION 2. AMENDMENT. Section 39-10-48 of the North Dakota Century Code is amended and reenacted as follows:

39-10-48. Officer authorized to remove illegally stopped vehicle.

1. Whenever any~~If a~~ police officer finds a vehicle standing upon a highway in violation of ~~any of the provisions of section 39-10-47, such~~the officer is hereby authorized to ~~move such~~may remove the vehicle; or require the driver or other person in charge of the vehicle to move the ~~same~~vehicle to a position off the paved or main-traveled part of ~~such~~the highway to a place where the vehicle does not block the highway or otherwise endanger public safety.
2. Whenever any~~If a~~ police officer finds a vehicle unattended upon any highway, bridge, or causeway, or in any tunnel where ~~such and the vehicle constitutes an obstruction to~~may obstruct traffic or otherwise endanger public safety, ~~such~~the officer is hereby authorized to ~~provide for the removal of such~~may have the vehicle moved to the nearest garage or other place of safety a location where it may be securely held.
3. Any~~A~~ police officer is hereby authorized to ~~remove or cause to be removed to the nearest garage or other place of safety~~may remove or cause to be removed any vehicle found upon a highway when and move the vehicle to any location where the vehicle may be securely held if:
 - a. A report has been made ~~that such~~the vehicle has been stolen or taken without the consent of its owner;
 - b. The person or persons in charge owner or driver of ~~such~~the vehicle are is unable to provide for its custody or removal; or
 - c. The person individual driving or in control of ~~such~~the vehicle is arrested for an alleged offense ~~for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay~~and taken into custody and another individual is not available to lawfully operate the vehicle.
4. Whenever any authorized law enforcement~~If a~~ police officer finds, ~~on state charitable or penal institution property or on the state capitol grounds,~~ a vehicle standing, stopped, or parked in a dangerous location or in violation of any official traffic-control device prohibiting or restricting the stopping, standing, or parking of any vehicle on state property, the officer shall place a written warning on the vehicle for the first offense and ~~thereafter an authorized traffic citation may be issued~~issue a traffic citation for a subsequent violation. However, ~~no~~a traffic citation may not be issued for a violation of this subsection occurring on the state capitol grounds during a legislative session.
5. A police officer and the police officer's employing agency, the department of transportation or an employee of the department of transportation, or a political subdivision or employee of a political subdivision authorized by a

police officer is not liable in civil damages for loss or damage to any vehicle removed from a highway or state property under this section, so long as reasonable care is used in the removal process.

6. The decision and method used to remove a vehicle or any personal property, or cause a vehicle or any personal property to be removed, is a discretionary decision under this section. In the event of a public necessity, a police officer, an employee of the department of transportation, or an employee of a political subdivision authorized by a police officer may take an action that may damage a vehicle or property removed under this section.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 273

SENATE BILL NO. 2164

(Senators Larsen, Davison, Hogue)
(Representative Seibel)

AN ACT to amend and reenact subsection 2 of section 39-24-03, subsection 3 of section 39-24-04, and section 39-24-05 of the North Dakota Century Code, relating to snowmobile fees and the state snowmobile fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-24-03 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon receipt of the application and the appropriate fee, the department shall register a snowmobile and assign a registration number and a certificate of registration. The registration number must be at least one and one-half inches [3.81 centimeters] in height and of a reflectorized material and must be securely affixed on each side of the snowmobile in a position as to provide clear legibility for identification. The certificate of registration must include information regarding the make, year, serial number, and name and address of the owner. The fee for registration of each snowmobile must be five dollars for any portion of the registration period and the registration period is for two years beginning October first of each odd-numbered year. The fee for a duplicate or replacement registration number or registration card which is lost, mutilated, or becomes illegible may not exceed five dollars. ~~In addition, in each year that fees are collected for the unsatisfied judgment fund there must be assessed a fee of one dollar per year for each snowmobile registered, which must be placed in the unsatisfied judgment fund.~~ For each snowmobile registered under the provisions of this chapter, there must be assessed a snowmobile trail tax in the amount of ~~thirty-five~~forty-five dollars.

SECTION 2. AMENDMENT. Subsection 3 of section 39-24-04 of the North Dakota Century Code is amended and reenacted as follows:

3. If a snowmobile is exempt from registration under subdivision b or c of subsection 2, the owner is required to purchase an out-of-state public trails and lands access permit received upon payment of a ~~fifteen~~twenty-five dollar per year fee. The permit must be in the operator's possession when that individual is operating the snowmobile within the state. Dealers or other agents authorized by the director of the parks and recreation department who sell out-of-state public trails and lands access permits may retain one dollar of the ~~fifteen~~twenty-five dollar per year fee and the remainder of the fees collected under this subsection must be deposited in the state snowmobile fund.

SECTION 3. AMENDMENT. Section 39-24-05 of the North Dakota Century Code is amended and reenacted as follows:

39-24-05. Disposition of registration fees and trail tax - Transfer from highway tax distribution fund.

Fees from registration of snowmobiles must be deposited with the state treasurer and credited to the highway tax distribution fund. The snowmobile trail tax must be deposited in a state snowmobile fund in the state treasury. Additionally, an amount equal to the tax collected on ~~thirty~~^{thirtyfour} gallons [~~113.56~~^{130.8} liters] of motor vehicle fuel multiplied by the number of collector snowmobiles and snowmobiles registered under this chapter must be transferred annually from the highway tax distribution fund, before allocation of the fund under section 54-27-19, and credited to the state snowmobile fund. The parks and recreation department may, upon appropriation by the legislative assembly, expend from such fund moneys it deems necessary for purposes of administering snowmobile safety programs and establishing and maintaining snowmobile facilities and programs.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 274

SENATE BILL NO. 2198

(Senators Campbell, Armstrong, Larsen)
(Representatives Damschen, Kasper, Ruby)

AN ACT to amend and reenact section 39-24-09.1 of the North Dakota Century Code, relating to the minimum age for snowmobile operators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-24-09.1 of the North Dakota Century Code is amended and reenacted as follows:

39-24-09.1. Operation by individuals ~~at least twelve years of age~~ Minimum age.

1. An individual under the age of ten may not operate a snowmobile unless the individual operates the snowmobile on private land. An individual ten or eleven years of age may not operate a snowmobile unless the individual operates the snowmobile on private land or the individual is in the presence of a parent or guardian pursuant to chapter 30.1-27, has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department pursuant to chapter 28-32, and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department.
2. An individual twelve years of age and over may not operate a snowmobile unless the individual is in possession of a valid driver's license, operates the snowmobile on private land, or unless the individual has completed a snowmobile safety training course as prescribed by the director of the parks and recreation department pursuant to chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the director of the parks and recreation department of transportation.
3. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce this chapter is presumptive evidence that the individual is not the holder of the certificate.
4. Fees collected from each individual receiving certification must be deposited into the snowmobile ~~trail tax~~ fund for purposes of establishing snowmobile safety programs.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 275

HOUSE BILL NO. 1123

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to create and enact a new section to chapter 39-25 and subsection 3 to section 39-25-01 of the North Dakota Century Code, relating to driver training schools and to the definition of a certificate of course completion; and to amend and reenact subsection 2 of section 39-06-01.1, subsection 2 of section 39-06-13, subsection 2 of section 39-25-04, and section 39-25-07 of the North Dakota Century Code, relating to driver education requirements, driver's license examinations, instructors at commercial driver training schools, and driver education schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 39-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

2. If an individual has had that individual's license to operate a motor vehicle canceled under subsection 1, the director shall deem that individual to have never have had any license to operate a motor vehicle and may not issue any license to operate a motor vehicle other than an instruction permit or a restricted instruction permit after the completion of any period of suspension or revocation. After the issuance of an instruction permit or restricted instruction permit, the director may not issue any other operator's license to that individual until that individual:
 - a. ~~(1) Completes a course of classroom instruction and a course of behind the wheel instruction acceptable to the director; Meets the requirements of section 39-06-17. The driver education requirement may be met through either~~
 - (2) Completes an internet course through a licensee under chapter 39-25 and completes thirty hours of driving with that individual's parent or guardian in compliance with department rules designed for experience in various driving conditions; or
 - (3) ~~Successfully completes~~ successfully completing a course at an approved commercial driver training school meeting the requirements of chapter 39-25; and
 - b. Satisfies all other requirements that apply to that individual for that operator's license.

SECTION 2. AMENDMENT. Subsection 2 of section 39-06-13 of the North Dakota Century Code is amended and reenacted as follows:

2. The examination must include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle unless waived for an applicant who has successfully passed an actual ability test in

this or another state conducted by a state licensing authority or by a commercial driver training school meeting the driver education requirements prescribed by the director under chapter 39-25. A minor may operate a motor vehicle no matter how owned for the actual ability test.

SECTION 3. Subsection 3 to section 39-25-01 of the North Dakota Century Code is created and enacted as follows:

3. "Certificate of course completion" means documentation signed by one or more driver education programs indicating the driver has met the classroom instruction and behind-the-wheel instruction requirements prescribed by the director.

SECTION 4. A new section to chapter 39-25 of the North Dakota Century Code is created and enacted as follows:

Waiver of skill test.

The director may waive the skill portion of the driver's license examination if the applicant has successfully completed the classroom instruction and behind-the-wheel instruction requirements prescribed by the director. The director shall adopt and prescribe regulations concerning criteria for the classroom instruction and behind-the-wheel instruction requirements. A certificate of course completion must accompany the driver's application as evidence that the applicant for a class D license has satisfactorily completed the classroom instruction and behind-the-wheel instruction requirements prescribed by the director.

SECTION 5. AMENDMENT. Subsection 2 of section 39-25-04 of the North Dakota Century Code is amended and reenacted as follows:

2. The regulations must state the requirements for an instructor's license, including requirements concerning residency, language, moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles, previous personal and employment records, and any other matter as the director may prescribe for the protection of the public.

SECTION 6. AMENDMENT. Section 39-25-07 of the North Dakota Century Code is amended and reenacted as follows:

39-25-07. Exclusions - Free instruction - Colleges, universities, and high schools.

This chapter does not apply to any person giving driver training lessons without charge, to employers maintaining driver training schools without charge solely for that employer's employees, nor to a school or a class conducted by a college, a university, or a high school for a regularly enrolled full-time or part-time student as a part of a normal program of the institution, except that a public driver education program may provide a certificate of course completion to be used by a driver to waive the skill portion of the driver's license examination under section 2 of this Act.

Approved March 26, 2015

Filed March 26, 2015

CHAPTER 276

SENATE BILL NO. 2312

(Senators Sinner, Laffen)

AN ACT to create and enact subsection 9 of section 39-29.2-03 and sections 39-29.2-05 and 39-29.2-06 of the North Dakota Century Code, relating to unconventional vehicles; to amend and reenact subsection 3 of section 26.1-40-01, subsection 10 of section 26.1-41-01, subsection 49 of section 39-01-01, subsection 1 of section 39-04-36, subsection 2 of section 39-29.2-01, subsection 5 of section 39-29.2-03, subsection 7 of section 39-29.2-03, and section 39-29.2-04 of the North Dakota Century Code, relating to unconventional vehicles; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 26.1-40-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Policy" means any automobile policy which includes automobile liability coverage, uninsured motorist coverage, underinsured motorist coverage, automobile medical payments coverage, basic or optional excess no-fault benefits, or automobile physical damage coverage, delivered or issued for delivery in this state, insuring as the named insured an individual residing in this state, and under which the insured vehicles designated in the policy are of the following types only:
 - a. A motor vehicle of the private passenger ~~or station wagon~~ type that is not used as a public or livery conveyance, nor rented to others.
 - b. Any four-wheel motor vehicle with a load capacity of one thousand five hundred pounds [680.39 kilograms] or less which is not used in the occupation, profession, or business of the insured, nor used as a public or livery conveyance, nor rented to others.
 - c. Any motorcycle as that term is defined in section 39-01-01 that is not used as a public or livery conveyance, nor rented to others.
 - d. An unconventional vehicle as that term is defined in subsection 2 of section 39-29.2-01 that is not used as a public or livery conveyance, nor rented to others.

"Policy" does not include any policy that has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy; any policy issued under the North Dakota assigned risk plan; any policy insuring more than six motor vehicles; any policy covering the operation of a garage, automobile sales agency, repair shop, service station, or public parking place; any policy providing insurance only on an excess basis; or any other contract providing insurance to a named insured even though the contract may incidentally provide insurance with respect to such motor vehicles.

SECTION 2. AMENDMENT. Subsection 10 of section 26.1-41-01 of the North Dakota Century Code is amended and reenacted as follows:

10. "Motor vehicle" means a vehicle having more than three load-bearing wheels, of a kind required to be registered under the laws of this state relating to motor vehicles, designed primarily for operation upon the public streets, roads, and highways, and driven by power other than muscular power, and includes a trailer drawn by or attached to such a vehicle. The term does not include an unconventional vehicle defined in subsection 2 of section 39-29.2-01.

SECTION 3. AMENDMENT. Subsection 49 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

49. "Motor-powered recreational vehicle" means a motorcycle, unconventional vehicle, or off-highway vehicle as defined in section 39-29-01, or a snowmobile as defined in section 39-24-01.

SECTION 4. AMENDMENT. Subsection 1 of section 39-04-36 of the North Dakota Century Code is amended and reenacted as follows:

1. Whenever the ownership of a vehicle registered under the provisions of this chapter ~~or~~, chapter 39-18, or chapter 39-29.2 is transferred or assigned, the registration of the vehicle expires and the transferor shall remove the number plates.

SECTION 5. AMENDMENT. Subsection 2 of section 39-29.2-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Unconventional vehicle" means a motor vehicle that is designed to travel on at least three wheels in contact with the ground, has an unladen weight of at least three hundred pounds [136.08 kilograms] but less than eight thousand pounds [3628.7 kilograms], has a permanent upright seat ~~or saddle for the driver which is mounted at least twenty-four inches [50.8 centimeters] from the ground~~that does not require the operator to straddle or sit astride it, has a steering device for front wheel steering control, is capable of speeds in excess of sixty-five miles [104.61 kilometers] per hour, complies with equipment listed in chapter 39-21 or 39-27, as appropriate, and has an identifying number. The term does not include motor vehicles that otherwise may be registered under this title.

¹⁵⁸ **SECTION 6. AMENDMENT.** Subsection 5 of section 39-29.2-03 of the North Dakota Century Code is amended and reenacted as follows:

5. The fee for registration of an unconventional vehicle is fifty dollars per year. For a duplicate or replacement registration number plate or registration card that is lost, mutilated, or becomes illegible, the department may charge a fee of not more than five dollars.

¹⁵⁹ **SECTION 7. AMENDMENT.** Subsection 7 of section 39-29.2-03 of the North Dakota Century Code is amended and reenacted as follows:

¹⁵⁸ Section 39-29.2-03 was also amended by section 8 of Senate Bill No. 2312, chapter 276, and section 7 of Senate Bill No. 2312, chapter 276.

¹⁵⁹ Section 39-29.2-03 was also amended by section 8 of Senate Bill No. 2312, chapter 276, and section 6 of Senate Bill No. 2312, chapter 276.

7. The department shall issue a plate in the same manner as a plate is issued to a motorcycle. Whenever the ownership of an unconventional vehicle registered under this chapter is transferred or assigned, the plates must be handled in accordance with subsection 1 of section 39-04-36.

¹⁶⁰ **SECTION 8.** Subsection 9 to section 39-29.2-03 of the North Dakota Century Code is created and enacted as follows:

9. Every unconventional vehicle is subject to the motor vehicle body damage disclosure requirement of section 39-05-17.2.

SECTION 9. AMENDMENT. Section 39-29.2-04 of the North Dakota Century Code is amended and reenacted as follows:

39-29.2-04. Operation of unconventional vehicle.

To operate an unconventional vehicle on a highway, the operator must be a class D licensed driver. An operator may operate an unconventional vehicle on any highway ~~except an access-controlled highway.~~

SECTION 10. Section 39-29.2-05 of the North Dakota Century Code is created and enacted as follows:

39-29.2-05. Equipment.

Operators and passengers in an unconventional vehicle shall comply with seatbelt use laws.

SECTION 11. Section 39-29.2-06 of the North Dakota Century Code is created and enacted as follows:

39-29.2-06. Manufacturer's or distributor's certification.

1. The manufacturer or distributor shall certify that an unconventional vehicle is designed and manufactured for use upon public highways and complies with the rules adopted under this chapter. An individual who manufactures an unconventional vehicle for personal use does not have to meet the certification requirements of this section, but shall comply with the rules adopted under this chapter.
2. The certificate must be incorporated on the manufacturer's statement of origin upon transfer of vehicle ownership.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 20, 2015
Filed April 20, 2015

¹⁶⁰ Section 39-29.2-03 was also amended by section 6 of Senate Bill No. 2312, chapter 276, and section 7 of Senate Bill No. 2312, chapter 276.

CHAPTER 277

SENATE BILL NO. 2255

(Senators Casper, Oehlke, Sinner)
(Representatives Delmore, Ruby, Schatz)

AN ACT to amend and reenact subsection 1 of section 39-31-03 and sections 39-31-04, 39-31-06, 39-31-11, 39-31-12, 39-31-13, and 39-31-14 of the North Dakota Century Code, relating to common household goods carriers; and to repeal sections 39-31-05, 39-31-07, 39-31-08, 39-31-09, and 39-31-10 of the North Dakota Century Code, relating to common household goods carriers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-31-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The carrier has obtained ~~the certificate or a~~ household goods carrier permit required by this chapter; and

SECTION 2. AMENDMENT. Section 39-31-04 of the North Dakota Century Code is amended and reenacted as follows:

39-31-04. Regulation of common household goods carriers by the department.

The department may regulate common motor carriers of household goods except for transportation provided wholly within a city in this state or within a distance beyond the corporate limits of a city as determined by the department and:

1. ~~May require the filing of tariffs and schedules; and~~
2. ~~Shall~~ shall supervise the relations between common household goods carriers and the public to comply with the provisions of this chapter.

SECTION 3. AMENDMENT. Section 39-31-06 of the North Dakota Century Code is amended and reenacted as follows:

39-31-06. Household goods carrier - ~~Certificate of public convenience -~~ Temporary Household goods carrier permit - Application.

~~No~~ A common household goods carrier may not operate within this state without having obtained from the department a ~~certificate of public convenience and necessity~~ household goods carrier permit. An application must be upon the form prescribed by the department. The application must contain ~~a financial statement~~ proof of registration with the secretary of state, and either proof of workers compensation insurance coverage or an affidavit of nonemployment. The department shall deny issuing a household goods carrier permit if the applicant submits an incomplete application.

SECTION 4. AMENDMENT. Section 39-31-11 of the North Dakota Century Code is amended and reenacted as follows:

39-31-11. Certificates– Permits - Duration - Transfer.

~~Certificates and Household goods carrier permits issued to carriers by the department under this chapter remain in force subject to this chapter. Those certificates or permits are transferable only upon approval by the department, after notice to and opportunity for comment by all interested parties.~~

SECTION 5. AMENDMENT. Section 39-31-12 of the North Dakota Century Code is amended and reenacted as follows:

39-31-12. Fees - Household goods carrier.

~~Every household goods carrier operating in this state, when applying for a certificate of public convenience and necessity or household goods carrier permit, shall pay a fee of one hundred dollars. The nonrefundable fee for an application for transfer of a certificate of public convenience and necessity household goods carrier permit is one hundred dollars. The annual filing fee for maintaining a household goods carrier permit is thirty-five dollars.~~

SECTION 6. AMENDMENT. Section 39-31-13 of the North Dakota Century Code is amended and reenacted as follows:

39-31-13. Regulations furnished to holder of certificate or permit.

~~The department shall mail each holder of a certificate or household goods carrier permit under this chapter the rules the department adopts to implement this chapter.~~

SECTION 7. AMENDMENT. Section 39-31-14 of the North Dakota Century Code is amended and reenacted as follows:

39-31-14. Insurance required of carrier - Liability of insurer.

~~The department, before granting a certificate household goods carrier permit to any common motor carrier, shall require the owner or operator to procure public liability insurance. The conditions of the liability insurance must guarantee the payment of any loss or damage to property or on account of the death or injury to any person resulting from the negligence of the carrier. The carrier shall file the insurance policy with the department and the policy must be kept in full force. The carrier must provide proof the policy is in full effect annually in a form prescribed by the department. Upon failure of a carrier to maintain insurance required by this section, the department shall cancel the certificate permit. A certificate permit of any company authorized to write liability or property damage insurance in the state, in a form approved by the department and certifying that there is in effect a liability insurance policy required by this section, may be filed instead of the policy.~~

SECTION 8. REPEAL. Sections 39-31-05, 39-31-07, 39-31-08, 39-31-09, and 39-31-10 of the North Dakota Century Code are repealed.

Approved April 8, 2015

Filed April 8, 2015

MUNICIPAL GOVERNMENT

CHAPTER 278

SENATE BILL NO. 2371

(Senator Laffen)
(Representative Mock)

AN ACT to create and enact subsection 30 to section 40-05-02 of the North Dakota Century Code, relating to the authority of a city council or board of city commissioners to establish administrative boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subsection 30 to section 40-05-02 of the North Dakota Century Code is created and enacted as follows:

30. Establishment of administrative boards. To establish administrative boards or committees for the limited purpose of adjudicating a violation of a noncriminal city ordinance or noncriminal city code. An administrative board or committee may impose fines or other noncriminal penalties, including issuing orders of suspension and revocation of a permit or license. A decision by an administrative board or committee is subject to appeal to the governing body of the municipality.

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 279

HOUSE BILL NO. 1245

(Representatives Dockter, Rick C. Becker)
(Senator Poolman)

AN ACT to amend and reenact sections 40-08-24, 40-08-26, and 40-11-05 of the North Dakota Century Code, relating to the enforcement of city ordinances and the power of a city council to override the veto of a mayor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-08-24 of the North Dakota Century Code is amended and reenacted as follows:

40-08-24. Ordinance or resolution signed or vetoed by mayor.

The mayor shall sign or veto each ordinance or resolution passed by the council. Any action vetoed by the mayor may be overridden by the city council as provided under section 40-11-05.

SECTION 2. AMENDMENT. Section 40-08-26 of the North Dakota Century Code is amended and reenacted as follows:

40-08-26. Mayor may call on ~~male inhabitants~~residents to aid in enforcing ordinances.

When necessary, the mayor may call on each ~~male inhabitant~~resident of the city over the age of eighteen years to aid in enforcing the laws and ordinances of the city.

SECTION 3. AMENDMENT. Section 40-11-05 of the North Dakota Century Code is amended and reenacted as follows:

40-11-05. Ordinances and resolutions adopted in council cities - Mayor's veto power - Reconsideration after veto.

An ordinance or resolution adopted by the city council of a city operating under the council form of government is not enacted until ~~it~~the ordinance or resolution is approved by the mayor or passed over the mayor's veto. An ordinance or resolution passed by the governing body of a city operating under the council form of government ~~shall~~must be deposited in the office of the city auditor for the approval of the mayor. If the mayor approves ~~such~~the ordinance or resolution, the mayor shall sign the ~~same~~ordinance or resolution. An ordinance or resolution not approved by the mayor ~~shall~~must be returned by the mayor with the mayor's objections in writing to the next regular or special meeting of the council occurring not less than five days after the passage ~~thereof~~of the ordinance or resolution. The veto may extend to an entire ordinance or resolution or to any one or more items or appropriations contained in any ordinance or resolution making an appropriation. If a veto extends to only a part ~~only~~ of an ordinance or resolution, the residue ~~shall take~~takes effect ~~and be in force~~. If the mayor fails to return any ordinance or resolution with the mayor's objections within the time specified in this section, the mayor ~~shall be~~is deemed to have approved the ~~same~~ordinance or resolution. Any veto of an ordinance ~~which has been vetoed in whole or in part~~ or resolution may be ~~reconsidered~~overridden by the city council, and

if two-thirds of its members ~~shall pass such ordinance, it shall be a motion to override the veto. Upon such action, the ordinance or resolution is effective notwithstanding the veto.~~ The vote to pass an ordinance or resolution over the mayor's veto ~~shall~~must be taken by yeas and nays and entered in the journal.

Approved March 27, 2015

Filed March 27, 2015

CHAPTER 280

HOUSE BILL NO. 1340

(Representatives Owens, Belter, Dockter, Keiser, K. Koppelman, Weisz)
(Senator Burckhard)

AN ACT to amend and reenact section 40-22-18 of the North Dakota Century Code, relating to methods of protest of special assessment projects; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-22-18 of the North Dakota Century Code is amended and reenacted as follows:

40-22-18. Protest bar to proceeding - Invalid or insufficient protests - Payment of costs - Tax levy.

If the governing body finds the protests to contain the names of the owners of a majority of the area of the property included within the improvement district, the protests shall be a bar against proceeding further with any special assessment for the improvement project. However, the protests do not bar proceeding with the improvement project described in the plans and specifications if the governing body funds the project with funds other than special assessments. If the governing body finds the protests to contain the names of the owners of a majority of any separate property area included within the district, such protests shall be a bar against proceeding with ~~the portion of such improvement project, the cost of which is~~ special assessments to be assessed in whole or in part upon property within such area, but shall not bar against proceeding with the remainder of the improvement project or assessing the cost thereof against other areas within the district, unless such protests represent a majority of the area of the entire district. If the protests represent a majority of the area of the entire district, such protests bar any special assessment for the improvement project.

The termination of proceedings, by reason of protest or otherwise, shall not relieve the municipality of responsibility for payment of costs theretofore incurred and for payment of such costs a municipality may, if funds on hand and available for the purpose are insufficient, issue its certificates of indebtedness or warrants, or levy a tax which shall be considered a tax for a portion of the cost of a special improvement project by general taxation within the meaning of section 57-15-10. If the protests are found to be insufficient or invalid, the governing body may cause the improvement to be made and may contract or otherwise provide in accordance with this title for the construction thereof and the acquisition of property required in connection therewith and may levy and collect assessments therefor.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - STATUTORY PROVISIONS OF INDEBTEDNESS FOR POLITICAL SUBDIVISIONS. During the 2015-16 interim, the legislative management shall consider studying all statutory provisions on indebtedness that may be incurred by political subdivisions, whether or not subject to debt limitations. The study must also include collection of any available information on the kinds and amounts of current indebtedness of political subdivisions and determination of whether that information is available or accessible to the public.

The legislative management shall report its findings and recommendations, together with any information necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 3. EFFECTIVE DATE. This Act is effective for special assessment improvement projects initiated after July 31, 2015.

Approved April 13, 2015

Filed April 13, 2015

CHAPTER 281

HOUSE BILL NO. 1392

(Representatives Nathe, Dockter, Owens)
(Senators Cook, Poolman, Unruh)

AN ACT to create and enact a new section to chapter 40-22 of the North Dakota Century Code, relating to adoption of municipal policy establishing special assessment determination methods for allocation of assessments among and within classes of property; and to amend and reenact section 40-53.1-07 of the North Dakota Century Code, relating to the disposition of the property of a dissolved city by a county.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 40-22 of the North Dakota Century Code is created and enacted as follows:

Municipal policy providing special assessment determination methods for allocation of assessments among and within classes of property.

Within five months of this section becoming applicable to a city, the governing body of each city with a population exceeding ten thousand shall adopt written policies, after a public hearing for consideration of the policies, which will be applied for cost allocation among properties benefited by a special assessment project. Policies established under this section must provide separately the policy that will be applied for cost allocation for each kind of special assessment and the cost allocation method for residential, commercial, and agricultural property and for any property subject to separate or special assessment factors or assessment rates.

SECTION 2. AMENDMENT. Section 40-53.1-07 of the North Dakota Century Code is amended and reenacted as follows:

40-53.1-07. Dissolution - Care of property - Manager - Disposition of funds.

If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property or dispose of the property in accordance with chapter 11-27. The person employed shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that that person will faithfully perform that person's duties and will promptly pay all money that person receives to the county treasurer monthly on the first day of each month. The bond shall be executed by the person employed and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds, if any, and if none, from county funds.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 282

SENATE BILL NO. 2329

(Senators Flakoll, Burckhard, Nelson)
(Representatives Keiser, Thoreson, Vigesaa)

AN ACT to amend and reenact subsection 1 of section 40-63-03 and subsection 5 of section 40-63-07 of the North Dakota Century Code, relating to the size of a renaissance zone and renaissance zone tax exemptions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 40-63-03 of the North Dakota Century Code is amended and reenacted as follows:

1. A city may apply to the department of commerce division of community services to designate a portion of that city as a renaissance zone if the following criteria are met:
 - a. The geographic area proposed for the renaissance zone is located wholly within the boundaries of the city submitting the application.
 - b. The application includes a development plan.
 - c. The proposed renaissance zone is not more than ~~twenty-three~~thirty-four square blocks, except in a city with a population of greater than five thousand the renaissance zone may exceed ~~twenty-three~~thirty-four square blocks at the rate of one additional block for each additional five thousand population to a maximum size of ~~thirty-eight~~forty-nine blocks. Population is based upon the most recent federal decennial census or federal census estimate.

If a city finds that renaissance zone projects have satisfactorily completed one or more blocks within the renaissance zone, the city may apply for and the department of commerce division of community services may approve withdrawal of those blocks from the renaissance zone and replacement of those blocks with other blocks that otherwise meet the requirements of this chapter.

- d. Except as provided under subdivision g, the proposed renaissance zone has a continuous boundary and all blocks are contiguous.
- e. The proposed land usage includes both commercial and residential property.
- f. The application includes the proposed duration of renaissance zone status, not to exceed fifteen years. Upon application by the city, the department of commerce division of community services may extend the duration of renaissance zone status in increments of up to five years.

- g. The proposed renaissance zone may have a single exception to the continuous boundary and contiguous block requirements under subdivision d if the area of the excepted noncontiguous blocks does not exceed three square blocks.

SECTION 2. AMENDMENT. Subsection 5 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

5. The total amount of credits allowed under this section may not exceed, in the aggregate, ~~eight million five hundred thousand~~ ten million five hundred thousand dollars for investments in renaissance fund organizations. A renaissance fund organization that has received investments that qualify for the credits under this subsection shall use those investments to finance projects within a renaissance zone.

SECTION 3. EFFECTIVE DATE. Section 2 of this Act is effective for taxable events occurring after December 31, 2014.

Approved March 30, 2015
Filed March 31, 2015

UNIFORM COMMERCIAL CODE

CHAPTER 283

HOUSE BILL NO. 1189

(Representatives Karls, Streyle)
(Senators Armstrong, Nelson)

AN ACT to amend and reenact subsection 2 of section 41-04-34 of the North Dakota Century Code, relating to methods to confirm or renew a check stop payment order under the Uniform Commercial Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 41-04-34 of the North Dakota Century Code is amended and reenacted as follows:

2. A stop order is effective for six months after the time it is received, but it lapses after fourteen calendar days if the original order was oral and was not confirmed in writing a record within that period. A stop order may be renewed for additional six-month periods by a writing record given to the bank within a period during which the stop order is effective.

Approved March 26, 2015
Filed March 26, 2015

CHAPTER 284

HOUSE BILL NO. 1134

(Judiciary Committee)

(At the request of the Commission on Uniform State Laws)

AN ACT to amend and reenact section 41-04.1-08 of the North Dakota Century Code, relating to funds transfers under the Uniform Commercial Code; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 41-04.1-08 of the North Dakota Century Code is amended and reenacted as follows:

41-04.1-08. (4A-108) ~~Exclusion of consumer transactions governed by federal law~~ Relationship to Electronic Fund Transfer Act.

- ~~This~~ Except as provided in subsection 2, this chapter does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978 [Title XX, Pub. L. 95-630; 92 Stat. 3728; 15 U.S.C. 1693 et seq.] as amended from time to time.
- ~~This chapter applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act [15 U.S.C. 1693o-1], unless the remittance transfer is an electronic fund transfer as defined in the Electronic Fund Transfer Act [15 U.S.C. 1693a].~~
- ~~In a funds transfer to which this chapter applies, in the event of an inconsistency between an applicable provision of this chapter and an applicable provision of the Electronic Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency.~~

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 2015

Filed March 25, 2015

OCCUPATIONS AND PROFESSIONS

CHAPTER 285

HOUSE BILL NO. 1148

(Representatives Keiser, Beadle)
(Senator Klein)

AN ACT to amend and reenact sections 43-01-15.1 and 43-01-18 of the North Dakota Century Code, relating to fees charged by abstractors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-01-15.1 of the North Dakota Century Code is amended and reenacted as follows:

43-01-15.1. Surface abstracts and mineral abstracts to be furnished upon request - Zoning and subdivision exclusion upon request.

An abstractor shall furnish an abstract of title to the surface of any tract of land, when requested to do so, omitting therefrom all instruments of transfer or conveyance of mineral rights, royalties, and other mineral interests except instruments which sever mineral rights or royalties from surface rights. In addition to such surface abstract, an abstractor shall, when requested to do so, furnish a list showing the names of the grantor and grantee and the recording data of all instruments in the chains of title which transfer or convey mineral rights, royalties, or other mineral interests and which are not included in the surface abstract. For each instrument searched and listed, but not included in the surface abstract, an abstractor may charge a fee of ~~one dollar and fifty cents, and no more~~ not to exceed three dollars. When requested to do so, an abstractor shall furnish a mineral abstract of any chain of title to the minerals of any tract of land which shall consist of the instrument severing the mineral rights or royalties from the surface rights and include all instruments of transfer or conveyance of mineral rights, royalties, and other mineral interests. If requested, such mineral abstract may be combined with a surface abstract of all instruments affecting title to the tract of land to and including the instrument severing the mineral rights, royalties, or other mineral interests being abstracted. Further, when requested to do so, an abstractor shall omit zoning and subdivision ordinances but shall note and exclude them from the abstract of title. An abstractor may charge a per entry fee under section 43-01-18 for each omitted zoning and subdivision ordinance.

SECTION 2. AMENDMENT. Section 43-01-18 of the North Dakota Century Code is amended and reenacted as follows:

43-01-18. Fees chargeable by abstractor.

An abstractor may charge no more than the following fees for making and certifying to an abstract:

1. For each entry on an abstract or continuation of an entry on an abstract, ~~ten~~fifteen dollars.
2. For a complete certification covering the records of the several county offices, one hundred fifty dollars.
3. For a certification covering lands in excess of one quarter section [64.75 hectares] in the same abstract of title and for each quarter section [64.75 hectares] or portion of a quarter section in excess of one, an additional fee of ~~ten~~fifteen dollars.
4. For a certification covering premises in more than one block in any subdivision in the same abstract of title and for the premises in each additional block in excess of one, an additional fee of ~~ten~~fifteen dollars.
5. For each name searched for judgments, real estate taxes, bankruptcy proceedings, federal tax liens, and state tax liens, ~~five~~ten dollars and fees charged to the abstractor by a governmental agency or governmental entity.
6. The fees as may be fixed by special statute.

Approved March 26, 2015

Filed March 26, 2015

CHAPTER 286

SENATE BILL NO. 2128

(Government and Veterans Affairs Committee)
(At the request of the North Dakota Board of Podiatric Medicine)

AN ACT to amend and reenact subsection 5 of section 43-05-01 of the North Dakota Century Code, relating to the definition of podiatric medicine.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 43-05-01 of the North Dakota Century Code is amended and reenacted as follows:

5. ~~"Podiatric medicine" means the profession of the health services concerned with the diagnosis and treatment of conditions affecting the human foot and ankle including local manifestations of systemic conditions by all appropriate systems and means and includes the prescribing or administering of drugs or medications necessary or helpful to that profession.;~~
 - a. The medical and surgical treatment and diagnosis of ailments of the human foot, ankle, and other related soft tissue structures below the tibial tuberosity that govern the functions of the foot and ankle, not including extra articular osseous injuries above the distal metaphyseal scar. Podiatrists may treat and diagnose conditions of the foot and ankle by any medically accepted system or method necessary;
 - b. The amputation of the toes, parts of the foot, or foot in its entirety, indicated as medically necessary;
 - c. The use of such preparations, medicines, and drugs as may be necessary for the treatment of such ailments;
 - d. The performance of history and physical examinations upon admitting patients to facilities where they are recognized with requisite credentials and privileges;
 - e. That podiatrists may function as assistant surgeons in nonpodiatric procedures; and
 - f. That podiatric medical residents working under a temporary permit may fully participate in rotations and assist and perform treatments and diagnosis beyond the foot and ankle, under appropriate supervision within an approved residency program as part of their medical surgical training.

Approved March 19, 2015
Filed March 19, 2015

CHAPTER 287

SENATE BILL NO. 2067

(Industry, Business and Labor Committee)
(At the request of the North Dakota Board of Podiatric Medicine)

AN ACT to amend and reenact sections 43-05-15 and 43-05-16.8 of the North Dakota Century Code, relating to podiatrist license renewal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-05-15 of the North Dakota Century Code is amended and reenacted as follows:

43-05-15. Renewal of license - Fee - Established by board - Failure to pay - Reinstatement.

Each licensed and practicing podiatrist shall pay the annual renewal license fee established by the board. The license fee may be increased in accordance with the number of years licensed and practicing in North Dakota, but may not exceed ~~five hundred~~seven hundred fifty dollars. The fee must be paid on or before the renewal date established by the board. The person is entitled to an annual certificate or license upon payment of the fee. If the renewal fee is not paid within six months after the date established by the board, the license of the delinquent licensee must be considered expired and may be revoked and may not be reissued except upon a new application and the payment of the renewal fee established by the board plus the late fee established by the board not to exceed two hundred fifty dollars and the costs of any hearing held concerning revocation of a license for nonpayment.

SECTION 2. AMENDMENT. Section 43-05-16.8 of the North Dakota Century Code is amended and reenacted as follows:

43-05-16.8. Loan for litigation expenses.

Subject to approval by the emergency commission, the board may borrow funds sufficient to pay for attorney's fees and costs incurred in investigations, administrative proceedings, and litigation resulting from the board performing its duties. Notwithstanding section 43-05-15, the board may establish an annual renewal license fee for each year following the issuance of a loan under this section, and the fee must be maintained until the loan is fully repaid, including any accrued interest. The amount of the annual renewal license fee assessed under this section may not exceed one thousand five hundred dollars. Once the loan is paid in full, the annual renewal license fee must revert to the amount established by the board before the issuance of the loan. The notice of a proposed rule to assess the fee in this section or revert to the previous license fee may be sent by certified mail to each individual licensed by the board in lieu of the publication requirements for the notice in chapter 28-32.

Approved March 18, 2015
Filed March 18, 2015

CHAPTER 288

HOUSE BILL NO. 1098

(Industry, Business and Labor Committee)
(At the request of the North Dakota Board of Podiatric Medicine)

AN ACT to amend and reenact section 43-05-16.3 of the North Dakota Century Code, relating to the powers of the North Dakota board of podiatric medicine.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-05-16.3 of the North Dakota Century Code is amended and reenacted as follows:

43-05-16.3. ~~Subpoena power~~Powers of the board - Podiatrist cooperation.

1. In investigating a podiatrist under this section, the board may subpoena the podiatrist and medical records relating to the practice of the podiatrist under investigation. The confidentiality of the subpoenaed records under any other law does not affect the validity of the board's subpoena nor the admissibility of the records in board proceedings; however, the proceedings and records of the board which are exempt from subpoena, discovery, or introduction into evidence under chapter 23-34 are not subject to this subsection. Records of the board which are medical records subpoenaed under this subsection are confidential.
2. A podiatrist or applicant for license under this chapter who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by the board relating to the subject of the investigation and providing copies of patient medical records or other documentation to assist the board in its investigation. The board shall pay for the copies requested. Except in the case of subpoenaed records, if the board does not have written consent from a patient permitting access to the patient's records, the podiatrist or applicant for license shall delete any data in the record that identifies the patient before providing the record to the board.
3. The board may subpoena witnesses relating to the practice of any podiatrist under investigation.
4. The board may employ independent investigators when necessary.
5. The board may hold confidential conferences with any complainant or podiatrist with respect to any complaint.
6. If the board determines a violation of section 43-05-16 may have occurred, the board may issue a formal complaint against a licensed podiatrist.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 289

HOUSE BILL NO. 1099

(Industry, Business and Labor Committee)
(At the request of the State Board of Chiropractic Examiners)

AN ACT to create and enact section 43-06-17.1 of the North Dakota Century Code, relating to temporary suspension and appeal of chiropractors; and to amend and reenact subdivision a of subsection 2 of section 43-06-01, section 43-06-02, subsections 2 and 5 of section 43-06-04.1, sections 43-06-05, 43-06-08, 43-06-09, 43-06-10.1, 43-06-13, and 43-06-14.1, subdivision g of subsection 1 of section 43-06-15, and subsections 4 and 5 of section 43-06-15 of the North Dakota Century Code, relating to the practice of chiropractic.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 2 of section 43-06-01 of the North Dakota Century Code is amended and reenacted as follows:

- a. The examination, evaluation, and diagnosis by means including x-ray, other appropriate diagnostic imaging, clinical laboratory procedures, or pertinent examinations taught by chiropractic colleges accredited by the council on chiropractic education or its successor or equivalent;

SECTION 2. AMENDMENT. Section 43-06-02 of the North Dakota Century Code is amended and reenacted as follows:

43-06-02. Who exempt from the provisions of this chapter.

This chapter does not apply to:

1. Chiropractors from the District of Columbia, or other states, territories, or countries who are in actual consultation in this state.
2. Students duly enrolled in a college of chiropractic approved and accredited by the council on chiropractic education, or its successor or equivalent, who have completed chiropractic studies and who are continuing their training under a preceptorship program and performing the duties of an intern under the supervision of a chiropractor licensed in the state of North Dakota who has received approval to supervise such internship by the board and said students having received approval to participate in such internship by the board and by the chiropractic college or university.
3. A graduate of any approved and accredited college of chiropractic who has for the first time made application for license by examination to practice chiropractic in the state of North Dakota, and who, under the supervision of a North Dakota licensed chiropractor, performs the duties of an intern, provided that a supervising chiropractor has certified to the board that the graduate is of good character and competent chiropractic ability. The authorization granted by the board terminates within fifteen months from the date issued by the board.

4. Nothing in this chapter is to be construed to impinge upon the practice of medicine by a physician and surgeon or an osteopathic physician and surgeon who has adequate training in the use of manipulative and adjustive procedures of the spine and appendicular skeleton.
5. A chiropractor who is licensed in another jurisdiction of the United States or credentialed to practice chiropractic in another country if that chiropractor is teaching, demonstrating, or providing chiropractic in connection with teaching or participating in an educational seminar in the state for no more than sixty days in a calendar year.

SECTION 3. AMENDMENT. Subsections 2 and 5 of section 43-06-04.1 of the North Dakota Century Code are amended and reenacted as follows:

2. The board shall ~~pass upon~~ verify the qualifications of applicants for licenses to practice chiropractic. It shall examine and renew the licenses of duly qualified applicants.
5. The board may inspect upon ~~complaint or~~ probable cause, at all reasonable times, any chiropractic office or place where chiropractic services are performed.

SECTION 4. AMENDMENT. Section 43-06-05 of the North Dakota Century Code is amended and reenacted as follows:

43-06-05. Meetings of board - When held - Place of meeting - Quorum - Officers - Seal - Compensation - Expenses - How paid.

The board shall hold regular meetings ~~for the examination of applicants~~ twice yearly at approximate six-month intervals and such special meetings as it may deem necessary. The meetings shall be held at such places as the board may designate. Three members of the board constitute a quorum. At the first meeting of the board of each calendar year, the members of the board shall elect from their membership a president, vice president, and secretary-treasurer. Each shall hold office for one year and until a successor is elected and qualified. The board shall have a seal and may adopt appropriate rules necessary to carry out the provisions of this chapter. A member of the board shall receive compensation in an amount to be fixed by regulation of the board for each day or portion thereof spent in the discharge of duties, such mileage as is provided by section 54-06-09, and must be reimbursed for actual and necessary expenses incurred in the discharge of official duties in accordance with section 44-08-04. In addition to the compensation, expenses, and mileage, the secretary-treasurer of the board ~~shall~~ is entitled to receive such salary as must be fixed by a resolution of the board adopted at a regular meeting.

SECTION 5. AMENDMENT. Section 43-06-08 of the North Dakota Century Code is amended and reenacted as follows:

43-06-08. License required - Application - Examination required - Fee.

No person may practice chiropractic in this state unless that person has a license from the state board of chiropractic examiners. Any person who desires a license shall apply to the board and submit to an examination. Each applicant shall present with the application a diploma from a college of chiropractic accredited by the council on chiropractic education or its successor or equivalent, or a photocopy of the same, or a certificate from the college stating that the applicant is a student in good standing in the student's last trimester, and proof that the applicant has the required

qualifications. The board may allow an applicant to take the examination during the period that the applicant is attending the applicant's last trimester but may not issue a license until the applicant has graduated and has provided the board with a diploma as provided in this section. Before beginning the examination, the applicant shall pay to the ~~secretary-treasurer~~ of the board a fee, to be determined by the board from time to time, of an amount not to exceed five hundred dollars. ~~The examination must be held twice yearly at intervals of approximately six months with date and place to be determined by the board.~~

SECTION 6. AMENDMENT. Section 43-06-09 of the North Dakota Century Code is amended and reenacted as follows:

43-06-09. Chiropractor - Qualifications.

An applicant for examination to practice chiropractic in this state shall have a degree or a certificate proving enrollment in the last trimester of college received from an approved and accredited college of chiropractic. An approved and accredited college of chiropractic within the meaning of this chapter is a college of chiropractic that is approved by the board and accredited by the council on chiropractic education or its successor or equivalent.

SECTION 7. AMENDMENT. Section 43-06-10.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-10.1. National board examination.

The board may in its discretion accept all parts of the national board examination in lieu of part of an examination for a license, providing all other requirements are met ~~but shall require examination in chiropractic jurisprudence and practical examinations.~~

SECTION 8. AMENDMENT. Section 43-06-13 of the North Dakota Century Code is amended and reenacted as follows:

43-06-13. Term of license - Renewal - Fee - Requirements.

A license to practice chiropractic in this state is valid for one year only and must be renewed on or before the first day of September of each year. The fee for renewal of a license must be determined by the board but may not exceed five hundred dollars. The board shall establish by rule the number of hours necessary for annual continuing education. Before it issues a renewal license, the board shall require each applicant who has a license to practice in this state to attend a postgraduate course sponsored by a college of chiropractic, accredited by the council on chiropractic education, or its successor or equivalent, a health-related seminar sponsored by an equally accredited college or university, a medical seminar qualifying for continuing education credits, or ~~at least a two-day~~ an educational program arranged by the North Dakota chiropractic association and approved by the board. A license which has not been renewed, as a result of nonpayment of annual registration fees required by this chapter or as a result of the failure by the licensee to attend the required annual continuing education, may be reinstated upon payment to the board of the amount of renewal fees then in default or by certification that the required continuing education has been completed ~~within sixty days~~ after the expiration of the previous license. In either case, the board may charge an additional administrative fee to be fixed by the board not to exceed four hundred dollars. In addition to the payment of fees, the board, after an investigation, may require a chiropractor whose license has not been renewed to submit to a reexamination as to the applicant's qualifications to practice chiropractic before the applicant is reinstated, if the board in the exercise of its

discretion finds and determines that the best interests of the public and the applicant will be served thereby.

SECTION 9. AMENDMENT. Section 43-06-14.1 of the North Dakota Century Code is amended and reenacted as follows:

43-06-14.1. Peer review of services and fees.

1. ~~The board, upon receipt of an inquiry from a patient, a third-party payer, including any governmental agency, or a chiropractor as to whether a chiropractor licensed in this state properly utilized services and rendered or ordered appropriate treatment or services and whether the cost of the treatment was unconscionable for a particular patient~~ a complaint, may appoint a peer review committee for the purpose of investigation of the matter and rendering an opinion thereon.
2. The peer review committee must be appointed by the board and function as its agent and may consist of different individuals for review of different cases.
3. The peer review committee shall investigate each inquiry submitted by the board. It shall examine such witnesses, review such patient and business records, and otherwise take whatever action is necessary to best ascertain the facts. It shall transmit all information it possesses to the board and shall report its findings to the board. The board shall furnish copies of the findings to the ~~patient, party making the complaint and to the chiropractor, and third-party payer. The finding of the peer review committee on each inquiry must include a determination of whether the chiropractor properly utilized services and rendered or ordered appropriate treatment or services and whether the cost of the treatment was unconscionable.~~
4. The determinations of the peer review committee must be presumed valid and may be considered as prima facie evidence in any further proceedings by the board.
5. ~~The acceptance of, or the request~~provision of, payment for treatment rendered to a patient by a chiropractor constitutes the consent of the chiropractor to the submission of all necessary records and other information concerning the treatment to the board or peer review committee.
6. The board may adopt rules it considers necessary and appropriate to implement the peer review system and activities established under this chapter.
7. All data and information, including patient records acquired by the board or the peer review committee, in the exercise of its duties and functions, are confidential and closed to the public. All board and peer review committee meetings wherein patient testimony or records are taken or reviewed are confidential and closed to the public.
8. ~~Any third-party payer~~Except a patient, any party, including any governmental agency, making a request under this section may be charged a fee by the board equal to the administration costs of performing the review.

¹⁶¹ **SECTION 10. AMENDMENT.** Subdivision g of subsection 1 of section 43-06-15 of the North Dakota Century Code is amended and reenacted as follows:

- g. Has been aided, assisted, or enabled any unlicensed person to practice chiropractic contrary to this chapter or rule of the board.

¹⁶² **SECTION 11. AMENDMENT.** Subsections 4 and 5 of section 43-06-15 of the North Dakota Century Code are amended and reenacted as follows:

4. A doctor of chiropractic who is the subject of an investigation by, or on behalf of, the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by, or on behalf of, the board relating to the subject of the investigation and providing copies of patient health records, ~~as reasonably or any pertinent information~~ requested by the board, to assist the board in its investigation.
5. Any person, including a member of the board, may file a ~~sworn~~ signed written statement and other reports and information with any member of the board against a licensed chiropractor charging the chiropractor with any of the offenses or conditions set forth in subsection 1, which statement must set forth a specification of the charges. When the statement has been filed, the board shall make an investigation as provided by subsection 6.

SECTION 12. Section 43-06-17.1 of the North Dakota Century Code is created and enacted as follows:

43-06-17.1. Temporary suspension - Appeal.

1. If based on verified evidence the board determines by a clear and convincing standard that the evidence presented to the board indicates that the continued practice by the chiropractor would create significant risk of serious and ongoing harm to the public while a disciplinary proceeding is pending, and that immediate suspension of the chiropractor's license is required to reasonably protect the public from the risk of harm, the board may order a temporary suspension ex parte. For purposes of this section, "verified evidence" means testimony taken under oath and based on personal knowledge. The board shall give prompt written notice of the suspension of the chiropractor, which must include a copy of the order and complaint, the date set for a full hearing, and, upon request, a specific description of the nature of the evidence, including a list of all known witnesses and a specific description of any documents relied upon by the board in ordering the temporary suspension must be made available to the chiropractor.
2. An ex parte suspension remains in effect until a final order is issued after a full hearing or appeal under this section or until the suspension is otherwise terminated by the board.
3. The board shall conduct a hearing on the merits of the allegations to determine what disciplinary action, if any, will be taken against the chiropractor who is the subject of the ex parte suspension. That hearing must be held not later than thirty days from the issuance of the ex parte temporary suspension

¹⁶¹ Section 43-06-15 was also amended by section 11 of House Bill No. 1099, chapter 289.

¹⁶² Section 43-06-15 was also amended by section 10 of House Bill No. 1099, chapter 289.

order. The chiropractor is entitled to a continuance of the thirty-day period upon request for a period determined by the hearing officer.

4. The chiropractor may appeal the ex parte temporary suspension order before the full hearing. For purposes of appeal, the district court shall decide whether the board acted reasonably or arbitrarily. The court shall give priority to the appeal for prompt disposition.
5. Any medical record of a patient, or other document containing personal information about a patient, which is obtained by the board is an exempt record as defined in section 44-04-17.1.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 290

SENATE BILL NO. 2188

(Senators Klein, Luick, Oehlke)
(Representatives Louser, Monson, Schreiber Beck)

AN ACT to amend and reenact section 43-07-02 and subsection 3 of section 43-07-10 of the North Dakota Century Code, relating to providing penalties for operating without a contractor's license and committing construction fraud; to repeal section 43-07-18 of the North Dakota Century Code, relating to the penalty for operating without a contractor's license; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-07-02 of the North Dakota Century Code is amended and reenacted as follows:

43-07-02. License required - Construction fraud - Penalty.

1. A person may not engage in the business nor act in the capacity of a contractor within this state when the cost, value, or price per job exceeds the sum of ~~two~~four thousand dollars nor may that person maintain any claim, action, suit, or proceeding in any court of this state related to the person's business or capacity as a contractor without first having a license as provided in this chapter.
2. Any person acting in the capacity of a contractor without a license is guilty of a class A misdemeanor. Regardless of whether a person is subjected to criminal prosecution under this subsection, and in addition to the license fee that may be assessed when the person applies for a license, the person may be assessed a civil penalty by the registrar, following written notice to the person of an intent to assess the penalty, in an amount not to exceed three times the amount set forth in section 43-07-07. Any civil penalty must be assessed and collected before a person is issued a license. The assessment of a civil penalty may be appealed in the same manner as appeals under section 43-07-04.
3. A person commits construction fraud if:
 - a. The person receives payment for a construction project by intentionally using deception as defined in section 12.1-23-10.
 - b. The person receives payment for the purchase of materials or supplies and willfully fails to pay the supplier for the goods received.
 - c. The person willfully abandons a construction project after receiving payment for services or materials. Abandonment under this subdivision arises if:
 - (1) A contractor fails substantially to commence any work agreed upon:

- (a) Within sixty days of a starting date agreed upon in writing; or
- (b) Within ninety days of the contract date if no starting date is agreed upon in writing; or
- (2) A contractor fails to complete any work agreed upon in writing within ninety days of a completion date agreed upon in writing, or within one hundred eighty days of the contract date if no completion date is agreed upon in writing.
4. It is a defense to prosecution under subsection 3 if:
- a. The person returned all of the payment received for work not performed or materials not supplied. If the person provided materials to the jobsite but did not pay suppliers for those materials, this defense does not apply. This defense is only valid if the payment was provided before criminal charges were filed.
 - b. The person had a legitimate legal excuse for nonperformance.
 - c. The person was not able to begin or complete the project because there were factors outside of the person's control and the person made substantial efforts to resolve any dispute.
5. The grade of the offense for violating subsection 3 is based on the amount of payment received. Payment of under ten thousand dollars is a class C felony; more than ten thousand dollars but not more than fifty thousand dollars is a class B felony; and more than fifty thousand dollars is a class A felony.

¹⁶³ **SECTION 2. AMENDMENT.** Subsection 3 of section 43-07-10 of the North Dakota Century Code is amended and reenacted as follows:

3. The application for a certificate of renewal must be made to the registrar on or before the first day of March of each year. At the time of filing the application for a certificate of renewal, the applicant shall pay to the registrar a renewal fee equal to twenty percent of the license fee established in section 43-07-07. If any contractor applies for a renewal under a class different from the license previously issued, the new class license may be issued upon the payment of the fee required for the issuance of the license of the class applied for. If any contractor fails to file an application for a certificate of renewal by the March first deadline, the contractor's license is not in good standing and the contractor must be deemed to be unlicensed within the meaning of ~~sections~~section 43-07-02 and 43-07-18. Within sixty days after March first, the contractor must be notified by mail that the contractor's license is not in good standing. The contractor then has until June first to renew by paying a penalty fee of seventy-five percent of the renewal fee, filing an application for a certificate of renewal, and paying the renewal fee. A contractor who applies for a certificate of renewal before or within ninety days of the filing deadline is not subject to the investigation authorized in section 43-07-09. After the June first deadline any licenses not renewed are revoked. Any application for a certificate of renewal must be fully completed within sixty days of the date the application is received by the registrar or the registrar shall return the application to the contractor who then is subject to section 43-07-09. The

¹⁶³ Section 43-07-10 was also amended by section 5 of Senate Bill No. 2278, chapter 291.

registrar may destroy all renewals provided for in this section after they have been on file for six years.

SECTION 3. REPEAL. Section 43-07-18 of the North Dakota Century Code is repealed.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 15, 2015

Filed April 15, 2015

CHAPTER 291

SENATE BILL NO. 2278

(Senators Poolman, Luick)
(Representatives Devlin, Ruby, Sukut)

AN ACT to amend and reenact sections 43-07-04, 43-07-04.1, 43-07-07, 43-07-09, 43-07-10, and 43-07-15 of the North Dakota Century Code, relating to contractor licensing and fees; to repeal section 43-07-05 of the North Dakota Century Code, relating to contractor license fees; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-07-04 of the North Dakota Century Code is amended and reenacted as follows:

43-07-04. License - How obtained - Failure to grant - Revocation for not in good standing.

1. To obtain a license under this chapter, an applicant who is eighteen years of age or older shall submit, on forms the registrar prescribes, an application under oath containing a statement of the applicant's experience and qualifications as a contractor. A copy of a certificate of liability insurance must be filed with the application and the contractor shall submit a statement from North Dakota workforce safety and insurance that the contractor has secured workforce safety and insurance coverage satisfactory to workforce safety and insurance. If the registrar deems it appropriate or necessary, the registrar may also require any other information to assist the registrar in determining the applicant's fitness/eligibility to act in the capacity of a contractor, including, at the expense of the applicant, criminal history record information of the applicant or the officers, members, or partners of the applicant which is held or maintained by the bureau of criminal investigation or a similar entity in another state. The application must contain a statement that the applicant desires the issuance of a license under this chapter and must specify the class of license sought.
2. The registrar may refuse to grant a license if the registrar determines the application contains ~~false, misleading, or incomplete information;~~ or the applicant fails or refuses to authorize or pay for criminal history information requested by the registrar; ~~or as otherwise provided in sections 12-1-33-02.1 and 43-07-04.1.~~ The registrar shall notify the applicant in writing if the registrar does not grant the license and shall provide the applicant an opportunity to respond to or cure the defect in the application for a period of ten days from the date of the written notification. An applicant aggrieved by a decision of the registrar not to grant the license may appeal the decision to the district court of the applicant's county of residence or Burleigh County.
3. No sooner than twenty days after sending written notice to a contractor at the contractor's last-known address, the registrar shall classify as not in good standing the license of any contractor who fails to:

- a. Maintain liability insurance coverage required by this section or by section 43-07-10;
 - b. File, renew, or properly amend any fictitious name certificate required by chapter 45-11;
 - c. Maintain an active status of a corporation or registration as a foreign corporation;
 - d. Maintain an active status of a limited liability company or registration as a foreign limited liability company;
 - e. File or renew a trade name registration as required by chapter 47-25;
 - f. Maintain a limited liability partnership registration or foreign limited liability partnership registration as required by chapter 45-22; or
 - g. Maintain a limited partnership certificate of limited partnership or foreign limited partnership certificate of authority.
4. Any contractor who has been notified by the registrar that the contractor's license is not in good standing shall cease soliciting or entering new contract projects. If the contractor fails to correct the deficiency specified in the notice by evidence satisfactory to the registrar within thirty days of the date of the notice or if the contractor solicits or enters new contract projects while the contractor's license is not in good standing, the registrar shall use the procedures of chapter 28-32 to revoke the license of the contractor.

SECTION 2. AMENDMENT. Section 43-07-04.1 of the North Dakota Century Code is amended and reenacted as follows:

43-07-04.1. Conviction not bar to licensure -- Exceptions Denial, suspension, or revocation of license - Eligibility.

Conviction

1. The registrar may deny any application for license, deny any application for renewal of license, or suspend or revoke any license, based on the applicant's or licensee's lack of eligibility to act in the capacity of a contractor, upon proof of one or more of the following:
 - a. The application for a license contains false or misleading information;
 - b. The applicant or licensee has been convicted of an offense that has direct bearing upon the applicant's or licensee's ability to serve the public as a contractor; or
 - c. The licensee or applicant has engaged in conduct as a contractor which is dishonest or fraudulent and which the registrar finds injurious to the welfare of the public.
2. Notwithstanding subdivision b of subsection 1, conviction of an offense does not disqualifymake a person fromineligible for licensure under this chapter unless the secretary of state determines that the offense has a direct bearing upon a person's ability to serve the public as a contractor or that, following

conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

3. Any applicant denied a license or denied renewal of a license may appeal the decision to the district court of the applicant's county of residence or Burleigh County.
4. Section 43-07-15 applies to any decision by the registrar to revoke or suspend a license.

SECTION 3. AMENDMENT. Section 43-07-07 of the North Dakota Century Code is amended and reenacted as follows:

43-07-07. Classes of licenses - License fees - License renewal fees.

At the time of making application

1. Four classes of licenses may be issued under this chapter, which must be designated as class A, B, C, and D licenses. A holder of a license may engage in the contracting business within this state subject to the following limitations:
 - a. The holder of a class A license is subject to no limitation as to the value of any single contract project.
 - b. The holder of a class B license is not entitled to engage in the construction of any single contract project of a value in excess of five hundred thousand dollars.
 - c. The holder of a class C license is not entitled to engage in the construction of any single contract project of a value in excess of three hundred thousand dollars.
 - d. The holder of a class D license is not entitled to engage in the construction of any single contract project of a value in excess of one hundred thousand dollars.
2. When applying for a license as described and required in this chapter, the applicant shall pay to the registrar the following fees:
 - 1-a. For a class A license, the sum of ~~three~~four hundred ~~fifty~~ dollars.
 - 2-b. For a class B license, the sum of ~~two~~three hundred dollars.
 - 3-c. For a class C license, the sum of ~~one~~two hundred ~~fifty~~twenty-five dollars.
 - 4-d. For a class D license, the sum of ~~forty~~one hundred dollars.
3. For a certificate of renewal for a license, the licensee shall pay to the registrar the following fees:
 - a. For a class A license, the sum of ninety dollars.
 - b. For a class B license, the sum of sixty dollars.
 - c. For a class C license, the sum of forty-five dollars.

d. For a class D license, the sum of thirty dollars.

4. All Twenty-five percent of all moneys collected by the registrar under this chapter must be deposited by the registrar in the secretary of state's general services operating fund to pay the cost to administer this chapter and the balance of the moneys collected must be deposited with the state treasurer, who shall credit them to the general fund of the state.

SECTION 4. AMENDMENT. Section 43-07-09 of the North Dakota Century Code is amended and reenacted as follows:

43-07-09. Duty of registrar - Expiration of license.

Within fifteen days from the date of application, the registrar may investigate and determine each applicant's fitnesseligibility to act in the capacity of a contractor as defined in this chapter provided in section 43-07-04.1, and no license may be issued to such applicant until the registrar receives all documentation necessary to obtain a license and the appropriate fee. The license issued on an original application entitles the licensee to act as a contractor within this state, subject to the limitations of such license, until the expiration of the then current fiscal year ending March first, except that an initial license issued to a licensee in January or February is valid until March first of the subsequent year.

¹⁶⁴ **SECTION 5. AMENDMENT.** Section 43-07-10 of the North Dakota Century Code is amended and reenacted as follows:

43-07-10. Renewal of license - Grounds for nonrenewal - Time requirements - Invalidity of license for failure to renew.

1. Any license issued under this chapter may be renewed for each successive fiscal year by obtaining from the registrar a certificate of renewal. To obtain a certificate of renewal, the licensee shall file with the registrar an application that includes a listing of each project, contract, or subcontract completed by the licensee during the preceding calendar year in this state over the amount of twenty-five thousand dollars and the nature of the work of each project, contract, or subcontract. The registrar shall within a reasonable time forward a copy of the list to the state tax commissioner. The applicant shall include with the application a copy of a certificate of liability insurance naming the secretary of state as the certificate holder unless the registrar has a current valid certificate of insurance on file, and a certification that the applicant has submitted all payroll taxes, including North Dakota income tax, workforce safety and insurance premiums, and unemployment insurance premiums due at the time of renewal, which documents need not be notarized.
2. The registrar may refuse to renew a license if the registrar determines the application contains false, misleading, or incomplete information or if the contractor's license is not in good standing for any of the reasons listed in subsection 3 of section 43-07-04. The registrar shall notify the applicant in writing if the registrar does not grant the license and shall provide the applicant an opportunity to respond to or cure the defect in the application for a period of ten days from the date of the written notification. An applicant aggrieved by a decision of the registrar not to grant the license may appeal

¹⁶⁴ Section 43-07-10 was also amended by section 2 of Senate Bill No. 2188, chapter 290.

the decision to the district court of the applicant's county of residence or Burleigh County.

3. The application for a certificate of renewal must be made to the registrar on or before the first day of March of each year. At the time of filing the application for a certificate of renewal, the applicant shall pay to the registrar ~~at the~~ renewal fee equal to ~~twenty percent of the license fee~~ established in section 43-07-07. If any contractor applies for a renewal under a class different from the license previously issued, the new class license may be issued upon the payment of the fee required for the issuance of the license of the class applied for. If any contractor fails to file an application for a certificate of renewal by the March first deadline, the contractor's license is not in good standing and the contractor must be deemed to be unlicensed within the meaning of sections 43-07-02 and 43-07-18. Within sixty days after March first, the contractor must be notified by mail that the contractor's license is not in good standing. The contractor then has until June first to renew by paying a penalty fee of ~~seventy-five percent of the renewal fee~~ fifty dollars, filing an application for a certificate of renewal, and paying the renewal fee. A contractor who applies for a certificate of renewal before or within ninety days of the filing deadline is not subject to the investigation authorized in section 43-07-09. After the June first deadline any licenses not renewed are revoked. Any application for a certificate of renewal must be fully completed within sixty days of the date the application is received by the registrar or the registrar shall return the application to the contractor who then is subject to section 43-07-09. The registrar may destroy all renewals provided for in this section after they have been on file for six years.

SECTION 6. AMENDMENT. Section 43-07-15 of the North Dakota Century Code is amended and reenacted as follows:

43-07-15. ~~Revocation Procedure for revocation or suspension of license - Restitution - Civil penalties - Appeal - Procedure.~~

The registrar shall review each complaint filed under section 43-07-14. If the registrar determines a written complaint filed under section 43-07-14 provides sufficient facts upon which a reasonable person could conclude that one or more of the acts or omissions set forth in section 43-07-14 has been committed, the registrar may initiate an adjudicative proceeding in accordance with chapter 28-32. If, after an adjudicative proceeding or as part of an informal disposition under chapter 28-32, the registrar determines that the licensee is guilty of an act or omission charged or if the licensee admits guilt to an act or omission charged, the registrar may suspend or revoke the contractor's license, order a civil penalty of not more than one thousand dollars, order restitution in an amount not more than five thousand dollars, or impose some lesser sanction or remedy. The registrar may suspend the contractor's license for a period of not more than sixty months. The registrar may not renew, reinstate, or issue a new license until the licensee has paid any civil penalty or restitution imposed under this section. The registrar may bring an action in district court to recover restitution or penalties under this section. A contractor aggrieved by a decision of the registrar in revoking or suspending the contractor's license or ordering restitution or penalties may appeal the decision to the district court of that person's county of residence or Burleigh County. Any licensee may not obtain a license under any name during the period of revocation or suspension. A "licensee" whose license is revoked or suspended includes any officer, director, agent, member, or employee of the licensee. The provisions of chapter 28-32 govern any appeal and proceedings ~~hereunder~~ under this section.

SECTION 7. REPEAL. Section 43-07-05 of the North Dakota Century Code is repealed.

SECTION 8. EMERGENCY. Section 2 of this Act is declared to be an emergency measure.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 292

HOUSE BILL NO. 1229

(Representatives B. Koppelman, Froseth, Karls, Kasper, Keiser, Rohr)
(Senators Campbell, Dever, Klein, Poolman)

AN ACT to amend and reenact sections 43-09-09.2 and 43-09-14 of the North Dakota Century Code, relating to contracting for electrical services and undertaking for electricians contracting for electrical installations; to repeal section 43-09-14 of the North Dakota Century Code, relating to the electricians special fund; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-09-09.2 of the North Dakota Century Code is amended and reenacted as follows:

43-09-09.2. Advertising prohibited - Exceptions - Liability - Penalty.

1. Except as provided in this section, if an electrical license is required under section 43-09-09 or by local ordinance, ~~no~~ no person may ~~not~~ not advertise to contract for electrical services without being licensed as or being associated with a class B or master electrician unless that person intends to contract the electrical services with a licensed electrical contractor.
2. If a person associates with a class B or master electrician under subsection 1 and that association ends, that person is jointly and severally liable for any electrical services contracts entered under that association.
3. a. A person violating this section is guilty of a class B misdemeanor for a first conviction, but no fine in excess of one hundred dollars and no term of imprisonment may be imposed.
b. A person violating this section is guilty of a class A misdemeanor for a second or subsequent conviction, but the penalties are as follows:
 - (1) For a second conviction, no fine in excess of one thousand dollars and no term of imprisonment may be imposed.
 - (2) For a third or subsequent conviction, a fine not to exceed one thousand dollars, or imprisonment not to exceed thirty days, or both, may be imposed.

¹⁶⁵ **SECTION 2. AMENDMENT.** Section 43-09-14 of the North Dakota Century Code is amended and reenacted as follows:

43-09-14. Master electrician and class B electrician - Undertaking - Fund.

~~Before entering into a contract agreement or undertaking with another for the installation of electrical wiring or installation of electrical parts of other apparatus, a~~

¹⁶⁵ Section 43-09-14 was repealed by section 3 of House Bill No. 1229, chapter 292.

~~master electrician or a class B electrician shall execute and deposit with the board an undertaking in the sum of five thousand dollars for a master electrician or four thousand dollars for a class B electrician conditioned on the faithful performance of all electrical work undertaken by the electrician, on strict compliance with the provisions of this chapter, and on the requirements of the board. In addition, a deposit must be made with the board in the amount of fifty dollars by a master electrician and in the amount of forty dollars by a class B electrician, in lieu of a surety bond. The deposit so made must be accumulated by the board in The board shall administer a special fund to be used for the completion of installations abandoned by master electricians referred to in this section and class B electricians, not to exceed the amount of five~~twenty-five~~ thousand dollars for a master electrician and four thousand dollars for a class B electrician. The board shall waive the deposit for a renewal of license by electricians who have made an initial deposit under this section if at the beginning of the renewal year the fund exceeds fifty thousand dollars. Funds in excess of fifty thousand dollars at the end of each year may be committed and used at the direction of Effective July 1, 2016, the board shall use any money remaining in the special fund to inform and educate electricians concerning the requirements of the electrical code. The board may prescribe forms for the undertaking and make rules it deems necessary to carry out the intent of this section.~~

¹⁶⁶ **SECTION 3. REPEAL.** Section 43-09-14 of the North Dakota Century Code is repealed.

SECTION 4. EFFECTIVE DATE. Section 3 of this Act becomes effective on August 1, 2017.

Approved April 22, 2015

Filed April 22, 2015

¹⁶⁶ Section 43-09-14 was amended by section 2 of House Bill No. 1229, chapter 292.

CHAPTER 293

SENATE BILL NO. 2097

(Industry, Business and Labor Committee)
(At the request of the State Board of Cosmetology)

AN ACT to amend and reenact sections 43-11-01, 43-11-02, 43-11-04, 43-11-11, 43-11-13, 43-11-15, 43-11-25, 43-11-26, subsection 1 of section 43-11-27, and section 43-11-28 of the North Dakota Century Code, relating to the practice and licensing of cosmetology, manicuring, and esthetics.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-11-01 of the North Dakota Century Code is amended and reenacted as follows:

43-11-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the state board of cosmetology.
2. "Booth space" means that part of a licensed salon that is operated independently by an individual licensed under this chapter.
3. "Cosmetologist" means an individual licensed under this chapter to practice cosmetology.
- ~~3-4.~~ "Cosmetology" means any one or a combination of practices generally and usually performed by and known as the occupation of beauty culturists or cosmeticians or cosmetologists or hairdressers, or of any other person holding out as practicing cosmetology by whatever designation and within the meaning of this chapter and in and upon whatever place or premises; and in particular cosmetology includes the following or any one or a combination of practices: arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work, upon the hair of any person by any means or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, exercising, ~~waxing to remove~~ performing noninvasive hair removal, beautifying, or similar work on the body, manipulation of eyelashes, or manicuring the nails of any person.
- 4-5. "Cosmetology salon" includes that part of any building in which the occupation of a cosmetologist is practiced.
- 5-6. "Esthetician" means a person who is licensed by the board to engage in the practice of skin care. ~~An esthetician does not include a professional make-up artist trained in facial make-up application by a cosmetics company.~~
- 6-7. "Homebound" means any person who is ill, disabled, or otherwise unable to travel to a salon.

- 7-8. "Instructor" means any person of the age of eighteen years or more, who is a licensed cosmetologist, who teaches cosmetology or any practices taught in a duly registered school of cosmetology, and who has met the requirements of section 43-11-27 and has applied for and received an instructor's license.
- 8-9. "Invasive care" means any procedure that invades the live tissue of the dermis, including:
- a. ~~Laser use, except the use of cold laser technology using nonlinear, pulsed light application for the purpose of biostimulation without the generation of heat; and~~
 - b. Chemical peels, ~~except for chemical peels using:~~
 - (1) ~~Thirty percent or higher concentration of alpha hydroxy acid, which includes glycolic acid with a pH of 3.0 or higher;~~
 - (2) ~~Twenty percent or higher concentration of beta hydroxy acid, which includes salicylic acid with a pH of 3.0 or higher; or~~
 - (3) ~~Two percent or higher concentration of resorcinol with a pH of 3.0 or higher;~~
 - (4) ~~Fifteen percent or higher concentration of trichloroacetic acid (TCA); or~~
 - (5) ~~Fifteen percent or higher concentration of phenol.~~
- ~~9.~~ "Manager-operator" means ~~any person who has met the requirements of section 43-11-26 and has applied for and received a managing cosmetologist license.~~
10. "Manicuring" means the cleansing, cutting, shaping, beautifying, or massaging of the hands, feet, or nails of any person.
11. "Manicurist" means a person who is licensed by the board to engage in the practice of manicuring.
12. "Master cosmetologist" means any person who has met the requirements of section 43-11-26 and has applied for and received a managing cosmetologist license.
- ~~12-13.~~ "School of cosmetology" means an establishment operated for the purpose of teaching cosmetology.
- ~~13-14.~~ "Skin care" means the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, ~~waxing to remove~~performing noninvasive hair removal, beautifying, or similar work on the body of any person. The term does not include invasive care.
- 14-15. "Student" means any person who is engaged in the learning or acquiring of any or all the practices of cosmetology and while so learning, performs or assists in any of the practices of cosmetology in any school registered or licensed and under the immediate supervision of an instructor licensed as such under this chapter.

~~45-16.~~ "Student instructor" means a cosmetologist who is receiving instruction in teacher's training in a duly registered school of cosmetology.

~~46-17.~~ "Tuition" means the total cost of a person's cosmetology studies, and does not include books or demonstration kits.

SECTION 2. AMENDMENT. Section 43-11-02 of the North Dakota Century Code is amended and reenacted as follows:

43-11-02. Exemptions from provisions of chapter.

This chapter does not apply to:

1. Services in case of emergency.
2. Services provided by persons practicing cosmetology upon members of their immediate families.
3. Services by a person licensed by the state and working within the standards and ethics of that person's profession, if that person does not represent to the public that the person is a cosmetologist or manicurist.
4. Services by nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation.
5. Educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, from which the general public is excluded. For purposes of this subsection a "bona fide association of cosmetologists" means any organization whose constitution, bylaws, or membership rules establish within said organization a class of membership consisting of licensed cosmetologists.
6. Services provided by retailers or their sales personnel trained in the demonstration of cosmetics application if the cosmetics are applied only with disposable applicators that are discarded after each customer demonstration. The board may adopt rules to ensure sanitary conditions for services provided under this exemption.
7. Services provided in a licensed hospital or a nursing home by a person practicing cosmetology on a volunteer basis without compensation or by a nurse's assistant.
8. Skin care provided under the supervision, control, and responsibility of a physician in the hospital, clinic, or physician's office ~~physician practicing within the scope of the physician's license under chapter 43-17 or nurse practicing within the scope of the nurse's license under chapter 43-12.1.~~

SECTION 3. AMENDMENT. Section 43-11-04 of the North Dakota Century Code is amended and reenacted as follows:

43-11-04. Members of board - Qualifications.

Each member of the board must be a citizen of this state. Three of the members of the board must each be a licensed cosmetologist who has had at least three years' practical experience in the occupation. ~~The other two members~~ One member of the

board must be ~~citizen members, at least one of whom has~~ have professional experience as a secondary teacher or as a postsecondary educator. One member of the board must be a licensed health care provider.

SECTION 4. AMENDMENT. Section 43-11-11 of the North Dakota Century Code is amended and reenacted as follows:

43-11-11. Sanitary rules - Practice outside salon.

The board with the approval of the state department of health shall adopt sanitary rules necessary to prevent the creating and spreading of infectious and contagious diseases. A cosmetology salon must be at a fixed location and may not be used for living or sleeping quarters. ~~An operator~~A cosmetologist or esthetician may practice outside of the establishment under the direction and control of ~~an owner or manager~~a master cosmetologist or master esthetician thereof under rules adopted by the board.

SECTION 5. AMENDMENT. Section 43-11-13 of the North Dakota Century Code is amended and reenacted as follows:

43-11-13. License required.

No person in this state may engage in or attempt to engage in the occupation of cosmetology, manicuring, or skin care, nor conduct a cosmetology salon or booth or school of cosmetology, unless having first obtained a license.

SECTION 6. AMENDMENT. Section 43-11-15 of the North Dakota Century Code is amended and reenacted as follows:

43-11-15. ~~Cosmetology salon~~Salon ownership and operation.

A ~~cosmetology~~ salon may be owned by any person authorized to do business in this state. A cosmetology salon must be operated and supervised by a ~~manager-operator~~master cosmetologist. A manicuring salon must be operated and supervised by a master cosmetologist or master manicurist. A salon providing only skin care must be operated and supervised by a master cosmetologist or master esthetician.

SECTION 7. AMENDMENT. Section 43-11-25 of the North Dakota Century Code is amended and reenacted as follows:

43-11-25. License issued without examination - Conditions.

The board may dispense with the examination of applicants for licenses to practice cosmetology and may grant licenses upon the payment of a fee for original licensure and the reciprocity fee if all the following requirements are met:

1. The applicant has ~~complied~~;
 - a. Complied with the requirements for registration of the District of Columbia, or another state, territory, foreign country, or province where the requirements are equal substantially to those in force in this state at the time the application for the license is filed; or
 - b. Provided satisfactory proof of completing the course curriculum hours required by the board and provided proof of successfully passing the theoretical and practical examinations substantially similar to those required in this state.

2. The applicant passes to the satisfaction of the board an examination on sanitary practices and cosmetology law in this state.

SECTION 8. AMENDMENT. Section 43-11-26 of the North Dakota Century Code is amended and reenacted as follows:

43-11-26. ~~Manager-operator~~Master cosmetologist - License - Qualifications.

An individual may obtain a ~~manager-operator's~~master cosmetologist's license upon meeting all the following requirements:

1. Furnishing to the board evidence of having practiced as a cosmetologist for at least one thousand hours.
2. Paying an original licensure fee as set forth in section 43-11-28.
3. Complying with the other requirements of this chapter applicable to a ~~manager-operator~~master cosmetologist.

SECTION 9. AMENDMENT. Subsection 1 of section 43-11-27 of the North Dakota Century Code is amended and reenacted as follows:

1. No person may be licensed as an instructor of cosmetology unless the person furnishes the board the examination fee set forth in section 43-11-28 and evidence of having a general education equivalent to the completion of four years in high school. An applicant:
 - a. Shall have at least nine hundred sixty hours instructor's training in cosmetology in a school of cosmetology. ~~In no event may more than two thousand sixty hours instructor's training be required for admission to examination.~~ Under this subdivision the practical portion of the examination may be waived if the written examination is supplemented with videotapes of the applicant's teaching procedures;
 - b. Shall possess a current North Dakota license as a cosmetologist and must have been actively engaged in the practice of cosmetology for at least one year before application for an instructor's license, supplemented by not less than four hundred eighty hours instructor's training in a school of cosmetology or course of training approved by the board; or
 - c. Shall possess a current North Dakota license as a cosmetologist and shall have been actively engaged in the practice of cosmetology for at least three years prior to application for an instructor's license supplemented by not less than one hundred sixty hours instructor's training in a school of cosmetology or course of training approved by the board. No instructor or student instructor may be permitted to practice cosmetology on a patron other than that part of practical work which pertains directly to the teaching of practical operations to students.

SECTION 10. AMENDMENT. Section 43-11-28 of the North Dakota Century Code is amended and reenacted as follows:

43-11-28. Fees.

1. Fees to be paid by applicants for original registrations, original licenses, annual renewals, licenses issued upon reciprocity, and examinations as required under this chapter may not exceed the following amounts:

a.	Original registrations, licenses, and annual renewals:	MAXIMUM FEE:
	(1) Salons, original registration	\$80.00
	(2) Salons, annual renewal	\$30.00
	(3) School of cosmetology, original registration	\$505.00
	(4) School of cosmetology, annual renewal	\$205.00
	(5) Operator Cosmetologist, original license	\$15.00
	(6) Operator Cosmetologist, annual renewal	\$15.00
	(7) Manager-operator Master cosmetologist, original license	\$25.00
	(8) Manager-operator Master cosmetologist, annual renewal	\$20.00
	(9) Instructor, original license	\$35.00
	(10) Instructor, annual renewal	\$20.00
	(11) Demonstrators , original license	\$30.00
	(12) Demonstrators, annual renewal	\$20.00
	(13) Reciprocity license fee	\$105.00
	(14) (12) Registration fee for student instructor	\$15.00
	(15) (13) Duplicate license	\$10.00
	(16) Penalty fee for late renewal	\$15.00
	(17) (14) Certification fee	\$20.00

b. Examinations:

- | | |
|--|---------|
| (1) Operator Cosmetology practical examination | \$25.00 |
| (2) Instructors practical examination | \$55.00 |
| (3) Written examination fees are set and collected by the administrator of the examination and payment is the responsibility of the applicant. | |

2. Fees are not prorated or returnable. The board may charge a ~~ten~~fifty dollar penalty for each license renewal ~~applications~~application received after December thirty-first. ~~The board may reduce a renewal fee from the maximum amount only if the board applies an equal percentage of reduction to all~~

~~renewal fees.~~ The board shall sponsor an educational program for licenseholders to carry out the purposes of protecting the public health and safety and maintaining capable and skilled operators, ~~manager-operators, cosmetologists, manicurists, estheticians,~~ and instructors. The board shall use such portion of the renewal fees as the board may determine for the purpose of providing the educational program.

Approved April 20, 2015

Filed April 20, 2015

CHAPTER 294

HOUSE BILL NO. 1396

(Representatives Sukut, Damschen, Fehr, Hatlestad, Lefor, Rohr)
(Senator Bekkedahl)

AN ACT to provide student loan repayment programs for health care professionals; to repeal chapters 43-12.2 and 43-17.2 of the North Dakota Century Code, relating to student loan repayment programs for health care professionals; to provide for a continuing appropriation; and to provide for an application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Student loan repayment programs - Health care professionals.

The health council shall administer student loan repayment programs, as established by this chapter, for health care professionals willing to provide services in areas of this state that have a defined need for such services.

SECTION 2.

Application process.

The health council shall develop an application process for public and private entities seeking to fill health care needs and for health care professionals willing to provide necessary services in exchange for benefits under a student loan repayment program.

SECTION 3.

Public and private entities - Selection criteria - Matching funds.

1. The health council shall establish criteria to be used in selecting public and private entities for participation in a program. The criteria must include:
 - a. The number of health care professionals, by specified field, already providing services in the area;
 - b. Access to health care services in the area; and
 - c. The level of support from the area.
2. The health council may consult with health care and social service providers, advocacy groups, governmental entities, and others in establishing criteria and evaluating needs based on the criteria.
3. An entity may not be selected for participation unless it contractually commits to provide matching funds equal to the amount required for a loan repayment program in accordance with section 6 of this Act.

SECTION 4.**Public and private entities - Eligibility for participation - Priority.**

In selecting public and private entities for participation in a program the health council shall give priority to an entity that:

1. Meets the selection criteria;
2. Is located in an area that is statistically underserved; and
3. Is located at least twenty miles [32.18 kilometers] outside the boundary of a city having more than forty thousand residents.

SECTION 5.**Health care professionals - Selection criteria.**

1. The health council shall establish criteria to be used in selecting health care professionals for participation in a student loan repayment program. The criteria must include:
 - a. The health care professional's specialty;
 - b. The need for the health care professional's specialty within an area;
 - c. The health care professional's education and experience;
 - d. The health care professional's date of availability and anticipated term of availability; and
 - e. The health care professional's willingness to accept medicare and medicaid assignments, if applicable.
2. In selecting health care professionals for participation in the program the health council shall require that the individual:
 - a. Is physically present at and provides services on a full-time basis to an entity that meets the requirements of section 4; or
 - b. (1) Is physically present at and provides services on at least a half-time basis to an entity that meets the requirements of section 4;
 - (2) Provides telehealth services to a second entity that meets the requirements of section 4; and
 - (3) Verifies that the services provided under paragraphs 1 and 2 are equal to the full-time requirement of subdivision a.
3. In selecting health care professionals for participation in a program, the health council may consider an individual's:
 - a. Length of residency in this state; and
 - b. Attendance at an in-state or an out-of-state institution of higher education.

SECTION 6.**Student loan repayment program - Contract.**

1. The health council shall enter into a contract with a selected health care professional. The health council shall agree to provide student loan repayments on behalf of the selected health care professional subject to the requirements and limitations of this section.
 - a. For a physician:
 - (1) The loan repayment must be equal to twenty thousand dollars per year; and
 - (2) The matching funds must equal fifty percent of the amount required in paragraph 1.
 - b. For a clinical psychologist:
 - (1) The loan repayment must be equal to twelve thousand dollars per year; and
 - (2) The matching funds must equal twenty-five percent of the amount required in paragraph 1.
 - c. For an advanced practice registered nurse or a physician assistant:
 - (1) The loan repayment must be equal to four thousand dollars per year; and
 - (2) The matching funds must equal ten percent of the amount required in paragraph 1.
 - d. (1) For a behavioral health professional:
 - (a) The loan repayment must be equal to four thousand dollars per year; and
 - (b) The matching funds must equal ten percent of the amount required in subparagraph a.
 - (2) For purposes of this subdivision, a behavioral health professional means an individual who practices in the behavioral health field and is:
 - (a) A licensed addiction counselor;
 - (b) A licensed professional counselor;
 - (c) A licensed social worker;
 - (d) A registered nurse; or
 - (e) A specialty practice registered nurse.

2.
 - a. Payments under this section must be made on behalf of the health care professional directly to the Bank of North Dakota or to another participating lending institution.
 - b. Except as otherwise provided, payments under this section may be made only at the conclusion of each twelve month period of service.
 - c. Prorated payments may be made only if:
 - (1) The repayment of the loan requires less than a full annual payment;
 - (2) The health care professional is terminated or resigns from his or her position; or
 - (3) The health care professional is unable to complete a twelve month period of service due to the individual's death, a certifiable medical condition or disability, or a call to military service.
3. Payments under this section terminate upon the earlier of:
 - a. The full repayment of the health care professional's student loan; or
 - b. The completion of five years as a participant in the student loan repayment program.
4. The health council shall waive the requirements of this section that pertain to matching funds if the health care professional opens a new practice as a solo practitioner in a city that has fewer than fifteen thousand residents.

SECTION 7.

Powers of the health council - Continuing appropriation.

1. The health council may:
 - a. Receive and expend any gifts, grants, and other funds for the purposes of this program;
 - b. Participate in any federal programs providing for the repayment of student loans on behalf of health care professionals; and
 - c. Do all things necessary and proper for the administration of this chapter.
2. All moneys received by the health council under this section are appropriated to the health council on a continuing basis, to be used exclusively for the purposes of this chapter.

SECTION 8. REPEAL. Chapters 43-12.2 and 43-17.2 of the North Dakota Century Code are repealed.

SECTION 9. APPLICATION. This Act applies to loan repayment contracts entered into on or after August 1, 2015. Any loan repayment contract entered into before August 1, 2015, in accordance with chapter 43-12.2, is governed by chapter 43-12.2, as it existed on July 31, 2015. Any loan repayment contract entered into before August 1, 2015, in accordance with chapter 43-17.2, is governed by chapter 43-17.2, as it existed on July 31, 2015.

Approved April 27, 2015
Filed April 27, 2015

CHAPTER 295

SENATE BILL NO. 2173

(Senators Klein, J. Lee, Murphy)
(Representatives Keiser, Oversen, Weisz)

AN ACT to amend and reenact section 43-15-31.4 of the North Dakota Century Code, relating to the governance of prescriptive practices for pharmacists.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁷ **SECTION 1. AMENDMENT.** Section 43-15-31.4 of the North Dakota Century Code is amended and reenacted as follows:

43-15-31.4. Limited prescriptive practices.

1. ~~A licensed pharmacist in an institutional setting has limited prescriptive practices to initiate or modify drug therapy following diagnosis and initial patient assessment by a licensed physician or an advanced practice registered nurse, under the supervision of the same licensed physician or advanced practice registered nurse, in accordance with this section. An institutional setting, for the purpose of this section, is a hospital, a physician clinic, a skilled nursing facility, or a swing-bed facility in which a patient's medical records are readily available to the licensed physician and the licensed pharmacist. The licensed physician or the advanced practice registered nurse and the pharmacist must have access to the patient's appropriate medical records. The care provided to the patient by the pharmacist must be recorded in the patient's medical records and communicated to the licensed physician or the advanced practice registered nurse.~~
2. ~~The licensed physician or the advanced practice registered nurse and the licensed pharmacist shall prepare a collaborative agreement concerning the scope of the pharmacist's prescriptive practices and shall update the agreement at least every two four years or when they modify the scope of the pharmacist's prescriptive practices. The collaborative agreement, or an amendment to the agreement, is effective when approved by the board of medical examiners or board of nursing and the board of pharmacy.~~
3. ~~The collaborative agreement may be between a medical director and pharmacist-in-charge. The medical director and pharmacist-in-charge shall report to the respective board of any physician, advanced practice registered nurse, and pharmacist covered under the agreement.~~
- 3.4. ~~If there is a change in personnel under the collaborative agreement, a pharmacist, physician, and advanced practice registered nurse under the collaborative agreement shall send immediate notice of the change to the respective licensing board of that individual. Unless necessary, a change in~~

¹⁶⁷ Section 43-15-31.4 was also amended by section 16 of House Bill No. 1153, chapter 297.

personnel does not necessitate board approval of the collaborative agreement.

5. The collaborative agreement must include a provision that requires the licensed pharmacist to immediately notify the licensed physician or advanced practice registered nurse when the licensed pharmacist initiates or modifies a drug therapy.
- ~~4.6. The board of medical examiners and the board of pharmacy shall jointly establish a prescriptive practices committee consisting of two physicians appointed by the board of medical examiners, one physician appointed by the North Dakota medical association, one pharmacist appointed by the board of pharmacy, and one pharmacist appointed by the North Dakota pharmaceutical association. The prescriptive practices committee shall develop and submit proposed rules concerning the implementation of this section to the board of medical examiners and the board of pharmacy. Any rules to implement this section must be jointly adopted by the board of medical examiners or the board of nursing and the board of pharmacy.~~

Approved March 18, 2015

Filed March 18, 2015

CHAPTER 296

SENATE BILL NO. 2086

(Industry, Business and Labor Committee)
(At the request of the State Board of Pharmacy)

AN ACT to create and enact sections 43-15.3-13 and 43-15.3-14 of the North Dakota Century Code, relating to drugs provided by outsourcing facilities and third-party logistics providers; and to amend and reenact sections 43-15.3-01, 43-15.3-11, and 43-15.3-12 of the North Dakota Century Code, relating to the wholesale drug distribution and third-party logistic providers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-15.3-01 of the North Dakota Century Code is amended and reenacted as follows:

43-15.3-01. Definitions.

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

1. "Authentication" means to affirmatively verify before any wholesale distribution of a prescription drug occurs that each transaction listed on the pedigree has occurred.
2. "Authorized distributor of record" means a wholesale distributor or a third-party logistics provider with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between the third-party logistics provider and the manufacturer or between the wholesale distributor and a manufacturer when the third-party logistics provider or the wholesale distributor, including any affiliated group of the wholesale distributor as defined in section 1504 of the Internal Revenue Code [26 U.S.C. 1504], complies with the following:
 - a. The wholesale distributor or a third-party logistics provider has a written agreement currently in effect with the manufacturer evidencing the ongoing relationship; and
 - b. The wholesale distributor or a third-party logistics provider is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.
3. "Board" means the state board of pharmacy.
4. "Broker" means a party that mediates between a buyer and a seller the sale or shipment of prescription drugs, medical gases, or medical equipment.
5. "Chain pharmacy warehouse" means a physical location for prescription drugs, medical gases, or medical equipment which acts as a central warehouse and performs intracompany sales or transfers of the drugs, gases, or equipment to a group of chain pharmacies that have the same common ownership and control.

6. "Colicensed product" means a prescription drug, medical gas, or medical equipment in which two or more parties have the right to engage in the manufacturing or marketing or in the manufacturing and marketing of the drug, gas, or equipment.
7. "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory which:
 - a. Is recognized in the United States pharmacopeia or the official national formulary is intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment, or prevention of disease, in humans or other animals, or is intended to affect the structure or any function of the body of humans or other animals;
 - b. Does not achieve its primary intended purposes through chemical action within or on the body of a human or other animal; and
 - c. Is not dependent upon being metabolized for the achievement of its primary intended purposes.
8. "Drop shipment" means the sale of a prescription drug, medical gas, or medical equipment to a wholesale distributor by the manufacturer of the prescription drug, medical gas, or medical equipment or to that manufacturer's colicensed product partner, that manufacturer's third-party logistics provider, or that manufacturer's exclusive distributor, under the terms of which the wholesale distributor or chain pharmacy warehouse takes title but not physical possession of the prescription drug, medical gas, or medical equipment and the wholesale distributor invoices the pharmacy or chain pharmacy warehouse, or other person authorized by law to dispense or administer the drug, gas, or equipment to a patient, and the pharmacy or chain pharmacy warehouse or other authorized person receives delivery of the prescription drug, medical gas, or medical equipment directly from the manufacturer, or that manufacturer's third-party logistics provider, or that manufacturer's exclusive distributor.
9. "Durable medical equipment" means medical devices, equipment, or supplies that may be used in a residence, including oxygen and oxygen delivery systems and supplies, ventilators, respiratory disease management devices, continuous positive airway pressure (CPAP) devices, electronic and computerized wheelchairs and seating systems, apnea monitors, transcutaneous medical nerve stimulator (TENS) units, low air cutaneous pressure management devices, sequential compression devices, feeding pumps, home phototherapy devices, infusion delivery devices, distribution of medical gases to end users for human consumption, hospital beds, nebulizers, and other similar equipment as may be determined by the board by rule.
10. "Facility" means a facility of a wholesale distributor where prescription drugs, medical gases, or medical equipment are stored, handled, repackaged, or offered for sale.
11. "Manufacturer" means a person licensed or approved by the federal food and drug administration to engage in the manufacture of drugs, medical gases, or

devices by manufacturing the drugs, gases, or devices at the person's own facility or by contracting for the manufacturing by others.

12. "Manufacturer's exclusive distributor" means any person that contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and which takes title to that manufacturer's prescription drug, medical gases, or medical equipment but which does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug, medical gas, or medical equipment. The manufacturer's exclusive distributor must be licensed as a wholesale distributor under this chapter, and to be considered part of the normal distribution channel also must be an authorized distributor of record.
13. "Medical device" means a product or equipment used to diagnose a disease or other condition in order to cure, treat, or prevent disease.
14. "Medical equipment" means equipment prescribed or distributed by a practitioner used in the course of treatment of home care.
15. "Medical gas" means any gaseous substance that meets medical purity standards and has application in a medical environment.
16. "Normal distribution channel" means a chain of custody for a prescription drug which goes, directly or by drop shipment, from a manufacturer of the prescription drug, from that manufacturer to that manufacturer's colicensed partner, from that manufacturer to that manufacturer's third-party logistics provider, or from that manufacturer to that manufacturer's exclusive distributor to:
 - a. A pharmacy, to a patient or other designated person authorized by law to dispense or administer the drug to a patient;
 - b. A wholesale distributor, to a pharmacy, to a patient or other designated person authorized by law to dispense or administer the drug to a patient;
 - c. A wholesale distributor, to a chain pharmacy warehouse, to that chain pharmacy warehouse's intracompany pharmacy, to a patient or other designated person authorized by law to dispense or administer the drug to a patient; or
 - d. A chain pharmacy warehouse, to the chain pharmacy warehouse's intracompany pharmacy, to a patient or other designated person authorized by law to dispense or administer the drug to a patient.
17. "Outsourcing facility" means a facility at one geographic location or address which is engaged in anticipatory compounding of sterile drugs and complies with section 503(b) of the federal Food, Drug, and Cosmetic Act [21 U.S.C. 353(b)].
18. "Pedigree" means a document or an electronic file containing information that records each distribution of any given prescription drug.
- ~~18-19.~~ "Pharmacy distributor" means any pharmacy or hospital pharmacy licensed in this state which is engaged in the delivery or distribution of prescription drugs, medical gases, or medical equipment to any other pharmacy licensed in this

state or to any other person, including a wholesale drug distributor, engaged in the delivery or distribution of prescription drugs, medical gases, or medical equipment and involved in the actual, constructive, or attempted transfer of a drug, gas, or equipment in this state to other than the ultimate consumer, when the financial value of the drugs, gases, or equipment is equivalent to at least five percent of the total gross sales of the pharmacy distributor.

- 19-20. "Prescription drug" means any drug, including any biological product, except for blood and blood components intended for transfusion or biological products that are also medical devices, required by federal law, including federal regulation, to be dispensed only by a prescription, including finished dosage forms and bulk drug substances subject to section 503(b) of the federal Food, Drug, and Cosmetic Act [21 U.S.C. 3539(b)].
- 20-21. "Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug. The term does not include actions completed by the pharmacists responsible for dispensing product to the patient.
- 21-22. "Repackager" means a person that repackages.
- 22-23. "Third-party logistics provider" means a person that contracts with a wholesale distributor or a prescription drug, medical gas, or medical equipment manufacturer to provide or coordinate warehousing, wholesale distribution, or other services on behalf of a manufacturer, but does not take title to the prescription drug, medical gas, or medical equipment or have general responsibility to direct the prescription drug's, medical gas's, or medical equipment's sale or disposition. The third-party logistics provider must be licensed as a ~~wholesale distributor~~ independently under this chapter and to be considered part of the normal distribution channel must also be an authorized distributor of record.
- 23-24. "Trace" means the capability to identify the historical locations, the records of ownership, and the packaging hierarchy for a particular traceable item. "Trace" answers questions such as where has the item been, who previously owned the item, and in what packaging hierarchy did the product exist at various locations.
- 24-25. "Track" means the capability to identify the current, and at the time of shipment the intended future, location, ownership, and packaging hierarchy of a traceable item through the supply chain as the traceable item moves between parties. "Track" addresses both forward and reverse logistics operations. "Track" answers questions such as where is the item currently, who is the next intended recipient, and what is the current packaging hierarchy of the item.
- 25-26. "Virtual distributor" means a person that arranges for the distribution of a drug or device and which may or may not take actual possession of the drug or device but contracts with others for the distribution, purchase, and sale.
- 26-27. "Virtual manufacturer" means a person that owns the new drug application or abbreviated new drug application for a drug or device and which contracts with others for the actual manufacturing of the drug or device.

27-28. "Wholesale distribution" means distribution of prescription drugs, medical gases, or medical equipment to persons other than a consumer or patient. The term does not include:

- a. Intracompany sales of prescription drugs, medical gases, or medical equipment, meaning any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership and control of a corporate entity, or any transaction or transfer between colicensees of a colicensed product.
- b. The sale, purchase, distribution, trade, or transfer of a prescription drug, medical gas, or medical equipment or the offer to sell, purchase, distribute, trade, or transfer a prescription drug, medical gas, or medical equipment for emergency medical reasons.
- c. The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug, gas, or equipment for the hospital's or health care entity's own use from the group purchasing organization or from other hospitals or health care entities that are members of such organizations.
- d. The sale, purchase, or trade of a drug, gas, or equipment or an offer to sell, purchase, or trade a drug, gas, or equipment by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law.
- e. The sale, purchase, or trade of a drug, gas, or equipment or an offer to sell, purchase, or trade a drug, gas, or equipment among hospitals or other health care entities that are under common control.
- f. The distribution of prescription drug samples by manufacturers' representatives.
- g. Drug returns, when conducted by a hospital, health care entity, or charitable institution in accordance with title 21, Code of Federal Regulations, section 203.23.
- h. The sale of minimal quantities of prescription drugs, medical gases, or medical equipment by retail pharmacies to licensed practitioners for office use.
- i. The sale, purchase, or trade of a drug, gas, or equipment; an offer to sell, purchase, or trade a drug, gas, or equipment; or the dispensing of a drug, gas, or equipment pursuant to a prescription.
- j. The sale, transfer, merger, or consolidation of all or part of the business of a pharmacy from or with another pharmacy, whether accomplished as a purchase and sale of stock or business assets.
- k. The sale, purchase, distribution, trade, or transfer of a prescription drug, medical gas, or medical equipment from one authorized distributor of record to one additional authorized distributor of record when the manufacturer has stated in writing to the receiving authorized distributor of record that the manufacturer is unable to supply such prescription drug,

medical gas, or medical equipment and the supplying authorized distributor of record states in writing that the prescription drug, medical gas, or medical equipment being supplied had until that time been exclusively in the normal distribution channel.

- l. The delivery of, or offer to deliver, a prescription drug, medical gas, or medical equipment by a common carrier solely in the common carrier's usual course of business of transporting prescription drugs, medical gases, or medical equipment and the common carrier does not store, warehouse, or take legal ownership of the prescription drug, medical gas, or medical equipment.
- m. The sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned, or recalled prescription drugs, medical gases, or medical equipment to the original manufacturer or to a third-party returns processor.

28-29. "Wholesale distributor" means anyone engaged in the wholesale distribution of prescription drugs, medical gases, or medical equipment, including manufacturers; virtual manufacturers; repackagers; own-label distributors; private-label distributors; jobbers; brokers; virtual distributors and warehouses, including manufacturers' and distributors' warehouses; manufacturers' exclusive distributors; authorized distributors of record; drug, gas, or equipment wholesalers or distributors; independent wholesale drug, gas, or equipment traders; specialty wholesale distributors; ~~third-party logistics providers~~; retail pharmacies that conduct wholesale distribution; and chain pharmacy warehouses that conduct wholesale distribution. To be considered part of the normal distribution channel, such wholesale distributor must also be an authorized distributor of record.

SECTION 2. AMENDMENT. Section 43-15.3-11 of the North Dakota Century Code is amended and reenacted as follows:

43-15.3-11. Retail durable medical equipment retailers - Reciprocity.

1. A person may not sell or deliver durable medical equipment directly to a consumer unless licensed by the board as a retail durable medical equipment retailer.
 - a. As a term of licensure under this section, a licensee shall employ or contract with an in-state licensed health care professional authorized by that professional's practice act to prescribe or administer the durable medical equipment. For purposes of this section, a licensed health care professional may include a respiratory therapist, physical therapist, pharmacist, registered nurse, licensed practical nurse, advanced practice registered nurse, physician assistant, and occupational therapist.
 - (1) The licensed health care professional must be on staff to oversee and provide custom orthotics and prosthetics. The board shall establish certification requirements for a qualified health care professional which may include certification through the American board for certification in orthotics and prosthetics or the board for certification in orthotics as a certified orthotist, certified prosthetist, certified prosthetist orthotist, certified orthotic fitter, certified mastectomy fitter, or certified pedorthist.

- (2) The licensed health care professional must be on staff to oversee and provide complex rehabilitation products and services for seating and mobility systems. The board shall establish certification requirements for a qualified health care professional which may include certification through the rehabilitation engineering and assistive technology society of North America as an assistive technology professional.
 - (3) The applicant shall furnish on the application the name and license number of the individual the licensee employs or with which the applicant contracts. Within thirty days of a change, the licensee shall provide the board with notice of any change in the licensee.
- b. A durable medical equipment retailer may sell or deliver to a patient's home durable medical-related equipment in accordance with a practitioner's prescription or drug order. The retail durable medical equipment retailer shall keep the original prescription or order or an electronic copy at the licensed location or must have available for inspection an electronic copy of the original order or electronic copy of the order. A prescription or order is not valid after one year, except a prescription or order for repair, maintenance, or replacement of equipment and items designated as thirteen month capped rental items by the center of medicare and medicaid services may be perpetual. A retail durable medical equipment retailer shall maintain a prescription or order for five years. A durable medical equipment retailer may only obtain medical equipment from a manufacturer or wholesaler that is duly licensed by the state.
2. An out-of-state retail durable medical equipment retailer or a principal or agent of the retailer may not conduct business in this state unless the retailer is licensed by the board as a retail durable medical equipment retailer, paid the fee required by the board, and is registered with the secretary of state. An applicant shall submit an application for a license on a form furnished by the board and the applicant must be accompanied by a copy of the certificate of authority from the secretary of state. The issuance of a license under this section does not change or affect tax liability imposed by this state on an out-of-state retail durable medical equipment retailer.
 3. The board may adopt rules that permit an out-of-state retail durable medical equipment retailer to obtain a license on the basis of reciprocity if the retailer possesses a valid license granted by another jurisdiction and the legal standards for licensure in the other jurisdiction are comparable to the standards under this chapter and if the other jurisdiction extends reciprocity to retail durable medical equipment retailers licensed in this state. However, if the requirements for licensure under this chapter are more restrictive than the standards of the other jurisdiction, the out-of-state retail durable medical equipment retailer shall comply with the additional requirements of this chapter to obtain a license under this chapter.

SECTION 3. AMENDMENT. Section 43-15.3-12 of the North Dakota Century Code is amended and reenacted as follows:

43-15.3-12. Fees.

The board shall charge and collect the following fees under this chapter:

Chain drug warehouse	\$200
Chain pharmacy warehouse	\$200
Durable medical equipment distributor, medical gas distributor, or both	\$200
Durable medical equipment retailer, medical gas retailer and distributor, or both	\$300
Hospital offsite warehouse	\$200
Jobber or broker	\$400
Manufacturer	\$400
Medical gas retailer, durable medical equipment retailer, or both	\$200
Medical gas durable medical equipment distributor and retailer	\$300
<u>Outsourcing facility</u>	<u>\$200</u>
Own label distributor	\$400
Pharmacy distributor	\$200
Private label distributor	\$400
Repackager	\$400
Reverse distributor	\$200
Third-party logistic provider	\$400
Veterinary-only distributor	\$200
Virtual manufacturer	\$400
Virtual wholesaler or distributor	\$400
Wholesaler or distributor	\$400

SECTION 4. Section 43-15.3-13 of the North Dakota Century Code is created and enacted as follows:

43-15.3-13. Compounding provided by an outsourcing facility.

1. A facility may provide, without a patient specific prescription, a nonpatient specific compounded drug preparation for human use only, if the following conditions apply:
 - a. The entity is registered with the United States food and drug administration as an outsourcing facility pursuant to section 503(b) of the federal Food, Drug, and Cosmetic Act [21 U.S.C. 353(b)]; and
 - b. The entity is licensed under this chapter with an outsourcing facility classification, has designated a licensed pharmacist in the state of residence as the responsible person on the license, and the facility meets the standards for licensure set in this chapter.
2. Within forty-eight hours of a request from the board, the facility shall make available to the board any inspection reports, federal food and drug administration reports of objectionable conditions issued against the facility, and lists of distribution of products to the state.
3. The facility shall comply with all labeling and recordkeeping requirements pursuant to section 503(b) of the federal Food, Drug, and Cosmetic Act [21 U.S.C. 353(b)].

SECTION 5. Section 43-15.3-14 of the North Dakota Century Code is created and enacted as follows:

43-15.3-14. Third-party logistics providers.

1. Each third-party logistics provider shall comply with the standards for licensure; requirements to distribute prescription drugs, medical gases, or

medical equipment; restrictions on transactions; and pedigree requirements set forward in this chapter.

2. The board shall issue a separate license to each qualified third-party logistics provider applying for licensure.

Approved April 6, 2015

Filed April 6, 2015

CHAPTER 297

HOUSE BILL NO. 1153

(Representatives Keiser, Rick C. Becker)
(Senator Kilzer)

AN ACT to amend and reenact subdivision d of subsection 2 of section 12-60-24, subsection 1 of section 19-03.1-01.1, subsection 1 of section 19-03.3-01, subdivision f of subsection 2 of section 19-03.5-07, sections 23-23.1-01, 23-23.1-02, 23-34-03, 23-34-04, and 25-02-04, subsection 1 of section 26.1-14-04, subsection 1 of section 26.1-14-05, subsection 8 of section 26.1-26.4-04, subsection 1 of section 43-05-02, subsection 1 of section 43-13-13.3, sections 43-15-25.3 and 43-15-31.4, subsection 1 of section 43-17-01, sections 43-17-02, 43-17-02.2, 43-17-02.3, 43-17-03, 43-17-05, 43-17-07.1, and 43-17-26.1, subsection 7 of section 43-17-30.1, section 43-17.1-01, subsection 2 of section 43-17.1-05, section 43-17.1-05.1, subsection 7 of section 43-17.1-06, section 43-17.1-08, subsection 3 of section 43-17.2-01, subsection 3 of section 43-17.2-03, subsection 1 of section 43-17.3-01, subsection 7 of section 43-28-06, subsection 2 of section 43-39-10, subdivision g of subsection 1 of section 43-46-01, paragraph 6 of subdivision a of subsection 1 of section 43-51-01, subsection 2 of section 43-51-11, subsection 3 of section 43-60-01, and section 65-02-21.1 of the North Dakota Century Code, relating to changing the name of the board of medical examiners to the board of medicine.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁸ **SECTION 1. AMENDMENT.** Subdivision d of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- d. The ~~medical examiners~~North Dakota board of medicine for licenses or disciplinary investigations under section 43-17-07.1, except that criminal history record checks need not be made unless required by the board.

SECTION 2. AMENDMENT. Subsection 1 of section 19-03.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. In carrying out its duties under this chapter, the board shall consult with representatives of each of the following interests: North Dakota board of medical examiners~~medicine~~, board of dental examiners, board of registry in podiatry, board of veterinary medical examiners, board of nursing, the college of pharmacy, and the school of medicine.

SECTION 3. AMENDMENT. Subsection 1 of section 19-03.3-01 of the North Dakota Century Code is amended and reenacted as follows:

¹⁶⁸ Section 12-60-24 was also amended by section 1 of House Bill No. 1105, chapter 97, and section 1 of House Bill No. 1125, chapter 98, and section 1 of Senate Bill No. 2077, chapter 99, and section 1 of Senate Bill No. 2085, chapter 302, section 1 of Senate Bill No. 2236, chapter 309, section 3 of House Bill No. 1436, chapter 67, section 1 of Senate Bill No. 2145, chapter 100, and section 6 of Senate Bill No. 2215, chapter 96.

1. "Board" means the ~~state board of medical examiners~~North Dakota board of medicine.

SECTION 4. AMENDMENT. Subdivision f of subsection 2 of section 19-03.5-07 of the North Dakota Century Code is amended and reenacted as follows:

- f. One prescriber selected by the North Dakota board of medical examiners~~medicine~~;

SECTION 5. AMENDMENT. Section 23-23.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-23.1-01. Use of laetrile authorized.

No hospital or health facility may interfere with the physician-patient relationship by restricting or forbidding the use of amygdalin when prescribed or administered by a licensed physician and requested by a patient unless the substance as prescribed or administered by the physician is found to be harmful by the ~~state board of medical examiners~~North Dakota board of medicine in a hearing conducted pursuant to chapter 28-32.

SECTION 6. AMENDMENT. Section 23-23.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-23.1-02. Disciplinary action for administering or prescribing laetrile subject to finding of harmfulness.

No physician may be subject to disciplinary action by the ~~state board of medical examiners~~North Dakota board of medicine for prescribing or administering amygdalin to a patient under the physician's care who has requested the substance unless the board, in a hearing conducted pursuant to chapter 28-32, has made a formal finding that the substance is harmful.

SECTION 7. AMENDMENT. Section 23-34-03 of the North Dakota Century Code is amended and reenacted as follows:

23-34-03. Peer review records - Privileged - Exceptions.

1. Peer review records are privileged and are not subject to subpoena or discovery or introduction into evidence in any civil or administrative action, except:
 - a. Records gathered from an original source that is not a peer review organization;
 - b. Testimony from any person as to matters within that person's knowledge, provided the information was not obtained by the person as a result of the person's participation in a professional peer review; or
 - c. Peer review records subpoenaed in an investigation conducted by an investigative panel of the North Dakota board of medical examiners~~medicine~~ pursuant to chapter 43-17.1 or subpoenaed in a disciplinary action before the North Dakota board of medical examiners~~medicine~~ pursuant to section 43-17-30.1.
2. Any peer review records provided to an investigative panel of the North Dakota board of medical examiners~~medicine~~ or introduced as evidence in any

disciplinary action before the board are confidential and are not subject to subpoena, discovery, or admissibility into evidence in any civil or administrative action, and are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.

SECTION 8. AMENDMENT. Section 23-34-04 of the North Dakota Century Code is amended and reenacted as follows:

23-34-04. Peer review organization - Mandatory reports - Penalty.

1. A peer review organization shall report to an investigative panel of the North Dakota board of ~~medical examiners~~medicine any information that indicates a probable violation of subsection 4, 5, 16, or 17 of section 43-17-31.
2. A health care organization is guilty of a class B misdemeanor if its peer review organization fails to make any report required by this section.

SECTION 9. AMENDMENT. Section 25-02-04 of the North Dakota Century Code is amended and reenacted as follows:

25-02-04. Superintendent to possess certain qualifications - Medical director - Employees.

The superintendent of the state hospital must be a skilled health care administrator with professional training and experience relating to the management of facilities for mentally ill and chemically dependent persons and relating to the needs of the mentally ill and chemically dependent persons. The medical director, who must be a licensed physician and board-certified psychiatrist, shall recommend appointment of all physicians and clinical staff, define their qualifications and duties, and have final authority for the organization and delivery of all medical and clinical services delivered to patients at the state hospital. The state hospital governing body has final approval of all physician and clinical staff appointments to the state hospital. The superintendent shall appoint the medical director in consultation with the supervising officer and with the approval of the governing body. If the superintendent is not a licensed physician and board-certified psychiatrist, the medical director, or a qualified designee of the medical director, shall act as the superintendent's designee in all matters in which the superintendent's opinion on medical or clinical treatment is required by law. Every physician on the professional staff must have a license issued by the ~~state board of medical examiners~~North Dakota board of medicine.

SECTION 10. AMENDMENT. Subsection 1 of section 26.1-14-04 of the North Dakota Century Code is amended and reenacted as follows:

1. The company will be governed by a board of directors consisting of eleven members. The commissioner shall appoint the initial board within thirty days of notification by the ~~state board of medical examiners~~North Dakota board of medicine of its decision for implementation of this chapter from fifteen nominees proposed by that board. The initial board shall serve for an initial term of seven months. Thereafter, the directors must be elected by the members of the company in accordance with the articles of incorporation and bylaws.

SECTION 11. AMENDMENT. Subsection 1 of section 26.1-14-05 of the North Dakota Century Code is amended and reenacted as follows:

1. If physicians practicing medicine within North Dakota find it difficult to obtain medical malpractice insurance, the ~~state board of medical examiners~~North Dakota board of medicine, by a majority vote of its membership, may elect to initiate and implement this chapter. Before fifteen days from the date the election to implement this chapter is made, the board shall certify to the state treasurer a list of all licensed physicians as shown in the latest record of the board.

SECTION 12. AMENDMENT. Subsection 8 of section 26.1-26.4-04 of the North Dakota Century Code is amended and reenacted as follows:

8. Psychologists making utilization review determinations shall have current licenses from the state board of psychologist examiners. Physicians making utilization review determinations shall have current licenses from the ~~state board of medical examiners~~North Dakota board of medicine.

SECTION 13. AMENDMENT. Subsection 1 of section 43-05-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Physicians and surgeons licensed by the ~~state board of medical examiners~~North Dakota board of medicine.

SECTION 14. AMENDMENT. Subsection 1 of section 43-13-13.3 of the North Dakota Century Code is amended and reenacted as follows:

1. An optometrist certified by the board in the use of pharmaceutical agents as provided in this chapter must be held to the same standard of care in the use of such agents as are physicians licensed by the ~~state board of medical examiners~~North Dakota board of medicine.

SECTION 15. AMENDMENT. Section 43-15-25.3 of the North Dakota Century Code is amended and reenacted as follows:

43-15-25.3. Approved laboratory tests.

Approved laboratory tests are the following waived screening tests: glucose monitoring devices (FDA cleared/home use) 9221, cholesterol 1020, HDL cholesterol 2550, triglyceride 6118, and glycosylated hemoglobin (Hgb A1C) 2204. Additional tests may be added to this list as jointly determined by the board and the North Dakota board of medical examiners~~medicine~~.

¹⁶⁹ **SECTION 16. AMENDMENT.** Section 43-15-31.4 of the North Dakota Century Code is amended and reenacted as follows:

43-15-31.4. Limited prescriptive practices.

1. A licensed pharmacist in an institutional setting has limited prescriptive practices to initiate or modify drug therapy following diagnosis and initial patient assessment by a licensed physician, under the supervision of the same licensed physician, in accordance with this section. An institutional setting, for the purpose of this section, is a hospital, a physician clinic, a skilled nursing facility, or a swing-bed facility in which a patient's medical records are readily available to the licensed physician and the licensed pharmacist.

¹⁶⁹ Section 43-15-31.4 was also amended by section 1 of Senate Bill No. 2173, chapter 295.

2. The licensed physician and the licensed pharmacist shall prepare a collaborative agreement concerning the scope of the pharmacist's prescriptive practices and shall update the agreement at least every two years or when they modify the scope of the pharmacist's prescriptive practices. The collaborative agreement, or an amendment to the agreement, is effective when approved by the North Dakota board of medical examiners medicine and the board of pharmacy.
3. The agreement must include a provision that requires the licensed pharmacist to immediately notify the licensed physician when the licensed pharmacist initiates or modifies a drug therapy.
4. The North Dakota board of medical examiners medicine and the board of pharmacy shall jointly establish a prescriptive practices committee consisting of two physicians appointed by the North Dakota board of medical examiners medicine, one physician appointed by the North Dakota medical association, one pharmacist appointed by the board of pharmacy, and one pharmacist appointed by the North Dakota pharmaceutical association. The prescriptive practices committee shall develop and submit proposed rules concerning the implementation of this section to the North Dakota board of medical examiners medicine and the board of pharmacy. Any rules to implement this section must be jointly adopted by the board of medical examiners medicine and the board of pharmacy.

SECTION 17. AMENDMENT. Subsection 1 of section 43-17-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Board" means the ~~state board of medical examiners~~North Dakota board of medicine.

¹⁷⁰ **SECTION 18. AMENDMENT.** Section 43-17-02 of the North Dakota Century Code is amended and reenacted as follows:

43-17-02. Persons exempt from the provisions of chapter.

The provisions of this chapter do not apply to the following:

1. Students of medicine or osteopathy who are continuing their training and performing the duties of a resident in any hospital or institution maintained and operated by the state, an agency of the federal government, or in any residency program accredited by the accreditation council on graduate medical education, provided that the ~~state board of medical examiners~~North Dakota board of medicine may adopt rules relating to the licensure, fees, qualifications, activities, scope of practice, and discipline of such persons.
2. The domestic administration of family remedies.
3. Dentists practicing their profession when properly licensed.
4. Optometrists practicing their profession when properly licensed.
5. The practice of christian science or other religious tenets or religious rules or ceremonies as a form of religious worship, devotion, or healing, if the person

¹⁷⁰ Section 43-17-02 was also amended by section 1 of Senate Bill No. 2191, chapter 308, and section 2 of Senate Bill No. 2236, chapter 309.

administering, making use of, assisting in, or prescribing, such religious worship, devotion, or healing does not prescribe or administer drugs or medicines and does not perform surgical or physical operations, and if the person does not hold out to be a physician or surgeon.

6. Commissioned medical officers of the armed forces of the United States, the United States public health service, and medical officers of the veterans administration of the United States, in the discharge of their official duties, and licensed physicians from other states or territories if called in consultation with a person licensed to practice medicine in this state.
7. Doctors of chiropractic duly licensed to practice in this state pursuant to the statutes regulating such profession.
8. Podiatrists practicing their profession when properly licensed.
9. Any person rendering services as a physician assistant, if such service is rendered under the supervision, control, and responsibility of a licensed physician. However, sections 43-17-02.1 and 43-17-02.2 do apply to physician assistants. ~~The state board of medical examiners~~North Dakota board of medicine shall prescribe rules governing the conduct, licensure, fees, qualifications, discipline, activities, and supervision of physician assistants. Physician assistants may not be authorized to perform any services which must be performed by persons licensed pursuant to chapters 43-12.1, 43-13, 43-15, and 43-28 or services otherwise regulated by licensing laws, notwithstanding the fact that medical doctors need not be licensed specifically to perform the services contemplated under such chapters or licensing laws.
10. A nurse practicing the nurse's profession when properly licensed by the North Dakota board of nursing.
11. A person rendering fluoroscopy services as a radiologic technologist if the service is rendered under the supervision, control, and responsibility of a licensed physician and provided that ~~the state board of medical examiners~~North Dakota board of medicine prescribes rules governing the conduct, permits, fees, qualifications, activities, discipline, and supervision of radiologic technologists who provide those services.
12. A naturopath duly licensed to practice in this state pursuant to the statutes regulating such profession.

SECTION 19. AMENDMENT. Section 43-17-02.2 of the North Dakota Century Code is amended and reenacted as follows:

43-17-02.2. Use of certain words or initials prohibited.

The terms "physician assistant" and "certified physician assistant" and the initials "PA-C" may only be used to identify a person who has been issued a certificate of qualification by the ~~North Dakota board of medical examiners~~medicine. A person who uses those terms or initials as identification without having received a certificate of qualification is engaging in the practice of medicine without a license.

SECTION 20. AMENDMENT. Section 43-17-02.3 of the North Dakota Century Code is amended and reenacted as follows:

43-17-02.3. Practice of medicine or osteopathy by holder of permanent, unrestricted license.

Notwithstanding anything in this chapter to the contrary, any physician who is the holder of a permanent, unrestricted license to practice medicine or osteopathy in any state or territory of the United States, the District of Columbia, or a province of Canada may practice medicine or osteopathy in this state without first obtaining a license from the ~~state board of medical examiners~~North Dakota board of medicine under one or more of the following circumstances:

1. As a member of an organ harvest team;
2. On board an air ambulance and as a part of its treatment team;
3. To provide one-time consultation or teaching assistance for a period of not more than twenty-four hours; or
4. To provide consultation or teaching assistance previously approved by the board for charitable organizations.

SECTION 21. AMENDMENT. Section 43-17-03 of the North Dakota Century Code is amended and reenacted as follows:

43-17-03. ~~State board of medical examiners~~North Dakota board of medicine - How appointed - Qualifications.

1. The governor shall appoint a ~~state board of medical examiners~~North Dakota board of medicine consisting of thirteen members, nine of whom are doctors of medicine, one of whom is a doctor of osteopathy, one of whom is a physician assistant, and two of whom are designated as public members. If no osteopathic physician is qualified and willing to serve, any qualified physician may be appointed in place of the osteopathic physician.
2. Each physician member must:
 - a. Be a practicing physician of integrity and ability.
 - b. Be a resident of and duly licensed to practice medicine in this state.
 - c. Be a graduate of a medical or osteopathic school of high educational requirements and standing.
 - d. Have been engaged in the active practice of the physician's profession within this state for a period of at least five years.
3. Each public member of the board must:
 - a. Be a resident of this state.
 - b. Be at least twenty-one years of age.
 - c. Not be affiliated with any group or profession that provides or regulates health care in any form.
4. The physician assistant member of the board must:

- a. Be a practicing physician assistant of integrity and ability.
 - b. Be a resident of and be duly licensed to practice as a physician assistant in this state.
 - c. Have been engaged in the active practice as a physician assistant within this state for a period of at least five years.
5. An individual appointed to the board shall qualify by taking the oath required of civil officers.

SECTION 22. AMENDMENT. Section 43-17-05 of the North Dakota Century Code is amended and reenacted as follows:

43-17-05. Removal of members of state board of medical examiners~~North Dakota board of medicine~~ - Reelection.

The governor for good cause shown and upon the recommendation of three-fourths of the members of the North Dakota board of medicine may remove any member of such board for misconduct, incapacity, or neglect of duty.

SECTION 23. AMENDMENT. Section 43-17-07.1 of the North Dakota Century Code is amended and reenacted as follows:

43-17-07.1. Powers of the board of medical examiners~~medicine~~.

In addition to any other powers, the board may:

1. Employ or contract with one or more organizations or agencies known to provide acceptable examinations for the preparation and scoring of required examinations relating to physician licensure, and employ or contract with one or more organizations or agencies known to provide acceptable examination services for the administration of the required examination.
2. Prescribe the time, place, method, manner, scope, and subject of examination.
3. Impose sanctions, deny licensure, levy fines, or seek appropriate civil or criminal penalties against anyone who violates or attempts to violate examination security, anyone who obtains or attempts to obtain licensure by fraud or deception, and anyone who knowingly assists in that type of activity.
4. Require information on an applicant's or licensee's fitness, qualifications, and previous professional record and performance from recognized data sources, including the federation of state medical boards action data bank, other data repositories, licensing and disciplinary authorities of other jurisdictions, professional education and training institutions, liability insurers, health care institutions, and law enforcement agencies be reported to the board. The board or its investigative panels may require an applicant for licensure or a licensee who is the subject of a disciplinary investigation to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with the criminal history record check are the responsibility of the licensee or applicant.

5. Require the self-reporting by an applicant or a licensee of any information the board determines may indicate possible deficiencies in practice, performance, fitness, or qualifications.
6. Establish a mechanism for dealing with a licensee who abuses or is dependent upon or addicted to alcohol or other addictive chemical substances, to enter an agreement, at its discretion, with a professional organization whose relevant procedures and techniques it has evaluated and approved for the organization's cooperation or participation.
7. Issue a cease and desist order, obtain a court order, or an injunction to halt unlicensed practice, a violation of this chapter, or a violation of the rules of the board.
8. Issue a conditional, restricted, or otherwise circumscribed license as it determines necessary.

SECTION 24. AMENDMENT. Section 43-17-26.1 of the North Dakota Century Code is amended and reenacted as follows:

43-17-26.1. License renewals - Late fees.

A physician seeking to renew the annual registration who has failed to complete the annual registration process within the time specified by the ~~state board of medical examiners~~North Dakota board of medicine must be assessed a fee equal to three times the normal annual registration fee, in addition to such other penalties as are authorized by law, if that physician is found to have been practicing medicine in this state after the physician's license expired. A physician who is not found to have been practicing medicine in this state may renew a license upon payment of the arrearage and meeting the other requirements of the board. However, a physician whose license lapsed more than three years before that physician petitioned the board for reinstatement must submit a new application for licensure, whether or not that physician has practiced medicine in this state since the physician's license was last current.

SECTION 25. AMENDMENT. Subsection 7 of section 43-17-30.1 of the North Dakota Century Code is amended and reenacted as follows:

7. Impose fines, not to exceed five thousand dollars for any single disciplinary action. Any fines collected by the ~~state board of medical examiners~~North Dakota board of medicine must be deposited in the state general fund.

SECTION 26. AMENDMENT. Section 43-17.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-17.1-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the ~~state board of medical examiners~~North Dakota board of medicine.
2. "Physician" means a person engaged in the practice of medicine in this state pursuant to the provisions of chapter 43-17.

SECTION 27. AMENDMENT. Subsection 2 of section 43-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

2. If the investigative panel determines that a formal hearing should be held to determine whether any licensed physician, physician assistant, or fluoroscopy technologist has committed any of the grounds for disciplinary action provided for by law, it shall inform the respondent physician, physician assistant, or fluoroscopy technologist involved of the specific charges to be considered by serving upon that person a copy of a formal complaint filed with the board of ~~medical examiners~~ for disposition pursuant to the provisions of chapter 28-32. The board members who have served on the investigative panel may not participate in any proceeding before the board relating to said complaint. The complaint must be prosecuted before the board by the attorney general or one of the attorney general's assistants.

SECTION 28. AMENDMENT. Section 43-17.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-17.1-05.1. Reporting requirements.

A physician, a physician assistant, or a fluoroscopy technologist, a health care institution in the state, a state agency, or a law enforcement agency in the state having actual knowledge that a licensed physician, a physician assistant, or a fluoroscopy technologist may have committed any of the grounds for disciplinary action provided by law or by rules adopted by the board shall promptly report that information in writing to the investigative panel of the board. A medical licensee or any institution from which the medical licensee voluntarily resigns or voluntarily limits the licensee's staff privileges shall report that licensee's action to the investigative panel of the board if that action occurs while the licensee is under formal or informal investigation by the institution or a committee of the institution for any reason related to possible medical incompetence, unprofessional conduct, or mental or physical impairment. Upon receiving a report concerning a licensee an investigative panel shall, or on its own motion an investigative panel may, investigate any evidence that appears to show a licensee is or may have committed any of the grounds for disciplinary action provided by law or by rules adopted by the board. A person required to report under this section who makes a report in good faith is not subject to criminal prosecution or civil liability for making the report. For purposes of any civil proceeding, the good faith of any person who makes a report pursuant to this section is presumed. A physician who obtains information in the course of a physician-patient relationship in which the patient is another physician is not required to report if the treating physician successfully counsels the other physician to limit or withdraw from practice to the extent required by the impairment. A physician who obtains information in the course of a professional peer review pursuant to chapter 23-34 is not required to report pursuant to this section. A physician who does not report information obtained in a professional peer review is not subject to criminal prosecution or civil liability for not making a report. For purposes of this section, a person has actual knowledge if that person acquired the information by personal observation or under circumstances that cause that person to believe there exists a substantial likelihood that the information is correct. An agency or health care institution that violates this section is guilty of a class B misdemeanor. A physician, physician assistant, or fluoroscopy technologist who violates this section is subject to administrative action by the ~~North Dakota state board of medical examiners~~ as specified by law or by administrative rule.

SECTION 29. AMENDMENT. Subsection 7 of section 43-17.1-06 of the North Dakota Century Code is amended and reenacted as follows:

7. File a formal complaint against any licensed physician, physician assistant, or fluoroscopy technologist with the ~~state board of medical examiners~~.

SECTION 30. AMENDMENT. Section 43-17.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-17.1-08. Communication to investigative panel privileged.

Communications to the investigative panels and their agents are privileged, and no member of the investigative panels nor any of their agents may be compelled to testify with respect thereto in any proceedings except in formal proceedings conducted before the ~~board of medical examiners~~. All records of the investigative panels, except their financial records, are confidential. Notwithstanding the provisions of this section, if an investigative panel determines that the records of the investigative panel disclose a possible violation of state or federal criminal law, the investigative panel may provide the records to the appropriate law enforcement agency.

SECTION 31. AMENDMENT. Subsection 3 of section 43-17.2-01 of the North Dakota Century Code is amended and reenacted as follows:

3. Under the program, loan repayments may be made to a recipient for educational expenses incurred while the recipient was attending an accredited four-year allopathic or osteopathic medical school located in the United States, its possessions, territories, or Canada and approved by the ~~state board of medical examiners~~North Dakota board of medicine or by an accrediting body approved by the board.

SECTION 32. AMENDMENT. Subsection 3 of section 43-17.2-03 of the North Dakota Century Code is amended and reenacted as follows:

3. A physician who receives loan repayment under this chapter:
 - a. Must be a graduate of an accredited four-year allopathic or osteopathic medical school located in the United States, its possessions, territories, or Canada and approved by the ~~state board of medical examiners~~North Dakota board of medicine or by an accrediting body approved by the board;
 - b. Must have a full and unrestricted license to practice medicine in this state;
 - c. Shall submit an application to participate in the loan repayment program; and
 - d. Must have entered into an agreement with a selected community to provide full-time medical services for a minimum of two years at the selected community if the applicant receives a loan repayment program contract.

SECTION 33. AMENDMENT. Subsection 1 of section 43-17.3-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Board" means the ~~state board of medical examiners~~North Dakota board of medicine.

SECTION 34. AMENDMENT. Subsection 7 of section 43-28-06 of the North Dakota Century Code is amended and reenacted as follows:

7. Enter an agreement with the same professional organization with which the ~~state board of medical examiners~~North Dakota board of medicine has entered an agreement under subsection 6 of section 43-17-07.1.

¹⁷¹ **SECTION 35. AMENDMENT.** Subsection 2 of section 43-39-10 of the North Dakota Century Code is amended and reenacted as follows:

2. Nothing in this chapter shall be construed to authorize the practice of medicine by any person. The provisions of this chapter do not apply to physicians licensed by the North Dakota ~~state board of medical examiners~~medicine; to dentists, duly qualified and registered under the laws of this state who confine their practice strictly to dentistry; to licensed optometrists who confine their practice strictly to optometry as defined by law; to licensed chiropractors who confine their practice strictly to chiropractic as defined by law; to occupational therapists who confine their practice to occupational therapy; to nurses who practice nursing only; to duly licensed chiropodists or podiatrists who confine their practice strictly to chiropody or podiatry as defined by law; to registered physical therapists; to massage therapists in their particular sphere of labor; nor to commissioned or contract physicians or physical therapists or physical therapists' assistants in the United States army, navy, air force, marine corps, and public health and marine health service.

SECTION 36. AMENDMENT. Subdivision g of subsection 1 of section 43-46-01 of the North Dakota Century Code is amended and reenacted as follows:

- g. The ~~state board of medical examiners~~North Dakota board of medicine;

SECTION 37. AMENDMENT. Paragraph 6 of subdivision a of subsection 1 of section 43-51-01 of the North Dakota Century Code is amended and reenacted as follows:

- (6) ~~State board of medical examiners~~North Dakota board of medicine; and

SECTION 38. AMENDMENT. Subsection 2 of section 43-51-11 of the North Dakota Century Code is amended and reenacted as follows:

2. For purposes of this section, the term board includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, ~~state board of medical examiners~~North Dakota board of medicine, and state board of dental examiners.

SECTION 39. AMENDMENT. Subsection 3 of section 43-60-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Board" means the ~~state board of medical examiners~~North Dakota board of medicine.

¹⁷¹ Section 43-39-10 was also amended by section 3 of Senate Bill No. 2295, chapter 306.

SECTION 40. AMENDMENT. Section 65-02-21.1 of the North Dakota Century Code is amended and reenacted as follows:

65-02-21.1. Licensure required for psychologists and physicians performing utilization review.

Psychologists making utilization review determinations under sections 65-02-20 and 65-02-21 shall have current licenses from the state board of psychologist examiners. Physicians making utilization review determinations under sections 65-02-20 and 65-02-21 shall have current licenses from the ~~state board of medical examiners~~North Dakota board of medicine. This requirement does not apply to psychologists or physicians conducting independent medical examinations or independent medical reviews under section 65-05-28.

Approved March 26, 2015

Filed March 26, 2015

CHAPTER 298

SENATE BILL NO. 2335

(Senators Bekkedahl, Dever, Hogue)
(Representatives Boschee, Fehr, K. Koppelman)

AN ACT to amend and reenact section 43-17-41 of the North Dakota Century Code, relating to the duty of a physician to report certain injuries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷² **SECTION 1. AMENDMENT.** Section 43-17-41 of the North Dakota Century Code is amended and reenacted as follows:

43-17-41. Duty of physicians and others to report injury - Penalty.

1. Any physician, physician assistant, naturopath licensed under chapter 43-58, or any individual licensed under chapter 43-12.1 who performs any diagnosis or treatment for any individual suffering from any wound, injury, or other physical trauma:
 - a. Inflicted by the individual's own act or by the act of another by means of a knife, gun, or pistol shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered; or
 - b. Which the individual performing diagnosis or treatment has reasonable cause to suspect was inflicted in violation of any criminal law of this state, shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered.
2. The report under subsection 1 must state the name of the injured individual and the character and extent of the individual's injuries, except when the individual's physical injury is the result of a sexual offense, as defined in chapter 12.1-20, in which case the individual's name, address, and any identifying information may not be included in the report without the individual's written release.
3. When a report of domestic violence, as defined in section 14-07.1-01, or a report of physical injury resulting from a sexual offense, as defined in chapter 12.1-20, is made to a law enforcement agency as required by this section, the injured individual must be provided with information regarding a domestic violence sexual assault organization as defined in section 14-07.1-01 or other victims' assistance program by the physician, physician assistant, naturopath, or any individual licensed under chapter 43-12.1, unless it is known that the information has previously been provided to the injured individual.
4. The reports mandated by this section must be made as soon as practicable and may be either oral or in writing. Oral reports must be followed by written

¹⁷² Section 43-17-41 was also amended by section 2 of Senate Bill No. 2191, chapter 308.

reports within forty-eight hours if so requested by the sheriff or state's attorney to whom the oral report is originally made.

5. Any individual required to report as provided by this section who willfully fails to do so is guilty of an infraction.
6. Any individual making or not making a report in good faith pursuant to this section is immune from liability for making or not making a report.

Approved March 27, 2015

Filed March 27, 2015

CHAPTER 299

SENATE BILL NO. 2185

(Senators Burckhard, Oehlke)
(Representatives Bellew, Dockter, Frantsvog, Schatz)

AN ACT to amend and reenact sections 43-19.1-25 and 43-19.1-26 of the North Dakota Century Code, relating to disciplinary action procedure for professional engineers and land surveyors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-19.1-25 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-25. Disciplinary action - Revocations, suspensions, or reprimand.

The board may suspend, refuse to renew, or revoke the certificate of registration of and may reprimand any registrant. ~~In an order or decision issued by the board in resolution of a disciplinary proceeding in which disciplinary action is imposed against a registrant, the board may direct a registrant to pay the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's fees, incurred by the board and the board's investigative panels in the investigation and prosecution of the case. Notwithstanding section 28-32-50, if a registrant is the prevailing party in an administrative appeal of a disciplinary action taken by the board under this section, the board shall pay the registrant's reasonable and actual costs, including reasonable attorney's fees.~~ These powers apply to any registrant who is found guilty of any of the following:

1. The practice of any fraud or deceit in obtaining a certificate of registration.
2. Any gross negligence, incompetence, or misconduct in the practice of engineering or land surveying.
3. Any offense determined by the board to have a direct bearing upon an individual's ability to serve the public as a professional engineer and land surveyor; or when the board determines, following conviction of any offense, that an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
4. The violation of the code of ethics adopted by the board.

SECTION 2. AMENDMENT. Section 43-19.1-26 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-26. Disciplinary action - Procedure.

Any person may file charges of fraud, deceit, gross negligence, incompetence, misconduct, or violation of the code of ethics against any individual registrant. Such charges must be in writing ~~and must be sworn to by each person making the charges~~ and must be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, must be heard by the board within six months following the filing of charges unless the accused registrant waives this requirement. The

matters considered at the hearing must include all charges made in the original filing, together with any related or additional matters or charges that arise in connection with the investigation of the original charges, and which are set forth in a specification of issues for the hearing. The time and place for the hearing must be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, and a specification of the issues to be considered at the hearing must be served upon the accused registrant either personally or sent by registered mail to the last-known address of the registrant at least thirty days before the date fixed for hearing. At any hearing the accused registrant has the right to appear in person or by counsel, or both; to cross-examine witnesses appearing against the accused; and to produce evidence and witnesses in defense of the accused. If the accused fails or refuses to appear, the board may proceed to hear and determine the validity of the ~~charges~~issues set forth in the specification of issues. Following the hearing, the board members who did not serve on the investigative panel shall deliberate in executive session and if a majority of the board members who did not serve on the investigative panel vote in favor of sustaining ~~the charges~~all or part of the issues set forth in the specification of issues, the board shall make findings of fact and conclusions of law and shall issue the board's order and serve the findings, conclusions, and order upon the accused. In the order the board may reprimand, suspend, refuse to renew, or revoke the accused registrant's certificate of registration. Any registrant who feels aggrieved by any action of the board in denying, suspending, refusing to renew, or revoking that registrant's certificate of registration may appeal the board's action to the district court under the procedures provided by chapter 28-32.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 300

HOUSE BILL NO. 1074

(Industry, Business and Labor Committee)
(At the request of the Real Estate Commission)

AN ACT to amend and reenact sections 43-23-13.1 and 43-23-17 of the North Dakota Century Code, relating to the application deadline for renewal of a real estate license and practicing as a real estate broker or salesperson without a license; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-23-13.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23-13.1. License renewal.

Every person licensed to practice as a real estate broker or real estate salesperson must register annually with the commission and pay the appropriate annual renewal fee as provided in section 43-23-13. The application for renewal must be accompanied by such certification as required by this chapter and rules of the commission to show compliance with the educational requirements of sections 43-23-08 and 43-23-08.2, and is to be submitted to the commission with the appropriate fee no later than ~~December thirty-first of each year~~ the application deadline set by the commission. A licensee who fails to file a timely application for the renewal of any license and pay the renewal fee on or before the application deadline may file a late renewal application, together with the required educational certification, before March first of the subsequent year and shall pay, in addition to the renewal fee, a late fee as set by the commission for each month or fraction thereof after ~~January first~~ the application deadline. Any license not renewed by March first must be canceled. The cancellation must be performed without any notice or opportunity for hearing. Any person whose license has been canceled and who desires relicensure must be required to satisfy the application and examination requirements for prospective licensees in accordance with this chapter and rules of the commission.

No licensee may engage in any activity after December thirty-first of any year for which a license is required under this chapter unless that person's license has been renewed by the commission.

SECTION 2. AMENDMENT. Section 43-23-17 of the North Dakota Century Code is amended and reenacted as follows:

43-23-17. Penalty.

Any person violating section 43-23-05 is guilty of a class B misdemeanor. Any person violating section 43-23-14.1 is guilty of an infraction.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 301

HOUSE BILL NO. 1100

(Industry, Business and Labor Committee)

(At the request of the North Dakota Real Estate Appraiser Qualifications and Ethics Board)

AN ACT to amend and reenact subsection 2 of section 43-23.3-03 and sections 43-23.3-04, 43-23.3-04.1, 43-23.3-09, 43-23.3-22, and 43-23.3-24 of the North Dakota Century Code, relating to real estate appraiser permits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 43-23.3-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The board, or the board's designated representative, may:
 - a. Promote research and conduct studies relative to real estate appraising and sponsor educational activities.
 - b. Contract for services necessary to carry out this chapter.
 - c. Enter reciprocity agreements with other states.

SECTION 2. AMENDMENT. Section 43-23.3-04 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-04. Permit required - Exemptions.

Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter. An appraiser, apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a temporary permit under section 43-23.3-11 or a permit under section 43-23.3-04.1. This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. However, the opinion as to the listing price or the purchase price may not be referred to as an appraisal. This chapter does not apply to a person who, in the ordinary course of business, gives an opinion of the value of real estate to that person's employer.

SECTION 3. AMENDMENT. Section 43-23.3-04.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-04.1. Issuance of permits to applicants licensed or certified by another state.

The board shall issue a permit to an applicant who is licensed or certified in good standing by another state if the other state's requirements to be licensed or certified are at least substantially equivalent to the requirements imposed by this state, and if grounds for denial of the application under section 43-23.3-18 do not exist. ~~If an applicant was licensed or certified by another state by reciprocity or a similar process, the requirements of the state in which the applicant was originally licensed or certified must be at least substantially equivalent to the requirements imposed by this state.~~ Within sixty days of filing a completed application, the board shall issue or deny the application and inform the applicant of the decision.

SECTION 4. AMENDMENT. Section 43-23.3-09 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-09. Appraisal experience.

The board may issue a permit to practice as a licensed, certified residential, or certified general appraiser to an individual who possesses the minimum experience requirements established by the board. The board ~~may~~shall require an applicant to furnish, under oath, a detailed listing of the appraisal reports or file memoranda for which appraisal experience is claimed by the applicant. Upon request, the applicant shall provide to the board copies of appraisal reports or other documents that the applicant has assisted in preparing.

SECTION 5. AMENDMENT. Section 43-23.3-22 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-22. Disciplinary proceedings.

1. The board may deny an application for, refuse to renew, suspend, or revoke a permit, impose a monetary fine, or issue a letter of reprimand, when the applicant or permittee has:
 - a. Procured or attempted to procure a permit by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, or through fraud or misrepresentation.
 - b. Failed to meet the minimum qualifications established under this chapter.
 - c. Paid money other than provided for by this chapter to any member or employee of the board to procure a permit.
 - d. Been convicted, including a conviction based upon a plea of guilty or nolo contendere, of a felony or of a crime that is substantially related to the qualifications, functions, and duties of a person developing and communicating appraisals to others.
 - e. Performed an act involving dishonesty, fraud, or misrepresentation with the intent to benefit substantially that person or another person, or with the intent to injure substantially another person.
 - f. Violated any standard for the development or communication of appraisals as provided in this chapter.

- g. Failed or refused without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.
 - h. Acted with gross negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.
 - i. Willfully violated this chapter or rules of the board.
 - j. Accepted an appraisal assignment when the employment is contingent upon the reporting of a predetermined estimate, analysis, or opinion, or if the fee is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.
 - k. Violated the confidential nature of governmental records to which the person gained access through employment or engagement as an appraiser by a governmental agency.
 - l. Had entry of a civil judgment against the person on grounds of fraud, misrepresentation, or deceit in the making of an appraisal.
2. In a disciplinary proceeding based upon a civil judgment, the permittee must be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.
3. A signed or unsigned allegation from the public is not a complaint until the board determines there is reasonable cause to initiate a disciplinary proceeding against one or more applicants or permittees.

SECTION 6. AMENDMENT. Section 43-23.3-24 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-24. Criminal history record checks.

The board shall require an applicant for a permit, under sections 43-23.3-04.1, 43-23.3-07, 43-23.3-08, and 43-23.3-09, ~~and 43-23.3-11~~, and may require a permittee to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant or permittee.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 302

SENATE BILL NO. 2085

(Industry, Business and Labor Committee)
(At the request of the North Dakota Board of Massage)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 and section 43-25-08.1 of the North Dakota Century Code, relating to criminal history record checks for massage therapists; and to amend and reenact sections 43-25-05, 43-25-05.1, 43-25-06, 43-25-09, 43-25-10, 43-25-14, and 43-25-18 of the North Dakota Century Code, relating to massage therapist licensure.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷³ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The North Dakota board of massage for applicants, licensees, or investigations under chapter 43-25.

SECTION 2. AMENDMENT. Section 43-25-05 of the North Dakota Century Code is amended and reenacted as follows:

43-25-05. Board of massage - Terms.

1. The governor shall appoint a board of massage, to consist of five members.
 - a. ~~Three of the members of the board must be massage therapists who are licensed in this state and annually work at least five hundred hours practicing massage in this state for at least the previous three years. These members must be appointed for terms of three years, staggered so that the term of one member expires each year. Two additional members, who may not be massage therapists or immediate family members of a massage therapist,~~
 - b. One member of the board must be appointed as a consumer member. To qualify as a consumer member an individual may not be or have been a massage therapist, may not have an immediate family member who is a massage therapist, may not be an owner of or have any affiliation with a massage school, may not be a current or past member of any other health care licensing entity, may not have a fiduciary obligation to a facility rendering health care services, may not have a financial interest in the rendering of health care services, and may not have a direct and substantial financial interest in massage therapy. This member must be appointed for a two-year term term, staggered so that the term of one

¹⁷³ Section 12-60-24 was also amended by section 1 of House Bill No. 1105, chapter 97, and section 1 of House Bill No. 1125, chapter 98, and section 1 of Senate Bill No. 2077, chapter 99, section 1 of Senate Bill No. 2236, chapter 309, section 1 of House Bill No. 1153, chapter 297, section 3 of House Bill No. 1436, chapter 67, section 1 of Senate Bill No. 2145, chapter 100, and section 6 of Senate Bill No. 2215, chapter 96.

~~member expires each year expires with a licensed board member but not with the instructor board member.~~

- c. One member of the board must be an instructor at a school of massage that meets the standards set by the board. This member must be appointed for a term of two years, staggered so that the term expires with a licensed board member but not with the consumer board member.
 - d. Each member of the board holds office until that member's successor is appointed and qualified. Any member appointed to a term beginning after June 30, 2013, may only serve for a total of six consecutive years, after which that member may not be reappointed unless a period of two years has passed since that member last served on the board.
2. Within one month after appointment of a new member, the board shall meet at some convenient place within the state and shall annually elect a president, vice president, and secretary-treasurer. The secretary-treasurer must be bonded in the sum of one thousand dollars for the faithful discharge of the secretary-treasurer's duties.

SECTION 3. AMENDMENT. Section 43-25-05.1 of the North Dakota Century Code is amended and reenacted as follows:

43-25-05.1. Powers and duties of the board.

The board has the following powers and duties:

1. The board may adopt and enforce rules as necessary to implement this chapter.
2. The board may periodically shall inspect or cause to be inspected all massage establishments. The board and ~~its~~the board's agents are ~~authorized to~~may enter and inspect any massage establishment at any time during which the establishment is open for the transaction of business.
3. The secretary-treasurer ~~may~~shall prepare and submit to the governor a biennial report detailing income and expenses and a list of licensed massage therapists.
4. The board may hire office personnel deemed necessary by ~~it~~the board for carrying on ~~its~~the board's official duties and shall set the compensation to be paid to the personnel.

SECTION 4. AMENDMENT. Section 43-25-06 of the North Dakota Century Code is amended and reenacted as follows:

43-25-06. Removal of members of board of massage - Officers of the board.

The governor may remove from office ~~members~~a member of the board ~~for failure to maintain the qualifications for appointment,~~ for neglect of duties as required by this chapter ~~or,~~ for malfeasance in office and incompetency, or for unprofessional conduct. The governor may fill any vacancy caused by removal of any member of the board, on the member's resignation or death.

SECTION 5. Section 43-25-08.1 of the North Dakota Century Code is created and enacted as follows:

43-25-08.1. Criminal history record checks.

The board shall require an applicant under this chapter to submit to a statewide and nationwide criminal history record check. The board may require a licensee under this chapter to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant or licensee.

SECTION 6. AMENDMENT. Section 43-25-09 of the North Dakota Century Code is amended and reenacted as follows:

43-25-09. License - Display - Renewal - Renewal fee.

1. Each license must be conspicuously displayed at the place of practice.
2. On or before January first of each year, each licensed massage therapist shall pay to the secretary-treasurer of the board a renewal fee of one hundred dollars or a lesser amount established by the board.
3. Continuing education of at least ~~thirty-two~~twenty-four continuing education hours, or equivalent college credits, submitted every two years is a further requirement for renewal of the license. For the first renewal after becoming licensed in this state, a minimum of three hours of the required twenty-four hours must be ethics education. The board may accept continuing education attained by remote means. No more than ~~twelve~~nine hours of a licensee's renewal hours may be by remote means. To qualify as continuing education, the remote education must be board-approved for content and suitability.
 - a. Odd-numbered licensed individuals shall report ~~their~~ continuing education in odd-numbered years and even-numbered licensed individuals shall report ~~their~~ continuing education in even-numbered years, based on the calendar year.
 - b. ~~This subdivision applies for the~~licensed individuals during their initial licensure period. ~~Individuals licensed on or before May thirty-first of their initial year, who would normally be not required to report hours of continuing education, based on their license number being odd or even, would need to report at least sixteen hours. Those not required to submit continuing education that initial January first would report at least twenty-four hours by the following January first. Individuals licensed after May thirty-first of their initial year, who would normally report hours of continuing education, based on their license number being odd or even would not be required to report that cycle, but would report at least forty-eight hours for the next cycle. Those not required to submit continuing education hours that initial January first would report at least sixteen hours by the following January first. Thereafter, initial~~the licensees would follow the normal renewal reporting cycles~~shall report continuing education pursuant to subdivision a.~~
 - c. The board may grant an individual waiver based on health issues or other good cause deemed sufficient by the board.
4. If the board reasonably believes a massage therapist or applicant is ~~in~~has a physical or mental condition jeopardizing the health of those who seek relief from the individual, the board may require the individual to have a ~~physical~~an

appropriate examination by a competent medical qualified examiner approved by the board. If the individual has had or has any communicable disease sufficient to disqualify the applicant to practice massage in the state, the board shall deny a license until the individual furnishes due proof of being physically and mentally competent and sound.

5. A holder of an expired license may within one year from the date of its expiration have the license renewed upon payment of the required renewal fee. The board may require production of a new certificate of physical examination and evidence of any required continued educational hours being completed.
6. All licenseholders must be designated as licensed massage therapists and may not use any title or abbreviation without the designation "massage therapist".

SECTION 7. AMENDMENT. Section 43-25-10 of the North Dakota Century Code is amended and reenacted as follows:

43-25-10. Disciplinary actions - Complaints.

1. The license of a massage therapist may be denied, revoked, suspended, or placed on probation for any of the following grounds:
 - a. The licensee is guilty of fraud in the practice of massage or fraud or deceit in admission to the practice of massage.
 - b. The licensee has been convicted of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a massage therapist, or, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1. The conviction of an offense includes conviction in any jurisdiction in the United States of any offense, which if committed within this state would constitute an offense under this state's laws.
 - c. The licensee is engaged in the practice of massage under a false or assumed name, or is impersonating another practitioner of a like or different name.
 - d. The licensee is addicted to the habitual use of intoxicating liquors, or other legal or illegal drugs, to the extent the licensee is compromised or impaired from performing the professional duties of a massage therapist or is under the influence while assessing, treating, or seeing a client.
 - e. The licensee is guilty of untrue, fraudulent, misleading, or deceptive advertising, the licensee prescribes medicines, drugs, or the licensee infringes on any other licensed profession.
 - f. The licensee is guilty of gross negligence in the practice of massage, or is guilty of employing, allowing, or permitting any unlicensed person to perform massage in the licensee's establishment.
 - g. The licensee has violated this chapter or any rule adopted by the board.
2. A licensee who violates this chapter or any rule adopted by the board may be assessed a civil penalty of up to ~~one~~two hundred dollars.

3. A complaint may be submitted to the board by any person or on its own motion. A complaint ~~may~~must be signed by the complainant. The president may initiate an investigation of the complaint and report to the board.
4. Any hearing regarding a disciplinary action or a denial of a license must be held pursuant to chapter 28-32.

SECTION 8. AMENDMENT. Section 43-25-14 of the North Dakota Century Code is amended and reenacted as follows:

43-25-14. Compensation of board members - Clerks.

The board members ~~shall~~are entitled to receive compensation in an amount to be established by rule not to exceed one hundred dollars per day or prorated for partial days the member is actually engaged in the performance of other meetings and official duties and payment for mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

SECTION 9. AMENDMENT. Section 43-25-18 of the North Dakota Century Code is amended and reenacted as follows:

43-25-18. Reciprocity.

1. Any ~~person~~individual who has been duly licensed and is in good standing in another state to practice massage in a state that meets required educational hours and requirements in this state, and who has been lawfully and continuously engaged in licensed practice for two years or more immediately before filing of an application to practice in this state, and who submits to the board a duly attested certificate from the examining board of the state in which registered~~licensed~~, certifying to the fact of registration~~licensure~~ and being a ~~person~~ of good moral character and of professional attainments, may upon paying a fee of one hundred fifty dollars or a lesser fee set by the board be granted a license to practice in this state without being required to take an examination.
2. An applicant for licensure by reciprocity who has been duly licensed and is in good standing to practice massage in a state with substantially similar licensure standards as determined by the board and who has been lawfully and continuously engaged in licensed practice for five years or more immediately before filing of an application to practice in this state, may be granted a license by the board without being required to take an examination if the applicant otherwise meets all of the requirements of subsection 1.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 303

SENATE BILL NO. 2205

(Senator Bekkedahl)
(Representatives Hawken, Hofstad, Keiser, Meier)

AN ACT to amend and reenact sections 43-28.1-01, 43-28.1-03, 43-28.1-05, 43-28.1-08, and 43-28.1-09 of the North Dakota Century Code, relating to the dentists' loan repayment program; to repeal sections 43-28.1-01.1, 43-28.1-02, 43-28.1-04, and 43-28.1-10 of the North Dakota Century Code, relating to the loan repayment program for dentists in public health and nonprofit dental clinics and new practice grants for dentists; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-28.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-01. Loan repayment program - Dentists - Defined need - Maximum amount of funds.

Each year the state health council shall select, from a pool of applicants ~~no more than three~~, dentists who shall provide dental services ~~to communities in cities or surrounding areas, or both~~, in this state which the state health council identifies as having a defined need for dental services. The dentists selected from this pool of applicants may include dentists who will provide dental services in a public health clinic, a practice with a focus on an underserved population, or a nonprofit dental clinic. The dentists are eligible to receive funds for the repayment of their education loans. The funds, which are payable over a ~~four-year~~five-year period, may not exceed ~~eightyone hundred~~ thousand dollars per applicant. If the state health council accepts any gifts, grants, or donations under this chapter, the council may select additional dentists for participation in the loan repayment program under this chapter.

SECTION 2. AMENDMENT. Section 43-28.1-03 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-03. ~~Dentist selection criteria~~ - Eligibility for loan repayment~~Criteria~~.

1. ~~In establishing the criteria regarding a dentist's eligibility for loan repayment funds under this chapter, the state health council shall include consideration of:~~
 - a. ~~The dentist's training in general dentistry or in a dental specialty and the extent to which such services are needed in a selected community~~
 - b. ~~The dentist's commitment to serve in a community that is in need of a dentist.~~
 - c. ~~The compatibility of the dentist with a selected community~~
 - d. ~~The date by which the dentist would be available for service to the selected community~~

- e. ~~The dentist's competence and professional conduct.~~
 - f. ~~The dentist's willingness to accept medicare and medicaid patients.~~
2. ~~A dentist who is selected to receive loan repayment funds under this chapter:~~
- a. ~~(1) May not have practiced dentistry full time in this state during the three years immediately preceding the application;~~
 - ~~(2) Must have graduated from an accredited graduate specialty training program in dentistry during the year immediately preceding the application or within one year after the date of the application; or~~
 - ~~(3) Must be enrolled in an accredited graduate specialty training program in dentistry; and~~
 - b. ~~Must be licensed to practice dentistry in this state.~~
3. ~~Dentists selected shall contract to provide full-time dental services for a minimum of four years in one or more selected communities~~
4. ~~For the purposes of a dentist selected for loan payment who practices within fifteen miles [24.14 kilometers] of the city limits of Bismarck, Fargo, or Grand Forks, to qualify to receive a yearly disbursement under this chapter during that year of obligated service, the dentist must have:~~
- a. ~~Received dental medical payments of at least twenty thousand dollars in the form of medical assistance reimbursement; or~~
 - b. ~~Practiced at least two full workdays per week at a public health clinic or at a nonprofit dental clinic that uses a sliding fee schedule to bill the nonprofit dental clinic's patients. The health council shall establish criteria to be used in selecting qualified dentists and in identifying cities or surrounding areas, or both, that have a defined need for dental services. The criteria must include consideration of:~~
 - a. The number of dentists already providing dental services in the city or surrounding areas, or both;
 - b. Access to dental services in the city and the surrounding areas;
 - c. How the dentist will provide dental services in a public health clinic, a practice with a focus on an underserved population, or a nonprofit dental clinic; and
 - d. The dentist's training in general dentistry or in a dental specialty and the extent to which such services are needed in the identified city or surrounding areas, or both.
2. For purposes of a dentist selected for loan payment under this chapter who practices within fifteen miles [24.14 kilometers] of the city limits of one of the three largest cities in the state, to qualify to receive a yearly disbursement under this chapter during that year of obligated service, the dentist must have:

- a. Received dental medical payments of at least twenty thousand dollars in the form of medical assistance reimbursement; or
 - b. Practiced at least two full workdays per week at a public health clinic or at a nonprofit dental clinic that uses a sliding fee schedule to bill the nonprofit dental clinic's patients.
3. The health council may consult with public and private sector entities in establishing criteria and evaluating needs based on the criteria.

SECTION 3. AMENDMENT. Section 43-28.1-05 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-05. Eligible loans.

The state health council may provide for loan repayment funds to a dentist who has received an education loan. The council may not provide funds for the repayment of any loan that is in default at the time of the application. The amount of repayment must be related to the dentist's outstanding education loans. A dentist is eligible to receive loan repayment funds in an amount equal to the outstanding balance of the dentist's education loans with applicable interest, or eightyone hundred thousand dollars, whichever is less. Loan repayment funds may not be used to satisfy other service obligations under similar programs.

SECTION 4. AMENDMENT. Section 43-28.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-08. Payment.

The state health council may not provide any loan repayment funds to a dentist under this chapter until the dentist has practiced at least six months on a full-time basis in the selected community city or surrounding areas, or both, the state health council has identified as having a defined need for dental services. Loan repayment funds for a year of obligated service are payable by the state health council no later than the end of the fiscal year in which the dentist completes the year of obligated service.

SECTION 5. AMENDMENT. Section 43-28.1-09 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-09. Gifts, grants, and donations - Continuing appropriation.

The state health council may accept any conditional or unconditional gift, grant, or donation for the purpose of providing funds for the repayment of dentists' educational loans. If any entity desires to provide funds to the council to allow an expansion of the program beyond the ~~three~~ dentists contemplated by this chapter, the entity shall commit to fund fully the expansion for a period of ~~four~~five years. The council may contract with any public or private entity and may expend any moneys available to the council to obtain matching funds for the purposes of this chapter. All money received as gifts, grants, or donations under this section is appropriated as a continuing appropriation to the state health council for the purpose of providing funds for the repayment of additional dentists' educational loans.

SECTION 6. REPEAL. Sections 43-28.1-01.1, 43-28.1-02, 43-28.1-04, and 43-28.1-10 of the North Dakota Century Code are repealed.

SECTION 7. APPLICATION. Sections 43-28.1-01.1, 43-28.1-02, 43-28.1-04, and 43-28.1-10 continue to apply to any dentists who received a grant under those sections before the effective date of this Act.

Approved April 27, 2015

Filed April 27, 2015

CHAPTER 304

HOUSE BILL NO. 1274

(Representatives Fehr, D. Anderson, Hofstad, Lefor)

AN ACT to amend and reenact sections 43-32-02, 43-32-08, 43-32-12, 43-32-13, 43-32-14, 43-32-17, 43-32-19.1, 43-32-20, 43-32-20.1, 43-32-21, 43-32-26, 43-32-27, 43-32-27.1, 43-32-30, and 43-32-34 of the North Dakota Century Code, relating to the membership, powers, and duties of the state board of psychologist examiners; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-32-02 of the North Dakota Century Code is amended and reenacted as follows:

43-32-02. State board of psychologist examiners - How appointed - Qualifications.

The governor shall appoint a state board of psychologist examiners consisting of ~~five~~seven members. ~~At One board member must be designated a public member who is a resident of this state, is at least twenty-one years of age, and is not affiliated with any group or profession that provides or regulates health care in any form. Of the remaining six board members,~~ at least one member must be engaged primarily in providing service in psychology, and at least one member must be engaged primarily in teaching, training, or research in psychology. ~~Each~~Except the public member, each member must:

1. Be a resident of this state.
2. Be a ~~psychologist~~-licensed under this chapter for at least five years.
3. ~~Have received a doctorate degree in psychology from a school or college at least five years before appointment.~~
4. ~~Have actively engaged in the practice of teaching or research of psychology for at least five years.~~

SECTION 2. AMENDMENT. Section 43-32-08 of the North Dakota Century Code is amended and reenacted as follows:

43-32-08. Rules.

The board may adopt rules as necessary to enable the board to carry into effect the provisions of this chapter. The rules may include a code of ethics for licensees and registrants. The board shall adopt rules defining what programs of study are substantially psychological in nature; what educational programs are acceptable for the licensing of psychologists and applied behavior analysts and for registering registered applied behavior analysts; and what educational programs are acceptable for the licensing of industrial-organizational psychologists. ~~The educational program rules for industrial-organizational psychologists must take into account the availability~~

~~of professionally accredited programs in the field of industrial-organizational psychology.~~

SECTION 3. AMENDMENT. Section 43-32-12 of the North Dakota Century Code is amended and reenacted as follows:

43-32-12. Application and fee for licensure and registration.

The board shall adopt rules establishing the amount of the application fee for licensure and registration ~~by written and oral examination and by reciprocity~~. A fee is not refundable, in whole or in part, except for failure of the board to hold examinations at the time originally announced, in which event the entire fee must be refunded upon demand by the applicant.

SECTION 4. AMENDMENT. Section 43-32-13 of the North Dakota Century Code is amended and reenacted as follows:

43-32-13. Annual license and registration fee.

Before ~~January first~~November fifteenth of each year, every licensee and registrant shall pay to the secretary of the board an annual fee determined by the board ~~not to exceed one hundred fifty dollars~~by rule. The secretary of the board, upon receipt of payment of the annual fee, shall issue the licensee or registrant a certificate of annual renewal, which commences on January first. An individual may not hold out as an industrial-organizational psychologist, an applied behavior analyst, a registered applied behavior analyst, or a psychologist until the annual fee is paid. The board may deny renewal of the license or registration of an individual who violates this section. Annually, the board shall mail or electronically mail a renewal notice to each licensee and registrant at the address or electronic mail address on file with the board.

SECTION 5. AMENDMENT. Section 43-32-14 of the North Dakota Century Code is amended and reenacted as follows:

43-32-14. Payment of delinquent annual fee - Reinstatement.

An individual whose license or registration issued under this chapter ~~was revoked~~has expired for failure to pay the annual fee must be reinstated and the license or registration renewed if, within one year from the date of ~~revocation~~expiration, the individual pays to the secretary of the board the amount of the annual fees in default and a late fee in the amount of ~~twenty dollars~~established by the board by rule.

SECTION 6. AMENDMENT. Section 43-32-17 of the North Dakota Century Code is amended and reenacted as follows:

43-32-17. License required for practice - Titles.

1. Except as otherwise provided under this chapter, a person may not engage in the practice of psychology unless that person is licensed as a psychologist or is registered as a psychology resident under this chapter. Except as otherwise provided by this chapter, a person may not engage in the practice of industrial-organizational psychology unless that person is licensed as a psychologist or industrial-organizational psychologist or is registered as a psychology resident or industrial-organizational psychology resident under this chapter. Except as otherwise provided under this chapter, a person may not engage in the practice of applied behavior analysis unless that person is a

psychologist, is licensed as an applied behavior analyst, or is registered and supervised as an applied behavior analyst as provided under this chapter.

2. A person may not use the title "psychologist" or similar title unless that person is licensed as a psychologist. A person may not use the titles "industrial psychologist", "organizational psychologist", or "industrial-organizational psychologist" unless that person is licensed as a psychologist or industrial-organizational psychologist. A person may not use the title "applied behavior analyst" or similar title unless that person is licensed as an applied behavior analyst. A person may not use the title "registered applied behavioral analyst" or similar title unless that person is registered and supervised as a registered applied behavior analyst.
3. A person may not use the title "psychology resident" or similar title unless that person is registered as a psychology resident. A person may not use the titles "industrial psychology resident", "organizational psychology resident", or "industrial-organizational psychology resident" unless that person is registered as a psychology resident or industrial-organizational psychology resident.

SECTION 7. AMENDMENT. Section 43-32-19.1 of the North Dakota Century Code is amended and reenacted as follows:

43-32-19.1. Licensing ~~applicant~~ registering applicants licensed or registered in other jurisdictions.

1. ~~The board may grant a license or registration to an applicant, who is licensed or registered in good standing in another jurisdiction, that imposes requirements for licensure or registration and who passes the oral examination on the law and rules regulating the practice of psychology, industrial-organizational psychology, or applied behavior analysis and meets one of the following requirements:~~
 - a. ~~The applicant is licensed in a jurisdiction that imposes requirements for licensure which are at least as stringent as the requirements imposed in this state. Meets standards established by the board; or~~
 - b. ~~Thels an applicant for licensure as a psychologist who holds a certificate of professional qualification in psychology issued by an entity approved by the board, such as the association of state and provincial psychology boards or its successor.~~
2. As a condition to qualify for licensure or registration under subsection 1, the board may require the applicant pass an oral examination on the laws and rules regulating the practice of psychology, industrial-organizational psychology, or applied behavior analysis, as appropriate to the licensure or registration sought by the applicant.
3. Notwithstanding any contrary provision of this chapter, the board may issue a license or registration as authorized under chapter 43-51.
4. ~~The board shall~~may grant a provisional license or registration to an applicant ~~to be an applied behavior analyst or registered applied behavior analyst while the application is pending, provided if~~ the applicant is:
 - a. ~~Licensed~~ licensed or registered and is in good standing in another jurisdiction; or

- b. Certified in good standing with the national behavior analyst certification board is certified by a professional organization that is identified by the board by rule. The board may not grant a provisional license or registration under this subsection if in another jurisdiction, within the previous five years, the applicant had a disciplinary action against the applicant's license or registration.
5. Except as otherwise provided under this chapter, and in accordance with rules adopted by the board, the board shall issue a limited practice certificate to an applicant who is licensed or registered in another jurisdiction to practice psychology, industrial-organizational psychology, or applied behavior analysis. A limited practice certificate issued under this subsection authorizes the practice of psychology, industrial-organizational psychology, or applied behavior analysis in this state for no more than thirty days in a calendar year.

SECTION 8. AMENDMENT. Section 43-32-20 of the North Dakota Century Code is amended and reenacted as follows:

43-32-20. Licensing - Written and oral examination - Qualifications of applicants.

The board shall issue a license to each applicant who files an application upon a form and in a manner the board prescribes, submits the required fee, and meets the requirements of subsection 1 or 2.

1. An applicant for licensure as a psychologist shall demonstrate all of the following:
 - a. The applicant will adhere to the American psychological association ethical principles of psychologists and code of conduct adopted by the board by rule.
 - b. The applicant has received, from a school or college, a doctorate degree in a program which meets any of the following requirements:
 - (1) ~~The program is accredited by the American psychological association or the Canadian psychological association.~~
 - (2) ~~The program is designated as a doctoral program in psychology by the association of state and provincial psychology boards.~~
 - (3) ~~The program that is accredited as a doctoral program in psychology by an accrediting body approved by the board by rule.~~
 - c. The applicant has passed the examinations, written; or oral, or both, as the board determines necessary.
 - d. The applicant has completed at least two full years of supervised professional experience, one year of which must be an internship program, and one year of which may be postdoctoral. Both years of experience must comply with the board's rules.
2. An applicant for licensure as an industrial-organizational psychologist shall demonstrate all of the following:

- a. The applicant will adhere to the American psychological association ethical principles of psychologists and code of conduct adopted by the board by rule.
- b. The applicant has received, from a school or college, a doctorate degree in a program of studies accredited by ~~the American psychological association or an accrediting body approved by the board by rule, which may include the American psychological association.~~
- c. The applicant has passed the examinations, written, or oral, or both, as the board determines necessary.
- d. The applicant has completed the professional experience requirements established by the board. The requirements may not exceed the professional experience requirements for psychologists. If the professional experience requirements include a supervised experience requirement:
 - (1) The board must allow an applicant to submit to the board a personalized plan for supervised experience which may include distance-supervision by a qualified industrial-organizational psychologist.
 - (2) The board may adopt rules to establish who is qualified to perform supervision, supervision requirements, and reporting.

SECTION 9. AMENDMENT. Section 43-32-20.1 of the North Dakota Century Code is amended and reenacted as follows:

43-32-20.1. Postdoctoral supervised psychological employment.

This section applies to postdoctoral supervised employment in the practice of psychology and industrial-organizational psychology. ~~Supervision may only be performed by a psychologist or industrial-organizational psychologist with~~Before starting supervised employment, a psychologist with at least three years of post-license practice experience must be identified as the primary supervisor. The primary supervisor must have a competency in supervision in professional psychology in the general area of practice being supervised.

~~Supervision must include at least two hours of regularly scheduled direct supervision a week for full-time employment, one hour of which must be with the supervisor on a one-to-one basis occur weekly and consist of at least one hundred hours of direct supervision, either face-to-face or through distance communications. The remaining hour~~At least fifty of the hours of supervision must be with the primary supervisor. Additional hours of supervision may be with other professionals designated by the supervisor and competent in the area of practice being supervised. The board may adopt rules to prorate the two hours per week of supervision for individuals preparing for licensure on a part-time basis.

The board may adopt rules regarding postdoctoral psychology and industrial-organizational psychology supervision requirements and reporting.

SECTION 10. AMENDMENT. Section 43-32-21 of the North Dakota Century Code is amended and reenacted as follows:

43-32-21. Consideration of application and notice to applicant.

Upon investigation of the application and other evidence submitted, the board, ~~not less than thirty days before the examination,~~ shall notify each applicant that the application and evidence submitted for licensing is satisfactory and accepted, or unsatisfactory and rejected. If rejected, the notice must state the reasons for rejection and explain the right to a hearing under chapter 28-32, if a hearing is requested within thirty days.

SECTION 11. AMENDMENT. Section 43-32-26 of the North Dakota Century Code is amended and reenacted as follows:

43-32-26. Issuance and display of license.

The board is the sole agency empowered to examine competence in the practice of psychology. A license certificate of license or registration issued by the board must show the full name of the licensee, have a serial number, be signed by the president of the board, and be attested by the secretary under the board's adopted seal. The license issued by the board under this chapter must be prominently displayed at the principal place of business at which the licensee practices.

SECTION 12. AMENDMENT. Section 43-32-27 of the North Dakota Century Code is amended and reenacted as follows:

43-32-27. Denial - Revocation or suspension of license or registration - Grounds.

1. The board, after notice, hearing, and an affirmative vote of at least a majority of board members, may withhold, deny, revoke, or suspend any license or registration issued or applied for under this chapter and may otherwise discipline a licensee, a registrant, or an applicant upon proof the applicant, registrant, or licensee:
 - a. Has been convicted of an offense determined by the board to have a direct bearing upon an individual's ability to serve the public ~~as a psychologist or industrial-organizational psychologist in the practice of psychology or applied behavior analysis,~~ or if the board finds, after the conviction of any offense, that an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
 - b. Is unable to practice psychology or applied behavior analysis with reasonable skill and safety to clients or patients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.
 - c. Has impersonated another individual holding a ~~psychology or industrial-organizational psychology~~ license or registration issued under this chapter or allowed another person to use the licensee's license or registration.
 - d. Has used fraud or deception in applying for a license or registration or in taking an examination under this chapter.
 - e. Has allowed the licensee's or registrant's name or license or registration issued under this chapter to be used in connection with any person who performs psychological or applied behavior analysis services outside of the area of that person's training, experience, or competence.

- f. Is legally adjudicated insane or mentally incompetent. The record of the adjudication is conclusive evidence of that fact.
 - g. Has engaged in any form of unethical conduct as defined in ethical principles of psychologists and code of conduct of the American psychological association adopted by the board by rule.
 - h. Has become grossly negligent in the practice of psychology or industrial-organizational psychology applied behavior analysis.
 - i. Has willfully or negligently violated this chapter.
 - j. Has engaged in an act in violation of rules adopted by the board.
 - k. Has had a license or registration revoked or suspended or was disciplined in another jurisdiction.
2. The board may assess costs incurred by the board related to investigations and disciplinary actions. By rule, the board may set fines for minor infractions of this chapter.
 3. An individual whose license or registration has been revoked under this section may not reapply for licensure or registration for at least two years after the date of revocation.
 4. Other than the term "in good standing", by rule, the board shall define terms related to license status, such as "revoked", "suspended", "inactive", and "probationary".

SECTION 13. AMENDMENT. Section 43-32-27.1 of the North Dakota Century Code is amended and reenacted as follows:

43-32-27.1. Complaints - Investigations.

1. A person aggrieved by the actions of a licensee, registrant, or psychology resident may file a written complaint statement with the board citing the specific allegations of misconduct by the licensee. The board shall notify the licensee, registrant, or psychology resident of the complaint allegation and request a written response from the licensee. The board may establish procedural exceptions for processing multiple complaints allegations from the same complainant person.
2. The board may investigate a complaint on the board's own motion shall determine if the information in an allegation warrants investigation as a complaint, without requiring the identity of the complainant source of the information to be made a matter of public record, if the board concludes that good cause exists for preserving the confidentiality of the complainant source.
3. A licensee, registrant, or psychology resident who is the subject of an investigation by the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any reasonable question raised by or on behalf of the board relating to the subject of the investigation and providing copies of patient or client records if reasonably requested by the board and accompanied by the appropriate release.

4. In order to pursue an investigation, the board may subpoena and examine witnesses and records, including patient and client records, and may copy, photograph, or take samples of the records. The board may require the licensee, registrant, or psychology resident to give statements under oath, to submit to a physical or psychological examination, or both, by a physician or other qualified evaluation professional selected by the board, if requiring an examination is in the best interest of the public. The patient and client records released to the board are not public records. The board may adopt rules to assign, define duties, and compensate an investigator to assist the board to process a complaint.
5. Unless a patient or client release is on file allowing the release of information at the public hearing, patient and client records acquired by the board in the board's investigation are confidential and closed to the public. All board meetings at which patient or client testimony or records are taken or reviewed are confidential and closed to the public. If patient or client testimony or records are not taken or reviewed, the remainder of the meeting is an open meeting unless a specific exemption is otherwise applicable.

SECTION 14. AMENDMENT. Section 43-32-30 of the North Dakota Century Code is amended and reenacted as follows:

43-32-30. Persons exempt from this chapter.

This chapter does not apply to:

1. A student or intern pursuing a course of study in psychology, industrial-organizational psychology, or applied behavior analysis at a school or college, if the activities and services are a part of the individual's supervised course of study and are under the supervision of a licensed psychologist, industrial-organizational psychologist, or applied behavior analyst. The student or intern may not use the title "psychologist", "industrial-organizational psychologist", "licensed behavior analyst", or "registered applied behavior analyst" and the student or intern status and the supervisor must be clearly stated.
2. ~~A nonresident licensed, registered, or certified in the state of the individual's residence who does not practice psychology, industrial-organizational psychology, or applied behavior analysis in this state for a period of more than thirty days in any calendar year.~~
3. A lecturer, from any school or college, who uses an academic or research title when lecturing to institutions or organizations. However, the lecturer may not engage in the practice of psychology, applied behavior analysis, or industrial-organizational psychology unless the lecturer is licensed or registered under this chapter.
- ~~4.3.~~ An individual employed by a public school if that individual's activities and services are restricted to the practice of psychology in the district or service unit of employment. This exemption applies only if the individual has received a master's degree in school psychology from an accredited graduate training program. Standards must be established by mutual consent of the board and the superintendent of public instruction.
- ~~5.4.~~ A person certified, licensed, or registered in this state in another health care profession, or as a member of the clergy functioning in a ministerial capacity,

whose scope of practice is consistent with the accepted standards of that person's profession. A person claiming an exemption under this subsection may not represent to be rendering psychological or applied behavior analysis services.

- ~~6-5.~~ An applicant licensed to practice psychology or industrial-organizational psychology in another jurisdiction, pending disposition of the applicant's application in this state, if the applicant notifies the board on a form provided by the board of the applicant's intent to practice pending disposition of the application and the applicant adheres to the requirements of this chapter and the rules adopted by the board.
- ~~7-6.~~ A person employed by an agency, a nonprofit corporation, or an institution if that person is currently exempt from licensure. A person exempt under this subsection continues to be exempt if the person continues employment in the same position with the agency, nonprofit corporation, or institution that applied for and received the exemption.
- ~~8-7.~~ An individual providing applied behavior analysis services to an individual in a public school setting.
- ~~9-8.~~ An individual providing applied behavior analysis services to an individual served by a public or private service agency licensed by the state to provide residential, habilitative, vocational, or social support services as defined by the board when performed as part of an individual support plan supervised by a professional employee meeting the requirements of that agency's licensure standards, provided the professional employee does not represent to the public as a registrant ~~or an~~ applied behavior analyst, or psychologist.
- ~~10-9.~~ An individual who is implementing applied behavior analysis services to an immediate family member or as a paid or volunteer caregiver implementing procedures established by the family or by the individual served in any setting, if the individual or caregiver does not represent as a registrant or an applied behavior analyst.
- ~~11-10.~~ An individual licensed as an occupational therapist or an occupational therapy assistant pursuant to chapter 43-30 within the body of knowledge and scope of professional practice of occupational therapy.

SECTION 15. AMENDMENT. Section 43-32-34 of the North Dakota Century Code is amended and reenacted as follows:

43-32-34. Applied behavior analysis - Renewal - Fees.

1. The board shall issue a license or registration to each applicant who files an application for registration as a registered applied behavior analyst or for licensure as an applied behavior analyst upon a form and in a manner the board prescribes; submits the required fee established by the board; and demonstrates the applicant meets the requirements of subsection 2.
2. An applicant under this section shall demonstrate the applicant:
 - a. Has met board-approved education requirements, such as the education requirements of the board-certified behavior analyst standards;

- b. Has passed a board-approved demonstration of professional competence, such as a standardized examination specific to the profession such as the board-certified behavior analyst examination; and
 - c. ~~Is credentialed as a behavior analyst by a board-approved credentialing entity, such as the behavior analyst certification board; and~~
 - d. Has established supervision requirements as determined by the board for practice when applying as a registered applied behavior analyst.
3. The board may withhold, deny, revoke, or suspend a license or registration for applied behavior analyst applied for or issued under this chapter and otherwise may discipline a license or registration holder or applicant in the same manner provided under section 43-32-27.
 4. A complaint regarding or board investigation of a licensed or registered applied behavior analyst is filed or conducted in the same manner as provided under section 43-32-27.1.
 5. ~~If an individual employed in the state on August 1, 2011, in the practice of applied behavior analysis submits to the board a written request before January 1, 2013, the required license or registration application fee, and a written statement from the applicant's employer that the applicant's employment remains satisfactory, the board shall issue to that applicant:~~
 - a. ~~A license as an applied behavior analyst if the applicant is employed in a position granted license exemption by the board and submits a letter of endorsement from the licensed psychologist supervisor.~~
 - b. ~~A license as an applied behavior analyst if the applicant has a master's degree in psychology and is employed as a behavior analyst as verified in writing by the applicant's employer. Acceptable work titles for an applicant under this subdivision include behavior analyst, behavior interventionist, and behavior modification specialist.~~
 - c. ~~Registration as an applied behavior analyst if the applicant has a bachelor's degree; provides a board-approved plan of supervision from a licensed psychologist or applied behavior analyst; and is employed as a behavior analyst as verified in writing by the applicant's employer. Acceptable work titles for an applicant under this subdivision include behavior analyst, behavior interventionist, and behavior modification specialist.~~

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 305

SENATE BILL NO. 2189

(Senators Klein, Dotzenrod, Unruh)
(Representatives Laning, Zubke)

AN ACT to amend and reenact sections 43-35-05, 43-35-06, 43-35-07, 43-35-09, 43-35-14, and 43-35-22 of the North Dakota Century Code, relating to the board of water well contractors; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-35-05 of the North Dakota Century Code is amended and reenacted as follows:

43-35-05. Officers - Office.

The members of the board shall meet annually ~~on the second Monday~~ in July at a time and place designated by the president, ~~except that the first meeting must be held in the office of the state engineer at ten a.m., to~~ chairman. ~~The board shall select from their number the board's membership a president, vice president, chairman, vice chairman, and a secretary-treasurer. The secretary-treasurer need not be a member of the board.~~ Additional board meetings may be provided for in the bylaws or rules and regulations adopted by the board.

SECTION 2. AMENDMENT. Section 43-35-06 of the North Dakota Century Code is amended and reenacted as follows:

43-35-06. Secretary-treasurer ~~bond~~ - Bond - Executive officer.

Promptly upon assuming the office, the secretary-treasurer shall furnish a bond satisfactory to the board for the faithful performance and discharge of the secretary-treasurer's duties in an amount determined by the board, the premium for which is to be paid from board funds. ~~The board shall appoint one of its members to serve as the executive officer for the board.~~

SECTION 3. AMENDMENT. Section 43-35-07 of the North Dakota Century Code is amended and reenacted as follows:

43-35-07. Compensation and reimbursement of expenses.

Each appointive member of the board is entitled to receive ~~sixty-two dollars and fifty cents~~ up to one hundred twenty-five dollars compensation per day and ~~must be reimbursed~~ is entitled to receive reimbursement for expenses in the same amounts as provided for in sections 44-08-04 and 54-06-09 while attending board meetings or otherwise engaged in the official business of the board. The board shall establish the compensation rate by rule.

SECTION 4. AMENDMENT. Section 43-35-09 of the North Dakota Century Code is amended and reenacted as follows:

43-35-09. Deposit of fees - Use and appropriation of funds.

All fees received by the treasurer under this chapter must be deposited to the credit of the board in the Bank of North Dakota and disbursed only on order of the ~~president~~chairman and secretary-treasurer. Funds collected for certifying and inspections may be expended in such manner as the board deems necessary to best carry out the provisions of this chapter. All funds accruing to the credit of the state board of water well contractors are hereby permanently appropriated to the board for the purpose of this chapter.

SECTION 5. AMENDMENT. Section 43-35-14 of the North Dakota Century Code is amended and reenacted as follows:

43-35-14. Bond required.

Before receiving a certificate under this chapter, a qualified applicant shall execute and deposit with the board a surety bond ~~in the amount of two thousand dollars~~ conditioned for the faithful performance of all water well, monitoring well, pump and pitless unit, or geothermal system installation contracts undertaken by the applicant and the strict compliance with this chapter. ~~The required amount of a surety bond is fifteen thousand dollars for a water well contractor and is two thousand dollars for a monitoring well, pump and pitless unit, or geothermal system installation contractor.~~

SECTION 6. AMENDMENT. Section 43-35-22 of the North Dakota Century Code is amended and reenacted as follows:

43-35-22. ~~Contracting without certification~~Violation of chapter - Penalty.

1. Any person contracting to drill a water well or monitoring well, ~~drill~~install a pump or pitless unit, or drill a geothermal system for another without being certified in accordance with this chapter, ~~or or otherwise violating any person that willfully violates a provision of this chapter, is guilty of an infraction a class B misdemeanor.~~
2. In addition to criminal sanctions that may be imposed, the board or the district court may assess the cost to repair any damage caused by the violation, any costs incurred by the board in the action, and a civil penalty against a person that violates any provision of this chapter or any rule adopted by the board. The civil penalty may not exceed ten thousand dollars. The civil penalty may be adjudicated by the district court or through an administrative hearing under chapter 28-32.
3. If a person against which a civil penalty was assessed after an administrative hearing does not pay or appeal the civil penalty within thirty days of receiving notice of the order, interest begins to accrue on the unpaid amount of the civil penalty at the rate of twelve percent per annum and the board may pursue a judgment from the district court. Notwithstanding section 57-20-22, a violator shall pay to the board all interest and penalties. The proceeds of any civil penalty or interest received by the board, after retention of any costs incurred by the board in the action, must be transferred to the state treasurer for deposit in the state general fund.

SECTION 7. EMERGENCY. Section 3 of this Act is declared to be an emergency measure.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 306

SENATE BILL NO. 2295

(Senators Dever, Warner)
(Representatives Hofstad, Mooney, Rohr)

AN ACT to amend and reenact sections 43-39-01 and 43-39-04 and subdivision d of subsection 1 of section 43-39-10 of the North Dakota Century Code, relating to the regulation of athletic trainers; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-39-01 of the North Dakota Century Code is amended and reenacted as follows:

43-39-01. Definitions.

1. "Athletic trainer" means a personan individual with specific qualifications set forth in section 43-39-05, who is providing athletic training.
2. "Athletic training" means doing any of the practice of prevention, recognition, evaluation, management, treatment, and disposition of athletic injuries. The term also means rehabilitation of athletic injuries, if under the order of a licensed physician. The term includes organization and administration of educational programs, athletic facilities, and the education and counseling of the public following under the guidance of a physician:
 - a. Preventing, recognizing, and evaluating injuries and illnesses sustained while participating in physical activity;
 - b. Managing and administering the initial treatment of injuries or illnesses sustained while participating in physical activity;
 - c. Giving emergency care or first aid for an injury or illness sustained while participating in physical activity;
 - d. Under verbal, standing, or written orders, except in the case of providing services in a clinical setting which requires written orders, rehabilitating injuries or illnesses sustained while participating in physical activity;
 - e. Under verbal, standing, or written orders, except in the case of providing services in a clinical setting which requires written orders, rehabilitating and physically reconditioning injuries or illnesses that impede or prevent an individual from returning to participating in physical activity, if the individual recently participated in, and intends to return to participation in, physical activity;
 - f. Establishing or administering risk management, conditioning, and injury prevention programs;
 - g. Providing injury screening or physician extender services; or

h. Referring a patient to an appropriate health care provider as needed.

3. "Board" means the North Dakota board of athletic trainers established in section 43-39-02.
4. "Physical activity" means any moderate or vigorous activity that requires physical strength, agility, range of motion, repetitive motion, speed, or stamina during participation in exercise, sports, games, recreation, performance arts, stretching, wellness, fitness, military, industrial, or public safety activities.
5. "Physician" means a doctor of medicinean individual licensed to practiceas a physician under chapter 43-17.

SECTION 2. AMENDMENT. Section 43-39-04 of the North Dakota Century Code is amended and reenacted as follows:

43-39-04. Unlawful practice.

1. ~~No~~A person may not practice athletic training or hold that person out as being an athletic trainer in this state unless that person is an individual licensed in accordance with this chapter.
2. ~~No~~A person may not consult, teach, or supervise or hold that person out as being able to consult, teach, or supervise athletic training curricular courses in this state unless that person is an individual licensed in accordance with this chapter or chapter 43-17; or possesses a degree in a health-related field.
3. ~~No~~A person may not represent that person as being a licensed athletic trainer or use in connection with that person's name any letters, words, or insignia indicating or implying that the person is a licensed athletic trainer unless that person is an individual licensed in accordance with this chapter.

¹⁷⁴ **SECTION 3. AMENDMENT.** Subdivision d of subsection 1 of section 43-39-10 of the North Dakota Century Code is amended and reenacted as follows:

- d. ~~Is guilty of treating or undertaking to treat ailments of human beingsan individual's injury or illness, except as authorized pursuant to this chapter, or undertaking to practice independent of the orderguidance or rehabilitation order of a licensed physician, or is guilty of any act derogatory to the dignity and morals of the profession of athletic training.~~

Approved April 20, 2015
Filed April 20, 2015

¹⁷⁴ Section 43-39-10 was also amended by section 35 of House Bill No. 1153, chapter 297.

CHAPTER 307

HOUSE BILL NO. 1049

(Legislative Management)
(Human Services Committee)

AN ACT to create and enact a new section to chapter 43-45 of the North Dakota Century Code, relating to loans for certain behavioral health professions; to amend and reenact section 43-45-04 of the North Dakota Century Code, relating to duties of the board of addiction counseling examiners; to provide for a statement of legislative intent; to provide for reports to the legislative management; to provide an appropriation; to provide a continuing appropriation; and to provide for a transfer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-45-04 of the North Dakota Century Code is amended and reenacted as follows:

43-45-04. Board power, duties, and authority.

1. The board shall:
 - a. Administer and enforce the provisions of this chapter.
 - b. Evaluate the qualifications of applicants for a license to practice addiction counseling and issue licenses under this chapter.
 - c. Establish ethical standards of practice for persons holding a license to practice addiction counseling in this state.
 - d. Establish continuing education requirements and approve providers of continuing education.
 - e. Approve clinical training programs.
 - f. Register clinical trainees.
 - g. Register interns.
 - h. Register clinical supervisors.
 - i. Register licensees for private practice.
 - j. Approve and administer examinations.
 - k. Periodically evaluate initial licensure coursework requirements and clinical training requirements to ensure the requirements are up to date and do not serve as an undue barrier to licensure.
2. The board may:

- a. Adopt rules under chapter 28-32 to implement this chapter.
- b. Issue subpoenas, examine witnesses, and administer oaths, and may investigate allegations of practices violating the provisions of this chapter.
- c. Recommend prosecution for violations of this chapter to the appropriate state's attorney.
- d. Recommend that the attorney general bring civil actions to seek injunctive and other relief against violations of this chapter.
- e. Collect fees for examinations, initial licensures, renewal of licenses, late renewals, private practice registrations, renewal of private practice registrations, approval of continuing education providers, and administrative fees. The fees must be established by rule in amounts necessary to compensate the board for administration and enforcement of this chapter.
- f. Employ persons to assist the board in carrying out its duties under this chapter.

SECTION 2. A new section to chapter 43-45 of the North Dakota Century Code is created and enacted as follows:

Addiction counseling internship - Loan program - Revolving fund - Continuing appropriation.

1.
 - a. The Bank of North Dakota shall develop and implement a program under which loans may be provided to qualified individuals participating in a paid or unpaid internship at a licensed substance abuse treatment facility in this state, in order to obtain licensure as an addiction counselor.
 - b. The Bank of North Dakota shall determine all terms applicable to the time and manner in which loans made under this section must be repaid.
 - c. Interest on outstanding loans under this section must accrue at the Bank of North Dakota's current base rate, but may not exceed six percent per annum.
 - d. The maximum loan for which an applicant may qualify under this section is seven thousand five hundred dollars.
 - e. This subsection is applicable only to individuals beginning an internship after June 30, 2015.
2. The Bank of North Dakota shall maintain a revolving loan fund for the purpose of making loans under this section. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund of principal and interest on loans under this section are appropriated to the Bank on a continuing basis.

SECTION 3. LEGISLATIVE INTENT - ASSESSMENT OF INTERNSHIPS FOR ADDICTION COUNSELORS. The sixty-fourth legislative assembly recognizes that as dedicated funding becomes available in the future, the center for rural health at the university of North Dakota school of medicine and health sciences has the infrastructure, expertise, experience, and established relationships to provide a

statewide assessment of viable internship sites for addiction counselors and to implement and provide oversight for such a program, in partnership with academic professionals in addiction counseling.

SECTION 4. BOARD OF ADDICTION COUNSELING EXAMINERS - LEGISLATIVE MANAGEMENT REPORT. The board of addiction counseling examiners shall evaluate the initial licensure coursework requirements and clinical training requirements noted in subsection 1 of section 43-45-04. Before July 1, 2016, the board of addiction counseling examiners shall report on the status of the periodic evaluation of those requirements to the legislative management.

SECTION 5. APPROPRIATION - TRANSFER - ADDICTION COUNSELOR INTERNSHIP LOAN PROGRAM - REVOLVING FUND. There is appropriated out of any moneys in the student loan trust fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, which the director of the office of management and budget shall transfer to the Bank of North Dakota, for purposes of the addiction counselor internship loan program revolving fund, as created by section 2 of this Act.

Approved April 27, 2015
Filed April 27, 2015

CHAPTER 308

SENATE BILL NO. 2191

(Senators Unruh, Holmberg, Mathern)
(Representatives Rick C. Becker, Boschee, Meier)

AN ACT to create and enact a new subsection to section 43-17-02 and chapter 43-61 of the North Dakota Century Code, relating to the regulation of acupuncturists; to amend and reenact sections 43-17-41, 43-57-01, 43-57-03, 43-57-06, 43-57-07, and 43-57-11 of the North Dakota Century Code, relating to duties of acupuncturists and the board of integrative health care; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁵ **SECTION 1.** A new subsection to section 43-17-02 of the North Dakota Century Code is created and enacted as follows:

An acupuncturist duly licensed to practice in this state pursuant to the statutes regulating such profession.

¹⁷⁶ **SECTION 2. AMENDMENT.** Section 43-17-41 of the North Dakota Century Code is amended and reenacted as follows:

43-17-41. Duty of physicians and others to report injury - Penalty.

1. Any physician, physician assistant, naturopath licensed under chapter 43-58, acupuncturist licensed under chapter 43-61, or any individual licensed under chapter 43-12.1 who performs any diagnosis or treatment for any individual suffering from any wound, injury, or other physical trauma:
 - a. Inflicted by the individual's own act or by the act of another by means of a knife, gun, or pistol shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered; or
 - b. Which the individual performing diagnosis or treatment has reasonable cause to suspect was inflicted in violation of any criminal law of this state, shall as soon as practicable report the wound, injury, or trauma to a law enforcement agency in the county in which the care was rendered.
2. The report under subsection 1 must state the name of the injured individual and the character and extent of the individual's injuries.
3. When a report of domestic violence, as defined in section 14-07.1-01, or a report of physical injury resulting from a sexual offense, as defined in chapter 12.1-20, is made to a law enforcement agency as required by this section, the

¹⁷⁵ Section 43-17-02 was also amended by section 2 of Senate Bill No. 2236, chapter 309, and section 18 of House Bill No. 1153, chapter 297.

¹⁷⁶ Section 43-17-41 was also amended by section 1 of Senate Bill No. 2335, chapter 298.

injured individual must be provided with information regarding a domestic violence sexual assault organization as defined in section 14-07.1-01 or other victims' assistance program by the physician, physician assistant, naturopath, acupuncturist licensed under chapter 43-61, or any individual licensed under chapter 43-12.1, unless it is known that the information has previously been provided to the injured individual.

4. The reports mandated by this section must be made as soon as practicable and may be either oral or in writing. Oral reports must be followed by written reports within forty-eight hours if so requested by the sheriff or state's attorney to whom the oral report is originally made.
5. Any individual required to report as provided by this section who willfully fails to do so is guilty of an infraction.
6. Any individual making or not making a report in good faith pursuant to this section is immune from liability for making or not making a report.

SECTION 3. AMENDMENT. Section 43-57-01 of the North Dakota Century Code is amended and reenacted as follows:

43-57-01. Definitions.

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

1. "Board" means the state board of integrative health care.
2. "Licensee" means an individual licensed by the board under this chapter and under chapter 43-58 ~~or~~ 43-59, or 43-61.

SECTION 4. AMENDMENT. Section 43-57-03 of the North Dakota Century Code is amended and reenacted as follows:

43-57-03. Powers and duties of board.

1. The board shall adopt rules:
 - a. To administer and enforce this chapter and chapters 43-58 ~~and~~ 43-59, and 43-61;
 - b. That specify the scope of practice, which must be consistent with the required education for each profession regulated by the board;
 - c. That endorse equivalent licensure examinations of another state or foreign country and which may include licensure by reciprocity;
 - d. That establish educational standards for each profession regulated by the board as appropriate; and
 - e. That set fees for licensure, which may include:
 - (1) Application fee;
 - (2) License fee;
 - (3) Renewal fee;

- (4) Late fee;
 - (5) Administrative fees; and
 - (6) Continuing education fees.
2. The board shall produce an annual list of the names and level of licensure of all individuals licensed by the board and make the list available upon request.
 3. The board may employ staff and provide for staff compensation.
 4. The board shall receive all moneys collected under this chapter, chapter 43-58, ~~and chapter 43-59, and 43-61~~ and shall deposit and disburse all fees and moneys collected in accordance with section 54-44-12.
 5. The board may establish continuing education requirements for license renewal.
 6. The board may adopt a code of ethics for each profession regulated by the board.
 7. The board may adopt rules allowing students to practice under licensed supervision.

SECTION 5. AMENDMENT. Section 43-57-06 of the North Dakota Century Code is amended and reenacted as follows:

43-57-06. Issuance of license.

If the board determines that an applicant possesses the qualifications required under this chapter and under chapter 43-58 ~~or~~, 43-59, or 43-61, the board shall issue a license to the applicant.

SECTION 6. AMENDMENT. Section 43-57-07 of the North Dakota Century Code is amended and reenacted as follows:

43-57-07. License renewal - Continuing education.

1. A license is effective when granted by the board.
2. A license issued under chapter 43-58 or 43-59 expires on December thirty-first of every odd-numbered year. A license issued under chapter 43-61 expires on December thirty-first of every even-numbered year.
3. A license may be renewed by payment of the renewal fee and completion of any continuing education requirements set by the board, provided the applicant's license is not currently revoked or grounds for denial do not exist.
4. If the application for renewal is not received on or before the expiration date, the license expires and the individual may not practice until a new application is made and a license is granted by the board.
5. At the time of renewal, the board shall require each applicant to present satisfactory evidence that the applicant has completed any continuing education requirements specified by the board.

6. If a license has not been renewed as a result of nonpayment of the renewal fee or the failure of the licensee to present satisfactory evidence of completion of any continuing education requirements, the licensee must reapply for licensure.
7. The board may extend the renewal deadline for an applicant having proof of medical or other hardship rendering the applicant unable to meet the renewal deadline.

SECTION 7. AMENDMENT. Section 43-57-11 of the North Dakota Century Code is amended and reenacted as follows:

43-57-11. Enforcement - Penalty.

A person that violates this chapter, ~~or chapter 43-58, or chapter 43-59, or 43-61~~ is guilty of a class B misdemeanor. In addition to the criminal penalties provided under this section, the civil remedy of injunction is available to restrain and enjoin any violation of this chapter, ~~or chapter 43-58, or chapter 43-59, or 43-61~~ without proof of actual damages sustained by any person.

SECTION 8. Chapter 43-61 of the North Dakota Century Code is created and enacted as follows:

43-61-01. Definitions.

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

1. "Acupuncture" means an East Asian system of health care that maintains and restores the health of patients through treatments that include patient education, botanical medicine, qi gong, tai qi, or the stimulation of a certain point or points on or below the surface of the body, including traditional meridian points and ashi trigger points by the insertion of presterilized, filiform, disposable needles with or without electronic stimulation or by utilizing manual or thermal techniques.
2. "Acupuncturist" means an individual licensed to practice acupuncture under this chapter.
3. "Approved acupuncture program" means a board-approved graduate level educational program that is offered by an institution of higher education and accredited by a national or regional agency recognized by the United States department of education, or another such equivalent program approved by the board which:
 - a. Is accredited, has the status of candidate for accreditation, or meets the standards of an organization approved by the board, such as the accreditation commission of acupuncture and oriental medicine.
 - b. Has been approved by the board after an investigation that determines that the college or program meets education standards equivalent to those established by the accrediting agency under subdivision a and complies with the board's rules.
4. "Board" means the state board of integrative health care created under chapter 43-57.

43-61-02. Exemptions.

Some of the therapies used by an acupuncturist, such as the use of botanical medicine, foods, and such physical forces as needling and touch are not the exclusive privilege of acupuncturists. This chapter does not restrict or apply to the scope of practice of any other profession licensed, certified, or registered under the laws of this state.

43-61-03. License required - Title restrictions.

1. Effective January 1, 2016, an individual may not practice any form of acupuncture without a current acupuncture license issued by the board.
2. An acupuncturist may use the title "Licensed Acupuncturist" and the abbreviation "LAc" when used to reflect that title. Effective January 1, 2016, an individual who uses these terms or initials as identification without having received an acupuncture license under this chapter is engaging in the practice of acupuncture without a license.

43-61-04. Qualifications for licensure.

To obtain a license to practice acupuncture in this state, an application must be made to the board. The application must be upon the form adopted by the board and must be made in the manner prescribed by the board.

43-61-05. Application for licensure.

1. An applicant for acupuncture licensure shall file an application on forms provided by the board showing to the board's satisfaction that the applicant is of good moral character and satisfied all of the requirements of this chapter and chapter 43-57, including:
 - a. Successful completion of an approved acupuncture program;
 - b. Successful completion of an examination prescribed or endorsed by the board, such as the national certification commission for acupuncture and oriental medicine;
 - c. Physical, mental, and professional capability for the practice of acupuncture in a manner acceptable to the board; and
 - d. A history free of any finding by the board, any other state licensure board, or any court of competent jurisdiction of the commission of any act that would constitute grounds for disciplinary action under this chapter and chapter 43-57. The board may modify this restriction for cause.
2. The application must be accompanied by the board-established license fees and application fees and by the documents, affidavits, and certificates necessary to establish that the applicant possesses the necessary qualifications.

43-61-06. Initial applications - Education testing exception.

Notwithstanding the education and examination requirements for licensure under subdivisions a and b of subsection 1 of section 43-61-05, if an applicant was a bona fide resident of the state from January 1, 2015, through December 31, 2015, was practicing acupuncture in this state immediately preceding January 1, 2016, was

required to apply for licensure under this chapter in order to continue that practice, and does not meet the educational or examination requirements or both, the board may issue a license or limited license to that applicant if, following an examination of the applicant's education and experience, the board determines the applicant has sufficient education and experience to prepare the applicant to practice acupuncture.

43-61-07. Licensure granted without examination to individuals licensed in other states.

1. The board may issue an acupuncture license by endorsement to an applicant who complies with licensure requirements and who passed an examination given by a recognized certifying agency approved by the licensing agency if the board determines the examination was equivalent in every respect to the examination required under this chapter.
2. The board may enter reciprocal agreements with licensing agencies of other states providing for reciprocal waiver of further examination or any part of the examination.
3. If an applicant is exempt from the examination required under this chapter, the applicant shall comply with the other requirements for licensure. The board may adopt rules allowing for temporary and special licensure to be in effect during the interval between board meetings.

43-61-08. Practice of acupuncture.

1. An acupuncturist may practice acupuncture as a limited practice of the healing arts as exempted under section 43-17-02. An acupuncturist may not:
 - a. Prescribe, dispense, or administer any prescription drug; or
 - b. Claim to practice any licensed health care profession or system of treatment other than acupuncture unless holding a separate license in that profession.
2. An acupuncturist may prescribe and administer for preventive and therapeutic purposes the following therapeutic substances and methods:
 - a. Patient education, botanical medicine, qi gong, and tai qi; and
 - b. The stimulation of a certain point or points on or below the surface of the body, including traditional meridian points and ashi trigger points by the insertion of presterilized, filiform, or disposable needles with or without electronic stimulation or by utilizing manual or thermal techniques.

43-61-09. Public health duties.

An acupuncturist has the same duties as a licensed physician with regard to public health laws, reportable diseases and conditions, communicable disease control and prevention, and local boards of health, except that the authority and responsibility are limited to activities consistent with the scope of practice established under this chapter and chapter 43-57.

43-61-10. Employment by hospitals.

A hospital may employ an acupuncturist in the same manner as provided under section 43-17-42.

Approved March 23, 2015

Filed March 23, 2015

CHAPTER 309

SENATE BILL NO. 2236

(Senator J. Lee)
(Representative Porter)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24, a new subsection to section 43-17-02, and a new chapter to title 43 of the North Dakota Century Code, relating to the regulation and licensure of technical personnel who perform medical imaging procedures and radiation therapy treatments; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁷ **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The North Dakota medical imaging and radiation therapy board of examiners for licensure and licensees under section 3 of this Act, except that criminal history record checks for licensees need not be made unless required by the board.

¹⁷⁸ **SECTION 2.** A new subsection to section 43-17-02 of the North Dakota Century Code is created and enacted as follows:

An individual duly licensed to practice medical imaging or radiation therapy in this state under section 3 of this Act.

SECTION 3. A new chapter to title 43 of the North Dakota Century Code is created and enacted as follows:

Definitions.

1. "Board" means the North Dakota medical imaging and radiation therapy board of examiners.
2. "Certification organization" means a national certification organization that specializes in the certification and registration of certification of medical imaging and radiation therapy technical personnel and which has programs accredited by the national commission for certifying agencies, American national standards institute or the international organization for standardization, or other accreditation organization recognized by the board.

¹⁷⁷ Section 12-60-24 was also amended by section 1 of House Bill No. 1105, chapter 97, and section 1 of House Bill No. 1125, chapter 98, and section 1 of Senate Bill No. 2077, chapter 99, section 1 of Senate Bill No. 2085, chapter 302, section 1 of House Bill No. 1153, chapter 297, section 3 of House Bill No. 1436, chapter 67, section 1 of Senate Bill No. 2145, chapter 100, and section 6 of Senate Bill No. 2215, chapter 96.

¹⁷⁸ Section 43-17-02 was also amended by section 1 of Senate Bill No. 2191, chapter 308, and section 18 of House Bill No. 1153, chapter 297.

3. "Licensed practitioner" means a licensed physician, advanced practice registered nurse, surgeon, chiropractor, dentist, or podiatrist.
4. "Licensee" means an individual licensed by the board to perform medical imaging or radiation therapy procedures and operate medical imaging or radiation therapy equipment, including a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, or sonographer.
5. "Medical imaging" means the performance of any diagnostic or interventional procedure or operation of medical imaging equipment intended for use in the diagnosis or visualization of disease or other medical conditions in human beings, including fluoroscopy, nuclear medicine, sonography, or x-rays.
6. "Medical physicist" means an individual who is certified by the American board of radiology, American board of medical physics, American board of science in nuclear medicine, or Canadian college of physics in medicine in radiological physics or one of the subspecialties of radiological physics.
7. "Radiation therapy" means the performance of any procedure or operation of radiation therapy equipment intended for use in the treatment of disease or other medical conditions in human beings.
8. "Radiation therapist" means a nonphysician licensed by the board to perform radiation therapy procedures and operate radiation therapy equipment.

License required.

After December 31, 2015, an individual may not perform or offer to perform medical imaging or radiation therapy procedures on humans for diagnostic or therapeutic purposes as defined in this chapter or otherwise indicate or imply that the individual is licensed to perform medical imaging or radiation therapy unless that individual is licensed under this chapter.

Exemptions.

This chapter does not apply to the following:

1. A licensed practitioner performing medical imaging or radiation therapy.
2. A dental assistant or dental hygienist licensed under chapter 43-20.
3. A student enrolled in and attending a school or college of medicine, medical imaging, or radiation therapy who performs medical imaging or radiation therapy procedures on humans while under the supervision of a licensed practitioner or a radiographer, radiation therapist, nuclear medicine technologist, radiologist assistant, or sonographer holding a license in the medical imaging or radiation therapy modality which the student is enrolled or attending under this chapter.
4. An individual administering medical imaging or radiation procedures and who is employed by the United States government when performing duties associated with that employment.
5. A nurse licensed under chapter 43-12.1 who performs sonography on a focused imaging target to assess specific and limited information about a

patient's immediate medical condition or to provide real-time visual guidance for another procedure.

6. A limited x-ray machine operator who meets the requirements of rules adopted by the state department of health under section 23-20.1-04.
7. Medical imaging performed as a part of a post-mortem examination or on other nonliving remains.
8. Medical imaging performed by emergency medical services personnel certified or licensed under section 23-27-04.3.

North Dakota medical imaging and radiation therapy board of examiners.

1. The governor shall appoint a state board of medical imaging and radiation therapy medical examiners consisting of nine members including:
 - a. Five medical imaging or radiation therapy professionals, one each from the areas of radiography, radiation therapy, nuclear medicine technology, sonography, and medical imaging or radiation therapy education;
 - b. One radiologist;
 - c. One medical physicist;
 - d. One physician from a rural area; and
 - e. One public member.
2. Each medical imaging or radiation therapy member of the board must:
 - a. Be a practicing medical imaging or radiation therapy licensee of integrity and ability.
 - b. Be a resident of and currently licensed in the member's medical imaging or radiation therapy modality in this state.
 - c. Be currently certified by a nationally recognized certification organization in the member's medical imaging or radiation therapy modality.
 - d. Have been engaged in the active practice of the medical imaging or radiation therapy profession within this state for a period of at least five years.
3. Each public member of the board must:
 - a. Be a resident of this state.
 - b. Be at least twenty-one years of age.
 - c. Not be affiliated with any group or profession that provides or regulates health care.
4. The radiologist, medical physicist, and physician members of the board must:

- a. Be a practicing radiologist, medical physicist, or physician of integrity and ability.
 - b. Be a resident of and be licensed to practice as a physician or registered as a medical physicist in this state.
5. An individual appointed to the board shall qualify by taking the oath required of civil officers.

Term of office.

The term of office of each member of the board is four years and until a successor is appointed and qualified. The terms must be so arranged that no more than four terms expire on the thirty-first of July of each year. The governor shall fill all vacancies by appointment. In case of a vacancy before the expiration of a term, the appointment must be for the residue of the term. A member of the board may not serve on the board for more than two successive four-year terms.

Removal of members of the board.

The governor for good cause shown and upon the recommendation of three-fourths of the members of the board may remove any member of the board for misconduct, incapacity, or neglect of duty.

Officers of the board.

The board shall elect a president and vice president from its members and a secretary-treasurer. The secretary-treasurer need not be a member of the board. The secretary-treasurer must be the general administrative and prosecuting officer of the board.

Meetings of the board.

The board shall hold at least two meetings each year to conduct business and to review the standards and rules for improving the administration of medical imaging or radiation therapy procedures. The board shall establish the procedures for calling, holding, and conducting regular and special meetings. A majority of board members constitutes a quorum.

Powers of the board.

In addition to any other powers, the board may:

1. Administer this chapter.
2. Issue interpretations of this chapter.
3. Adopt rules as may be necessary to carry out this chapter.
4. Employ and fix the compensation of personnel the board determines necessary to carry into effect this chapter and incur other expenses necessary to effectuate this chapter.
5. Issue, renew, deny, suspend, or revoke licenses and carry out any disciplinary actions authorized by this chapter.

6. Set fees for licensure, license renewal, and other services deemed necessary to carry out the purposes of this chapter.
7. Conduct investigations for the purpose of determining whether violations of this chapter or grounds for disciplining licensees exist.
8. Develop standards and adopt rules for the improvement of the administration of medical imaging or radiation therapy procedures in this state.
9. Employ or contract with one or more certification organizations known to provide acceptable examinations leading to certification of technical personnel performing medical imaging or radiation therapy procedures.
10. Impose sanctions, deny licensure, levy fines, or seek appropriate civil or criminal penalties against anyone who violates or attempts to violate examination security, anyone who obtains or attempts to obtain licensure by fraud or deception, or anyone who knowingly assists in that type of activity.
11. Require information on an applicant's or licensee's fitness, qualifications, and previous professional record and performance from recognized data sources, licensing and disciplinary authorities of other jurisdictions, certification organizations, professional education and training institutions, liability insurers, health care institutions, and law enforcement agencies be reported to the board. The board or its investigative panels may require an applicant for licensure or a licensee who is the subject of a disciplinary investigation to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with the criminal history record check are the responsibility of the licensee or applicant.
12. Require the self-reporting by an applicant or a licensee of any information the board determines may indicate possible deficiencies in practice, performance, fitness, or qualifications.
13. Establish a mechanism for dealing with a licensee who abuses or is dependent upon or addicted to alcohol or other addictive chemical substances, and enter an agreement with a professional organization possessing relevant procedures and techniques the board has evaluated and approved for the organization's cooperation or participation.
14. Issue a cease and desist order, obtain a court order, or an injunction to halt unlicensed practice, a violation of this chapter, or a violation of the rules of the board.
15. Issue a conditional, restricted, or otherwise circumscribed license as the board determines necessary.

Conflict of interest.

A member of the board may not participate in the making of any decision or the taking of any action by the board or a board committee which affects the member's personal, professional, or pecuniary interest, or that of a known relative or business or professional associate.

Records of the board.

The board shall keep a record of its proceedings and applications for licensure. An application record must be preserved for at least six years beyond the disposition of the application or the last annual registration of the licensee, whichever is later.

Biennial report.

The board may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04.

Compensation - Expenses of board.

A member of the board is entitled to receive for each day during which the member actually is engaged in the performance of the duties of the member's office per diem as determined by the board and mileage as provided in section 54-06-09. The secretary of the board is entitled to receive salary or other compensation and allowance for clerical and other expenses of the board as the board determines.

License requirements.

1. The board may issue a license to any applicant who has submitted satisfactory evidence, verified by oath or affirmation, that the applicant:
 - a. At the time of the application is at least eighteen years of age.
 - b. Has successfully completed a four-year course of study in a secondary school approved by the state board of higher education or passed an approved equivalency test.
2. In addition to the requirements of subsection 1, an individual seeking to obtain a license for a specific modality of medical imaging or radiation therapy shall comply with the following requirements:
 - a. Provide satisfactory completion of a course of study in radiography, radiation therapy, nuclear medicine technology, radiologist assistant, or sonography, or its equivalent to be determined by the board. The curriculum for each course of study may not be less stringent than the standards approved by the joint review committee on education in radiologic technology, joint review committee on nuclear medicine technology, commission on accreditation of allied health education programs, or any other appropriate accreditation agency approved by the board, provided the standards are not in conflict with board policy.
 - b. Pass a certification examination established or approved by the board given by a certification organization recognized by the board.
 - c. Show evidence of compliance with continuing education or recertification requirements required for registration of certification by a certification organization recognized by the board.
3. The board, upon application and payment of proper fees, may grant a license to an individual who has been licensed, certified, or registered to perform or administer medical imaging or radiation therapy procedures in another jurisdiction if that jurisdiction's standards of licensure are substantially equivalent to those provided in this chapter in accordance with rules adopted by the board.

Scope of practice.

1. The board shall establish licensure standards for the following medical imaging and radiation therapy modalities:
 - a. Nuclear medicine technologist.
 - b. Radiation therapist.
 - c. Radiographer.
 - d. Radiologist assistant.
 - e. Sonographer.
2. An individual holding a license under this chapter may perform medical imaging or radiation therapy procedures on humans for diagnostic or therapeutic purposes only by written, facsimile, electronic, or verbal prescription of an individual authorized by this state to prescribe medical imaging or radiation therapy procedures and under the supervision of a licensed practitioner.
3. An individual holding a license under this chapter may perform medical imaging and radiation therapy procedures on humans for diagnostic or therapeutic purposes only within the scope of that license as specified under the rules adopted by the board.

Fees.

1. The board shall set all fees by rules adopted under this chapter. All fees payable to the board must be deposited in the name of the board in financial institutions designated by the board as official depositories and must be used to pay all expenses incurred in carrying out the purposes of this chapter.
2. The board may issue a temporary license to an individual whose licensure or license renewal may be pending or if issuance is for the purpose of providing medical imaging or radiation therapy services to medically underserved areas as determined by the board. A temporary license may be issued only if the board finds it will not violate the purpose of this chapter or endanger the public health and safety. A temporary license expires when the determination is made either to issue or deny the applicant a regular license. A temporary license may not be issued for a period longer than one hundred eighty days.

Renewal.

1. A license issued under this chapter must be renewed before January second every two years. The license must be renewed upon the payment of a renewal fee if the licensee is not in violation of this chapter and has complied with any continuing education requirements adopted by rule of the board.
2. The board shall notify a licensee at least thirty days in advance of the expiration of the licensee's license. The licensee shall inform the board of any change of the licensee's address. Each licensee is responsible for renewing the licensee's license before the expiration date. A license that is not renewed automatically lapses.

3. The board may provide for the late renewal of an automatically lapsed license upon the payment of a reinstatement fee.

Disciplinary action.

The board may take disciplinary action against a licensee by any of the following means:

1. Revocation of license.
2. Suspension of license.
3. Probation.
4. Imposition of stipulations, limitations, or conditions relating to the performance of medical imaging or radiation therapy procedures.
5. Letter of censure.
6. Imposition of a penalty, not to exceed one thousand dollars for any single disciplinary action.

Any fines collected by the board must be deposited in the state general fund.

Grounds for disciplinary action.

Disciplinary action may be imposed against a licensee upon any of the following grounds:

1. The use of any false, fraudulent, or forged statement or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of the licensing requirements.
2. The conviction of any misdemeanor determined by the board to have a direct bearing upon an individual's ability to serve the public as a licensee or of any felony. A license may not be withheld contrary to chapter 12.1-33.
3. Habitual use of alcohol or drugs.
4. Physical or mental disability materially affecting the ability to perform the duties of a medical imaging or radiation therapy professional in a competent manner.
5. The performance of any dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public.
6. Aiding or abetting the performance of medical imaging or radiation therapy by an unlicensed, incompetent, or impaired individual.
7. The violation of any provision of this chapter or any rule of the board, or any action, stipulation, limitation, condition, or agreement imposed by the board or its investigative panels.
8. The performance of medical imaging or radiation therapy under a false or assumed name.

9. The willful or negligent violation of the confidentiality between medical imaging or radiation therapy professional and patient, except as required by law.
10. Gross negligence in the performance of medical imaging or radiation therapy.
11. Sexual abuse, misconduct, or exploitation related to the licensee's performance of medical imaging or radiation therapy.
12. The use of any false, fraudulent, or deceptive statement in any document connected with the performance of medical imaging or radiation therapy.
13. The failure to maintain in good standing, including completion of continuing education or recertification requirements, a certification from a nationally-recognized certification organization recognized by the board for the medical imaging or radiation therapy modality for which a license has been issued by the board.
14. The imposition by another state, jurisdiction, or certification organization recognized by the board of disciplinary action against a license, certification, or other authorization to perform medical imaging or radiation therapy based upon acts or conduct by the medical imaging or radiation therapy professional which would constitute grounds for disciplinary action under this section. A certified copy of the record of the action taken by the other state, jurisdiction, or certification organization is conclusive evidence of that action.
15. The failure to furnish the board or the investigative panel or investigators or representatives of the board or investigative panel information legally requested by the board or the investigative panel. The board shall keep a record of its proceedings in a disciplinary action or refusal to issue a license, together with the evidence offered.

Costs of prosecution - Disciplinary proceedings.

In any order or decision issued by the board in resolution of a disciplinary proceeding in which disciplinary action is imposed against a medical imaging or radiation therapy professional, the board may direct any medical imaging or radiation therapy professional to pay the board a sum not to exceed the reasonable and actual costs, including reasonable attorney's fees, incurred by the board and its investigative panels in the investigation and prosecution of the case. When applicable, the medical imaging or radiation therapy professional's license may be suspended until the costs are paid to the board. A medical imaging or radiation therapy professional may challenge the reasonableness of any cost item in a hearing under chapter 28-32 before an administrative law judge. The administrative law judge may approve, deny, or modify any cost item, and the determination of the judge is final. The hearing must occur before the medical imaging or radiation therapy professional's license may be suspended for nonpayment.

Practicing without a license - Violation of chapter - Penalty.

An individual who performs medical imaging or radiation therapy in this state without complying with this chapter, and any individual who violates any provision of this chapter for which another penalty is not specified is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of injunction is available to restrain and enjoin violations of any provision of this chapter without proof of actual damages sustained by any person.

OFFICES AND OFFICERS

CHAPTER 310

HOUSE BILL NO. 1337

(Representatives Devlin, Froseth, Glassheim)
(Senators Flakoll, Heckaman, Krebsbach)

AN ACT to amend and reenact subsection 2 of section 44-04-18, subsection 1 of section 44-04-18.3, section 44-04-18.20, and subsection 7 of section 44-04-19.1 of the North Dakota Century Code, relating to the regulation and enforcement of the open record and meeting laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 44-04-18 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon request for a copy of specific public records, any entity subject to subsection 1 shall furnish the requester one copy of the public records requested. A request need not be made in person or in writing, and the copy must be mailed upon request. A public entity may charge up to twenty-five cents per impression of a paper copy. As used in this section, "paper copy" means a one-sided or two-sided duplicated copy of a size not more than eight and one-half by fourteen inches [19.05 by 35.56 centimeters]. For any copy of a record that is not a paper copy as defined in this section, the public entity may charge a reasonable fee for making the copy. As used in this section, "reasonable fee" means the actual cost to the public entity of making the copy, including labor, materials, and equipment. The entity may charge for the actual cost of postage to mail a copy of a record. An entity may require payment before locating, redacting, making, or mailing the copy. The public entity may withhold records pursuant to a request until such time as a requester provides payment for any outstanding balance for prior requests. An entity may impose a fee not exceeding twenty-five dollars per hour per request, excluding the initial hour, for locating records, including electronic records, if locating the records requires more than one hour. An entity may impose a fee not exceeding twenty-five dollars per hour per request, excluding the initial hour, for excising confidential or closed material under section 44-04-18.10 from the records, including electronic records. If a public entity receives five or more requests from the same requester within seven days, the public entity may treat the requests as one request in computing the time it takes to locate and excise the records. If the entity is not authorized to use the fees to cover the cost of providing or mailing the copy, or both, or if a copy machine is not readily available, the entity may make arrangements for the copy to be provided or mailed, or both, by another entity, public or private, and the requester shall pay the fee to that other entity. This subsection does not apply to copies of public records for which a different fee is specifically provided by law.

SECTION 2. AMENDMENT. Subsection 1 of section 44-04-18.3 of the North Dakota Century Code is amended and reenacted as follows:

1. Any telephone number and the home address of a juvenile court director or probation officer, an employee of a law enforcement agency, employee of a state or local correctional facility, and an employee of the department of corrections and rehabilitation are confidential. Information contained in a personnel record of an employee of the department of corrections and rehabilitation may not be disclosed to an inmate in the legal custody of the department of corrections and rehabilitation confined in a jail, prison, or other correctional facility unless authorized by the director of the department of corrections and rehabilitation. Information contained in a personnel record of a law enforcement officer of a state or local law enforcement agency or in the personnel record of a correctional employee of a correctional facility subject to chapter 12-44.1 may not be disclosed to an inmate confined in a state correctional facility or correctional facility subject to chapter 12-44.1 unless authorized by the employing agency.

SECTION 3. AMENDMENT. Section 44-04-18.20 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.20. Domestic violence and victim record information of law enforcement exempt.

The address, telephone number, or any identifying information that, if released, could reasonably be used to locate or identify a victim or alleged victim of domestic violence, of a sex offense under chapter 12.1-20, of sexual performances by a child under chapter 12.1-27.2, or of human trafficking under chapter 12.1-40, contained in any record maintained by a law enforcement facility is exempt from section 44-04-18 and may be redacted from the record before it is released.

SECTION 4. AMENDMENT. Subsection 7 of section 44-04-19.1 of the North Dakota Century Code is amended and reenacted as follows:

7. "Investigatory work product" means records obtained, compiled, or prepared by a public entity in an effort to monitor and enforce compliance with the law or an order. Investigatory work product must be considered active as long as it is related to monitoring ~~or~~ and enforcement activity conducted with a reasonable good-faith belief that it will lead to enforcement of the law or an order the public entity is charged by statute or other law with monitoring and enforcing.

Approved March 16, 2015
Filed March 16, 2015

CHAPTER 311

HOUSE BILL NO. 1264

(Representatives K. Koppelman, Brabandt, Delmore, Devlin, Paur)
(Senators Armstrong, Luick)

AN ACT to create and enact a new subsection to section 44-04-18.7 of the North Dakota Century Code, relating to exempting law enforcement officer and firefighter body camera images from open records requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 44-04-18.7 of the North Dakota Century Code is created and enacted as follows:

An image taken by a law enforcement officer or a firefighter with a body camera or similar device and which is taken in a private place is an exempt record.

Approved April 15, 2015
Filed April 15, 2015

PROPERTY

CHAPTER 312

HOUSE BILL NO. 1192

(Representatives Louser, Beadle, Boehning, B. Koppelman)

AN ACT to amend and reenact section 47-16-07.1 of the North Dakota Century Code, relating to security deposits that may be required for lessees with pets.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-16-07.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-07.1. Real property and dwelling security deposits - Limitations and requirements.

1. The lessor of real property or a dwelling who requires money as a security deposit, however denominated, shall deposit the money in a federally insured interest-bearing savings or checking account for the benefit of the tenant. The security deposit and any interest accruing on the deposit must be paid to the lessee upon termination of a lease, subject to the conditions of subsection 2. A lessor may not demand or receive security, however denominated, in an amount or value in excess of one month's rent, ~~except if the lessee is housing a pet on the leased premises, the~~.
2. A lessor may charge a lessee a pet security deposit for keeping an animal that is not a service animal or companion animal required by a tenant with a disability as a reasonable accommodation under fair housing laws. A pet security deposit may not exceed the greater of two thousand five hundred dollars or an amount equivalent to two months' rent.
- ~~2.3.~~ A lessor may apply security deposit money and accrued interest upon termination of a lease towards:
 - a. Any damages the lessor has suffered by reason of deteriorations or injuries to the real property or dwelling by the lessee's pet or through the negligence of the lessee or the lessee's guest.
 - b. Any unpaid rent.
 - c. The costs of cleaning or other repairs which were the responsibility of the lessee, and which are necessary to return the dwelling unit to its original state when the lessee took possession, reasonable wear and tear excepted.

Application of any portion of a security deposit not paid to the lessee upon termination of the lease must be itemized by the lessor. Such itemization together with the amount due must be delivered or mailed to the lessee at the

last address furnished lessor, along with a written notice within thirty days after termination of the lease and delivery of possession by the lessee. The notice must contain a statement of any amount still due the lessor or the refund due the lessee. A lessor is not required to pay interest on security deposits if the period of occupancy was less than nine months in duration. Any amounts not claimed from the lessor by the lessee within one year of the termination of the lease agreement are subject to the reporting requirements of section 47-30.1-08.

- 3-4. A lessor is liable for treble damages for any security deposit money withheld without reasonable justification.
- 4-5. Upon a transfer in ownership of the leased real property or dwelling, the security deposit and accrued interest shall be transferred to the grantee of the lessor's interest. The grantor shall not be relieved of liability under this section until transfer of the security deposit to the grantee. The holder of the lessor's interest in the real property or dwelling at the termination of a lease shall be bound by this section even though such holder was not the original lessor who received the security deposit.
- 5-6. This section applies to the state and to political subdivisions of the state that lease real property or dwellings and require money as a security deposit.

Approved March 16, 2015
Filed March 16, 2015

CHAPTER 313**HOUSE BILL NO. 1191**

(Representatives Louser, Beadle, Boehning, B. Koppelman)

AN ACT to create and enact a new section to chapter 47-16 of the North Dakota Century Code, relating to service or assistance animals in rental dwelling units.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 47-16 of the North Dakota Century Code is created and enacted as follows:

Disability documentation for service or assistance animal in rental dwelling.

A landlord may require reliable supporting documentation be provided by a tenant of a rental dwelling that is subject to a no pets policy, if the tenant asserts a disability requiring a service animal or assistance animal be allowed as an accommodation on the rented premises under any provision of law. Reliable supporting documentation may be provided by a physician or medical professional. Reliable supporting documentation must confirm the tenant's disability and the relationship between the tenant's disability and the need for the requested accommodation. A landlord may not require supporting documentation from a tenant if the tenant's disability or disability-related need for a service animal or assistance animal is readily apparent or already known to the landlord.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 314

SENATE BILL NO. 2180

(Senator Holmberg)

AN ACT to amend and reenact section 47-19-41 of the North Dakota Century Code, relating to unrecorded conveyances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-19-41 of the North Dakota Century Code is amended and reenacted as follows:

47-19-41. Effect of not recording - Priority of first record - Constructive notice - Limitation and validation.

An unrecorded conveyance of real estate is void as against any subsequent purchaser in good faith, and for a valuable consideration, of the same real estate or any part of the same real estate, regardless of whether recorded in the form of a warranty deed or deed of quitclaim and release or the form in common use first is recorded or as against an attachment on the property or judgment, against the owner of record, before the recording of the conveyance. The fact that the first recorded conveyance is a quitclaim deed does not affect the question of good faith of the subsequent purchaser, or be of itself notice of any unrecorded conveyance of the same real estate or any part of the same real estate. This section is notice to all who claim under unrecorded instruments that prior recording of later instruments may nullify their title to or lien on affected real property. An action affecting any title to or lien on real property may not be commenced or defense or counterclaim asserted on the ground that a recorded instrument was not entitled to be recorded. The record of all instruments whether or not entitled to be recorded is deemed valid and sufficient as the legal record of the instruments. ~~The holder of an unrecorded conveyance may not question the good faith of the first recording party unless it can be established that the first recording party had actual knowledge of the existence of the unrecorded conveyance.~~

Approved March 13, 2015

Filed March 13, 2015

CHAPTER 315

HOUSE BILL NO. 1418

(Representatives Streytle, Maragos)

AN ACT to amend and reenact section 47-30.1-02.1 of the North Dakota Century Code, relating to an abandoned property presumption for uncashed checks issued by the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-30.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

47-30.1-02.1. Uncashed checks.

1. Except as provided in sections 47-30.1-04 and 47-30.1-05, any checks held, issued, or owing in the ordinary course of the holder's business which remain uncashed by the owner for more than two years after becoming payable are presumed abandoned.
2. Any warrant issued by the state which the payee or legal holder fails to present for payment within two years of issue is considered void and canceled. If the payee or legal holder presents the void or canceled check for payment, the original issuing agency may issue a new warrant and the state treasurer is authorized to pay the new warrant.

Approved March 26, 2015
Filed March 26, 2015

CHAPTER 316

HOUSE BILL NO. 1220

(Representatives Keiser, Beadle, Boschee, Louser)

AN ACT to create and enact section 47-34-02.1 of the North Dakota Century Code, relating to the acceptance of funds by closing agents in real estate transactions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 47-34-02.1 of the North Dakota Century Code is created and enacted as follows:

47-34-02.1. Acceptance of funds by closing agents.

1. At or prior to closing, a closing agent may accept a cashier's check for loan funds, if that check is delivered to the closing agent by a local issuing bank, savings and loan association, credit union, or savings bank, located in the same county as the closing agent or in a contiguous county.
2. The closing agent shall deposit the cashier's check in the agent's escrow account with a local financial institution that makes the funds available for immediate withdrawal, prior to the disbursement of funds.

Approved March 12, 2015

Filed March 12, 2015

PUBLIC BUILDINGS

CHAPTER 317

SENATE BILL NO. 2149

(Senators Burckhard, Poolman)
(Representatives Frantsvog, Ruby)

AN ACT to amend and reenact section 48-01.2-02, subsection 1 of section 48-01.2-04, and subdivision d of subsection 1 of section 48-01.2-20 of the North Dakota Century Code, relating to public improvement contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 48-01.2-02 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-02. Plans and specifications for a public improvement contract.

Except as otherwise provided in this chapter, if the estimated cost for the construction of a public improvement is in excess of the threshold established under section 48-01.2-02.1, the governing body shall procure plans, drawings, and specifications for the improvement from an architect or engineer. For a public building in use by or to be used by the North Dakota agricultural experiment station in connection with farm or agricultural research operations, the plans, drawings, and specifications, with the approval of the state board of higher education, may be prepared by an engineer in the regular employment of the agricultural experiment station. For a public building in use by or to be used by the department of transportation for the storage and housing of road materials or road machinery, equipment, and tools, the plans, drawings, and specifications may be prepared by an engineer employed by the department of transportation. Plans, drawings, and specifications of an architect or engineer must be stamped and sealed by the date of the initial bid advertisement.

SECTION 2. AMENDMENT. Subsection 1 of section 48-01.2-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in this chapter, if the estimated cost for the construction of a public improvement is in excess of the threshold established under section 48-01.2-02.1, the governing body shall advertise for bids by publishing for three consecutive weeks. The first publication of the advertisement must be at least twenty-one days before the date of the opening of bids. The advertisement must be published in the official newspaper of the political subdivision in which the public improvement is or will be located, in a daily newspaper having a general circulation in the area where the project is located, and in a trade publication, electronic plan service, builders exchange, or other industry-recognized method of general circulation among the contractors, building manufacturers, and dealers in this state, except the advertisement for a public improvement financed by special assessments need be published only once each week for two weeks in the

official newspaper with the first publication being at least fourteen days before the bid opening.

SECTION 3. AMENDMENT. Subdivision d of subsection 1 of section 48-01.2-20 of the North Dakota Century Code is amended and reenacted as follows:

d. A licensed contractor.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 318

SENATE BILL NO. 2171

(Senators Klein, Murphy, Poolman)
(Representatives Amerman, Keiser, Ruby)

AN ACT to amend and reenact section 48-01.2-06 of the North Dakota Century Code, relating to multiple prime bids.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 48-01.2-06 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-06. Bid requirements for public improvements.

Multiple prime bids for the general, electrical, and mechanical portions of a project are required when any individual general, electrical, or mechanical contract or any combination of individual contracts is in excess of the threshold established under section 48-01.2-02.1. If a general, mechanical, or electrical contract is estimated to be less than twenty-five percent of the threshold, the contract may be included in one of the other prime contracts. A governing body may allow submission of a single prime bid for the complete project or bids for other specialized portions of the project. A governing body may not accept the single prime bid unless that bid is lower than the combined total of the lowest responsible multiple bids for the project. If a bid for the general, electrical, or mechanical portions of a project is not received, a governing body may negotiate a contract amendment, up to an additional one hundred fifty thousand dollars, with the general, electrical, or mechanical contractor whose contract would represent the largest portion of the project cost for providing the portion of the project for which a bid was not received without rebidding all or part of the project.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 319

SENATE BILL NO. 2233

(Senators Dever, O'Connell)
(Representatives Rick C. Becker, Dockter, Meier)

AN ACT to amend and reenact subsection 1 of section 48-01.2-22 of the North Dakota Century Code, relating to the public opening of subcontractor bids; and to provide for a legislative management study of public improvement issues relating to use of multiple bids versus single prime bids, bidding thresholds, design services thresholds, and indemnification.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 48-01.2-22 of the North Dakota Century Code is amended and reenacted as follows:

1. An agency construction manager selected for a public improvement shall publicly advertise ~~publicly~~ and receive open bids from subcontractors for the work items necessary to complete the general construction portions of the improvement. The governing body may influence the selection of the subcontractors, but only insofar as the governing body's past experience with a subcontractor or a current legal dispute with a subcontractor.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying public improvement issues relating to use of multiple bids versus single prime bids, bidding thresholds, design services thresholds, and indemnification. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 320

HOUSE BILL NO. 1128

(Industry, Business and Labor Committee)
(At the request of the State Board of Higher Education)

AN ACT to amend and reenact section 48-01.2-23 of the North Dakota Century Code, relating to bonds for construction managers at-risk.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 48-01.2-23 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-23. Bond required.

1. An agency construction manager, before starting any work, shall provide the governing body with a bond that is equal to the cost of the agency construction manager's services with the governing body. Each contractor performing services on the public improvement shall provide the governing body with a separate bond for the contractor's portion of the public improvement.
2. A construction manager at-risk, before starting any construction, shall provide the governing body with a bond in an amount at least equal to the amount of the guaranteed maximum price. The bond must be conditioned to be void if the contractor and all subcontractors fully perform all terms, conditions, and provisions of the construction services contract and pay all bills or claims on account of labor and materials, including supplies used for machinery and equipment, performed, furnished, and used in the performance of the contract, including all demands of subcontractors. The requirement that bills and claims be paid must include the requirement that interest of the amount authorized under section 13-01.1-02 be paid on bills and claims not paid within ninety days. The bond is security for all bills, claims, and demands until fully paid, with preference to labor and material suppliers as to payment. The bond must run to the governing body, but any person having a lawful claim against the contractor may sue on the bond.
3. ~~Each mechanical contractor and electrical contractor providing work on a public improvement project that utilizes the construction management at-risk delivery method shall provide the governing body with a separate bond for the contractor's portion of the public improvement.~~

Approved March 20, 2015

Filed March 20, 2015

PUBLIC UTILITIES

CHAPTER 321

SENATE BILL NO. 2124

(Industry, Business and Labor Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact subsection 4 of section 49-03-06 of the North Dakota Century Code, relating to the issuance of a notice for an electric service area agreement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 49-03-06 of the North Dakota Century Code is amended and reenacted as follows:

4. A service area agreement shall be promptly filed with the commission which must ~~give~~issue a notice of the filing within thirty days. Upon the commission's order, or if an affected electric consumer or electric provider requests a hearing within twenty days of the notice, the commission shall hold a hearing on the service area agreement.

Approved March 19, 2015
Filed March 19, 2015

CHAPTER 322

SENATE BILL NO. 2123

(Industry, Business and Labor Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact section 49-03.1-03 of the North Dakota Century Code, relating to imposing an application fee for a certificate of public convenience and necessity by a utility other than an electric utility.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-03.1-03 of the North Dakota Century Code is amended and reenacted as follows:

49-03.1-03. Certificate application.

Application for a certificate of public convenience and necessity shall be made upon forms prescribed by the commission. The commission shall make regulations for the filing of such application. The application must contain a financial statement, a description of the type of service to be offered, a map and description of the area to be served, and a list of all other public utilities providing similar service in the area. Upon the filing of an application for a certificate of public convenience and necessity, the commission shall set a hearing date which shall not be less than twenty days after the filing. The commission shall cause notice of the hearing to be served by certified mail, at least ten days before the day of hearing, upon every public utility which is operating, or which has applied for a certificate of public convenience and necessity, in the area proposed to be served by the applicant, and on other interested parties as determined by the commission. The commission shall impose an application fee of up to ten thousand dollars for an application under this chapter. With the approval of the emergency commission, the commission may impose an additional amount. The commission shall pay the expenses of processing an application under this chapter from the application fee paid by the public utility in accordance with section 49-02-02.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 323

SENATE BILL NO. 2135

(Industry, Business and Labor Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact subsection 1 of section 49-05-06 of the North Dakota Century Code, relating to suspension period for tariff filings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 49-05-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Whenever a notice or any schedule stating an individual or joint rate, classification, contract, practice, or rule, increasing or decreasing, or resulting in an increase or decrease in any rate, is filed with the commission, the commission may suspend by motion the rate, classification, contract, practice, or rule but the period of suspension may not extend more than six months beyond the time when it otherwise would go into effect unless the commission and the utility filing the notice or schedule agree to the extension. Upon complaint or upon its own initiative without complaint the commission may order a hearing, upon due notice, concerning the propriety of the rate, classification, contract, practice, or rule. On such hearing, the commission shall establish the rates, classifications, contracts, practices, or rules proposed, in whole or in part, or others in lieu thereof, which it finds to be just and reasonable. At any such hearing, the burden to show that the increased rate or proposed change of rate, classification, rule, or practice is just and reasonable is upon the public utility applying for the increase. All such rates, classifications, contracts, practices, or rules, not suspended, on the expiration of thirty days from the time of filing with the commission, or of such lesser time as the commission may grant, become effective rates, classifications, contracts, practices, or rules, subject to the power of the commission, after a hearing had on its own motion or upon complaint, to alter or modify the same.

Approved March 19, 2015
Filed March 19, 2015

CHAPTER 324

HOUSE BILL NO. 1385

(Representatives Thoreson, Beadle, Keiser)
(Senators Armstrong, Poolman)

AN ACT to create and enact a new section to chapter 49-21 of the North Dakota Century Code, relating to voice over internet protocol service and internet protocol-enabled service; and to amend and reenact section 49-21-01 of the North Dakota Century Code, relating to definitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-21-01 of the North Dakota Century Code is amended and reenacted as follows:

49-21-01. Definitions.

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

1. "Access" means telecommunications services to connect a telecommunications customer or end user with a telecommunications company that allows for the origination or the termination, or both, of WATS, 800, and message toll telecommunications services and private line transport services.
2. "Competitive local exchange company" means any telecommunications company providing local exchange service, other than an incumbent local exchange carrier, whether by its own facilities, interconnection, or resale.
3. "Eligible telecommunications carrier" means a telecommunications company designated under section 214(e) of the federal act as eligible to receive universal service support in accordance with section 254 of the federal act.
4. "Essential telecommunications service" means the following services:
 - a. Switched access;
 - b. Installation of the service connection for other essential services from the end user's premises to the local exchange network; and
 - c. Primary flat rate residence basic telephone service including the following service elements:
 - (1) Billing and collecting of the telecommunications company's charges for the service.
 - (2) Primary directory listing.
 - (3) Access to directory assistance.

- (4) Access to emergency 911 service and emergency operator assistance in local exchange areas in which emergency 911 service is not available.
 - (5) Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas.
 - (6) Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has inward dialing and necessary signaling service such as touchtone used by end users for the service.
5. "Federal act" means the federal Communications Act of 1934, as amended by the federal Telecommunications Act of 1996 [47 U.S.C. 151 et seq.].
 6. "Incumbent local exchange carrier" means a telecommunications company that meets the definition of section 251(h) of the federal act.
 7. "Inside wire" and "premise cable" mean the telecommunications wire on the customer's side of a demarcation point or point of interconnection between the telecommunications facilities of the telecommunications company and the customer or premise owner established under title 47, Code of Federal Regulations, part 68, section 68.105.
 8. "Interexchange telecommunications company" means a person providing telecommunications service to end users located in separate local exchange areas.
 9. "Internet protocol-enabled service" means any service, capability, functionality, or application that uses internet protocol or any successor protocol and enables an end user to send or receive voice, data, or video communication in internet protocol format or a successor format.
 10. "Local exchange area" means a geographic territorial unit established by a telecommunications company for the administration of telecommunications services as approved and regulated in accordance with chapter 49-03.1.
 - ~~40-11.~~ "Management costs" means the reasonable direct actual costs a political subdivision incurs in exercising its police powers over the public rights of way.
 - ~~44-12.~~ "Mutual telephone company" means a telephone cooperative organized and operating subject to the provisions of this chapter, and such a cooperative shall also be subject to the general law governing cooperatives, except where such general law is in conflict with this chapter.
 - ~~42-13.~~ "Nonessential telecommunications service" means any telecommunications service, other than those essential telecommunications services listed in subsection 4 that a customer has the option to purchase either in conjunction with or separate from any essential telecommunications service.
 - ~~13-14.~~ "Price" means any charge set and collected by a telecommunications company for any telecommunications service offered by it to the public or other telecommunications companies.

- 14-15. "Private line transport service" means a telecommunications service to a customer over a circuit dedicated to the customer's exclusive use, within a local exchange area, or between or among local exchanges. Private line transport service includes services to customers who are end users and services to telecommunications companies.
- 15-16. "Public right of way" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which a political subdivision has a legal interest, including other dedicated rights of way for travel purposes, utility easements, and all the area within seventy-five feet [22.86 meters] of the centerline of any county or township highway right of way over which a board of county commissioners or a board of township supervisors has control under section 24-01-42. The term does not include the airwaves above a public right of way with regard to cellular or other wireless telecommunications or broadcast service or utility poles owned by a political subdivision or a municipal utility or a telecommunications company, in whole or part.
- 16-17. "Rural telephone company" means a telecommunications company that meets the definition of section 153(37) of the federal act.
- 17-18. "Service element" means a telecommunications function or service component that is not useful to the user unless it is combined with one or more other telecommunications functions or service components.
- 18-19. "Switched access" means access to include:
- a. Local exchange central office switching and signaling;
 - b. Operator and recording intercept of calls;
 - c. Termination of end user lines in the local exchange central office;
 - d. The carrier common line charge for the line between the end user's premises and the local exchange central office;
 - e. Billing and collection recording for interexchange carriers to which the local exchange carrier provides access service; and
 - f. Telecommunications service, including connections, provided to allow transmission service and termination between an interexchange company's premises and the local exchange central office switch for the origination or termination of the interexchange company's switched telecommunications services.
- 19-20. "Telecommunications company" means a person engaged in the furnishing of telecommunications service within this state.
- 20-21. "Telecommunications service" means the offering for hire of telecommunications facilities, or transmitting for hire telecommunications by means of such facilities whether by wire, radio, lightwave, or other means.
22. "Voice over internet protocol service" means any service that enables real time, two-way voice communication originating from or terminating at the user's location in internet protocol or a successor protocol, utilizes a

broadband connection at the user's location, and permits a user to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

SECTION 2. A new section to chapter 49-21 of the North Dakota Century Code is created and enacted as follows:

Voice over internet protocol service and internet protocol-enabled service.

1. Notwithstanding any other law, a state entity or political subdivision of the state may not by rule, order, or other means directly or indirectly regulate the entry, rates, terms, or conditions for internet protocol-enabled or voice over internet protocol service.
2. Voice over internet protocol service is subject to the following:
 - a. Any required assessments under any state high-cost universal service fund.
 - b. Any required assessment of 911 or E911 fees.
 - c. Any required surcharge under section 54-44.8-08.
 - d. Any required tax under chapter 57-34.
3. Nothing in this section affects or modifies:
 - a. Any applicable wholesale tariff or any commission authority to implement or enforce any rights, duties, or obligations of any party related to wholesale services.
 - b. Any entity's obligations or rights or commission authority under sections 251 and 252 of the federal Communications Act of 1934 [47 U.S.C. 251 and 252].
 - c. Any commission jurisdiction over intrastate switched access rates, terms and conditions, including the implementation of federal law with respect to intercarrier compensation or existing commission authority to address or affect the resolution of disputes regarding intercarrier compensation.
 - d. Any obligation for the provision of video or cable service by any entity under applicable law.
 - e. Any commission jurisdiction or authority to address federal high-cost fund or federal universal service fund issues.
 - f. Any obligation to offer essential telecommunications services.
 - g. Authority to enforce criminal or civil laws, including consumer protection and unfair or deceptive trade practice laws under title 51, which apply generally to the conduct of business.
 - h. Authority of a political subdivision of the state to exercise its zoning power under chapters 40-47, 58-03, or 11-33.
 - i. Any obligation arising out of chapter 49-23.

CHAPTER 325

HOUSE BILL NO. 1375

(Representatives Streyle, Brabandt)
(Senators Armstrong, Poolman)

AN ACT to amend and reenact section 49-21-01.3 of the North Dakota Century Code, relating to price increases for essential telecommunications services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-21-01.3 of the North Dakota Century Code is amended and reenacted as follows:

49-21-01.3. ~~Certain price increases prohibited~~changes from surcharges - Essential telecommunications services.

~~Changes in essential telecommunications services prices are prohibited except as specifically provided for in chapter 49-21 and section 49-02-01.1.~~

1. All increases or decreases in governmentally imposed surcharges and any financial impact on cost of essential telecommunications services caused by governmentally imposed changes in taxes, accounting practices, or separations procedures or resulting in relocation, change, or removal of facilities must be fully reflected in any price for those services within thirty days of the effective date of the surcharge or change, except price changes related to the costs of relocation, change, or removal of facilities are not subject to a thirty-day implementation requirement. This section does not prohibit the lowering of a price of an essential service based on reasonable business practices in a competitive environment provided that no price change may be anticompetitive or otherwise in violation of antitrust or unfair trade practice laws.
2. Whenever a price change provided for in this section is less than three percent of the existing price, notwithstanding any time limitations in this section, a telecommunications company may accumulate such changes in price subject to the following conditions:
 - a. Price increases may be accumulated up to a percentage total of five percent.
 - b. Price decreases may be accumulated only to the extent that there is an offsetting accumulated price increase of an equal or greater percentage. Accumulated price decreases may never exceed accumulated price increases.
 - c. Price decreases may be accumulated only for two years beginning January first of the year in which the change is allowed.
 - d. Accumulated price increases may be implemented at the discretion of the telecommunications company.

- e. The effective date of implementation of an accumulated price change may be prospective only, and in accordance with the filing requirements of section 49-21-04.
3. ~~The monthly price of residence service for telecommunications companies with over fifty thousand subscribers may be up to eighteen dollars.~~
4. ~~Subject to the limitations of this section, this~~This chapter does not prohibit an incumbent local exchange carrier from deaveraging local exchange service prices provided the incumbent local exchange carrier agrees to amend its commission-approved interconnection agreements to allow for deaveraged interconnection prices effective concurrently with the deaveraged retail prices.

Approved March 26, 2015

Filed March 26, 2015

CHAPTER 326

SENATE BILL NO. 2120

(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact subsection 3 of section 49-22-03 and subsection 1 of section 49-22-22 of the North Dakota Century Code, relating to the definition of construction and energy conversion and transmission facility siting application fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 49-22-03 of the North Dakota Century Code is amended and reenacted as follows:

3. "Construction" includes any clearing of land, excavation, or other action that would affect the environment of the site after April 9, 1975, but does not include activities:
 - a. Conducted wholly within the geographic location for which a utility has previously obtained a certificate or permit under this chapter, or on which a facility was constructed before April 9, 1975, if:
 - (1) The activities are within the boundaries of for the construction of the same type of facility as the existing type of facility as identified in a subdivision of subsections 5 or 12 of this section and the activities are:
 - (a) Within the geographic boundaries of a previously issued certificate or permit;
 - (b) For an energy conversion facility constructed before April 9, 1975, within the geographic location on which the facility was built; or
 - (c) For a transmission facility constructed before April 9, 1975, within a width of three hundred fifty feet [106.68 meters] on either side of the centerline;
 - (2) Except as provided in subdivision b, the activities do not affect any known exclusion or avoidance area; and
 - (3) The activities are for the construction:
 - (a) Of a new energy conversion facility;
 - (b) Of a new gas, liquid, or electric transmission facility;
 - (c) To improve the existing energy conversion facility or gas, liquid, or electric transmission facility; or

(3) Receives the commission's written approval for the impact to the avoidance area, based on a determination that there is no reasonable alternative to the expected impact. If the commission does not approve impacting the avoidance area, the utility must obtain siting authority under this chapter for the affected portion of the site or route. If the commission fails to act on the notification required by this subdivision within thirty days of the utility's filing the notification, the impact to the avoidance area is deemed approved.

c. Incident to preliminary engineering or environmental studies.

SECTION 2. AMENDMENT. Subsection 1 of section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

1. Every applicant under this chapter shall pay to the commission an application fee:
 - a. An applicant for a certificate of site compatibility shall pay an amount equal to five hundred dollars for each one million dollars of investment in the proposed facility ~~as defined in the federal energy regulatory commission uniform system of accounts.~~
 - b. An applicant for a certificate of corridor compatibility shall pay an amount equal to five thousand dollars for each one million dollars of investment in the proposed facility ~~as defined in the federal energy regulatory commission uniform system of accounts.~~
 - c. An applicant for a waiver shall pay the amount which would be required for an application for a certificate of site or corridor compatibility for the proposed facility. If a waiver is not granted for a proposed facility, such application fee paid shall be allowed as a credit against fees payable under this section in connection with an application under this chapter for a certificate or permit for the proposed facility.
 - d. An applicant for a transfer of a certificate or permit shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
 - e. An applicant certifying to the commission under subsection 3 of section 49-22-03 or obtaining siting authority under subdivision b of subsection 2 or subdivision c of subsection 4 of section 49-22-16.3, shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
 - f. The application fee under ~~this subsection shall~~ subdivision a, b, or c may not be less than ~~five~~ ten thousand dollars nor more than one hundred thousand dollars.

Approved April 28, 2015

Filed April 28, 2015

CHAPTER 327

HOUSE BILL NO. 1124

(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact section 49-22-04 of the North Dakota Century Code, relating to utilities' ten-year plans submitted to the public service commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-22-04 of the North Dakota Century Code is amended and reenacted as follows:

49-22-04. Ten-year plans - Contents.

~~Every~~Each utility that owns or operates, or plans within the next ten years to own, operate, or start construction on any facility shall develop a ten-year plan as specified in this section and submit the plan to the commission. ~~Each utility shall file an updated plan on or before July first of each even-numbered year. The utility shall update its plan every second year after the year of its initial submission.~~ The ten-year plan may be appropriate portions of a single regional plan or may be jointly prepared and submitted by two or more utilities and must contain the following information:

1. A description of the general location, size, and type of all facilities to be owned or operated by the utility during the ensuing ten years, as well as those facilities to be removed from service during the ten-year period.
2. An identification of the location of the tentative preferred site for all energy conversion facilities and the tentative location of all transmission facilities on which construction is intended to be commenced within the ensuing five years and such other information as may be required by the commission. The site and corridor identification shall be made in compliance with the criteria published by the commission pursuant to section 49-22-05.1.
3. A description of the efforts by the utility to coordinate the plan with other utilities so as to provide a coordinated regional plan for meeting the utility needs of the region.
4. A description of the efforts to involve environmental protection and land-use planning agencies in the planning process, as well as other efforts to identify and minimize environmental problems at the earliest possible stage in the planning process.
5. A statement of the projected demand for the service rendered by the utility for the ensuing ten years and the underlying assumptions for the projection, with that information being as geographically specific as possible, and a description of the manner and extent to which the utility will meet the projected demands.
6. Any other relevant information as may be requested by the commission. Upon receipt of the ten-year plans the commission shall proceed to assess the

impact of the development proposed within the state to ensure that energy conversion facilities and transmission facilities will be sited in an orderly manner compatible with environmental preservation and efficient use of resources.

Approved April 9, 2015

Filed April 9, 2015

CHAPTER 328

SENATE BILL NO. 2347

(Senators Bowman, Dever, O'Connell)
(Representatives Fehr, Onstad, Steiner)

AN ACT to amend and reenact section 49-23-01 and subsection 3 of section 49-23-05 of the North Dakota Century Code, relating to the removal of marking materials at excavation sites.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-23-01 of the North Dakota Century Code is amended and reenacted as follows:

49-23-01. Definitions.

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

1. "Abandoned" means no longer in service and physically disconnected from a portion of the facility or from any other facility that is in use or still carries services.
2. "Board" means the board of directors of the nonprofit corporation governing the notification center under section 49-23-03.
3. "Careful and prudent manner" means excavating within twenty-four inches [60.96 centimeters] of the outer edges of an underground facility located manually and marked by the owner or operator by stakes, paint, or other customary manner, and supporting and protecting the uncovered facility.
4. "Damage" means:
 - a. Substantial weakening of structural or lateral support of an underground facility;
 - b. Penetration, impairment, or destruction of any underground protective coating, housing, or other protective device; or
 - c. Impact with or the partial or complete severance of an underground facility to the extent that the facility operator determines that repairs are required.
5. "Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, and demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.
6. "Emergency responder" means a fire department, a law enforcement officer, or other emergency rescue service.
7. "Excavation" means any operation in which earth, rock, or other materials in or below the ground is moved or otherwise displaced by means of hand or power tools, power equipment, or explosives and includes grading, trenching,

digging, ditching, drilling, augering, tunneling, boring, scraping, and cable or pipe plowing and driving. The term does not include:

- a. Opening a grave in a cemetery.
 - b. Plowing, cultivating, planting, harvesting, and similar operations in connection with agricultural activities, unless any of these activities disturbs the soil to a depth of eighteen inches [45.72 centimeters] or more.
 - c. Gardening and landscaping unless it disturbs the soil to a depth of twelve inches [30.48 centimeters] or more.
 - d. Normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch.
 - e. Normal repair and maintenance of track and track bed by a railroad on its own right of way.
8. "Excavator" means a person who conducts excavation.
 9. "Holiday" means New Year's Day, Martin Luther King Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. When a holiday falls on a Saturday, it is observed on the preceding Friday as if the Friday were the holiday, and when a holiday falls on a Sunday, it is observed on the following Monday as if the Monday were the actual holiday.
 10. "Local governmental unit" means a county, township, or city.
 11. "Locate" means an operator's markings of an underground facility showing the approximate horizontal location, including all lines, line direction, intersections, tees, and lateral facilities.
 12. "Nonprofit corporation" means a corporation established under chapter 10-33.
 13. "Notification center" means a center that receives notice from an excavator of planned excavation or any other request for location and transmits this notice to a participating operator.
 14. "Tangible marking materials" means any material perceptible by touch used to mark the location of an underground facility, including flags, stakes, poles, or other materials inserted into or affixed to the ground. The term does not include paint, chalk, or other liquid ink-based materials applied to the ground.
 15. "Operator" means a person who owns or operates an underground facility, including a master meter operator with underground facilities, or a state or local governmental entity. The department of transportation is considered an operator for the department's facilities buried on the department's rights of way. A person is not considered an operator solely because the person is an owner or tenant of real property where underground facilities are located if the underground facilities are used exclusively to furnish services or commodities on that property.
- ~~45-16.~~ "Underground facility" means an underground line, pipeline, cable, facility, system, and its appurtenances used to produce, store, convey, gather,

transmit, or distribute communications, data, electricity, power, television signals, heat, gas, oil, petroleum products, carbon dioxide, water, steam, sewage, hazardous liquids, and other similar substances. Privately owned and operated underground facilities which do not extend beyond the boundary of the private property are excluded.

~~46-17.~~ "Unexpected occurrence" includes a fire, flood, earthquake or other soil or geologic movement, riot, accident, damage to a subsurface installation requiring immediate repair, or sabotage.

~~47-18.~~ "Water" includes potable water, wastewater, and storm water.

SECTION 2. AMENDMENT. Subsection 3 of section 49-23-05 of the North Dakota Century Code is amended and reenacted as follows:

3. Assume ownership of materials used to mark the facility, use reasonable efforts to maintain markings during excavation, and ~~when possible~~ remove all tangible marking materials used to mark the facility upon completion of the excavation.

Approved April 15, 2015
Filed April 15, 2015

PUBLIC WELFARE

CHAPTER 329

SENATE BILL NO. 2206

(Senators Dever, J. Lee, Murphy)
(Representatives Holman, Owens, Weisz)

AN ACT to create and enact sections 50-06-05.8 and 50-06-20.1 of the North Dakota Century Code, relating to the department of human services assuming certain costs of certain social service programs and to the establishment of a human services grant program; to amend and reenact sections 11-23-01, 50-01.2-00.1, 50-03-08, 50-06-20, 50-09-27, and 50-24.1-14, subsection 3 of section 57-15-01.1, and subsection 34 of section 57-15-06.7 of the North Dakota Century Code, relating to county social service board budgets and programs funded at state expense and reduction of county property tax levy authority for social service board budgets to reflect county savings from programs funded at state expense; to repeal sections 50-03-09, 50-06.2-05.1, and 50-09-21.1 of the North Dakota Century Code, relating to the county's share of medical assistance for therapeutic foster care, service payments to the elderly and disabled, and the county share of foster care costs; to provide for a legislative management study; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-23-01 of the North Dakota Century Code is amended and reenacted as follows:

11-23-01. Officers required to furnish commissioners with departmental budget.

1. Every officer in charge of any institution, office, or undertaking supported wholly or in part by the county shall file with the board of county commissioners a departmental budget that is prescribed by the state auditor. The departmental budget must include an itemized statement of the estimated amount of money that will be required for the maintenance, operation, or improvement of the institution, office, or undertaking for the ensuing year. The board of county commissioners may require additional information to clarify the departmental budget.
2. a. The departmental budget submitted by the county social service board in 2015 for the 2016 budget may not exceed an amount determined using the departmental budget submitted in 2014 by the county social service board as a starting point, subtracting the reduction in the county's social service funding responsibility for 2014 derived from transferring the county social service costs identified in this subdivision from the county social service board to the department of human services, and applying to the resulting amount the percentage salary and benefits increase provided by legislative appropriations for state employees for taxable year 2015. For

purposes of this subdivision, the reduction in the county's social service funding responsibility derived from transferring the county social service costs identified in this subdivision from the county social service board to the department of human services includes the following:

- (1) Foster care and subsidized adoption costs that would have been paid by the county after December 31, 2015;
 - (2) The county's share of grant costs for medical assistance in the form of payments for care furnished to recipients of therapeutic foster care services which would have been paid by the county after December 31, 2015;
 - (3) The county's share of the costs for service payments to the elderly and disabled which would have been paid by the county after December 15, 2015;
 - (4) The county's share of salary and benefits for family preservation services pursuant to section 50-06-05.8 which would have been paid by the county after December 31, 2015;
 - (5) The county's share of the cost of the electronic benefits transfers for the supplemental nutrition assistance program which would have been paid by the county after December 31, 2015; and
 - (6) The computer processing costs which would have been paid by the county after December 31, 2015, which exceed the county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996.
- b. The departmental budget submitted by the county social service board in 2016 for the 2017 budget may not exceed an amount determined using the 2015 departmental budget as a starting point and applying to that amount the percentage salary and benefits increase provided by legislative appropriations for state employees for 2016.
- c. The budget must include a statement identifying the total savings to the county as shown by a reduction in the amounts that otherwise would have been paid by the county to the department of human services for the costs identified in subdivision a. The department of human services shall determine the appropriate amount of what each county's costs would have been to help identify each county's total savings.
- The county share of the human service budget must be funded entirely from the county's property tax levy for that purpose and the county may not use funds from any other source to supplement the human services budget, with the exception that the county may make use of the identifiable amount of other sources the county has used to supplement its human services budget for 2015 and the county may use grant funds that may be available to the county under section 50-06-20.1.
- d. The department of human services shall develop a process to review a request from a county social service board for any proposed increase in

staff needed as a result of significantly increased caseloads for state-funded human services programs, if the increase in staff would result in the county exceeding the budget limitation established under this subsection. As part of its review process, the department shall review countywide caseload information and consider the option of multicounty sharing of staff. If the department approves a request for a proposed increase in staff, the county budget limitation established under subdivision b may be increased by the amount determined necessary by the department to fund the approved additional staff.

SECTION 2. AMENDMENT. Section 50-01.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-00.1. Definitions.

In this chapter, unless the context otherwise requires:

1. "Department" means the department of human services.
2. "Local expenses of administration" includes costs for personnel, space, equipment, computer software, materials, travel, utilities, and related costs, and the indirect costs properly allocated to those costs. The term does not include initial acquisition of computers and related hardware approved by the department for the temporary assistance for needy families program, custom computer programs, custom software development, computer operations undertaken at the direction of the department, and computer processing costs to the extent those costs exceed, in any calendar year, that county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996; or, unless agreed to by the county social service board, any costs related to pilot programs before the programs are implemented on a statewide basis.
3. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a county social service office and include:
 - a. Temporary assistance for needy families;
 - b. Employment and training programs;
 - c. Child care assistance programs;
 - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - e. Supplemental nutrition assistance programs, including employment and training programs;
 - f. Refugee assistance programs;
 - g. Basic care services;
 - h. Energy assistance programs; and
 - i. Information and referral.

SECTION 3. AMENDMENT. Section 50-03-08 of the North Dakota Century Code is amended and reenacted as follows:

50-03-08. Appropriation for county social service board administration and of locally administered economic assistance programs.

The board of county commissioners of each county annually shall appropriate and make available to the human services fund an amount sufficient to pay:

1. The ~~the~~ local expenses of administration of locally administered economic assistance programs;
2. That county's share of fifteen percent of the amount expended in this state, in excess of the amount provided by the federal government, for medical assistance in the form of payments for care furnished to recipients of therapeutic foster care services; and
3. That county's share of the cost of other family preservation services, including intensive in-home services, provided under title VI-B, subpart 2, of the Social Security Act [Pub. L. 103-66, title XIII, 13711(a)(2); 107 Stat. 649 et seq.; 42 U.S.C. 629 et seq.], as amended, as may be agreed to by the department and the county social service board.

SECTION 4. Section 50-06-05.8 of the North Dakota Century Code is created and enacted as follows:

50-06-05.8. Department to assume certain costs of certain social service programs.

Notwithstanding section 50-06.2-05, or any other provision in title 50 to the contrary, and in addition to the programs identified in section 50-06-20, the department of human services shall pay the local expenses of administration incurred by a county after December 31, 2015, for family preservation programs; a county's share of the cost of the electronic benefits transfers for the supplemental nutrition assistance program incurred after December 31, 2015; and the computer processing costs incurred by the county after December 31, 2015, which exceed the county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996.

SECTION 5. AMENDMENT. Section 50-06-20 of the North Dakota Century Code is amended and reenacted as follows:

50-06-20. Programs funded at state expense - Interpretation.

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:
 - a. ~~Except as~~ provided in section 50-24.1-14, medical assistance services provided under chapter 50-24.1;
 - b. ~~Benefits~~Energy assistance program benefits provided under subsection 19 of section 50-06-05.1;
 - c. Supplements provided under chapter 50-24.5 as basic care services;
 - d. ~~Services provided under chapter 50-09 as child care assistance;~~

- e. ~~Services provided under chapter 50-09 as employment and training programs~~Services, programs, and costs listed in section 50-09-27;
 - f.e. Welfare fraud detection programs;
 - g. ~~Temporary assistance for needy families;~~ and
 - h.f. Special projects approved by the department and agreed to by any affected county social service board.
2. The state shall bear the costs of amounts expended for service payments to the elderly and disabled.
 3. This section does not grant any recipient of services, benefits, or supplements identified in subsection 1, any service, benefit, or supplement that a recipient could not claim in the absence of this section.

SECTION 6. Section 50-06-20.1 of the North Dakota Century Code is created and enacted as follows:

50-06-20.1. Human services grant program - Eligible counties - Reports.

1. If the authority for counties to use emergency expenditures to address an emergency created by unusual and unanticipated demands on the counties' human services fund under chapter 50-03 is eliminated, the department shall establish a grant program to assist certain counties. An eligible county is one that historically has utilized the emergency expenditures process set forth in chapter 50-03 and which is adjacent to or part of an Indian reservation in this state, which contains Indian trust lands within the service area of a federally recognized Indian tribe which are occupied by enrolled members of that tribe, or which includes the state hospital created pursuant to subsection 8 of section 12 of article IX of the Constitution of North Dakota.
2. The grant program established in this section must be implemented through rulemaking under chapter 28-32. The department may adopt emergency rules, without application of the grounds for emergency rulemaking otherwise required under section 28-32-03, to set out the policies and procedures for the disbursement of grants and may not award more than one million nine hundred thousand dollars during the first year of a biennium, and no more than two million dollars during the second year of a biennium. The department shall notify a county of its approved funding no later than September first of each year of the biennium. The department shall issue an annual payment to counties receiving funds under this chapter in January of each year of the biennium.
3. The department shall report to the budget section annually and to the appropriations committees of the sixty-fifth legislative assembly and each succeeding legislative assembly on the funding approved under this section.

SECTION 7. AMENDMENT. Section 50-09-27 of the North Dakota Century Code is amended and reenacted as follows:

50-09-27. Programs funded at state expense - Interpretation.

1. The state shall bear the cost, in excess of the amount provided by the federal government, of:

- a. Services provided under ~~section 50-06-06.8~~ and this chapter as child care assistance;
 - b. Services provided under this chapter as employment and training programs; ~~and~~
 - c. Temporary assistance for needy families benefits provided under this chapter; and
 - d. Foster care and subsidized adoption costs under this chapter.
2. This section does not grant any recipient of services, benefits, or supplements identified in subsection 1, any service, benefit, or supplement that a recipient could not claim in the absence of this section.

SECTION 8. AMENDMENT. Section 50-24.1-14 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-14. Responsibility for expenditures –Exceptions.

1. ~~Except as otherwise specifically provided in subsection 2 and section 50-03-08, expenditures~~Expenditures required under this chapter are the responsibility of the federal government or the state of North Dakota.
2. ~~Each county shall reimburse the department of human services the amount required to be appropriated under subsection 3 of section 50-03-08.~~

¹⁷⁹ **SECTION 9. AMENDMENT.** Subsection 3 of section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
 - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
 - c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not

¹⁷⁹ Section 57-15-01.1 was also amended by section 20 of Senate Bill No. 2031, chapter 137, and section 67 of Senate Bill No. 2144, chapter 439.

received approval of electors for an extension under subsection 2 of section 57-64-03.

- d. If the base year is a taxable year before 2013, reduced by the amount of state aid under chapter 15.1-27, which is determined by multiplying the budget year taxable valuation of the school district by the lesser of:

- (1) The base year mill rate of the school district minus sixty mills; or
- (2) Fifty mills.

- e. If the base year is a taxable year before 2016, the base year human services county levy in dollars must be reduced to the amount of the county social service board budget levy for the budget year as determined under section 11-23-01.

¹⁸⁰ **SECTION 10. AMENDMENT.** Subsection 34 of section 57-15-06.7 of the North Dakota Century Code is amended and reenacted as follows:

34. Counties levying an annual tax for human services purposes as provided in section 50-06.2-05 may levy a tax not exceeding the lesser of twenty mills or the number of mills determined by dividing the county budget limitation in dollars as determined under section 11-23-01 by the taxable valuation of the county.

SECTION 11. REPEAL. Sections 50-03-09, 50-06.2-05.1, and 50-09-21.1 of the North Dakota Century Code are repealed.

SECTION 12. LEGISLATIVE MANAGEMENT STUDY - SOCIAL SERVICES FINANCE PROGRAM TRANSITION.

1. During the 2015-16 interim, the legislative management shall conduct a study to develop a proposed transition plan for transferring the costs of operating social services programs from county property tax levies to state general fund appropriations.
2. If a county social services finance working group is established, upon request of the legislative management the working group shall report its progress and findings. The membership of the working group may include:
 - a. The director of the department of human services or the director's designee;
 - b. The chief financial officer of the department of humans services;
 - c. Two members representing elected county officials identified in section 11-10-02 as selected by the North Dakota association of counties;
 - d. The tax commissioner or the commissioner's designee;
 - e. The director of the office of management and budget or the director's designee;

¹⁸⁰ Section 57-15-06.7 was also amended by section 71 of Senate Bill No. 2144, chapter 439.

- f. Two county social services directors selected by the North Dakota county social services directors association; and
 - g. One member representing the North Dakota association of counties.
3. Under this section, a proposed transition plan must include a timeline for the major milestones of the transition plan, considerations for the transition, estimated costs, a plan to require a property tax reduction for the amount of the budgeted savings brought about by the transfer of county social services costs to the state, a plan resulting in the elimination of the county social services levy under section 50-06.2-05, and potential legislation to implement recommended changes. The study must include consideration of the feasibility of implementing the proposed transition plan.
 4. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 13. EFFECTIVE DATE. Sections 1, 9, and 10 of this Act become effective on August 1, 2015. Sections 2, 3, 4, 5, 7, 8, and 11 of this Act are effective for taxable years beginning after December 31, 2015.

SECTION 14. EMERGENCY. Section 6 of this Act is declared to be an emergency measure.

Approved May 12, 2015
Filed May 13, 2015

CHAPTER 330

SENATE BILL NO. 2073

(Judiciary Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-06-30 of the North Dakota Century Code, relating to security training, consultation, and assistance provided by the department of corrections and rehabilitation to the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-30 of the North Dakota Century Code is amended and reenacted as follows:

50-06-30. Interagency agreement between the department of human services and the department of corrections and rehabilitation.

The executive director of the department of human services and the director of the department of corrections and rehabilitation ~~shall enter an~~ may amend the interagency agreement entered under this section which became effective August 1, 2007. The amended agreement must provide that the department of corrections and rehabilitation shall train, consult, and assist the department of human services with the provision and enforcement of safety and security procedures at ~~state-owned facilities~~ the state hospital for all ~~individuals placed~~ patients at ~~those facilities~~ the state hospital, including those committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3 and for all staff, visitors, and volunteers at ~~those facilities~~ the state hospital. The amended interagency agreement must provide that the executive director of the department of human services shall continue to be responsible for the custody and care of ~~the individuals placed~~ patients at ~~those facilities~~ the state hospital, including those committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3, including responsibility for all assessments, evaluations, and treatment required under chapter 25-03.3, the provision of all necessary staffing, including maintenance staff, and the provision of all daily care and health care.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 331

SENATE BILL NO. 2320

(Senators J. Lee, Heckaman, Wanzek)
(Representatives Karls, Kempenich, Weisz)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to the creation of a medication therapy management program for medicaid-eligible individuals; to provide for a department of human services report to the appropriations committees; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Medication therapy management program.

1. The department shall establish a medication therapy management program available to medicaid-eligible individuals in the medical and hospital benefits coverage group. The purpose of the medication therapy management program is to coordinate health care and improve the health of individuals in the identified health populations and to manage health care expenditures.
2. The department may involve physicians, pharmacists, and other health professionals in the program. Any physicians, pharmacists, and other health professionals who provide face-to-face or telephonic medication therapy management services to covered individuals in the identified health population are entitled to reimbursement.
3. The department may request the assistance of the North Dakota pharmacists association or a specified delegate to implement a formalized medication therapy program. This program must facilitate enrollment procedures, provide standards of care, enable consistent documentation of clinical and economic outcomes, and structure an outcomes reporting system.

SECTION 2. DEPARTMENT OF HUMAN SERVICES - MEDICAID MEDICATION THERAPY MANAGEMENT PROGRAM - REPORT TO SIXTY-FIFTH LEGISLATIVE ASSEMBLY. The department of human services shall report to the appropriations committees of the sixty-fifth legislative assembly on the costs and benefits of the medication therapy management program for the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on January 1, 2016.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 332

SENATE BILL NO. 2367

(Senators Poolman, Marcellais, Rust)
(Representatives Delmore, Fehr, Larson)

AN ACT to provide for the creation of a task force on substance exposed newborns; and to provide for a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. TASK FORCE ON SUBSTANCE EXPOSED NEWBORNS - MEMBERSHIP - DUTIES - REPORT TO LEGISLATIVE MANAGEMENT.

1. The task force on substance exposed newborns is created for the purpose of researching the impact of substance abuse and neonatal withdrawal syndrome, evaluating effective strategies for treatment and prevention, and providing policy recommendations.
2. The task force consists of the following members:
 - a. The attorney general, or the attorney general's designee;
 - b. The executive director of the department of human services, or the executive director's designee;
 - c. A member of the senate, appointed by the legislative management;
 - d. A member of the house of representatives, appointed by the legislative management;
 - e. A state's attorney, appointed by the North Dakota association of counties;
 - f. A representative of the North Dakota medical association;
 - g. A representative of an addiction and recovery association, appointed by the attorney general;
 - h. A representative of the North Dakota chapter of the march of dimes;
 - i. A representative of prevent child abuse North Dakota;
 - j. The executive director of the Indian affairs commission, or the executive director's designee;
 - k. Four enrolled tribal members representing tribes located in the state, appointed by the Indian affairs commission;
 - l. A representative of the department of human services with expertise in early intervention and Part C of the Individuals with Disabilities Education Act, appointed by the executive director of the department of human services;

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- m. A representative of law enforcement, appointed by the attorney general;
 - n. A representative of the foster care community, appointed by the executive director of the department of human services;
 - o. A county social services director, appointed by the executive director of the department of human services;
 - p. A neonatologist, appointed by the North Dakota academy of pediatrics; and
 - q. A neonatal intensive care unit nurse, appointed by the state board of nursing.
3. The attorney general, or the attorney general's designee, shall serve as the chairman of the task force. The task force shall meet at least quarterly. Additional meetings may be held at the discretion of the chairman.
 4. The task force may request appropriate staff services from the department of human services.
 5. The members of the task force who are not state employees or members of the legislative assembly are entitled to mileage and expenses as provided by law for state officers and employees. Unless otherwise provided in this subsection, the expenses of appointed members are to be paid by the department of human services. A state employee who is a member of the task force is entitled to receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency. The members of the task force who are members of the legislative assembly are entitled to compensation from the legislative council for attendance at task force meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.
 6. The task force shall:
 - a. Collect and organize data concerning the nature and extent of neonatal withdrawal syndrome from substance abuse in this state;
 - b. Collect and organize data concerning the costs associated with treating expectant mothers and newborns suffering from withdrawal substance abuse;
 - c. Identify available federal, state, and local programs that provide services to mothers who abuse drugs or alcohol and to newborns who have neonatal withdrawal syndrome and evaluate those programs and services to determine if gaps in programs or ineffective policies exist; and
 - d. Evaluate methods to increase public awareness of the dangers associated with substance abuse, particularly to women, expectant mothers, and newborns.

7. Before July 1, 2016, the task force shall report its findings and recommendations and any proposed legislation necessary to implement the recommendations to the legislative management.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 333

SENATE BILL NO. 2050

(Legislative Management)
(Human Services Committee)

AN ACT to create and enact a new section to chapter 50-06.2 of the North Dakota Century Code, relating to eligibility for service payments for elderly and disabled; and to amend and reenact subsection 2 of section 50-24.1-07 of the North Dakota Century Code, relating to claims against an estate.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-06.2 of the North Dakota Century Code is created and enacted as follows:

Service payments for elderly and disabled program eligibility.

1. The state agency may not require an individual to apply for services under chapter 50-24.1 as a condition of being eligible to apply for services under the service payments for elderly and disabled program:
 - a. If the individual's estimated monthly home and community-based services benefits, excluding the cost of case management, are between the income level established in section 50-24.1-02.6 and the lowest level of the fee schedule for services under this chapter; or
 - b. If the individual is receiving a service that is not available under chapter 50-24.1.
2. The home and community-based services case manager shall notify the state agency upon use of an exception authorized under subsection 1.

SECTION 2. AMENDMENT. Subsection 2 of section 50-24.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. a. A claim may not be required to be paid nor may interest begin to accrue during the lifetime of the decedent's surviving spouse, if any, nor while there is a surviving child who is under the age of twenty-one years or is blind or permanently and totally disabled, but no timely filed claim may be disallowed because of the provisions of this section.
- b. The department may not file a claim against an estate to recover payments made on behalf of a recipient who was eligible for medicaid under section 50-24.1-37 and who received coverage through a private carrier.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 334

HOUSE BILL NO. 1256

(Representatives D. Anderson, Rich S. Becker, Mooney)

AN ACT to amend and reenact sections 50-06.4-01, 50-06.4-02, 50-06.4-04, 50-06.4-05, 50-06.4-06, 50-06.4-07, 50-06.4-08, 50-06.4-09, 50-24.1-33, and 54-38-05, and subsection 25 of section 65-01-02 of the North Dakota Century Code, relating to the definition of brain injury; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06.4-01 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-01. Definitions.

As used in this chapter:

1. "Brain injury" means any injury to the brain which occurs after birth and which is acquired through traumatic or nontraumatic insults. The term does not include hereditary, congenital, nontraumatic encephalopathy, nontraumatic aneurysm, stroke, or degenerative brain disorders or injuries induced by birth trauma.
2. "Department" means the department of human services.
2. ~~"Traumatic brain injury" means an acquired injury to the brain caused by an external physical force resulting in total or partial disability or impairment, including open and closed head injuries that may result in mild, moderate, or severe impairments in one or more areas including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem-solving, sensory-perceptual and motor abilities, psychosocial behavior, physical functioning, information processing, and speech. The term does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma, but may include brain injuries caused by anoxia and other related causes.~~

SECTION 2. AMENDMENT. Section 50-06.4-02 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-02. Department to be lead agency - Cooperation of other agencies - Joint meeting.

The department shall act as lead agency in the state for the purpose of coordinating services to ~~persons~~individuals with traumatic brain injury. At least annually the department shall call a joint meeting of the adjutant general, the state department of health, the department of veterans' affairs, and the superintendent of public instruction to discuss the provision of services to individuals with traumatic brain injury. State agencies and political subdivision agencies shall cooperate with the department to permit the department to efficiently coordinate services to

persons/individuals with traumatic brain injury while avoiding duplication of services. Neither this chapter, nor any activity undertaken by the department under this chapter, may be construed as creating a right to any benefit or service not specifically required to be granted as a condition of the receipt of grants of federal funds.

SECTION 3. AMENDMENT. Section 50-06.4-04 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-04. Authority to accept and expend grants, gifts, and services.

The department may apply for and accept any funds, grants, gifts, or services made available for the purpose of providing or coordinating services to persons/individuals with traumatic brain injury by any federal agency or department or any private agency or individual. Funds received by the department under this section must be deposited in the state treasury in a special fund designated as the traumatic brain injury fund and may be spent within the limits of legislative appropriation.

SECTION 4. AMENDMENT. Section 50-06.4-05 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-05. Traumatic ~~brain~~Brain injury - Prevention and identification activities.

The department shall provide outreach services and conduct public awareness efforts regarding the prevention and identification of traumatic brain injury.

SECTION 5. AMENDMENT. Section 50-06.4-06 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-06. Traumatic ~~brain~~Brain injury - Services and activities - Acceptance of moneys.

The department may accept and expend moneys from any public or private source, including federal sources, for any purpose involving traumatic brain injuries or the provision of services to individuals with traumatic brain injury and their families.

SECTION 6. AMENDMENT. Section 50-06.4-07 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-07. Traumatic ~~brain~~Brain injury - Informal supports - Contracts - Exemption.

1. The department shall contract with public or private entities for the provision of informal supports to individuals with traumatic brain injury. As used in this section, "informal supports" includes information sharing and referral services, peer mentoring, training, facilitation of support groups, public awareness efforts, and individual and programmatic advocacy efforts.
2. Any entity contracting with the department under this section must:
 - a. Demonstrate expertise in serving and enhancing the quality of life for individuals with traumatic brain injury;
 - b. Agree to work in cooperation with the department, case managers, and veterans' service officers; and

- c. Agree to consult with veterans and other individuals having a ~~traumatic~~ brain injury, their families, and their caregivers.
3. The department is exempt from complying with chapter 54-44.4 with respect to contracting for the provision of informal supports under this section.

SECTION 7. AMENDMENT. Section 50-06.4-08 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-08. Social and recreational services.

The department shall provide or contract for the provision of social and recreational services, including day supports, to individuals with ~~traumatic~~ brain injury, if the department determines that available vocational rehabilitative services do not meet the individuals' needs.

SECTION 8. AMENDMENT. Section 50-06.4-09 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-09. Vocational rehabilitation and consultation.

The department shall provide or contract for the provision of increased and specialized vocational rehabilitation and consultation to individuals with ~~traumatic~~ brain injury who receive case management for personal care services. Services under this section include extended support for individuals at risk of losing their employment upon exhausting their vocational services.

SECTION 9. AMENDMENT. Section 50-24.1-33 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-33. ~~Traumatic brain~~Brain injury - Home and community-based services - Outreach activities - Quality control.

1. As part of the personal care services program for eligible medical assistance recipients and as part of the department's services for eligible disabled and elderly individuals, the department shall provide home and community-based services to individuals who have moderate or severe impairments as a result of a ~~traumatic~~ brain injury. The department shall give priority under this section to individuals whose impairments are less severe or similar to those of individuals who are eligible for medicaid waivers.
2. The department shall conduct outreach and public awareness activities regarding the availability of home and community-based services to individuals who have moderate or severe impairments as a result of a ~~traumatic~~ brain injury.
3. The department shall conduct quality control activities and make training available to case managers and other persons providing services to individuals under this section.

SECTION 10. AMENDMENT. Section 54-38-05 of the North Dakota Century Code is amended and reenacted as follows:

54-38-05. Duties of department.

The department shall:

1. Study alcoholism and drug abuse and related problems, including methods and facilities available for the care, custody, detention, treatment, employment, and rehabilitation of resident alcoholics and drug dependent persons.
2. Promote meetings and programs for the discussion of alcoholism and drug abuse or any of their aspects, disseminate information on the subject of alcoholism and drug abuse for the guidance and assistance of individuals, courts, and public or private agencies for the prevention of alcoholism and drug abuse, and inform and educate the general public on problems of alcoholism and drug abuse, their prevention and treatment, to the end that alcoholism and drug abuse may be prevented and that persons suffering from alcoholism or drug dependency may be disposed to seek available treatment.
3. Conduct, promote, and finance, in full or in part, studies, investigations, and research, independently or in cooperation with universities, colleges, scientific organizations, and public or private agencies.
4. Accept for examination, diagnosis, guidance, and treatment, insofar as funds permit, any resident of the state coming to the department of that person's own volition for advice and guidance. For purposes of this subsection, "any resident" includes veterans and nonveterans who have a traumatic brain injury.
5. Establish, from time to time, policies governing the evaluation, acceptance, care, and treatment of alcoholics and drug dependent persons.
6. Develop, through consultation with the director of the department of transportation, a policy governing programs for persons who, subsequent to being convicted for traffic offenses, are referred to educational courses on alcohol, drugs, and driving.

¹⁸¹ **SECTION 11. AMENDMENT.** Subsection 25 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

25. "Permanent total disability" means disability that is the direct result of a compensable injury that prevents an employee from performing any work and results from any one of the following conditions:
 - a. Total and permanent loss of sight of both eyes;
 - b. Loss of both legs or loss of both feet at or above the ankle;
 - c. Loss of both arms or loss of both hands at or above the wrist;
 - d. Loss of any two of the members or faculties in subdivision a, b, or c;
 - e. Permanent and complete paralysis of both legs or both arms or of one leg and one arm;
 - f. Third-degree burns that cover at least forty percent of the body and require grafting;

¹⁸¹ Section 65-01-02 was also amended by section 1 of House Bill No. 1102, chapter 480.

- g. A medically documented traumatic brain injury affecting cognitive and mental functioning which renders an employee unable to provide self-care and requires supervision or assistance with a majority of the activities of daily living; or
- h. A compensable injury that results in a permanent partial impairment rating of the whole body of at least twenty-five percent pursuant to section 65-05-12.2.

If the employee has not reached maximum medical improvement within one hundred four weeks, the employee may receive a permanent partial impairment rating if a rating will assist the organization in assessing the employee's capabilities. Entitlement to a rating is solely within the discretion of the organization.

SECTION 12. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying brain injury care, specifically gathering client data from all brain injury service providers under contract with the department of human services, including information on brain injury type, age of consent, age of referral, number of brain injuries, and whether the individual was included or excluded from the service. The legislative management shall report its findings and recommendations with any legislation required to implement the recommendations to the sixty-fifth legislative assembly.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 335

SENATE BILL NO. 2062

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-09-29 of the North Dakota Century Code, relating to the administration of temporary assistance for needy families.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-09-29 of the North Dakota Century Code is amended and reenacted as follows:

50-09-29. Requirements for administration of temporary assistance for needy families.

1. Except as provided in subsections 2, 3, and 4, the department of human services, in its administration of the temporary assistance for needy families program, shall:
 - a. Provide assistance to otherwise eligible women in the third trimester of a pregnancy;
 - b. Except as provided in subdivision c, afford eligible households benefits for no more than sixty months;
 - c. Exempt eligible households from the requirements of subdivision b due to mental or physical disability of a parent or child, mental or physical incapacity of a parent, or other hardship including a parent subject to domestic violence as defined in section 14-07.1-01;
 - d. Unless an exemption, exclusion, or disregard is required by law, count income and assets whenever actually available;
 - e. Except as provided in subdivision j, and as required to allow the state to receive funds from the federal government under title IV-A, provide no benefits to noncitizen immigrants who arrive in the United States after August 21, 1996;
 - f. Limit eligibility to households with total available assets, not otherwise exempted or excluded, of a value established by the department ~~not to exceed five thousand dollars for a one-person household and eight thousand dollars for a household of two or more;~~
 - g. Exclude one motor vehicle of any value in determining eligibility;
 - h. Require work activities for all household members not specifically exempted by the department of human services for reasons such as mental or physical disability of a parent or child or mental or physical incapacity of a parent;

- i. Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies and establish numerical goals for reducing the illegitimacy rate for the state for periods through calendar year 2005;
- j. To the extent required to allow the state to receive funds from the federal government under title IV-A, provide benefits to otherwise eligible noncitizens who are lawfully present in the United States;
- k. Establish and enforce standards against program fraud and abuse;
- l. Provide employment placement programs;
- m. ~~Consider implementing an electronic fund transfer system;~~
- n. Exempt from assets and income the savings and proportionate matching funds in individual development accounts;
- ~~o-p.~~ Determine the unemployment rate of adults living in a county that includes Indian reservation lands and a significant population of Indian individuals by using unemployment data provided by job service North Dakota;
- ~~p-q.~~ When appropriate, require household members to complete high school;
- ~~q-r.~~ To the extent required to allow the state to receive funds from the federal government under title IV-A, exempt single parents from required work activities;
- ~~r-s.~~ Provide for sanctions, including termination of assistance to the household, if a household member fails to cooperate with work requirements;
- ~~s-t.~~ Provide for sanctions, including termination of assistance to the household, if a household member fails, without good cause, to cooperate with child support activities;
- ~~t-u.~~ Deny assistance with respect to a minor child absent from the household for more than one calendar month, except as specifically provided by the state agency for absences;
- ~~u-v.~~ Require each household to participate in developing an individual ~~responsibility~~employment plan and provide for sanctions, including termination of assistance to the household, if adult or minor household members age sixteen or older fail to cooperate ~~in developing an~~with the terms of the individual responsibilityemployment plan;
- ~~v-w.~~ Provide pre-pregnancy family planning services that are to be incorporated into the temporary assistance for needy families program assessment;
- ~~w-x.~~ Except in cases of pregnancy resulting from rape or incest, not increase the assistance amount to recognize the increase in household size when a child is born to a household member who was a recipient of assistance under this chapter during the probable month of the child's conception;
- ~~x-y.~~ Disregard earned income as an incentive allowance for no more than twelve months;

- y-x. Consider, and if determined appropriate, authorize demonstration projects in defined areas which may provide benefits and services that are not identical to benefits and services provided elsewhere; and
- z-y. Unless at least seven years has elapsed since the most recent felony conviction that has as an element the possession, use, or distribution of a controlled substance, deny assistance to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].
2. If the secretary of the United States department of health and human services determines that funds otherwise available for the temporary assistance for needy families program in this state must be reduced or eliminated should the department of human services administer the program in accordance with any provision of subsection 1, the department of human services shall administer the program in a manner that avoids the reduction or loss.
 3. If the department of human services determines, subject to the approval of the legislative management, that there is insufficient worker opportunity, due to increases in the unemployment rate, to participate in work activities, the department may administer the temporary assistance for needy families program in a manner different than provided in subsection 1.
 4. If the department of human services determines, subject to the approval of the legislative management, that administration of the temporary assistance for needy families program, in the manner provided by subsection 1, causes otherwise eligible individuals to become a charge upon the counties under chapter 50-01, the department may administer the program in a manner that avoids that result.

Approved March 13, 2015
Filed March 13, 2015

CHAPTER 336

SENATE BILL NO. 2065

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-10.1-02, 50-10.1-04, 50-10.1-05, and 50-10.1-07 of the North Dakota Century Code, relating to appointment of state and local ombudsmen, ombudsmen access to facilities and records, posting information about the ombudsman program, and confidentiality of ombudsman records and files.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-10.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-10.1-02. Appointment of state and ~~regional~~local long-term care ombudsmen.

The ~~executive director of the department shall appoint~~employ a state long-term care ombudsman and ~~such regional~~local long-term care ombudsmen as the ~~executive director deems~~department determines necessary within the limits of legislative appropriations.

SECTION 2. AMENDMENT. Section 50-10.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-10.1-04. Access to facilities and records.

To carry out the powers and duties of this chapter, the state long-term care ombudsman and the ombudsman's authorized agents shall:

1. Have ~~reasonable~~ access to all long-term care facilities within the state and shall have private access to any resident within any long-term care facility within the state. ~~Reasonable access is defined as access by an ombudsman during normal working hours or by appointment and upon notification to the administrator or person in charge of the facility.~~
2. Have access to all ~~personal~~social and medical records of ~~any~~a resident of a long-term care facility ~~who has sought ombudsman services, or on whose behalf such services have been sought, except that no record may be obtained without the written consent of a resident or a legal representative of a resident, or unless a court orders the disclosure if:~~
 - a. The ombudsman or the ombudsman's authorized agent has the permission of the resident or the legal representative of the resident;
 - b. Access to the records is necessary to investigate a complaint and the resident is unable to consent to the review and has no legal representative; or

- c. A legal representative of the resident refuses to give the permission and the ombudsman or the ombudsman's authorized agent has reasonable cause to believe that the legal representative is not acting in the best interests of the resident and the state long-term care ombudsman approves access.

SECTION 3. AMENDMENT. Section 50-10.1-05 of the North Dakota Century Code is amended and reenacted as follows:

50-10.1-05. ~~Chapter~~Information to be posted - Retaliation prohibited.

~~A copy of this chapter~~Information about the ombudsman program must be posted in a conspicuous place in each long-term care facility, along with ~~a statement of the right~~how to file a complaint concerning administrative actions which affect any resident and the address where a complaint may be filed. Each resident, the spouse of each resident having a spouse, and any designated representative of a resident must be provided with ~~copies of the posted documents~~information about the ombudsman program at the time the resident is admitted to the long-term care facility. A long-term care facility, and its agents, may not take or threaten retaliatory action against a resident, employee, or any other person on account of the filing of a complaint by or on behalf of that resident, or on account of the providing of information to a long-term care ombudsman constituting or relating to a complaint.

SECTION 4. AMENDMENT. Section 50-10.1-07 of the North Dakota Century Code is amended and reenacted as follows:

50-10.1-07. Confidentiality and disclosure of records and files.

Those records and files of the state and ~~regional~~local ombudsman, and their authorized agents, which relate to, or identify any resident of a long-term care facility or a complainant, are confidential and may not be disclosed unless:

1. A resident, or a legal guardian or attorney in fact, consents in writing to the release of the information and designates to whom the information must be disclosed;
2. The ombudsman authorizes a disclosure which does not reveal the identity of any complainant or resident; or
3. A court of competent jurisdiction orders the disclosure.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 337

HOUSE BILL NO. 1109

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-10.2-02 of the North Dakota Century Code, relating to health care facility residents' rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-10.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-10.2-02. Residents' rights - Implementation.

1. All facilities shall, upon a resident's admission, provide in hand to the resident and a member of the resident's immediate family or any existing legal guardian of the resident a statement of the resident's rights while living in the facility. Within thirty days after admission, the statement must be orally explained to the resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident, and thereafter annually so long as the resident remains in the facility. The statement must include rights, responsibilities of both the resident and the facility, and rules governing resident conduct. Facilities shall treat residents in accordance with provisions of the statement. The statement must include provisions ensuring each resident the following minimum rights:
 - a. The right to civil and religious liberties, including knowledge of available choices, the right to independent personal decisions without infringement, and the right to encouragement and assistance from the staff of the facility to promote the fullest possible exercise of these rights.
 - b. The right to have private meetings, associations, and communications with any person of the resident's choice within the facility.
 - c. The right of each resident, the resident's immediate family, any existing legal guardian of the resident, friends, facility staff, and other persons to present complaints on the behalf of the resident to the facility's staff, the facility's administrator, governmental officials, or to any other person, without fear of reprisal, interference, coercion, discrimination, or restraint. The facility shall adopt a grievance process and make the process known to each resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident. An individual making a complaint in good faith is immune from any civil liability that otherwise might result from making the complaint.
 - d. The right to send and receive unopened personal mail and the right of access to and use of telephones for private conversations.

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- e. The right to assured private visits by one's spouse, or if both are residents of the same facility, the right to share a room, within the capacity of the facility, unless sharing a room is not medically advisable as documented in the medical records by the attending physician.
 - f. The right to manage one's own financial affairs if not under legal guardianship, or to delegate that responsibility in writing to the administrator or manager of the facility, but only to the extent of funds held in trust by the facility for the resident. If such a trust is established, then a written quarterly accounting of any transactions made on behalf of the resident must be furnished along with an explanation by the facility to the resident or the person legally responsible for the resident.
 - g. The right to be fully informed in writing prior to or at the time of admission and during one's stay, of services provided and the charges for those services, including ancillary charges. Residents, or their legal guardians, must be informed at least thirty days prior to any change in the costs or availability of the services. No facility may demand or receive any advance payment or gratuity to assure admission.
 - h. The right to be adequately informed of one's medical condition and proposed treatment and to participate in the planning of all medical treatment, including the right to refuse medication and treatment, to be discharged from the facility upon written request, and to be notified by the resident's attending physician of the medical consequences of any such actions.
 - i. The right to have privacy in treatment and in caring for personal needs, to use personal belongings, to have security in storing and using personal possessions, and to have confidentiality in the treatment of personal and medical records. The resident has the right to view, and authorize release of, any personal or medical records.
 - j. The right to be treated courteously, fairly, and with the fullest measure of dignity.
 - k. The right to be free from mental and physical abuse and the right to be free from physical or chemical restraint except in documented emergencies or when necessary to protect the resident from injury to self or to others. In such cases, the restraint must be authorized and documented by a physician for a limited period of time and, if the restraint is a chemical one, it must be administered by a licensed nurse or physician. Except as provided in this subdivision, drugs or physical restraints may not be used or threatened to be used for the purposes of punishment, for the convenience of staff, for behavior conditioning, as a substitute for rehabilitation or treatment, or for any other purpose not part of an approved treatment plan.
 - l. The right not to be transferred or discharged except for:
 - (1) Medical reasons;
 - (2) The resident's welfare or that of other residents; or
 - (3) Nonpayment of one's rent or fees-

Residents may be temporarily transferred; or

- (4) A temporary transfer during times of remodeling.
- m. The right to receive at least a thirty-day written advance notice of any transfer or discharge when the resident is being discharged to another facility or the resident's own home, or when the resident is being transferred or discharged because of a change in the resident's level of care; ~~and the right to receive~~however, advance notice of transfer or discharge under all other circumstances to the extent not prohibited by sound medical reasons, or incompatibility which affects a resident's welfare or that of another resident may be less than thirty days if the resident has urgent medical needs that require a more immediate transfer or discharge, or a more immediate transfer or discharge is required to protect the health and safety of residents and staff within the facility.
- n. The right to refuse to perform services on behalf of the facility, unless agreed to by the resident or legal guardian and established in the plan of care.
- o. The right to a claim for relief against a facility for any violation of rights guaranteed under this chapter.
- p. The right to have each facility display a notice that the following information is available for public review and make the information available on request:
- (1) A complete copy of every inspection report, deficiency report, and plan of correction the facility received during the previous two years.
 - (2) The facility's grievance process.
 - (3) A copy of the statement of ownership, board membership, and partners.
 - (4) A statement of ownership setting forth any conflict of interest in the operation of the facility.
- q. The right to a pharmacist of the resident's choice irrespective of the type of medication distribution system used by the facility.
- r. The right to not be discriminated against by a facility in the admissions process or in the provision of appropriate care on the basis of the resident's source of payment to the facility. Any applicant for admission to a facility who is denied admission must be given the reason for the denial in writing upon request.
- s. The right of residents and their families to organize, maintain, and participate in resident advisory and family councils.
- t. The right of residents receiving services performed by a provider from outside the facility to be informed, on request, of the identity of the provider.

2. Waiver of any of the rights guaranteed by this chapter may not be made a condition of admission to a facility.
3. Each facility shall prepare a written plan and provide staff training to implement this chapter.
4. ~~The department shall hold open meetings at least once every two years in each region established by the governor's executive order 1978-12 dated October 5, 1978, having a facility, to advise and to facilitate communication and cooperation between facility personnel and the residents in their mutual efforts to improve resident care; and to document concerns and issues needing to be addressed. Appropriate advance notice must be given.~~
5. The department shall develop and coordinate with the facility licensing and regulatory agencies a relocation plan in the event a facility is decertified or unlicensed.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 338

SENATE BILL NO. 2081

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-11 of the North Dakota Century Code, relating to immunity for a person providing foster care for approving reasonable and prudent activities; and to amend and reenact section 50-11-00.1 of the North Dakota Century Code, relating to definitions used in foster care homes for children and adults.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11-00.1. Definitions.

As used in this chapter:

1. "Approval" means the approval by the department of a home of a Native American family located on a recognized Indian reservation in North Dakota or of a facility owned by the tribe or a tribal member and located on a recognized Indian reservation in North Dakota, not subject to the jurisdiction of the state of North Dakota for licensing purposes, to allow the home or facility to receive title IV-E funding.
2. "Authorized agent" means the county social service board, unless another entity is designated by the department.
3. "Department" means the department of human services.
4. "Facility" means a family foster home for adults, family foster home for children, group home, or residential child care facility for children.
5. "~~Family foster home for adults" means an occupied private residence in which foster care for adults is regularly provided by the owner or lessee thereof, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.~~
6. "Family foster home for children" means an occupied private residence in which foster care for children is regularly provided by the owner or lessee thereof to no more than four children, unless all the children in foster care are related to each other by blood or marriage or unless the department approves otherwise for the placement of siblings, in which case the limitation in this subsection does not apply.
- 7-6. "Foster care for adults" means the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour per day basis, in the home of a caregiver, to a person age eighteen or older, who is unable, neglects, or refuses to provide for the person's own care.

- 8-7. "Foster care for children" means the provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a family foster home, group home, or residential child care facility.
8. "Foster home for adults" means an occupied private residence in which foster care for adults is regularly provided by the owner or lessee of the residence, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation.
9. "Group home" means a licensed or approved residence in which foster care is regularly provided for more than four, but less~~fewer~~ than ~~ten~~thirteen, unrelated children.
10. "Residential child care facility" means a licensed or approved facility other than an occupied private residence providing foster care to ~~more than eight~~thirteen or more unrelated children, except as may be otherwise provided by rule or regulation.

SECTION 2. A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

Immunity for a person providing foster care.

A person providing foster care for children in a licensed or approved facility is immune from civil liability for any act or omission resulting in damage or injury to or by a child in foster care if, at the time of the act or omission, the person providing foster care for children applied the reasonable and prudent parent standard in a manner that protects child safety, while also allowing the child in foster care to experience age or developmentally appropriate activities.

Approved March 11, 2015
Filed March 11, 2015

CHAPTER 339

SENATE BILL NO. 2080

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 24 of section 50-11.1-02, subsections 2 and 3 of section 50-11.1-03, subsection 1 of section 50-11.1-04, subsection 9 of section 50-11.1-06.2, sections 50-11.1-13.1 and 50-11.1-17, and subsections 1, 3, and 4 of section 50-11.1-18 of the North Dakota Century Code, relating to the definition of self-declaration, early childhood services license requirements, prerequisites for issuance of a license or self-declaration, background investigations, penalty for provision of services, and the early childhood services inclusion support services and grant program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 24 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

24. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to ~~three children below the age of twenty-four months or for no more than five children through the age of eleven, of which no more than three may be under the age of twenty-four months.~~

SECTION 2. AMENDMENT. Subsections 2 and 3 of section 50-11.1-03 of the North Dakota Century Code are amended and reenacted as follows:

2. A license for group child care is required if early childhood services are provided for at least eight and no more than ~~eighteen~~thirty children at any one time.
3. A license for a child care center is required if early childhood services are provided for more than ~~eighteen~~thirty children at any one time.

SECTION 3. AMENDMENT. Subsection 1 of section 50-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. An application for operation of an early childhood program must be made on forms provided, in the manner prescribed, by the department. The department or the department's authorized agent shall investigate the applicant's activities and proposed standards of care and shall make an inspection of all premises to be used by the early childhood program applying for a license. The applicant for a license and the staff members, and, if the application is for a program that will be located in a private residence, every individual living in that residence must be investigated in accordance with the rules adopted by the department to determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. The department may use the findings of the investigation to determine licensure. Except as otherwise provided, the department shall grant a license for the operation of an early childhood program upon a showing that:

- a. The premises to be used are in fit and sanitary condition, are properly equipped to provide for the health and safety for all children, and must be maintained according to rules adopted by the department;
- b. Staff members are qualified to fulfill the duties required of them according to the provisions of this chapter and standards prescribed for their qualifications by the rules of the department;
- c. The application does not include any fraudulent or untrue representations;
- d. The owner or operator, or applicant has not had a previous license or self-declaration denied or revoked within the twelve months prior to the date of the current application;
- e. The owner or operator, or applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial cannot have occurred within the five years immediately preceding the application date;
- f. The program has paid its license fees and any penalties and sanctions assessed against the program as required by sections 50-11.1-03 and 50-11.1-07.4;
- g. The family child care owner or operator has received training and is currently certified in cardiopulmonary resuscitation by the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs that are approved by the department, and is currently certified in first aid by a program approved by the department; and
- h. The group child care, preschool, school-age child care, or child care center maintains, at all times during which early childhood services are provided, at least one person who has received training and is currently certified in cardiopulmonary resuscitation by the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs that are approved by the department, and at least one person who is currently certified in first aid by a program approved by the department.

SECTION 4. AMENDMENT. Subsection 9 of section 50-11.1-06.2 of the North Dakota Century Code is amended and reenacted as follows:

9. Any individual who is providing early childhood services solely for the provider's own children, grandchildren, nieces, nephews, and cousins as a ~~licensed provider, a nonlicensed holder of a self declaration, or an in-home provider~~ may not be required to submit to a criminal history record check authorized under section 50-06-01.9.

SECTION 5. AMENDMENT. Section 50-11.1-13.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-13.1. Penalty for provision of services - When applicable.

1. An individual who provides early childhood services to any child, other than a child who is a member of that individual's household, is guilty of a class B misdemeanor if:

- ~~1-a.~~ Those services are provided after that individual is required to register as a sexual offender;
 - ~~2-b.~~ The department has denied that individual's application for licensure, or self-declaration, or registration to provide early childhood services or has revoked that individual's license, self-declaration, or registration document to provide early childhood services following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that individual; or
 - ~~3-c.~~ The individual allows another individual to be in the presence of the child receiving early childhood services if that other individual is required to register as a sexual offender or has had an application for licensure, self-declaration, or registration to provide early childhood services denied or revoked by the department following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that other individual.
2. An individual is not guilty of a class B misdemeanor under paragraphs b and c of subsection 1 if the department has made a determination that the individual is able to provide care that is free of abuse and neglect, in spite of a finding that services are required under chapter 50-25.1, which has become final or has not been contested.

SECTION 6. AMENDMENT. Section 50-11.1-17 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-17. Application for self-declaration - Prerequisites for approval - Approval - Term.

1. Applications for self-declarations must be made on forms provided and in the manner prescribed by the department. The department or the department's authorized agent shall investigate the applicant and every individual living in the private residence and shall conduct a background check. The department or the department's authorized agent shall conduct the investigation in accordance with the rules adopted by the department and shall determine whether any of them has a criminal record or has had a finding of services required for child abuse or neglect filed against them. Except as otherwise provided, the department shall approve a self-declaration upon the applicant's declaration that:
 - a. The premises to be used are in fit and sanitary condition to provide for the health and safety of all children and shall be maintained according to the standards prescribed by the rules of the department;
 - b. The applicant is able to provide for the health and safety of each child receiving early childhood services from the applicant according to this chapter and standards prescribed by the department as set forth in its rules;
 - c. The applicant has not had a previous license or self-declaration denied or revoked within the twelve months before the date of the current application;

- d. The applicant has not had three or more previous licenses or self-declarations denied or revoked. The most recent revocation or denial cannot have occurred within five years of the application date;
 - e. The applicant has paid the required application fees;
 - f. The applicant has paid any penalties and sanctions assessed against the program required by ~~sections~~ sections 50-11.1-03 and 50-11.1-07.4;
 - g. The applicant is currently certified in cardiopulmonary resuscitation by the American heart association, the American red cross, or a similar cardiopulmonary resuscitation training program approved by the department;
 - h. The applicant is currently certified in first aid through a training program approved by the department; and
 - i. The application does not include any fraudulent or untrue representations.
2. The department may consider the early childhood services history of the applicant in determining issuance of a self-declaration document.
 3. The department may issue a provisional self-declaration document in accordance with the rules of the department.

SECTION 7. AMENDMENT. Subsections 1, 3, and 4 of section 50-11.1-18 of the North Dakota Century Code are amended and reenacted as follows:

1. The department may establish in collaboration with the department of commerce an early childhood services inclusion grant program for ~~licensed~~ early childhood services providers that provide, or applicants for licensure who indicate they will provide, care for children with disabilities or developmental delays. The grant program must be designed to:
 - a. ~~Increase the number of staff in the adult to child ratio to~~ Support the staffing needs to expand supervision ~~and the ability to care for children with disabilities or developmental delays;~~ and
 - b. Assist in modifying or adapting the early childhood services setting as needed to address the health and, safety, and developmental needs of children with disabilities or developmental delays.
3. The department may establish a grant review committee to assist in the development of grant guidelines, the review of applications, and the determination of awards or denials. The membership of the grant review committee must include representation from each of the following:
 - a. The department of human services;
 - b. The department of public instruction;
 - c. The North Dakota training and information center;
 - d. ~~North Dakota child care resource and referral~~ Child care aware of North Dakota; and

- e. Parents of children with disabilities or at risk for developmental delays; and
 - f. Other appropriate partners.
4. To be eligible for the grant program, the early childhood services provider must:
- a. Be state-licensed, self-declared, or in the process of applying for licensure;
 - b. Submit a letter from the provider's county social services office confirming the provider's licensing status;
 - c. Submit a letter from aCollaborate with service provider that providesproviders that provide formal supports to the child confirming an increased funding need to assist the provider in serving the child with disabilitiesor children with disabilities or developmental delays; and
 - d-c. Work with the child's family and an inclusion or health specialist to complete a care plan appropriate for the child care setting.

Approved March 18, 2015

Filed March 18, 2015

CHAPTER 340

HOUSE BILL NO. 1247

(Representatives Oversen, Delmore, Hawken, Kiefert, Larson, Rohr)
(Senators Grabinger, Oban)

AN ACT to create and enact a new section to chapter 50-11.1 of the North Dakota Century Code, relating to early childhood services training on safe sleep practices for infants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Early childhood services providers - Training on infant safe sleep practices.

The department shall adopt rules to require an early childhood service provider and the provider's staff members who are responsible for the care or teaching of children under the age of one to annually complete a department approved sudden infant death syndrome prevention training course.

Approved April 9, 2015

Filed April 9, 2015

CHAPTER 341

HOUSE BILL NO. 1041

(Legislative Management)
(Health Care Reform Review Committee)

AN ACT to amend and reenact section 50-24.1-37 of the North Dakota Century Code, relating to pharmacy benefit management services for the medicaid expansion program; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-37. (Effective January 1, 2014, through July 31, 2017) Medicaid expansion.

1. The department of human services shall expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] to individuals under sixty-five years of age with income below one hundred thirty-eight percent of the federal poverty level, based on modified adjusted gross income.
2. The department of human services shall inform new enrollees in the medical assistance program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.
3. The department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange. The contract between the department and the private carrier must:
 - a. Provide a reimbursement methodology for all medications and dispensing fees which identifies the minimum amount paid to pharmacy providers for each medication. The reimbursement methodology, at a minimum, must:
 - (1) Be available on the department's website; and
 - (2) Encompass all types of pharmacy providers regardless of whether the pharmacy benefits are being paid through the private carrier or contractor or subcontractor of the private carrier under this section.
 - b. Provide full transparency of all costs and all rebates in aggregate.
 - c. Allow an individual to obtain medication from a pharmacy that provides mail order service; however, the contract may not require mail order to be the sole method of service.
 - d. Ensure that pharmacy services obtained in jurisdictions other than this state and its three contiguous states are subject to prior authorization and reporting to the department for eligibility verification.

- e. Ensure the payments to pharmacy providers do not include a required payback amount to the private carrier or one of the private carrier's contractors or subcontractors which is not representative of the amounts allowed under the reimbursement methodology provided in subdivision a.
- f. Any information provided to the department of human services or any audit firm by a pharmacy benefit manager under this section is confidential under section 44-04-17.1.

SECTION 2. APPLICATION. This Act applies to a contract entered or renewed on or after the effective date of this Act.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 342

SENATE BILL NO. 2043

(Legislative Management)
(Health Services Committee)

AN ACT to create and enact a new section to chapter 50-24.1 and a new subsection to section 50-24.6-04 of the North Dakota Century Code, relating to medical assistance coverage for the services of licensed community paramedics, advanced emergency medical technicians, emergency medical technicians, and drug manufacturer rebates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Health-related services - Licensed community paramedics.

The department of human services shall adopt rules governing payments to licensed community paramedics, advanced emergency medical technicians, and emergency medical technicians for health-related services provided to recipients of medical assistance, subject to necessary limitations and exclusions. A physician or an advanced practice registered nurse must supervise any care provided by a licensed community paramedic, an advanced emergency medical technician, or emergency medical technician.

SECTION 2. A new subsection to section 50-24.6-04 of the North Dakota Century Code is created and enacted as follows:

The department may negotiate additional rebates from drug manufacturers to supplement the rebates required by federal law governing the medical assistance program. Additionally, the department may join a multistate supplemental drug rebate pool, and if the department negotiates additional rebates outside this pool, any other manufacturer must be allowed to match those rebates.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 343

SENATE BILL NO. 2046

(Legislative Management)
(Human Services Committee)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medical assistance coverage for certain behavioral health services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Behavioral health services - Licensed marriage and family therapists.

Beginning January 1, 2016, the department of human services shall allow licensed marriage and family therapists to enroll and be eligible for payment for behavioral health services provided to recipients of medical assistance, subject to limitations and exclusions the department determines necessary.

Approved April 22, 2015

Filed April 22, 2015

CHAPTER 344

HOUSE BILL NO. 1277

(Representatives Fehr, Hofstad, B. Koppelman, Lefor)
(Senators Cook, Rust)

AN ACT to amend and reenact section 50-24.4-07 of the North Dakota Century Code, relating to the exclusion of sales tax revenue as an offset to costs in setting nursing home rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸² **SECTION 1. AMENDMENT.** Section 50-24.4-07 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-07. Nonallowable costs.

1. The following costs may not be recognized as allowable: political contributions; salaries or expenses of a lobbyist, as defined in section 54-05.1-02, for lobbying activities; advertising designed to encourage potential residents to select a particular nursing home; fines and penalties; legal and related expenses for unsuccessful challenges to decisions by governmental agencies; memberships in sports, health, or similar social clubs or organizations; and costs incurred for activities directly related to influencing employees with respect to unionization. The department by rule shall exclude the costs of other items or services not directly related to the provision of resident care.
2. Nonallowable costs include the education expense unless:
 - a. The education was provided by an accredited academic or technical educational facility;
 - b. The education expense was for materials, books, or tuition;
 - c. The facility claims the education expense, annually, in an amount not to exceed three thousand seven hundred fifty dollars for each individual; and
 - d. The amount of education expense claimed for an individual does not exceed fifteen thousand dollars in the aggregate.
3. The education expense may be claimed the year in which it is expended.
4. For any individual who receives education assistance, the facility shall enter a contract with the individual which stipulates a minimum commitment to work for the facility as well as a repayment plan if the individual does not fulfill the contract obligations.

¹⁸² Section 50-24.4-07 was also amended by section 1 of House Bill No. 1353, chapter 345.

5. An individual who receives education assistance shall commit to a minimum of one thousand six hundred sixty-four hours of employment after completion of the educational program for each year education assistance was provided by the facility.
6. The facility shall report the education expense separately on the facility's cost report. The expense is allowed as a passthrough and is limited only by the fifteen thousand dollar maximum per individual.
7. If an individual defaults on a contract and education expenses for the individual have previously been claimed in any report year, the facility shall report the amount of repayment on the facility's cost report in the report year in which the default occurs.
8. The department shall exclude sales tax revenue received from a political subdivision or local taxing authority as an offset to costs for facilities located in communities with a population below twelve thousand five hundred people.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 345

HOUSE BILL NO. 1353

(Representatives Kreidt, Bellew, Hofstad, Rohr, Seibel, Silbernagel, Weisz)
(Senator Unruh)

AN ACT to amend and reenact section 50-24.4-07 of the North Dakota Century Code, relating to nonallowable costs in determining nursing home rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸³ **SECTION 1. AMENDMENT.** Section 50-24.4-07 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-07. Nonallowable costs.

1. The following costs may not be recognized as allowable: political contributions; salaries or expenses of a lobbyist, as defined in section 54-05.1-02, for lobbying activities; advertising designed to encourage potential residents to select a particular nursing home; fines and penalties; legal and related expenses for unsuccessful challenges to decisions by governmental agencies; memberships in sports, health, or similar social clubs or organizations; and costs incurred for activities directly related to influencing employees with respect to unionization. The department by rule shall exclude the costs of other items or services not directly related to the provision of resident care.
2. Nonallowable costs include the education expense unless:
 - a. The education was provided by an accredited academic or technical educational facility;
 - b. The education expense was for materials, books, or tuition; and
 - c. ~~The facility claims the education expense, annually, in an amount not to exceed three thousand seven hundred fifty dollars for each individual; and~~
 - d. The amount of education expense claimed for an individual does not exceed fifteen thousand dollars in the aggregate.
3. The education expense may be claimed the year in which it is expended.
4. For any individual who receives education assistance, the facility shall enter a contract with the individual which stipulates a minimum commitment to work for the facility as well as a repayment plan if the individual does not fulfill the contract obligations.
5. An individual who receives the maximum of fifteen thousand dollars of education assistance shall commit to a minimum of ~~one thousand six hundred~~

¹⁸³ Section 50-24.4-07 was also amended by section 1 of House Bill No. 1277, chapter 344.

~~sixty-four~~ six thousand six hundred fifty-six hours of employment after completion of the educational program for each year education assistance was provided by the facility. The number of hours of employment required may be prorated for an individual who receives less than the maximum of fifteen thousand dollars of education assistance.

6. The facility shall report the education expense separately on the facility's cost report. The expense is allowed as a passthrough and is limited only by the fifteen thousand dollar maximum per individual.
7. If an individual defaults on a contract and education expenses for the individual have previously been claimed in any report year, the facility shall report the amount of repayment on the facility's cost report in the report year in which the default occurs.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 346

HOUSE BILL NO. 1234

(Representatives Weisz, Porter)

AN ACT to amend and reenact section 50-24.4-15 of the North Dakota Century Code, relating to nursing home rate determination.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-15 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-15. Property-related costs.

1. The department shall include in the ratesetting system for nursing homes a payment mechanism for the use of real and personal property which provides for depreciation and related interest costs. The property cost payment mechanism must:
 - a. Recognize the valuation basis of assets acquired in a bona fide transaction as an ongoing operation after July 1, 1985, limited to the lowest of:
 - (1) Purchase price paid by the purchaser;
 - (2) Fair market value at the time of sale; or
 - (3) Seller's cost basis, increased by one-half of the increase in the consumer price index for all urban consumers (United States city average) from the date of acquisition by the seller to the date of acquisition by the buyer, less accumulated depreciation.
 - b. Recognize depreciation on land improvements, buildings, and fixed equipment acquired, as an ongoing operation over the estimated useful remaining life of the asset as determined by a qualified appraiser.
 - c. Recognize depreciation on movable equipment acquired as an ongoing operation after August 1, 1995, over a composite remaining useful life.
 - d. Provide for an interest expense limitation determined by the department and established by rule.
 - e. Establish a per bed property cost limitation considering single and double occupancy construction. The double room limit effective July 1, 2015, is one hundred fifty-six thousand seven hundred eighty-three dollars and the single room limit is two hundred thirty-five thousand one hundred seventy-six dollars.
 - f. Recognize increased lease costs of a nursing home operator to the extent the lessor has incurred increased costs related to the ownership of the

facility, the increased costs are charged to the lessee, and the increased costs would be allowable had they been incurred directly by the lessee.

- g. Recognize any mandated costs, fees, or other moneys paid to the attorney general through transactions under sections 10-33-144 through 10-33-149.
2. For rate years beginning after December 31, 2003, the limitations of paragraph 3 of subdivision a of subsection 1 do not apply to the valuation basis of assets purchased between July 1, 1985, and July 1, 2000. The provisions of this subsection may not be applied retroactively to any rate year before July 1, 2005.
3. For rate years beginning after December 31, 2007, the limitations of subdivision e of subsection 1 do not apply to the valuation basis of assets acquired as a result of a natural disaster before December 31, 2006. The provisions of this subsection may not be applied retroactively to any rate year before January 1, 2008.

Approved April 24, 2015
Filed April 24, 2015

CHAPTER 347

SENATE BILL NO. 2082

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to eligibility for basic care assistance; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Aged" means at least sixty-five years of age.
2. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
3. "Congregate housing" means housing shared by two or more individuals not related to each other which is not provided in an institution.
4. "County agency" means the county social service board.
5. "Department" means the department of human services.
6. "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
7. "Eligible beneficiary" means a resident of this state who:
 - a. (1) Is aged; or
(2) Is at least eighteen years of age and is disabled or blind;
 - b. (1) Has applied for and is eligible to receive and receives benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied for and is receiving benefits, if the individual is eligible to receive benefits, under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.]; or
(2) Has applied for and is eligible to receive and receives benefits under section 50-24.1-37 for long-term services and supports pursuant to an

asset test established under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and section 50-24.1-02:

- c. Meets the requirements of section 23-09.3-08.1;
 - d. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:
 - (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment, which require care in a licensed adult family foster care home or an assisted living facility; or
 - (2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and
 - e. Is determined to be eligible pursuant to rules adopted by the department.
8. "Institution" means a facility licensed under chapter 23-09.3.
 9. "Living independently" includes living in congregate housing. The term does not include living in an institution.
 10. "Personal needs allowance" means an amount retained by the eligible beneficiary to cover the costs of clothing and other personal needs.
 11. "Proprietor" means an individual responsible for day-to-day administration and management of a facility.
 12. "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.
 13. "Would be eligible to receive the cash benefits except for income" refers to an individual whose countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus the amount allowed as the personal needs allowance.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 11, 2015
Filed March 11, 2015

CHAPTER 348

HOUSE BILL NO. 1359

(Representatives Kreidt, Hofstad, Kempenich, J. Nelson)
(Senator Unruh)

AN ACT to create and enact section 50-24.5-02.3 of the North Dakota Century Code, relating to basic care payment rates; and to amend and reenact sections 50-32-02 and 50-32-04 of the North Dakota Century Code, relating to assisted living facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 50-24.5-02.3 of the North Dakota Century Code is created and enacted as follows:

50-24.5-02.3. Basic care payment rates.

1. The department shall establish, by rule, procedures for determining rates for the care of residents of basic care facilities that qualify as vendors of an aged, blind, and disabled persons program and for implementing provisions of this chapter. The procedures must be based on methods and standards that the department finds are adequate to recognize the costs that must be incurred for the care of residents in efficiently and economically operated basic care facilities.
2. The department shall identify costs that are recognized for establishing payment rates.
3. For the rate year beginning July 1, 2016, the department shall establish the limits by using the average of the highest and lowest rates from the 2014 rate year. The direct care limit must be ninety-five percent of the average and the indirect care limit must be ninety percent of the average. Beginning with the July 1, 2017, rate year, the department shall adjust the limits by using the cost percentage change from the prior two rate years, within the limits of legislative appropriations.
4. The department shall provide, by rule, within the limits of legislative appropriations, for payment of rates paid by the aged, blind, and disabled persons program for a maximum of thirty days per occurrence for leave days for a resident who is in a licensed health care facility when the resident is expected to return to the facility.
5. Within the limits of legislative appropriations, the department shall establish an uncompensated care expense of one hundred eighty days.

SECTION 2. AMENDMENT. Section 50-32-02 of the North Dakota Century Code is amended and reenacted as follows:

50-32-02. Licensing of assisted living facilities - Penalty.

1. An entity may not keep, operate, conduct, manage, or maintain an assisted living facility or use the term "assisted living" in its advertising unless it is licensed by the department.
2. An assisted living facility shall pay to the department an annual license fee of seventy-five dollars for each facility. License fees collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.
3. An assisted living facility shall apply annually to the department for a license. After the fifty-ninth day following the notification of noncompliance with annual licensing, the department may assess a fine of up to fifty dollars per day against an entity that provides assisted living services or uses the term assisted living in its marketing without a license approved by the department. Fines collected under this section must be deposited in the department's operating fund in the state treasury. An expenditure from the fund is subject to appropriation by the legislative assembly.
4. If there are one or more deficiencies or a pattern of deficiencies related to quality of care or compliance with licensing requirements, the department may issue a provisional license. A provisional license may not be valid for more than ninety days. A provisional license may be renewed once for no longer than an additional ninety days. If the deficiencies have not been corrected upon the expiration of a provisional license, the department may deny the assisted living facility's application or revoke its license.
5. Religious orders providing individualized support services to vowed members residing in the order's retirement housing are not subject to this chapter.
- 5-6. No more than two people may occupy one bedroom of each living unit of an assisted living facility.

SECTION 3. AMENDMENT. Section 50-32-04 of the North Dakota Century Code is amended and reenacted as follows:

50-32-04. Assisted living facility health services - Limitations on hospice services.

1. An entity may provide health services to individuals residing in an assisted living facility owned or operated by that entity. For purposes of this section, health services means services provided to an individual for the purpose of preventing disease and promoting, maintaining, or restoring health or minimizing the effects of illness or disability.
2. A tenant of an assisted living facility who is in need of hospice services and who exceeds tenancy criteria, as determined by the facility, may remain in the facility only if the tenant contracts with a third party, such as a hospice agency, or utilizes family support, or both, to meet those needs.

Approved April 27, 2015
Filed April 27, 2015

CHAPTER 349

SENATE BILL NO. 2237

(Senators J. Lee, Dever, Mathern)
(Representatives Beadle, Delmore, Hofstad)

AN ACT to amend and reenact section 50-31-06 of the North Dakota Century Code, relating to information received by the department of human services for substance abuse treatment programs; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-31-06 of the North Dakota Century Code is amended and reenacted as follows:

50-31-06. Information confidential.

~~Information~~Client records and client information that are protected under title 42, Code of Federal Regulations, part 2, the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.], or are specifically excluded from disclosure by other state or federal law, and which are received by the department through inspections of programs under this chapter are confidential and may not be disclosed except in a proceeding involving the issuance of a license. As used in this section, client records and client information does not include statistical program information or information regarding an applicant's or provider's programs.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 2015
Filed March 25, 2015

SALES AND EXCHANGES

CHAPTER 350

SENATE BILL NO. 2182

(Senators Poolman, Casper, Nelson)
(Representatives K. Koppelman, Kretschmar, Amerman)

AN ACT to amend and reenact sections 51-04-10 and 51-15-02, subsection 2 of section 51-18-02, and sections 51-18-04 and 51-18-04.1 of the North Dakota Century Code, relating to transient merchants, unlawful practices, and home solicitation sales; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-04-10 of the North Dakota Century Code is amended and reenacted as follows:

51-04-10. Penalty.

Any person violating any of the provisions of this chapter, for which another penalty is not specifically provided, is guilty of a class B misdemeanor. The state's attorney or attorney general may enforce this chapter. The attorney general in enforcing this chapter has all the powers provided in this chapter and chapter 51-15 and may seek all remedies in this chapter and chapter 51-15. A violation of this chapter constitutes a violation of chapter 51-15. The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties in chapter 51-15, or otherwise provided by law. The attorney general may bring an action pursuant to this section in either the county where the transient merchant conducted business or Burleigh County.

SECTION 2. AMENDMENT. Section 51-15-02 of the North Dakota Century Code is amended and reenacted as follows:

51-15-02. Unlawful practices - Fraud - Misrepresentation - Unconscionable.

The act, use, or employment by any person of any deceptive act or practice, fraud, false pretense, false promise, or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is declared to be an unlawful practice. The act, use, or employment by any person of any act or practice, in connection with the sale or advertisement of any merchandise, which is unconscionable or which causes or is likely to cause substantial injury to a person which is not reasonably avoidable by the injured person and not outweighed by countervailing benefits to consumers or to competition, is declared to be an unlawful practice.

SECTION 3. AMENDMENT. Subsection 2 of section 51-18-02 of the North Dakota Century Code is amended and reenacted as follows:

2. Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address or electronic mail address specified for notice of cancellation provided by the seller by any of the following methods:
 - a. Delivering written notice to the seller.
 - b. Mailing written notice to the seller.
 - c. Sending a ~~telegram~~ electronic mail message to the seller.

SECTION 4. AMENDMENT. Section 51-18-04 of the North Dakota Century Code is amended and reenacted as follows:

51-18-04. Agreement requirement.

No agreement of the buyer in a personal solicitation sale is enforceable unless it is in writing, dated, contains the signature of the buyer, and contains a conspicuous notice in substantially the following form:

NOTICE TO BUYER

1. Do not sign this agreement if any of the spaces intended for the agreed terms to the extent of then available information are left blank.
2. You are entitled to a copy of this agreement at the time you sign it.
3. You may pay off the full unpaid balance due under this agreement at any time, and in so doing you may receive a full rebate of the unearned finance and insurance charges.
4. You may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.
5. The seller cannot enter your premises unlawfully or commit any breach of the peace to repossess goods purchased under this agreement.

The agreement must also have attached the following completed form, in duplicate:

NOTICE OF CANCELLATION

(Enter date of transaction)

1. You may cancel this transaction, without any penalty or obligation, within three business days from the above date.
2. If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.
3. If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the

instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

4. If you do make the goods available to the seller and the seller does not pick them up within twenty days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.
5. Buyer acknowledges receiving an oral notification that the buyer may cancel this transaction at any time before midnight of the third business day after the date of this transaction or fifteen business days if the buyer is sixty-five years of age or older.

(Date)

(Buyer's signature)

6. To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send ~~a telegram~~ an electronic mail message to (electronic mail address of seller), to (name of seller), at (address of seller's place of business) not later than midnight of (date).

I hereby cancel this transaction.

(Date)

(Buyer's signature)

If the buyer is sixty-five years of age or older, and the purchase price of the product is greater than fifty dollars, the agreement required by this chapter must either state that the buyer may cancel the agreement within fifteen business days in accordance with this chapter, or state in a conspicuous manner that if the buyer is not satisfied with the product for any reason, the buyer may contact the seller within a period of not less than thirty days from the date of purchase for a full refund of the purchase price, if the product has not been intentionally damaged or misused.

SECTION 5. AMENDMENT. Section 51-18-04.1 of the North Dakota Century Code is amended and reenacted as follows:

51-18-04.1. Notice to consumer - Contract requirement for sales by telepromoter.

In addition to the requirements of section 51-18-04, an agreement by a consumer to obtain a consumer good or service from a telepromoter, seller, or seller's representative is not enforceable unless it contains the following information:

1. The name, address, and telephone number of the telepromoter, seller, or seller's representative;
2. A statement of the price or fee, including any handling, shipping, delivery, or other charge being requested;
3. A detailed description of the consumer good or service; and
4. In a type size in a minimum of twelve points, in a space immediately preceding the space allotted for the consumer signature, the statement: "YOU ARE NOT

OBLIGATED TO PAY ANY MONEY UNLESS YOU SIGN THIS CONTRACT
AND RETURN IT TO THE SELLER."

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 351

HOUSE BILL NO. 1346

(Representatives Vigesaa, M. Nelson, Trottier)
(Senators Burckhard, Klein, O'Connell)

AN ACT to amend and reenact subsection 2 of section 51-13-02 and section 51-13-07 of the North Dakota Century Code, relating to retail installment sales contracts; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 51-13-02 of the North Dakota Century Code is amended and reenacted as follows:

2. a. If the retail installment sale for which the retail installment contract is made is not subject to the Truth in Lending Act [15 U.S.C. 1601-1667ef], or if the retail installment sale is subject to that Act and the seller does not comply with all the requirements of that Act, this subsection applies.
 - a. The printed portion of the contract must be in at least eight-point type. The contract must contain printed or written in a size equal to at least ten-point bold type:
 - (1) Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "RETAIL INSTALLMENT CONTRACT".
 - (2) A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case.
 - (3) The following notice: "NOTICE TO THE BUYER: 1. Do not sign this contract before you read it or if it contains any blank space. 2. You are entitled to a completely filled-in copy of this contract when you sign it. 3. Under the law, you have the following rights, among others: (a) to pay off in advance the full amount due and to obtain a partial refund of the finance charge; (b) to redeem the property if repossessed for a default within the time provided by law; (c) to require, under certain conditions, a resale of the property if repossessed. 4. If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."
 - b. The seller shall deliver to the buyer a legible copy of the contract or any other document the seller has required or requested the buyer to sign. Until the seller does so, a buyer who has not received delivery of the personal property has an unconditional right to cancel the contract and to receive immediate refund of all payments made and redelivery of all goods traded in to the seller on account of or in contemplation of the contract. Any acknowledgment by the buyer of delivery of a copy of the contract must be printed or written in a size equal to at least ten-point bold type and, if contained in the contract, must also appear directly above the

space reserved for the buyer's signature. The buyer's written acknowledgment of delivery of a copy of a contract is conclusive proof of such delivery and of compliance with this subdivision in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when the assignee purchases the contract.

c. The contract must contain:

- (1) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the personal property including its make, year model, model and identification numbers or marks, if any, and whether it is new or used.
- (2) The cash price of the personal property which is the subject matter of the retail installment sale.
- (3) The amount of the buyer's downpayment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.
- (4) The difference between paragraphs 2 and 3, which is the unpaid balance of cash price.
- (5) The amount, if any, included for insurance, specifying the coverages.
- (6) The amount, if any, of official fees.
- (7) The amount financed, which is the sum of paragraphs 4, 5, and 6.
- (8) The amount of the finance charge, if any.
- (9) The total of payments, which is the sum of paragraphs 7 and 8, payable by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars, and the due date or period thereof.
- (10) The deferred payment price, which is the sum of the amounts determined in paragraphs 2, 5, 6, and 8.
- (11) If any installment substantially exceeds in amount any prior installment other than the downpayment, the following legend printed in at least ten-point bold type or typewritten: "THIS CONTRACT IS NOT PAYABLE IN INSTALLMENTS OF EQUAL AMOUNTS", followed, if there be but one larger installment, by: "AN INSTALLMENT OF \$_____ WILL BE DUE ON _____", or, if there be more than one larger installment, by: "LARGER INSTALLMENTS WILL BE DUE AS FOLLOWS: _____", in such latter case inserting the amount of every larger installment and its due date.
- (12) Any balloon payments. If any payment under a contract is more than twice the amount of an otherwise regularly scheduled equal payment, the seller shall identify the amount of such payment by the term "balloon payment".

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the calculations involved in determining the amount to be paid by the buyer.

- d. If the cost of any insurance is included in the contract and a separate charge is made to the buyer for the insurance:

(1) The contract must state whether the insurance is to be procured by the buyer or the seller.

(2) If the insurance is to be procured by the seller or holder, the seller or holder shall within thirty days after execution of the retail installment contract send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state and sold by a licensed insurance agent.

If any such policy or certificate is canceled, the unearned insurance premium refund received by the holder of the contract must be credited to the final maturing installments of the retail installment contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and holder of the contract or either of them.

- e. A contract may provide for the payment by the buyer of a delinquency and collection charge on each installment in default for a period of more than ten days in an amount equal to ten percent of the delinquent installment payment or ten dollars, whichever is less; provided, that only one such delinquency and collection charge may be collected on each installment in addition to interest accruing thereon.
- f. No retail installment contract may be signed by any party thereto when it contains blank spaces to be filled in after it has been signed except that, if delivery of the personal property is not made at the time of the execution of the contract, the identifying numbers or marks of the property or similar information and the due date of the first installment may be inserted in the contract after its execution.

SECTION 2. AMENDMENT. Section 51-13-07 of the North Dakota Century Code is amended and reenacted as follows:

51-13-07. Enforcement - Powers - Remedies - Penalties.

Any person who willfully violates this chapter is guilty of a class A misdemeanor. A willful violation of section 51-13-02 or 51-13-03 by any person bars that person's recovery of any finance charge or delinquency or collection charge on the retail installment contract involved. A state's attorney or the attorney general may enforce this chapter. The attorney general in enforcing this chapter has all the powers provided in this chapter and chapter 51-15 and may seek all remedies in this chapter and chapter 51-15. A violation of this chapter constitutes a violation of chapter 51-15. The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties in chapter 51-15, or otherwise provided by law.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 352

SENATE BILL NO. 2214

(Senators Casper, Burckhard, Robinson)
(Representatives Beadle, Oversen, Silbernagel)

AN ACT to amend and reenact subsection 4 of section 51-30-01 and section 51-30-02 of the North Dakota Century Code, relating to security breach notification.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 51-30-01 of the North Dakota Century Code is amended and reenacted as follows:

4. a. "Personal information" means an individual's first name or first initial and last name in combination with any of the following data elements, when the name and the data elements are not encrypted:
 - (1) The individual's social security number;
 - (2) The operator's license number assigned to an individual by the department of transportation under section 39-06-14;
 - (3) A nondriver color photo identification card number assigned to the individual by the department of transportation under section 39-06-03.1;
 - (4) The individual's financial institution account number, credit card number, or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial accounts;
 - (5) The individual's date of birth;
 - (6) The maiden name of the individual's mother;
 - (7) Medical information;
 - (8) Health insurance information;
 - (9) An identification number assigned to the individual by the individual's employer in combination with any required security code, access code, or password; or
 - (10) The individual's digitized or other electronic signature.
- b. "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

SECTION 2. AMENDMENT. Section 51-30-02 of the North Dakota Century Code is amended and reenacted as follows:

51-30-02. Notice to attorney general and consumers.

Any person ~~that conducts business in this state, and~~ that owns or licenses computerized data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of the state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. In addition, any person that experiences a breach of the security system as provided in this section shall disclose to the attorney general by mail or email any breach of the security system which exceeds two hundred fifty individuals. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in section 51-30-04, or any measures necessary to determine the scope of the breach and to restore the integrity of the data system.

Approved April 13, 2015

Filed April 13, 2015

CHAPTER 353

HOUSE BILL NO. 1163

(Representatives Keiser, Delmore, K. Koppelman)
(Senators Armstrong, Grabinger, Hogue)

AN ACT to create and enact chapter 51-36 of the North Dakota Century Code, relating to bad faith assertions of patent infringement; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 51-36 of the North Dakota Century Code is created and enacted as follows:

51-36-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Demand letter" means a letter, email, or other communication asserting or claiming the target engaged in patent infringement.
2. "Target" means any person:
 - a. That receives a demand letter or against whom an assertion or allegation of patent infringement is made;
 - b. That is threatened with litigation or against whom a lawsuit is filed alleging patent infringement; or
 - c. Whose customer receives a demand letter asserting that the person's product, service, or technology infringes a patent.

51-36-02. Bad faith assertion of patent infringement prohibited.

A person may not make a bad faith assertion of patent infringement as prohibited by this chapter.

51-36-03. Factors for bad faith assertion of infringement.

A court may consider any of the following factors as evidence a person made a bad faith assertion of patent infringement:

1. The demand letter does not contain the following information:
 - a. The patent number;
 - b. The name and address of the patent owner and assignee, if any; or
 - c. Factual allegations concerning the specific areas in which the target's product, service, or technology infringe the patent or are covered by the claim in the patent.

2. Before sending the demand letter, the person fails to conduct an analysis comparing the claim in the patent to the target's product, service, or technology, or such an analysis was done but does not identify the specific area in which the product, service, or technology is covered by the claim in the patent.
3. The demand letter lacks the information described in subsection 1, the target requests the information, and the person fails to provide the information within a reasonable period of time.
4. The demand letter demands payment of a license fee or a response within an unreasonably short period of time.
5. The person offers to license the patent for an amount that is not based on a reasonable estimate of the value of the license.
6. The claim of patent infringement is unenforceable and the person knew, or should have known, the claim is unenforceable.
7. The claim of patent infringement is deceptive.
8. The person, a subsidiary, or an affiliate previously filed or threatened to file a lawsuit based on the same or a similar claim of patent infringement and:
 - a. The threat or lawsuit lacked the information described in subsection 1; or
 - b. The person attempted to enforce the claim of patent infringement in litigation and a court found the claim to be unenforceable.
9. The person making the assertion of infringement of a patent does not own or have the right to enforce or license the patent.
10. The person sent the same demand or substantially same demand to multiple recipients and made assertions against a variety of products and systems without reflecting product and system differences in a reasonable manner in the demands.
11. The person threatens legal action that cannot legally be taken or that is not intended to be taken.
12. The person represents a complaint has been filed alleging the target has infringed the patent when no complaint has been filed.
13. The claim of patent infringement is based on a patent or a claim of a patent that has expired or previously been held invalid or unenforceable in a final unappealable or unappealed judicial or administrative decision.
14. Any other factor the court finds relevant.

51-36-04. Factors for claim of patent infringement not made in bad faith.

A court may consider the following factors as evidence a person has not made a bad faith assertion of patent infringement:

1. The demand letter contains all of the information described in subsection 1 of section 51-36-03.

2. If the demand letter lacks the information described in subsection 1 of section 51-36-03 and the target requests the information, the person provides the information within a reasonable period of time.
3. The person engages in a good faith effort to establish the target has infringed the patent and to negotiate an appropriate remedy.
4. The person makes a substantial investment in the use of the patent or in the production or sale of a product or item covered by the patent.
5. The person is:
 - a. The inventor or joint inventor of the patent or, in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventor, is the original assignee; or
 - b. An institution of higher education or a technology transfer organization owned or affiliated with an institution of higher education.
6. The person has:
 - a. Demonstrated good faith business practices in previous efforts to enforce the patent or a substantially similar patent; or
 - b. Successfully enforced the patent, or a substantially similar patent, through litigation.
7. Any other factor the court finds relevant.

51-36-05. Bond.

Upon motion by a target and a finding by the court that the target has established a reasonable likelihood a person has made a bad faith assertion of patent infringement in violation of this chapter, the court shall require the person to post a bond in an amount equal to a good faith estimate of the target's costs to litigate the claim and amounts reasonably likely to be recovered under this chapter, conditioned upon payment of any amounts finally determined to be due to the target. The court shall hold a hearing to determine the amount of the bond on the request of either party. A bond ordered under this section may not exceed two hundred fifty thousand dollars. The court may waive the bond requirement if the court finds the person has available assets equal to the amount of the proposed bond or for other good cause shown.

51-36-06. Private right of action.

A target of conduct involving assertions of patent infringement or a person aggrieved by a violation of this chapter may bring an action in a court of proper jurisdiction. A court may award the following remedies to a plaintiff that prevails in an action brought pursuant to this section:

1. Equitable relief;
2. Damages;
3. Costs and fees, including reasonable attorney fees; and

4. Exemplary damages in an amount equal to fifty thousand dollars or three times the total of damages, costs, and fees, whichever is greater.

51-36-07. Enforcement - Powers - Remedies - Penalty.

The attorney general may enforce this chapter. The attorney general, in enforcing this chapter, has all the powers provided in chapter 51-15 and may seek all the remedies in chapter 51-15. Each act in violation of this chapter constitutes a separate violation of chapter 51-15. The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties in chapter 51-15, or otherwise provided by law.

51-36-08. Exceptions.

This chapter does not apply to:

1. Any person that owns or has the right to license or enforce a patent to notify another of that ownership or right of license or enforcement, to notify another that the patent is available for license or sale; notify another of the infringement of that patent pursuant to the provisions of title 35 of the United States Code; or seek compensation on account of a past or present infringement, or for a license, if it is reasonable to believe that the person from whom compensation is sought may owe such compensation.
2. Any demand letter sent by:
 - a. Any corporation traded on a public stock exchange or any entity owned or controlled by such corporation;
 - b. An owner of the patent which is using the patent in connection with the substantial research, commercial development, production, manufacturing, processing, or delivery of products or materials;
 - c. Any institution of higher education as that term is defined in section 101 of the federal Higher Education Act of 1965 [20 U.S.C. 1001]; or
 - d. Any technology transfer organization whose primary purpose is to facilitate the commercialization of technology developed by an institution of higher education.

Approved March 26, 2015
Filed March 26, 2015

SOCIAL SECURITY

CHAPTER 354

HOUSE BILL NO. 1060

(Legislative Management)
(Taxation Committee)

AN ACT to create and enact a new subsection to section 52-01-03, a new subsection to section 57-38-57, and a new subsection to section 57-39.2-23 of the North Dakota Century Code, relating to disclosure of certain information in possession of job service North Dakota or the tax commissioner to the department of commerce and restricting the use and disclosure of that information by the department of commerce.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 52-01-03 of the North Dakota Century Code is created and enacted as follows:

Job service North Dakota may enter an interagency agreement with the department of commerce for the sharing of information obtained pursuant to the administration of the unemployment insurance program, limited to wage and employment number records of employers identified by the department of commerce as having received North Dakota state economic development assistance. Information provided by job service North Dakota under an agreement may be used only for purposes of evaluation by the department of commerce of the compliance with statutory or contractual performance standards established for employers who received North Dakota state economic development assistance. Information received by the department of commerce under this subsection shall remain confidential and may not be divulged except in an aggregate format that does not permit the identification of information of any individual or employer. Any information furnished pursuant to this subsection or pursuant to interagency agreements authorized by this subsection is to be used for governmental purposes.

SECTION 2. A new subsection to section 57-38-57 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner may provide the department of commerce information obtained in the administration of the income tax under this chapter. A request by the department of commerce for information must be in writing and must be limited to information necessary to evaluate the degree of success and compliance with statutory or contractual performance standards established for employers who received North Dakota state economic development assistance. A request under this subsection does not require the tax commissioner to compile or create a record, including compiling or creating a record from electronically stored information, which does not exist. Information received by the department of commerce under this subsection may not be

divulged by the department of commerce except in an aggregate format that does not permit taxpayer identification and any information contained in the returns or reports filed by a taxpayer.

SECTION 3. A new subsection to section 57-39.2-23 of the North Dakota Century Code is created and enacted as follows:

9. The commissioner may provide the department of commerce information obtained through the administration of the sales tax under this chapter or the use tax under chapter 57-40.2. A request by the department of commerce for information must be in writing and must be limited to information necessary to evaluate the degree of success and compliance with statutory or contractual performance standards established for employers who received economic development assistance from this state. A request under this subsection does not require the commissioner to compile or create a record, including compiling or creating a record that does not exist from electronically stored information. Information received by the department of commerce under this subsection is not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota and may not be disclosed by the department of commerce except in an aggregate format that does not allow the identification of a taxpayer and does not contain any information in the returns or reports filed by a taxpayer.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 355

HOUSE BILL NO. 1212

(Representatives Delmore, P. Anderson, Hawken, Oversen)
(Senators Grabinger, Luick)

AN ACT to amend and reenact paragraph 3 of subdivision b of subsection 2 of section 52-04-07 and subdivision j of subsection 1 of section 52-06-02 of the North Dakota Century Code, relating to eligibility for unemployment compensation benefits for victims of stalking.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Paragraph 3 of subdivision b of subsection 2 of section 52-04-07 of the North Dakota Century Code is amended and reenacted as follows:

- (3) Was separated from employment with the most recent employer for reasons directly attributable to domestic violence, stalking, or sexual assault.

SECTION 2. AMENDMENT. Subdivision j of subsection 1 of section 52-06-02 of the North Dakota Century Code is amended and reenacted as follows:

- j. (1) This subsection does not apply if the reason for separation from the individual's employment is directly attributable to domestic violence, stalking, or sexual assault that is verified by documentation submitted to job service North Dakota which substantiates the individual's reason for separation from the most recent employment and such continued employment would jeopardize the safety of the individual or of the individual's spouse, parent, or minor child. After receiving a claim for unemployment insurance benefits for which the individual identifies domestic violence, stalking, or sexual assault as the reason for separation, job service North Dakota shall notify the most recent employer of the reason for separation provided by the individual.
- (2) For purposes of this subdivision, documentation of domestic violence or sexual assault includes:
 - (a) A court order, protection order, restraining order, or other record filed with a court;
 - (b) A police or law enforcement record;
 - (c) A medical record indicating domestic violence or sexual assault; or
 - (d) A written affidavit provided by an individual who has assisted the claimant in dealing with the domestic violence or sexual assault and who is a:

[1] Licensed counselor;

- [2] Licensed social worker;
 - [3] Member of the clergy;
 - [4] Director or domestic violence advocate at a domestic violence sexual assault organization as defined in section 14-07.1-01; or
 - [5] Licensed attorney.
- (3) For purposes of this subdivision, documentation of stalking must include:
- (a) A police or law enforcement record; and
 - (b) A written affidavit provided by an individual who has assisted the claimant in dealing with the stalking and who is a:
 - [1] Licensed counselor;
 - [2] Licensed social worker;
 - [3] Member of the clergy;
 - [4] Director of domestic violence advocate at a domestic violence sexual assault organization as defined in section 14-07.1-01; or
 - [5] Licensed attorney.
- (4) Documentation must be received by job service North Dakota within fourteen calendar days from the date the individual files a claim for unemployment insurance benefits after separating from employment for reasons directly attributable to domestic violence, stalking, or sexual assault.
- ~~(4)~~(5) A false statement of domestic violence, stalking, or sexual assault in a claim for unemployment insurance benefits is subject to subsection 8 and section 52-06-40.

Approved March 12, 2015
Filed March 12, 2015

SPORTS AND AMUSEMENTS

CHAPTER 356

SENATE BILL NO. 2184

(Senators Campbell, Armstrong, Luick)
(Representatives Owens, Paur, Trottier)

AN ACT to amend and reenact subdivision a of subsection 1 of section 53-06.1-03 and section 53-06.1-10.1 of the North Dakota Century Code, relating to prize limits for raffles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 1 of section 53-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

- a. An organization recognized as a public-spirited organization by the governing body of a city or county may apply for a local permit to conduct only raffles, bingo, or sports pools, or a charity local permit to conduct only raffles, bingo, sports pools, paddlewheels, twenty-one, and poker. The organization or closely related organizations as a whole may only award a primary prize that does not exceed six thousand dollars, ~~except that a raffle cash prize may not exceed the limits of section 53-06.1-10.1,~~ and total prizes of all games do not exceed twelve thousand dollars per year. These maximum prize amounts do not apply to raffles conducted under chapter 20.1-08. The determination of what is a "public-spirited organization" is within the sole discretion of the governing body. An organization shall disclose on the application its intended use of the net income from the gaming activity. A governing body may issue a permit for games to be held at designated times and places.

SECTION 2. AMENDMENT. Section 53-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-10.1. Raffles.

A prize for a raffle may be cash or merchandise but may not be real estate. No single cash prize may exceed ~~four~~twenty-five thousand dollars and the total cash prizes in one day may not exceed ~~four~~twenty-five thousand dollars. However, on not more than two occasions per year a licensed organization may, at the request of a winning player, exchange a merchandise prize valued at not more than twenty-five thousand dollars for a cash prize. The maximum cash prize limits of this section do not apply to a public-spirited organization that supports amateur collegiate athletics.

Approved March 13, 2015
Filed March 13, 2015

CHAPTER 357**SENATE BILL NO. 2099**

(Senators Armstrong, Oehlke, Heckaman)
(Representatives Kretschmar, Thoreson, Kasper)

AN ACT to amend and reenact section 53-06.1-09 of the North Dakota Century Code, relating to sports pools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-09. Sports pools.

A sports pool must be for a professional sport only. The maximum wager is ~~five~~twenty-five dollars. The amount of prizes may not exceed ninety percent of the gross proceeds.

Approved March 30, 2015

Filed March 31, 2015

CHAPTER 358

HOUSE BILL NO. 1161

(Representatives Maragos, Delmore, Kretschmar)
(Senators Armstrong, Grabinger, Luick)

AN ACT to amend and reenact section 53-06.1-10 of the North Dakota Century Code, relating to wagers for the game of twenty-one.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-10. Twenty-one.

The organization shall provide playing chips of various denominations to players although the organization may use a metal coin rather than a fifty-cent chip. The organization may set the minimum limit for the original wager at not more than three dollars on one active table. If there is more than one active table at a site, the organization may set a higher minimum wager on additional tables. The maximum limit per wager may be set by the organization at not more than twenty-five dollars and ~~original wagers.~~ Wagers in increments of one dollar must be accepted ~~up to~~ between the posted minimum and the posted maximum limit. ~~However, if there is more than one table that is active at a site, the organization may set a minimum wager on no more than one-half of the active tables.~~ A player may not play more than two hands at the same time. Only the player actually playing a hand may place a wager on that hand. Each player plays the player's hand against the dealer's hand. Any requirement to pool tips is within the sole discretion of each organization. Except for a site that has twenty-one gross proceeds averaging less than ten thousand dollars per quarter, an organization may not conduct twenty-one at the site with wagers exceeding two dollars unless the organization has first installed video surveillance equipment as required by rules and the equipment is approved by the attorney general.

Approved March 18, 2015

Filed March 18, 2015

CHAPTER 359**HOUSE BILL NO. 1448**

(Representatives Streyle, Beadle, Hanson, Kempenich, Maragos)
(Senator Miller)

AN ACT to amend and reenact subdivision a of subsection 5 of section 53-06.1-11 of the North Dakota Century Code, relating to the monthly rent for games of chance sites.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 5 of section 53-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

- a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed two hundred dollars multiplied by the necessary number of tables based on criteria prescribed by gaming rule. For each twenty-one table with a wager greater than five dollars, an additional amount up to one hundred dollars may be added to the monthly rent. If pull tabs is also conducted involving only a jar bar ~~or dispensing device, but not both~~, the monthly rent for pull tabs may not exceed an additional one hundred seventy-five dollars. If pull tabs is conducted involving only a dispensing device or both a jar bar and dispensing device, the monthly rent for pull tabs may not exceed an additional ~~two~~three hundred ~~twenty-five~~ dollars.

Approved March 18, 2015
Filed March 18, 2015

CHAPTER 360

HOUSE BILL NO. 1231

(Representatives Karls, Beadle, Oversen)
(Senators Dotzenrod, Krebsbach, Laffen)

AN ACT to amend and reenact section 53-06.1-14 of the North Dakota Century Code, relating to distributors and manufacturers of games of chance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-14. Distributors and manufacturers.

1. A manufacturer of pull tabs, bingo cards, or bingo card marking devices shall apply annually for a license and pay a license fee of four thousand dollars. A manufacturer of pull tab dispensing devices shall apply annually for a license and pay a license fee of one thousand dollars. A manufacturer of fifty-fifty raffle systems shall apply annually for a license and pay a license fee of five hundred dollars. A distributor shall apply annually for a license and pay a license fee of one thousand five hundred dollars. Application must be made before the first day of April in each year on a form prescribed by the attorney general.
2. A licensed distributor may not sell, market, or distribute gaming equipment except to a licensed distributor, licensed organization, organization that has a permit, or other person authorized by gaming rule or the attorney general. A manufacturer of a pull tab dispensing device, pull tab, bingo card marking device, ~~or bingo card,~~ or fifty-fifty raffle system may only sell, market, or distribute the manufacturer's pull tab dispensing device and processing chip encoded with proprietary software, pull tab, bingo card marking device, ~~or bingo card,~~ or fifty-fifty raffle system to a licensed distributor. A licensed distributor may purchase or acquire a pull tab dispensing device and processing chip encoded with proprietary software, pull tab, bingo card marking device, ~~or bingo card,~~ or fifty-fifty raffle system only from a licensed manufacturer or licensed distributor. However, a distributor may purchase or acquire a used pull tab dispensing device from a licensed organization. A distributor may not duplicate a manufacturer's processing chip encoded with proprietary software. No gaming equipment or prize may be sold or leased at an excessive price.
3. A licensed distributor shall affix a North Dakota gaming stamp to each deal of pull tabs and bingo cards, raffle board, punchboard, sports pool board, calcutta board, and series of paddlewheel ticket cards sold or otherwise provided to a licensed organization and shall purchase the stamps from the attorney general for thirty-five cents each. Ten cents of each stamp sold by the attorney general, up to thirty-six thousand dollars per biennium, must be credited to the attorney general's operating fund to defray the costs of issuing and administering the gaming stamps.

4. A licensed organization, organization that has a permit, licensed manufacturer, or North Dakota wholesaler of liquor or alcoholic beverages may not be a distributor or stockholder of a distributor. A distributor may not be a stockholder of a manufacturer.
5. In addition to the license fee, the attorney general may require advance payment of any fee necessary to pay the cost of a record check of an applicant according to subdivision c of subsection 5 of section 53-06.1-06.
6. A licensed manufacturer may not refuse to sell deals of pull tabs or paper bingo cards, or gaming equipment to a licensed distributor unless:
 - a. A specific deal of pull tabs is sold on an exclusive basis;
 - b. The manufacturer does not sell deals of pull tabs or paper bingo cards, or gaming equipment to any distributor in the state;
 - c. A gaming law or rule prohibits the sale;
 - d. The distributor has not provided the manufacturer with proof of satisfactory credit or is delinquent on any payment owed to the manufacturer; or
 - e. The distributor has not met the manufacturer's standard minimum order quantity and freight terms.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 361

HOUSE BILL NO. 1235

(Representatives Maragos, Delmore, Karls)
(Senators Casper, Hogue, Nelson)

AN ACT create and enact a new section to chapter 53-06.1 of the North Dakota Century Code, relating to the game of electronic quick shot bingo.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Electronic quick shot bingo.

1. Electronic quick shot bingo is a bingo game played on portable hand-held bingo devices utilizing electronic bingo card images. The bingo game is played using twenty-four predrawn letters and numbers and may use up to six bonus letters and numbers to achieve predetermined patterns. The letters and numbers may only be drawn by the organization either manually or with the use of a random number generator, once during a business day and before the beginning of any session. It is not required for each bingo game to have a winner. The bingo devices used in conjunction with a site operating system automatically daubs the called letters and numbers via a radio frequency signal or wi-fi transmission on a maximum of sixteen electronic bingo cards for an individual game. The site operating system, including the point-of-sale, allows an employee to deposit credits received from a player by cash, check, or debit card to a temporary credit account to be used by a player for the purchase of electronic bingo cards. The devices may determine a winning bingo and must accumulate the winning prize amounts in a separate winnings account which may only be redeemed by an employee.
2. An electronic quick shot bingo marking device under subsection 1 is not a "coin-operated gaming device" as defined in subsection 4 of section 12.1-28-02.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 362**HOUSE BILL NO. 1091**

(Representative Maragos)
(Senator Armstrong)

AN ACT to amend and reenact section 53-06.2-04.1 of the North Dakota Century Code, relating to registration of North Dakota-bred horses with the breeders' fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-04.1. North Dakota-bred registry –Contract requirements.

The commission shall provide for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse supplements. ~~The commission shall contract with a private person to maintain the registry. Through a competitive bidding process, the commission shall award the contract to the lowest responsible bidder. The administrative cost of the contract must be paid from the breeders' fund.~~

Approved March 19, 2015

Filed March 19, 2015

CHAPTER 363**SENATE BILL NO. 2071**

(Judiciary Committee)

(At the request of the North Dakota Racing Commission)

AN ACT to amend and reenact subsection 3 of section 53-06.2-08 of the North Dakota Century Code, relating to allowing North Dakota racing commission licensees to utilize letters of credit as security.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

3. Each applicant for a license under this chapter shall give bond or a letter of credit payable to this state with good security as approved by the commission. The bond or letter of credit must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.

Approved March 12, 2015

Filed March 12, 2015

STATE GOVERNMENT

CHAPTER 364

HOUSE BILL NO. 1456

(Representatives Brandenburg, Kretschmar, Rohr, Schmidt)
(Senators Erbele, Schaible)

AN ACT to create and enact section 54-01-29.1 of the North Dakota Century Code, relating to the encouragement of federal legislation to return lands and mineral rights to the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 54-01-29.1 of the North Dakota Century Code is created and enacted as follows:

54-01-29.1. Federal legislation encouraged to return lands and mineral rights to the state of North Dakota.

Uplands of the Oahe Reservoir in Emmons and Morton Counties in North Dakota above the elevation of 1,620 feet [493.78 meters] are defined as excess lands to the operation of the Oahe Dam. The North Dakota legislative assembly encourages Congress to pass federal legislation to return those lands and mineral rights to the state of North Dakota and the North Dakota legislative assembly encourages the governor of North Dakota to work with the North Dakota congressional delegation and Congress to secure enactment of necessary federal legislation.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 365

HOUSE BILL NO. 1197

(Representatives Hofstad, D. Anderson, Damschen, D. Johnson, Porter, Seibel)
(Senators Klein, Luick, Wanzek)

AN ACT to provide for a prohibition on the purchase of real property and easements for wildlife or conservation purposes with public funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Prohibition on the purchase of certain real property and easements with public funds.

A governmental entity may not provide funds through grant, contract, or other agreement to a nongovernmental entity that is a nonprofit organization for the purpose of holding any interest in real property or an easement for wildlife or conservation purposes. This section does not apply to a governmental entity in a partnership with a nongovernmental entity, if the governmental entity derives a benefit from the partnership. In addition, the recipient of these funds is subject to civil action by any person for the return of any public funds used by the recipient for any of the same purposes.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 366

HOUSE BILL NO. 1199

(Representatives Hanson, B. Koppelman, Seibel, Streyle, Strinden)
(Senators G. Lee, Murphy, O'Connell)

AN ACT to amend and reenact subsection 4 of section 54-03-20 of the North Dakota Century Code, relating to housing reimbursement for members of the legislative assembly; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁴ **SECTION 1. AMENDMENT.** Subsection 4 of section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

4. The amount to which each legislator is entitled must be paid following the organizational session in December and ~~following~~ each month upon submission of a voucher and appropriate documentation during a regular or special session, consistent with section 26 of article XI of the Constitution of North Dakota.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 26, 2015

Filed March 26, 2015

¹⁸⁴ Section 54-03-20 was also amended by section 6 of House Bill No. 1001, chapter 1, and section 7 of House Bill No. 1001, chapter 1.

CHAPTER 367

HOUSE BILL NO. 1441

(Representatives K. Koppelman, Brabandt, Dockter, Karls, Klein, Maragos, Owens,
Paur, Schatz)
(Senators Burckhard, Hogue, Larsen)

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to certification of delegates to a convention of the states, called pursuant to article V of the United States Constitution, to amend the United States Constitution.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

Certification of delegates to United States convention of the states.

1. If a convention of the states is called pursuant to article V of the United States Constitution, the legislative assembly or an official designated by the legislative assembly shall certify each delegate and alternate delegate from this state to the convention and provide a written copy of the certification to each delegate and alternate delegate and to the convention. If a delegate is ineligible or unwilling to serve as a delegate at the convention, the legislative assembly or the official designated by the legislative assembly shall certify an alternate delegate to replace the delegate and immediately provide a copy of the certification to the delegate and the convention.
2. If a delegate is rendered ineligible to serve under subsection 4, the delegate's certification must provide notice to the convention that any vote or other action taken by that delegate should be considered void.
3. An individual who has not been certified under this section may not serve as a delegate at the convention.
4. As a condition of being eligible for consideration or selection as a delegate or alternate delegate, each delegate and alternate delegate shall execute the following oath:

I do solemnly swear or affirm that I will, to the best of my abilities, support the United States Constitution and the Constitution of North Dakota and I will not vote to allow consideration of or consider or approve any unauthorized amendment proposed for ratification to the United States Constitution. I understand that a violation of this oath will result in my being rendered ineligible to serve as a delegate at the convention as well as subject me to additional penalties under the laws of North Dakota.

5. A delegate at the convention may not vote to allow consideration of or consider or approve any unauthorized amendment. An "unauthorized amendment" means:

- a. A proposed amendment that varies from the exact text of the amendment contained in the application made by the legislative assembly, which limits the convention to approving or disapproving that exact text, or if the legislative assembly did not make the application, the exact text of the amendment contained in the applications relied upon by the United States Congress in calling the convention, if the application contains exact text for a proposed amendment; or
 - b. A proposed amendment that is outside the permitted subject matter of the application made by the legislative assembly, or if the legislative assembly did not make the application, the permitted subject matter of the applications relied upon by the United States Congress in calling the convention and as the subject matter may be further defined by the legislative assembly or an official designated by the legislative assembly, in instructions adopted by the legislative assembly by concurrent resolution and provided to each delegate and alternate delegate.
6. The legislative assembly or an official designated by the legislative assembly shall provide guidance upon the request of any delegate or alternate delegate as to whether a proposed amendment is within the permitted subject matter of the convention.
 7. A delegate casting or attempting to cast a vote at a convention in violation of this section must be rendered ineligible to continue to serve as a delegate and must be immediately removed from office and replaced by an alternate delegate as provided under this section. A vote cast by a delegate at a convention which is in violation of this section is void.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 368

HOUSE BILL NO. 1403

(Representatives Schneider, Boschee, Guggisberg, Hawken, Hogan, Kading,
Mooney, Oversen, Strinden)
(Senator Nelson)

AN ACT to create and enact section 54-06-14.5 of the North Dakota Century Code, relating to state employee use of sick leave for consequences of domestic violence, a sex offense, stalking, or terrorizing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 54-06-14.5 of the North Dakota Century Code is created and enacted as follows:

54-06-14.5. Sick leave for consequences of domestic violence, a sex offense, stalking, or terrorizing.

1. As used in this section:
 - a. "Domestic violence" has the same meaning as provided under section 14-07.1-01.
 - b. "Immediate family member" means a spouse, parent, child, or sibling as provided under section 12.1-17-07.1.
 - c. "Sex offense" means an offense under chapter 12.1-20.
 - d. "Stalking" means an offense under section 12.1-17-07.1.
 - e. "Terrorizing" means an offense under section 12.1-17-04.
2. Under section 54-06-14, an employing unit shall grant an employee's request to use sick leave to:
 - a. Seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or employee's immediate family members, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic violence, a sex offense, stalking, or terrorizing;
 - b. Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, a sex offense, stalking, or terrorizing, or to attend to health care treatment for a victim of such offenses who is the employee's immediate family member;
 - c. Obtain or assist an immediate family member in obtaining services from a domestic violence shelter, rape crisis center, or other social services program for relief from domestic violence, a sex offense, stalking, or terrorizing;

- d. Obtain or assist an immediate family member in obtaining mental health counseling related to an incident of domestic violence, sex offense, stalking, or terrorizing, in which the employee or the employee's immediate family member was a victim of domestic violence, a sex offense, stalking, or terrorizing; or
- e. Participate in safety planning, temporary or permanent relocation, or take other actions to increase the safety of the employee or employee's family members from future domestic violence, a sex offense, stalking, or terrorizing.
- f. In the discretion of the employee's supervisor, the sick leave hours may be limited to forty hours per calendar year.

Approved April 16, 2015
Filed April 16, 2015

CHAPTER 369

HOUSE BILL NO. 1387

(Representative Keiser)
(Senator Oban)

AN ACT to create and enact section 54-06-14.5 of the North Dakota Century Code, relating to state employee use of sick leave and annual leave; and to amend and reenact sections 54-21-18 and 54-52.4-03 of the North Dakota Century Code, relating to parking on the capitol grounds for pregnant employees and employees with infants and state employee use of sick leave.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁵ **SECTION 1.** Section 54-06-14.5 of the North Dakota Century Code is created and enacted as follows:

54-06-14.5. Use of sick leave and annual leave - Birth or adoption - Family leave priority.

1. During the first six weeks following birth or placement, an employer shall grant an employee's request to use up to one hundred sixty hours of sick leave under section 54-06-14 to care for the employee's newborn child or to care for a child placed with the employee, by a child-placing agency licensed under chapter 50-12, for adoption or placed with the employee as a precondition to adoption under section 14-15-12, but not both. The employer shall compensate the employee for leave used by the employee under this subsection on the same basis as the employee would be compensated if the leave had been taken due to the employee's illness, medical needs, or health needs. This subsection does not prevent an employee from using sick leave for the employee's illness, medical needs, or health needs following the birth of a child or from using leave under section 54-52.4-03.
2. If an employee requests to use annual leave under section 54-06-14 for any of the reasons identified under subsection 1 of section 54-52.4-02, the employer shall give priority to the request.

SECTION 2. AMENDMENT. Section 54-21-18 of the North Dakota Century Code is amended and reenacted as follows:

54-21-18. ~~Custody of office building~~ — ~~Considered~~Office building part of capitol building - Director has control of ~~public property~~capitol grounds - Parking for pregnant employees and employees with infants - Rules - Penalty.

1. The director of the office of management and budget shall control, manage, and maintain the state office building. The building must be considered a part of the state capitol building within the meaning of statutes relating to the custody, maintenance, and control of the state capitol building and grounds,

¹⁸⁵ Section 54-06-14.5 was amended by section 1 of House Bill No. 1244, chapter 370.

and within the meaning of statutes requiring state departments or agencies to maintain their offices in the state capitol building.

2. Except as otherwise provided by law, the director of the office of management and budget has charge and control of the executive mansion, the capitol, and the park and public grounds connected therewith. Except as provided by sections 39-10-48, 39-10-50, 44-08-18, and 54-21-17.1, the director may adopt rules to promote the health, safety, and general welfare, to prohibit disturbances and disorderly assemblies, to keep the peace, and to regulate nuisances on the capitol grounds and in any of the buildings located on the capitol grounds. The rules may include regulation of public assemblies and accessibility to the buildings and grounds, obstructions, fees, insurance, forms, indemnification by users, and waiver of insurance and indemnity requirements by the director. A person who violates a rule adopted by the director under this section is guilty of an infraction.
3. The office of management and budget shall provide to a state employee a temporary permit or some other means that allow that employee to park on the capitol grounds in any parking area in which a member of the public is allowed to park, if the state employee is pregnant and employed by a state agency housed on the capitol grounds or if the state employee is allowed by a state agency housed on the capitol grounds to bring an infant to work. This subsection does not authorize a state employee to park in an emergency or fire zone, in parking for the mobility impaired, or in a zone for which another permit is required. The special parking authorized under this subsection expires when the employee is no longer pregnant or no longer authorized to bring an infant to work.

SECTION 3. AMENDMENT. Section 54-52.4-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52.4-03. Use of other available leave for care of parent, spouse, or child.

An employer that provides leave for its employees for illnesses or other medical or health reasons shall grant an employee's request to use that leave to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition. An employee may take ~~eightyfour hundred eighty~~ hours of leave under this section in any twelve-month period and, ~~upon approval of the employee's supervisor and pursuant to rules adopted by the director of the office of management and budget, the employee may take, in any twelve-month period, up to an additional ten percent of the employee's accrued sick leave to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition.~~ The employer shall compensate the employee for leave used by the employee under this section on the same basis as the employee would be compensated if the leave had been taken due to the employee's own illness.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 370

HOUSE BILL NO. 1244

(Representatives Haak, Beadle, Kretschmar, Maragos, Muscha, Seibel)
(Senators Davison, Oban, Poolman, Sorvaag)

AN ACT to amend and reenact section 54-06-14.5 of the North Dakota Century Code as created by section 1 of House Bill No. 1387, as approved by the sixty-fourth legislative assembly, relating to state employee use of sick leave and annual leave.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁶ **SECTION 1. AMENDMENT.** Section 54-06-14.5 of the North Dakota Century Code as created by section 1 of House Bill No. 1387, as approved by the sixty-fourth legislative assembly, is amended and reenacted as follows:

54-06-14.5. Use of sick leave and annual leave - Birth or adoption - Family leave priority.

1. During the first six ~~weeks~~months following birth or placement, an employer shall grant an employee's request to use up to ~~one hundred sixty hours~~six weeks of sick leave under section 54-06-14 to care for the employee's newborn child or to care for a child placed with the employee, by a child-placing agency licensed under chapter 50-12, for adoption or placed with the employee as a precondition to adoption under section 14-15-12, but not both. The employer shall compensate the employee for leave used by the employee under this subsection on the same basis as the employee would be compensated if the leave had been taken due to the employee's illness, medical needs, or health needs. This subsection does not prevent an employee from using sick leave for the employee's illness, medical needs, or health needs following the birth of a child or from using leave under section 54-52.4-03.
2. If an employee requests to use annual leave under section 54-06-14 for any of the reasons identified under subsection 1 of section 54-52.4-02, the employer shall give priority to the request.

Approved April 20, 2015
Filed April 20, 2015

¹⁸⁶ Section 54-06-14.5 was created by section 1 of House Bill No. 1387, chapter 369.

CHAPTER 371

HOUSE BILL NO. 1428

(Representatives Boschee, Beadle, Hawken, Kretschmar, Maragos, Meier, J. Nelson,
Sanford)
(Senators Armstrong, Holmberg, Krebsbach, Sorvaag)

AN ACT to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to state employee harassment policies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Harassment policies.

Each state agency, department, and institution shall adopt and enforce a policy on employee harassment, including sexual harassment. The policy must clearly define harassment and specify the responsibilities of the employee, supervisor, and the agency, department, or institution. If an agency, department, or institution does not adopt a harassment policy, the agency, department, or institution must be subject to the policy adopted by the North Dakota human resource management services division.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 372

HOUSE BILL NO. 1330

(Representative Klemin)
(Senator Hogue)

AN ACT to amend and reenact section 50 of chapter 257 of the 2013 Session Laws, relating to the contingent effective date for implementation of the electronic filing system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁷ **SECTION 1. AMENDMENT.** Section 50 of chapter 257 of the 2013 Session Laws is amended and reenacted as follows:

SECTION 50. CONTINGENT EFFECTIVE DATE. Sections 1 through 27 and sections 29 through 47 of this Act become effective August 1, ~~2015~~2016, or earlier if the secretary of state makes a report to the legislative management and to the information technology committee certifying that the information technology components of the electronic filing system are ready for implementation of those provisions of this Act, in which case those sections become effective ninety days following the completion of the certificate requirement.

Approved March 16, 2015
Filed March 16, 2015

¹⁸⁷ Section 35-34-04 was also amended by section 10 of House Bill No. 1111, chapter 126; section 35-34-06 was also amended by section 11 of House Bill No. 1111, chapter 126.

CHAPTER 373

SENATE BILL NO. 2252

(Senators Luick, Anderson)
(Representatives Kretschmar, Maragos)

AN ACT to create and enact two new sections to chapter 54-09 of the North Dakota Century Code, relating to the role of the secretary of state in filing signed documents or records, an agent signing documents, or records filed with the secretary of state; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-09 of the North Dakota Century Code is created and enacted as follows:

Role of secretary of state in filing signed documents and records.

Whenever any provision of law requires or permits a signed document or record to be filed with the secretary of state, the provision may not be construed to require the secretary of state to make any determination the signed document or record filed or to be filed has been properly signed or executed by or on behalf of the filer.

SECTION 2. A new section to chapter 54-09 of the North Dakota Century Code is created and enacted as follows:

Filing signed documents and records with the secretary of state - Use of agent.

1. A person who signs a document submitted to the secretary of state without authority to sign that document or who signs the document knowing the document is false in any material respect is subject to the penalties of perjury or false statement set forth in chapter 12.1-11.
2. Any document submitted to the office of the secretary of state online may be signed by any person as agent of any person whose signature is required by law. The signing party must indicate on the application that the person is acting as the agent of the person whose signature would be required and that the person has been authorized to sign on behalf of the applicant. The name of the person signing, entered on the online application, constitutes a valid signature by such an agent.
3. Any document relating to a filing by a business entity or assumed name submitted to the office of the secretary of state on paper may be signed by any person as agent of any person whose signature is required by law. The signing party must indicate on the document that the signing party is acting as the agent of the person whose signature would be required and that the signing party has been authorized to sign on behalf of that person.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 374

SENATE BILL NO. 2262

(Senators O'Connell, Erbele)
(Representatives D. Anderson, Brandenburg, Hunskor)

AN ACT to amend and reenact subsection 3 of section 54-10-14 of the North Dakota Century Code, relating to annual reports of certain political subdivisions in lieu of biennial audits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

3. In lieu of conducting an audit every two years, the state auditor may require annual reports from school districts with less than one hundred enrolled students; cities with less than five hundred population; and other political subdivisions subject to this section, or otherwise provided by law, with less than ~~two~~three hundred thousand dollars of annual receipts, excluding any federal funds passed through the political subdivision to another entity. If any federal agency performs or requires an audit of a political subdivision that receives federal funds to pass through to another entity, the political subdivision shall provide a copy to the state auditor upon request by the state auditor. The reports must contain the financial information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the political subdivision an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge a political subdivision a fee not to exceed eighty dollars an hour for the costs of reviewing the annual report.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 375

SENATE BILL NO. 2199

(Senators Dever, Armstrong, Nelson)
(Representatives Haak, Oversen, Sanford)

AN ACT to provide an appropriation to the attorney general for human trafficking victims treatment and support services, to amend and reenact section 54-12-14 of the North Dakota Century Code, relating to the assets forfeiture fund; to provide for a report to the legislative management; to provide a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - REPORTS - LEGISLATIVE MANAGEMENT REPORT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much of the sum as may be necessary, to the attorney general for the purpose of providing grants to organizations involved in providing prevention and treatment services related to human trafficking victims in non-oil-producing counties for the period beginning with the effective date of this Act and ending June 30, 2017. The attorney general may provide grants for the development and implementation of direct care, emergency or long-term crisis services, residential care, training for law enforcement, support of advocacy services, and programs promoting positive outcomes for victims. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-fifth legislative assembly on the use of the funds received and the outcomes of its program. The attorney general shall report to the legislative management during the 2015-16 interim on the status and results of the grant program. This appropriation is a one-time funding item.

SECTION 2. BOARD OF UNIVERSITY AND SCHOOL LANDS - USE OF OIL AND GAS IMPACT GRANTS - REPORTS. The board of university and school lands funds, from funds designated in House Bill No. 1176 as approved by the sixty-fourth legislative assembly, for grants to law enforcement agencies impacted by oil and gas development, shall make available \$750,000 for grants to organizations involved in providing prevention and treatment services related to human trafficking victims in hub cities located in oil-producing counties for the period beginning with the effective date of this Act and ending June 30, 2017. The board of university and school lands shall award the grants as directed by the attorney general. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-fifth legislative assembly on the use of the funds received and the outcomes of its program.

SECTION 3. AMENDMENT. Section 54-12-14 of the North Dakota Century Code is amended and reenacted as follows:

54-12-14. Assets forfeiture fund - Created - Purpose - Continuing appropriation.

1. The attorney general assets forfeiture fund consists of funds appropriated by the legislative assembly and additional funds obtained from moneys, assets, and proceeds seized and forfeited pursuant to section 19-03.1-36, amounts

received through court proceedings as restitution, amounts remaining from the forfeiture of property after the payment of expenses for forfeiture and sale authorized by law, and amounts received from a multijurisdictional drug task force as defined in section 54-12-26. The amount of deposits into the fund which do not come from legislative appropriation or from a multijurisdictional drug task force and are not payable to another governmental entity may not exceed two hundred thousand dollars within a biennium and any moneys in excess of that amount must be deposited in the general fund. The funds are appropriated, as a standing and continuing appropriation, to the attorney general for the following purposes:

1. a. For obtaining evidence for enforcement of any state criminal law or law relating to the control of drug abuse.
2. b. For repayment of rewards to qualified local programs approved under section 12.1-32-02.2, if the information that was reported to the qualified local program substantially contributed to forfeiture of the asset, and for paying, at the discretion of the attorney general, rewards for other information or assistance leading to a forfeiture under section 19-03.1-36.
3. c. For paying, at the discretion of the attorney general, any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited pursuant to section 19-03.1-36, or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property.
4. d. For equipping, for law enforcement functions, forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the state board of pharmacy or a law enforcement agency.
5. e. For paying, at the discretion of the attorney general, overtime compensation to agents of the bureau of criminal investigation incurred as a result of investigations of violations of any state criminal law or law relating to the control of drug abuse.
6. f. For paying matching funds required to be paid as a condition for receipt of funds from a federal government program awarding monetary grants or assistance for the investigation, apprehension, or prosecution of persons violating the provisions of chapter 19-03.1.
2. The attorney general shall, with the concurrence of the director of the office of management and budget, establish the necessary accounting procedures for the use of the fund, and shall personally approve, in writing, all requests from the director of the bureau of criminal investigation or the director of the drug enforcement unit for the use of the fund.
3. Notwithstanding subsection 1, the amount of deposits into the fund related to human trafficking are appropriated, as a standing and continuing appropriation, to the attorney general for awarding grants to organizations providing prevention and treatment services for human trafficking victims.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 376

HOUSE BILL NO. 1281

(Representatives K. Koppelman, Maragos, Owens)
(Senators Carlisle, Oehlke, Schneider)

AN ACT to create and enact a new section to chapter 54-12 of the North Dakota Century Code, relating to a blue alert notice system; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-12 of the North Dakota Century Code is created and enacted as follows:

Blue alert notice system.

1. Upon the request of a law enforcement agency that is investigating an offense against a law enforcement officer, the bureau of criminal investigation shall activate a blue alert public notice to aid in the apprehension of an individual who is a suspect in an offense if:
 - a. An individual has threatened a law enforcement officer with a deadly weapon, has used a deadly weapon against a law enforcement officer, has caused a law enforcement officer to suffer serious bodily injury or death, or the officer has been abducted or is missing while on duty;
 - b. The individual has fled the scene of the offense and a description of the individual or the individual's vehicle is available for broadcast;
 - c. The law enforcement agency investigating the offense has determined the individual poses a threat to the public or other law enforcement personnel; and
 - d. Dissemination of available information to the public may help avert further harm or assist in the apprehension of the suspect.
2. The bureau of criminal investigation, in cooperation with the highway patrol and the division of state radio of the department of emergency services, shall prepare an operational plan to prepare for and respond to requests for activation of a blue alert notice.
3. As used in this section, the term "blue alert notice" means a quick response and notice that is issued after an individual has threatened a law enforcement officer with a deadly weapon, used a deadly weapon against a law enforcement officer, caused a law enforcement officer to suffer serious bodily injury or death, or the officer has been abducted or is missing while on duty, and the individual has left the scene of the offense.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 377

SENATE BILL NO. 2219

(Senators Poolman, Casper, Grabinger)
(Representatives Beadle, Hogan, K. Koppelman)

AN ACT to establish a statewide human trafficking commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Human trafficking commission.

1. The attorney general may establish a human trafficking commission, comprised of designees from state, local, and tribal agencies which have contact with victims or perpetrators, nongovernmental organizations that represent or work with victims, and other organizations and individuals, including victims, whose expertise would benefit the commission. The attorney general may establish the commission by appointing an existing statewide coalition.
2. The commission shall:
 - a. Develop a coordinated and comprehensive plan to provide victims with services;
 - b. Collect and evaluate data on human trafficking in this state and submit an annual report to the attorney general, governor, and legislature;
 - c. Promote public awareness about human trafficking, victim remedies and services, and trafficking prevention;
 - d. Create a public-awareness sign that contains the national human trafficking resource center hotline information, and any state or local hotlines that the coalition deems appropriate;
 - e. Coordinate training on human trafficking prevention and victim services for state and local employees who may have recurring contact with victims or perpetrators;
 - f. Coordinate training on human trafficking investigation and prosecution with the North Dakota state's attorney's association, the North Dakota peace officers standards and training board, and state and local law enforcement agencies; and
 - g. Conduct other appropriate activities.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 378

SENATE BILL NO. 2343

(Senators Triplett, Mathern, Warner)
(Representative Onstad)

AN ACT to create and enact a new section to chapter 54-17 of the North Dakota Century Code, relating to a report on the fiscal impact of certain actions by the industrial commission to the legislative assembly or budget section; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

Report to legislative assembly or budget section on the fiscal impact of certain actions of the industrial commission.

If any order, regulation, or policy of the industrial commission to implement the provisions of chapter 38-08, excluding spacing unit orders, has a fiscal effect or estimated fiscal effect on the state in excess of twenty million dollars in a biennium, the industrial commission shall report to the legislative assembly when in session and otherwise to the budget section of the legislative management on the fiscal impact of the effect of the action on state revenues and expenditures, including any effect on the funds of the industrial commission.

SECTION 2. RETROACTIVE APPLICATION. This Act applies retroactively to actions of the industrial commission made after July 31, 2013, and applies specifically to the orders of the industrial commission on flaring. The industrial commission shall report on the fiscal impacts of past orders within ninety days of the effective date of this Act.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 379

HOUSE BILL NO. 1409

(Representatives Porter, Carlson, Hunskor, Toman)
(Senators Carlisle, Murphy, Schaible, Unruh)

AN ACT to amend and reenact sections 54-17.8-03 and 54-17.8-05, subdivision c of subsection 1 of section 54-17.8-06, and section 57-51-15 of the North Dakota Century Code, relating to the funding and purposes of the North Dakota outdoor heritage fund and the outdoor heritage advisory board; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17.8-03 of the North Dakota Century Code is amended and reenacted as follows:

54-17.8-03. North Dakota outdoor heritage fund purposes.

1. The commission shall use the fund to provide grants to state agencies, tribal governments, political subdivisions, and nonprofit organizations, with higher priority given to enhance conservation practices in this state by:
 - a. ~~Provide~~Providing access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen;
 - b. ~~Improve~~Improving, maintainmaintaining, and ~~restore~~restoring water quality, soil conditions, plant diversity, animal systems, and ~~to support~~by supporting other practices of stewardship to enhance farming and ranching;
 - c. ~~Develop~~Developing, enhanceenhancing, conserveconserving, and restorerestoring wildlife and fish habitat on private and public lands; and
 - d. ~~Conserve~~Conserving natural areas and creating other areas for recreation through the establishment and development of parks and other recreation areas.
2. The commission or grantee may not use the fund, in any manner, to finance:
 - a. Litigation;
 - b. Lobbying activities;
 - c. Any activity that would interfere, disrupt, or prevent activities associated with surface coal mining operations; sand, gravel, or scoria extraction activities; oil and gas operations; or other energy facility or infrastructure development;
 - d. The acquisition of land or to encumber any land for a term longer than twenty years; or

- e. Projects outside this state or projects that are beyond the scope of defined activities that fulfill the purposes of this chapter.
3. The commission or a grantee may not use grant funds, except after a finding of exceptional circumstances by the commission, to finance:
- a. A completed project or project commenced before the grant application;
 - b. A feasibility or research study;
 - c. Maintenance costs;
 - d. A paving project for a road or parking lot;
 - e. A swimming pool or aquatic park;
 - f. Personal property that is not affixed to the land;
 - g. Playground equipment, except that grant funds may be provided for up to twenty-five percent of the cost of the equipment not exceeding ten thousand dollars per project and all playground equipment grants may not exceed five percent of the total grants per year;
 - h. A building, except for a building that is included as part of a comprehensive conservation plan for a new or expanded recreational project; or
 - i. A project in which the applicant is not directly involved in execution and completion of the project.

SECTION 2. AMENDMENT. Section 54-17.8-05 of the North Dakota Century Code is amended and reenacted as follows:

54-17.8-05. Powers and duties of commission.

The commission is granted all the powers necessary or appropriate to carry out and effectuate the purposes of this chapter, including the power to:

1. Make grants to a state agency, a tribal government, a political subdivision, ~~and~~or a nonprofit organization;
2. Place conditions on an offer or a grant including a limit on the duration of an offer, a requirement of matching funds, and limit the source of the matching funds, and the commission shall exclude any money appropriated from the general fund from use as matching funds unless the legislative assembly authorizes the use of general fund money as matching funds;
3. Approve expenditures for staffing or an outside consultant to design and implement an approved project based on the documented need of the applicant and the expenditures may not exceed five percent of the grant to a grantee if the grant exceeds two hundred fifty thousand dollars and expenditures may not exceed ten percent of the grant to a grantee if the grant is two hundred fifty thousand dollars or less;

4. Enter contracts or agreements to carry out the purposes of this chapter, including authority to contract for the administration of the fund and staffing for the advisory board;
- 3-5. Accept donations, grants, contributions, and gifts from any public or private source; and
- 4-6. Adopt policies and rules necessary to effectuate the purposes of this chapter.

SECTION 3. AMENDMENT. Subdivision c of subsection 1 of section 54-17.8-06 of the North Dakota Century Code is amended and reenacted as follows:

- c. Four members from the conservation community. The governor shall appoint from a list of nominations ~~one member from ducks unlimited of North Dakota, one member from the North Dakota chapter of pheasants forever, and two~~ the members from the conservation community at large of statewide conservation groups.

¹⁸⁸ **SECTION 4. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

57-51-15. (Effective for taxable events occurring through June 30, 2015) Gross production tax allocation.

The gross production tax must be allocated monthly as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
 - a. Allocate to each hub city a monthly amount that will provide a total allocation of three hundred seventy-five thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;
 - b. Allocate to each hub city school district a monthly amount that will provide a total allocation of one hundred twenty-five thousand dollars per fiscal year for each full or partial percentage point of the hub city's private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;
 - c. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding two hundred forty million dollars per biennium;
 - d. Credit ~~four~~ eight percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding ~~fifteen~~ twenty million dollars in a state fiscal year and not in an amount exceeding ~~thirty~~ forty million dollars per biennium;
 - e. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding five million dollars in a state fiscal year and not in an

¹⁸⁸ Section 57-51-15 was also amended by section 1 of House Bill No. 1032, chapter 465, and section 3 of House Bill No. 1176, chapter 463.

- amount that would bring the balance in the fund to more than seventy-five million dollars; and
- f. Allocate the remaining revenues under subsection 3.
2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
 - a. The first five million dollars is allocated to the county.
 - b. Of all annual revenue exceeding five million dollars, twenty-five percent is allocated to the county.
 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.
 4. For a county that received less than five million dollars of allocations under subsection 2 in the most recently completed state fiscal year, revenues allocated to that county must be distributed by the state treasurer as follows:
 - a. Forty-five percent must be distributed to the county treasurer and credited to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the state treasurer no less than quarterly to school districts within the county, excluding consideration of and allocation to any hub city school district in the county, on the average daily attendance distribution basis, as certified to the state treasurer by the county superintendent of schools.
 - c. Twenty percent must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. A hub city must be omitted from apportionment under this subdivision. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
 5. For a county that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year, revenues allocated to that county must be distributed by the state treasurer as follows:

- a. Sixty percent must be distributed to the county treasurer and credited to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
- b. Five percent must be apportioned by the state treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from consideration and apportionment under this subdivision.
- c. Twenty percent must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. A hub city must be omitted from apportionment under this subdivision. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
- d. Three percent must be apportioned no less than quarterly by the state treasurer among the organized and unorganized townships of the county. The state treasurer shall apportion the funds available under this subdivision among townships in the proportion that township road miles in the township bear to the total township road miles in the county. The amount apportioned to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.
- e. Three percent must be allocated by the state treasurer among the organized and unorganized townships in all the counties that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year. The amount available under this subdivision must be allocated no less than quarterly by the state treasurer in an equal amount to each eligible organized and unorganized township. The amount allocated to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.
- f. Nine percent must be allocated by the state treasurer among hub cities. The amount available for allocation under this subdivision must be apportioned by the state treasurer no less than quarterly among hub cities. Sixty percent of funds available under this subdivision must be distributed to the hub city receiving the greatest percentage of allocations to hub cities under subdivision a of subsection 1 for the quarterly period, thirty percent of funds available under this subdivision must be distributed to the hub city

receiving the second greatest percentage of such allocations, and ten percent of funds available under this subdivision must be distributed to the hub city receiving the third greatest percentage of such allocations.

6. Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:
 - a. The county's statement of revenues and expenditures; and
 - b. The amount allocated to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

Within fifteen days after the time when reports under this subsection were due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.

(Effective for taxable events occurring after June 30, 2015) Gross production tax allocation. The gross production tax must be allocated monthly as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
 - a. Allocate five hundred thousand dollars per fiscal year to each city in an oil-producing county which has a population of seven thousand five hundred or more and more than two percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota. The allocation under this subdivision must be doubled if the city has more than seven and one-half percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;
 - b. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding one hundred million dollars per biennium;
 - c. Credit ~~four~~eight percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding ~~fifteen~~twenty million dollars in a state fiscal year and not in an amount exceeding ~~thirty~~forty million dollars per biennium;
 - d. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding five million dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than seventy-five million dollars; and
 - e. Allocate the remaining revenues under subsection 3.

2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
 - a. The first two million dollars is allocated to the county.
 - b. Of the next one million dollars, seventy-five percent is allocated to the county.
 - c. Of the next one million dollars, fifty percent is allocated to the county.
 - d. Of the next fourteen million dollars, twenty-five percent is allocated to the county.
 - e. Of all annual revenue exceeding eighteen million dollars, ten percent is allocated to the county.
3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.
4. The amount to which each county is entitled under subsection 2 must be allocated within the county so the first five million three hundred fifty thousand dollars is allocated under subsection 5 for each fiscal year and any amount received by a county exceeding five million three hundred fifty thousand dollars is credited by the county treasurer to the county infrastructure fund and allocated under subsection 6.
5.
 - a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of

students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

The countywide allocation to school districts under this subdivision is subject to the following:

- (1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.
 - (2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.
 - (3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.
 - (4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.
 - (5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:
 - (a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.
 - (b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.
 - (c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.
- c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this

subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

6. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsections 4 and 5 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsections 4 and 5 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads or other infrastructure needs in those townships. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.
 - c. Twenty percent of all revenues allocated to any county infrastructure fund under subsections 4 and 5 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.
7. Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:
 - a. The county's statement of revenues and expenditures; and
 - b. The amount available in the county infrastructure fund for allocation to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the

amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

Within fifteen days after the time when reports under this subsection were due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable events beginning after June 30, 2015.

SECTION 6. EMERGENCY. Subsection 2 of section 54-17.8-05 as amended by section 2 of this Act is declared to be an emergency measure.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 380

SENATE BILL NO. 2091

(Education Committee)

(At the request of the Superintendent of Public Instruction)

AN ACT to amend and reenact section 54-24.4-01 of the North Dakota Century Code, relating to the membership of the North Dakota library coordinating council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-24.4-01 of the North Dakota Century Code is amended and reenacted as follows:

54-24.4-01. North Dakota library coordinating council - Members - Term.

The North Dakota library coordinating council consists of eleven members. The president of the North Dakota library association, or the president's designee, is an ex officio voting member of the council. The state librarian is an ex officio nonvoting member of the council. The governor shall appoint nine members to the council, one of whom must represent special libraries, one of whom must represent public higher education institution libraries, one of whom must represent private higher education institution libraries, one of whom must represent school libraries, two of whom must represent public libraries, one of whom must represent disabled, economically disadvantaged, and minority populations, and two citizens at large. All appointed members, except citizens at large, must be practicing librarians. The governor shall take into account reasonable geographic considerations when appointing members of the council. The term of each member is three years. If at any time during a member's term the member ceases to possess the qualifications required by this section, the member's office is deemed vacant and the governor shall appoint a qualified representative to complete the term of office. No member may be appointed to serve more than two consecutive three-year terms.

Approved March 13, 2015

Filed March 13, 2015

CHAPTER 381

HOUSE BILL NO. 1093

(Appropriations Committee)
(At the request of the State Treasurer)

AN ACT to amend and reenact section 54-27-19 of the North Dakota Century Code, relating to allocation and distribution of the highway tax distribution fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-27-19 of the North Dakota Century Code is amended and reenacted as follows:

54-27-19. Highway tax distribution fund - State treasurer to make allocation to state, counties, and cities.

A highway tax distribution fund is created as a special fund in the state treasury into which must be deposited the moneys available by law from collections of motor vehicle registration and related fees, fuels taxes, special fuels taxes, use taxes, and special fuels excise taxes. The state treasurer shall transfer the first five million five hundred thousand dollars per biennium from the highway tax distribution fund to the state highway fund for the purpose of providing administrative assistance to other transferees. After the transfer of the first five million five hundred thousand dollars, any moneys in the highway tax distribution fund must be allocated and transferred monthly by the state treasurer, as follows:

1. Sixty-one and three-tenths percent must be transferred monthly to the state department of transportation and placed in a state highway fund.
2. Two and seven-tenths percent must be transferred monthly to the township highway fund.
3. One and five-tenths percent must be transferred monthly to the public transportation fund.
4. Thirty-four and five-tenths percent must be allocated to the counties of this state in proportion to the number of vehicle registrations credited to each county. Each county must be credited with the certificates of title of vehicles registered by residents of the county. The state treasurer shall compute and distribute the counties' share monthly after deducting the incorporated cities' share. All the moneys received by the counties from the highway tax distribution fund must be set aside in a separate fund called the "highway tax distribution fund" and must be appropriated and applied solely for highway purposes in accordance with section 11 of article X of the Constitution of North Dakota. The state treasurer shall compute and distribute monthly the sums allocated to the incorporated cities within each county according to the ~~formula~~formulas in this subsection ~~on the basis of the per capita population of all of the incorporated cities situated within each county~~using the incorporated cities' populations as determined by the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to the census.

- a. For counties having no cities with a population of ten thousand or more, a statewide per capita average must be used, as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state. Each city must be paid an amount equal to the product of the statewide per capita and that city's population twenty-seven percent of the total county allocation must be distributed to all of the incorporated cities within the county on a countywide per capita basis. The remaining county allocation amount must be transferred into the county highway tax distribution fund.
- b. For each county having a city with a population of ten thousand or more, the amount transferred each month into the county highway tax distribution fund must be the difference between the amount allocated to that county pursuant to this subsection and the total amount allocated and distributed to the incorporated cities in that county as computed according to the following formula:
 - (1) A statewide per capita average as determined by calculating twenty-seven percent of the amount allocated to all of the counties under this subsection divided by the total population of all of the incorporated cities in the state.
 - (2) The share distributed to each city in the county having a population of less than one thousand must be determined by multiplying the population of that city by the product of 1.50 times the statewide per capita average computed under paragraph 1.
 - (3) The share distributed to each city in the county having a population of one thousand to four thousand nine hundred ninety-nine, inclusive, must be determined by multiplying the population of that city by the product of 1.25 times the statewide per capita average computed under paragraph 1.
 - (4) The share distributed to each city in the county having a population of five thousand or more must be determined by multiplying the population of that city by the statewide per capita average for all such cities, which per capita average must be computed as follows: the total of the shares computed under paragraphs 2 and 3 for all cities in the state having a population of less than five thousand must be subtracted from the total incorporated cities' share in the state as computed under ~~subdivision a paragraph 1~~ and the balance remaining must then be divided by the total population of all cities of five thousand or more in the state.
5. The moneys allocated to the incorporated cities must be distributed to them monthly by the state treasurer and must be deposited by the cities in a separate fund and may only be used in accordance with section 11 of article X of the Constitution of North Dakota and an incorporated city may use the fund for the construction, reconstruction, repair, and maintenance of public highways within or outside the city pursuant to an agreement entered into between the city and any other political subdivision as authorized by section 54-40-08.

CHAPTER 382

HOUSE BILL NO. 1085

(Representatives Rick C. Becker, Kasper, Hatlestad)
(Senators Cook, Armstrong, Poolman)

AN ACT to create and enact a new section to chapter 54-27 of the North Dakota Century Code, relating to federal funds reporting requirements by state agencies and reports to the legislative management; and to amend and reenact section 54-27-27 of the North Dakota Century Code, relating to federal grant applications reporting requirements by state agency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

Report on federal funds by state agency - Legislative management report.

1. Biennially, each executive branch state agency, excluding entities under the control of the board of higher education, receiving federal funds, shall report to the office of management and budget a plan to operate the state agency if federal funds are reduced by five percent or more of the total federal funds the state agency receives. The report must include information on whether the agency will request state funds to offset the decrease in federal funds. The report is not required to address a reduction in federal funds received by the agency which is a result of:
 - a. A decrease in caseloads or cost per case;
 - b. A change in the anticipated project completion date for a construction project qualifying for federal fund reimbursement; or
 - c. The completion of a one-time project funded in whole or in part by federal funds.
2. The office of management and budget shall report to the legislative management by October fifteenth of each even-numbered year on the reports received from state agencies under this section. The report must include a summary of the reports received from state agencies on how each agency will operate with the reduction in federal funds.

SECTION 2. AMENDMENT. Section 54-27-27 of the North Dakota Century Code is amended and reenacted as follows:

54-27-27. Report on federal grantsgrant applications by state agency.

Each state agency, excluding entities under the control of the state board of higher education, shall report to the office of management and budget before applying for a federal grant for which the agency may receive estimated funding of twenty-five thousand dollars or more. The report must include the purpose of the grant; the potential amount of the grant; any additional employees that may be required

because of the grant; the time period covered by the grant; and grant requirements, including state matching requirements or maintenance of effort. The state agency shall provide updates on the status of the grant application as required by the office of management and budget. At each meeting of the budget section of the legislative management, the office of management and budget shall report to the budget section on the reports received from state agencies under this section.

Approved April 13, 2015

Filed April 13, 2015

CHAPTER 383

HOUSE BILL NO. 1066

(Appropriations Committee)
(At the request of the State Treasurer)

AN ACT to amend and reenact sections 54-27.2-01 and 54-27.2-02 of the North Dakota Century Code, relating to the balance of and transfers to the budget stabilization fund; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-27.2-01 of the North Dakota Century Code is amended and reenacted as follows:

54-27.2-01. Budget stabilization fund.

The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be deposited in the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund at the end of any fiscal year to an amount greater than nine and one-half percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund.

SECTION 2. AMENDMENT. Section 54-27.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-27.2-02. Certain general fund revenues to be deposited in the budget stabilization fund.

Notwithstanding any other provision of law except section 54-27.2-01, any amount in the state general fund in excess of sixty-five million dollars at the end of any biennium, after deducting any amounts that would otherwise be transferred to the general fund under section 54-27.2-01, must be transferred by the state treasurer to the budget stabilization fund. For purposes of this section, "at the end of any biennium" means after cancellation of unexpended appropriations under section 54-44.1-11.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on July 1, 2015.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 26, 2015
Filed March 26, 2015

CHAPTER 384

HOUSE BILL NO. 1061

(Legislative Management)
(Water Topics Overview Committee)

AN ACT to amend and reenact section 54-35-02.7 of the North Dakota Century Code, relating to the water topics overview committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁹ **SECTION 1. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.7. Water topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water topics overview committee in the same manner as the legislative management appoints other interim committees. The committee must meet quarterly and is responsible for legislative overview of water topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water topics. The committee shall work collaboratively with the state water commission to develop policies to further define the state role in major flood control projects. The committee shall prepare a schedule of priorities with respect to water projects. The state water commission and state engineer shall assist the committee in developing the schedule of priorities, and the committee may seek input from stakeholders within the state regarding water project priorities. The committee also shall study policies regarding the development and financing of municipal projects, including water treatment plants; pipelines, including pipeline expansion, public and industrial use of water, cost analysis of future project development, and ongoing maintenance cost of current and future projects; and technology, including the use of technology for permitting and electronic metering. During the 2013-14 interim, the committee shall review water supply routes and alternatives for the Red River valley water supply project and may meet with the state water commission. The legislative management shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.

Approved March 19, 2015

Filed March 19, 2015

¹⁸⁹ Section 54-35-02.7 was also amended by section 31 of Senate Bill No. 2020, chapter 54.

CHAPTER 385

HOUSE BILL NO. 1052

(Legislative Management)
(Information Technology Committee)

AN ACT to amend and reenact subsection 11 of section 54-35-15.2 and section 54-59-12 of the North Dakota Century Code, relating to information technology reports by the North Dakota university system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 11 of section 54-35-15.2 of the North Dakota Century Code is amended and reenacted as follows:

11. a. Receive and review information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the ~~information technology department and the affected institution~~ state board of higher education regarding any major project of the state board of higher education or any institution under the control of the state board of higher education if the project:
 - (1) Significantly impacts the statewide wide area network, including the campus access routers;
 - (2) Impacts the statewide library system; or
 - (3) Is an administrative project. An administrative project is a project that directly collects, aggregates, modifies, stores, or reports institutional student, financial, or human resources records or data and is provided primarily for administrative purposes.
- b. For the purposes of this subsection, a major project is a project with a total cost of five hundred thousand dollars or more.

SECTION 2. AMENDMENT. Section 54-59-12 of the North Dakota Century Code is amended and reenacted as follows:

54-59-12. Coordination of activities - Reports.

The department shall cooperate with each state entity providing access to any computer database or electronically filed or stored information under subsection 4 of section 44-04-18 to assist in providing economical, efficient, and compatible access. The chief information officer shall conduct conferences and meetings with political subdivisions to review and coordinate information technology. The chief information officer and the ~~commissioner of the board of higher education~~ chief information officer of the North Dakota university system shall meet at least twice each year to plan and coordinate their information technology. The chief information officer and ~~commissioner~~ the chief information officer of the North Dakota university system shall

consider areas in which joint or coordinated information technology may result in more efficient and effective state government operations. Upon request, the chief information officer shall report to the legislative management regarding the coordination of services with political subdivisions, and the chief information officer and ~~commissioner~~the chief information officer of the North Dakota university system shall report to the legislative management regarding their findings and recommendations.

Approved March 26, 2015
Filed March 26, 2015

CHAPTER 386

SENATE BILL NO. 2057

(Legislative Management)
(Taxation Committee)

AN ACT to create and enact a new section to chapter 54-35 of the North Dakota Century Code, relating to the legislative management assignment of regular legislative interim committee review of statutory provisions providing economic development tax incentives.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

Legislative interim committee review of economic development tax incentives.

The legislative assembly enacts economic development tax incentives with the intent to encourage businesses to locate, grow, and remain in the state; to enhance employment opportunities for citizens; and to foster the most advantageous direction, diversity, and growth of the state economy. The legislative assembly requires systematic, detailed analysis of enacted economic development tax incentives to assure that incentives are, and will continue, serving the intended purposes in a cost-effective and equitable manner consistent with the intent of the legislative assembly. To serve this intent and requirement:

1. During each interim, the legislative management shall assign to a legislative management interim committee study responsibility that includes completing the analysis of economic development tax incentives as provided in this section and reporting its findings and any associated recommended legislation to the legislative management.
2. The legislative management interim committee assigned the study responsibility under this section shall analyze each incentive, applying considerations relevant to the perceived goals of the incentive, including any or all of the following:
 - a. The extent of achievement of the goals of the incentive and whether unintended consequences have developed in its application.
 - b. Whether the design and application of the incentive can be improved.
 - c. The extent of complementary or duplicative effect of other incentives or governmental programs.
 - d. Whether the incentive has a positive influence on business behavior or rewards business behavior that is likely to have occurred without the incentive.

- e. The effect of the incentive on the state economy, including the extent of primary sector operation of the recipient and any competitive disadvantage imposed or benefit conferred on other state businesses, any benefit or burden created for local government, and the extent of the incentive's benefit that flows to out-of-state concerns.
 - f. The employment opportunities generated by the incentive and the extent those represent career opportunities.
 - g. Whether the incentive is the most effective use of state resources to achieve desired goals.
 - h. If the committee's analysis of the incentive is constrained by lack of data, whether statutory or administrative changes should be made to improve collection and availability of data.
3. The legislative management interim committee assigned the study responsibility under this section may examine economic development tax incentives, shall complete analysis of the state-imposed tax aspects of the incentives it designates for analysis during the interim, and shall approve a plan to provide that each of the economic development tax incentives listed in this subsection is subject to a complete analysis within each six-year period. The interim committee may include in its recommendations any amendments to this section, including amendments to add or remove incentives from the list of incentives subject to analysis under this subsection. Analysis must be completed for state-imposed tax aspects of economic development tax incentives, including each of the following:
- a. Renaissance zone credits and exemptions.
 - b. Research expense credit.
 - c. Agricultural commodity processing facility investment credit.
 - d. Biodiesel fuel production facility construction or retrofit credit, biodiesel fuel blending credit, and biodiesel fuel equipment credit.
 - e. Seed capital investment credit.
 - f. Wage and salary credit.
 - g. Internship program credit.
 - h. Microbusiness credit.
 - i. Angel fund investment credit.
 - j. Workforce recruitment credit.
 - k. Soybean or canola crushing facility construction or retrofit credit.
 - l. Manufacturing automation equipment credit.
 - m. New or expanding business exemption.
 - n. Manufacturing and recycling equipment sales tax exemption.

- o. Coal severance and conversion tax exemptions.
 - p. Oil and gas gross production and oil extraction tax exemptions.
 - q. Fuel tax refunds for certain users.
 - r. New jobs credit from income tax withholding.
 - s. Any economic development tax incentive created by the sixty-fourth legislative assembly.
- 4. By October first of each odd-numbered year, the interim committee assigned the study responsibility under this section shall determine and approve:
 - a. The economic development tax incentives under subsection 3 which will be designated for analysis during that interim and a plan to provide for analysis of the remaining economic development tax incentives under subsection 3 within the six-year period.
 - b. The perceived goals of the legislative assembly in creating or altering each incentive designated for analysis, for use as a baseline for committee analysis of the incentive.
 - c. The data and testimony that will be required to conduct an effective analysis of each incentive designated for analysis.
- 5. The department of commerce, tax commissioner, economic development foundation, and any other state agency or instrumentality shall provide data and analysis as requested by the interim committee conducting the analysis under this section.
 - a. If data is not available, the entity requested to provide the information shall advise the committee how the data could be obtained and the estimated cost of obtaining the data.
 - b. If data is available but cannot be shared with the committee, the entity requested to provide the information shall explain the reason and whether there are options that could be used to obtain the data or an adequate substitute for the data.
- 6. The interim committee conducting the analysis under this section shall report its findings and recommendations together with any legislation required to implement those recommendations to the legislative management.

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 387**HOUSE BILL NO. 1028**

(Legislative Management)
(Agriculture Committee)

AN ACT to require that the legislative management continue its study of laws relating to agriculture.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY. The legislative management shall study, during the 2015-16 interim, provisions of the North Dakota Century Code that relate to agriculture, for the purposes of eliminating provisions that are irrelevant or duplicative, clarifying provisions that are inconsistent or unclear in their intent and direction, and rearranging provisions in a logical order. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 388

HOUSE BILL NO. 1035

(Legislative Management)
(Health Care Reform Review Committee)

AN ACT to provide for legislative management studies of the state's health care delivery system and a behavioral health and addiction training initiative.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - HEALTH CARE DELIVERY SYSTEM. During the 2015-16 interim, the legislative management shall consider continuing its ongoing study of the needs and challenges of the North Dakota health care delivery system. The study may include monitoring the implementation of the federal Affordable Care Act, examining medicaid expansion and medicaid reform, reviewing any impact on rural access to primary health care and emergency services, making recommendations to maintain and enhance rural primary health care and emergency services, and considering the feasibility of developing a state-based plan for a health care model that will comply with federal health care reform in a manner that will provide high-quality access and affordable care for North Dakota citizens. The university of North Dakota school of medicine and health sciences advisory council shall make periodic reports to the legislative management on the status of the biennial report developed pursuant to section 15-52-04. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - BEHAVIORAL HEALTH AND ADDICTION TRAINING INITIATIVE. During the 2015-16 interim, the legislative management shall consider studying the feasibility and desirability of pursuing a behavioral health and addiction training initiative in response to concerns described in the behavioral health planning report prepared by Schulte Consulting, LLC, for the legislative management's 2013-14 human services committee and in reports of the steering committee of the behavioral health stakeholders group. The study shall include exploration of opportunities for innovative public-private partnerships, and may include participation by public and private stakeholders, such as the university of North Dakota school of medicine and health sciences and school of law. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 389

HOUSE BILL NO. 1036

(Legislative Management)
(Health Care Reform Review Committee)

AN ACT to provide for the state department of health to study health professional assistance programs and report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. STATE DEPARTMENT OF HEALTH STUDY - HEALTH PROFESSIONAL ASSISTANCE PROGRAMS - REPORT TO LEGISLATIVE MANAGEMENT.

1. During the 2015-16 interim, the state department of health shall evaluate the state programs to assist health professionals, including behavioral health professionals, with a focus on state loan repayment programs for health professionals. The study must include:
 - a. Identification of state programs to assist health professionals;
 - b. Consideration of whether elements of the identified state programs could be standardized;
 - c. Evaluation of funding and usage of the identified state programs;
 - d. Evaluation of the effectiveness of these identified programs and how these programs could be revised to be more effective; and
 - e. Consideration of whether there are gaps or duplication in programs designed to assist health professionals.
2. During the 2015-16 interim the state department of health shall make periodic reports to the legislative management on the status of the study. Before July 1, 2016, the state department of health shall report to the legislative management on the outcome of the study, including presentation of recommended legislation. The legislative management may introduce legislation recommended by the state department of health as part of the department's study report.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 390**HOUSE BILL NO. 1037**

(Legislative Management)
(Health Care Reform Review Committee)

AN ACT to provide for a report to the legislative management by the department of human services on the medicaid and medicaid expansion program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPORT TO LEGISLATIVE MANAGEMENT - DEPARTMENT OF HUMAN SERVICES STUDY OF MEDICAID AND MEDICAID EXPANSION COST-SHARING PROVISIONS. During the 2015-16 interim, the department of human services shall study options for implementing income-based cost-sharing provisions for the medicaid and medicaid expansion programs. This study must include consideration of provider recovery rates for copayments, information technology capacity for implementing income-based cost-sharing provisions, consideration of how income-based cost-sharing has been implemented by other states, analysis of the costs and benefits of cost-sharing, and consideration of whether cost-sharing improves the effectiveness of medicaid and medicaid expansion programs. Before July 1, 2016, the department of human services shall report to the legislative management the outcome of the study and the associated legislative recommendations and related draft legislation.

Approved March 12, 2015

Filed March 12, 2015

CHAPTER 391

HOUSE BILL NO. 1048

(Legislative Management)
(Human Services Committee)

AN ACT to provide for behavioral health licensure boards to each develop a plan, in collaboration with the other boards, for the administration and implementation of licensing and reciprocity standards for licensees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. BEHAVIORAL HEALTH LICENSURE BOARDS - PLAN FOR ADMINISTRATION AND IMPLEMENTATION OF LICENSING AND RECIPROCITY STANDARDS FOR LICENSEES - REPORT TO LEGISLATIVE MANAGEMENT.

1. During the 2015-16 interim, the board of addiction counseling examiners, board of counselor examiners, North Dakota board of social work examiners, state board of psychologist examiners, state board of medical examiners, and North Dakota marriage and family therapy licensure board, shall, in collaboration with the other boards, develop a plan for the administration and implementation of licensing and reciprocity standards for licensees. The plan must include a standard for issuance of licenses to qualified applicants in a timely manner. The boards shall evaluate whether regional, national, or international licensing and reciprocity standards are adequate for licensure in the state.
2. Before July 1, 2016, each board shall present its findings, the proposed plan, and any legislative changes necessary to implement the plan, to the legislative management.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 392

HOUSE BILL NO. 1065

(Representatives Hanson, Rick C. Becker, Beadle, Olson, Mitskog)
(Senator Laffen)

AN ACT to provide for a legislative management study of automated motor vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying what, if any, current laws need to be changed to accommodate the introduction or testing of automated motor vehicles in North Dakota and any automated corridors affecting North Dakota. "Automated motor vehicle" means a vehicle capable of operating in a full automation mode where full automation is defined by the Society of Automotive Engineers standard, J3016, section 5.6 issued January 2014, as the unconditional, full-time performance by an automated driving system of all aspects of the dynamic driving task. The study may include research into the degree that automated motor vehicles could reduce traffic fatalities and crashes by reducing or eliminating driver error and the degree that automated motor vehicles could reduce congestion and improve fuel economy through better utilization of existing highway capacity and more efficient operation of the vehicles' acceleration and braking controls. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 393**HOUSE BILL NO. 1073**

(Representative Delzer)

AN ACT to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY OF REQUIRED MOTOR VEHICLE INSURANCE. During the 2015-16 interim, the legislative management shall consider studying required motor vehicle insurance. The study must include a review of the limits on no-fault benefits. The legislative management shall report its findings and recommendations, together with any legislation to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 18, 2015

Filed March 18, 2015

CHAPTER 394

HOUSE BILL NO. 1083

(Representatives Rick C. Becker, Kasper, Hatlestad, Laning)
(Senators Dever, Campbell)

AN ACT to provide for a legislative management study of statutory and regulatory requirements placed on North Dakota state government agencies by United States government agencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATUTORY AND REGULATORY REQUIREMENTS PLACED ON NORTH DAKOTA STATE GOVERNMENT AGENCIES BY UNITED STATES GOVERNMENT AGENCIES.

During the 2015-16 interim, the legislative management shall study the statutory and regulatory requirements placed on North Dakota state government agencies by United States government agencies as a condition of the receipt of federal funding to determine whether there are viable options to meet the needs of our state without having the federal government's oversight and involvement, which state needs can be met if federal funding associated with undesirable regulation or excessive direct and indirect costs is refused, and whether the benefit of accepting certain federal funds outweighs the benefit of participation in the federal programs. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 395

HOUSE BILL NO. 1106

(Judiciary Committee)
(At the request of the Adjutant General)

AN ACT to provide for a legislative management study of issues relating to criminal defendants who are veterans or who are currently serving in the armed forces.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - CRIMINAL JUSTICE ISSUES RELATING TO DEFENDANTS WHO ARE VETERANS OR SERVING IN ARMED FORCES.

1. The legislative management shall consider studying, during the 2015-16 interim, issues related to criminal defendants who are veterans or who are currently serving in the armed forces, including:
 - a. Whether additional treatment and sentencing options should be considered if a defendant is suspected to have posttraumatic stress disorder or other behavioral health conditions;
 - b. Whether the additional treatment and sentencing options should apply to both misdemeanor and felony offenses and, if applied to misdemeanor offenses, the impact those additional cases would have on the courts and the department of corrections and rehabilitation;
 - c. The point in the criminal proceeding at which the inquiry regarding the defendant's behavioral health condition should be made;
 - d. What actions are being taken by other states' judicial and criminal justice systems to address similar issues regarding criminal defendants who are veterans or who are currently serving in the armed forces; and
 - e. What steps the state needs to take to ensure that veterans and other armed forces personnel with posttraumatic stress disorder or other behavioral health conditions are best handled in the state's criminal justice system.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 396

HOUSE BILL NO. 1165

(Representatives Klemin, Kretschmar, Strinden)
(Senators Carlisle, Grabinger, Hogue)

AN ACT to require the Legislative Management, in conjunction with other stakeholders, to participate in a justice reinvestment study and initiative.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - JUSTICE REINVESTMENT INITIATIVE. During the 2015-16 interim, the legislative management shall study, in conjunction with representatives of the executive and judicial branches and other stakeholders, justice reinvestment reforms. The legislative management shall participate with representatives of the executive and judicial branches and other stakeholders such as judges, prosecutors, defense attorneys, victims' advocates, corrections staff, law enforcement agencies, and service providers to seek cost-effective and evidence-based strategies to enhance public safety and properly manage corrections and supervision populations. The legislative management shall cooperate with representatives of the executive and judicial branches to seek technical assistance as appropriate from the United States bureau of justice assistance, the PEW charitable trusts, and the council of state governments' justice center to conduct the reform initiative. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 397

HOUSE BILL NO. 1168

(Representatives Pollert, Brandenburg, Kelsh, J. Nelson)
(Senators Dotzenrod, Klein, Wanzek)

AN ACT to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY. The legislative management shall consider studying, during the 2015-16 interim, provisions of the North Dakota Century Code that relate to education, for the purposes of determining the requirements for school districts to demonstrate a decline in enrollment. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 398

HOUSE BILL NO. 1184

(Representatives Lefor, Silbernagel, Trottier)
(Senators Heckaman, Miller, Wardner)

AN ACT to provide for a legislative management study regarding the practice of veterinary medicine in this state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PRACTICE OF VETERINARY MEDICINE. During the 2015-16 interim, the legislative management shall consider studying the practice of veterinary medicine in this state, including any statutory and regulatory requirements and limitations, and the appropriateness of such requirements and limitations with respect to small animal, large animal, and research-focused practices. The study, if conducted, may include a review of the state board of veterinary medical examiners, including the board's membership, powers, duties, and governance of the practice. The study may also include recommended changes to applicable laws that are irrelevant, inconsistent, illogically arranged, or unclear in their intent and direction. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 31, 2015
Filed March 31, 2015

CHAPTER 399**HOUSE BILL NO. 1188**

(Representatives Sukut, Hatlestad, Schatz)
(Senator Krebsbach)

AN ACT to create a task force for the purpose of studying school district boundaries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**SECTION 1. TASK FORCE - SCHOOL DISTRICT BOUNDARIES.**

1. The legislative management shall consider creating a task force to study issues related to school district boundaries, including the feasibility and desirability of maintaining existing boundaries; the parameters currently governing annexation, reorganization, and dissolution processes; and options for instituting boundary changes in the case of significant educational or financial impacts.
2. A task force created under this section is governed by Senate Bill No. 2300, as approved by the sixty-fourth legislative assembly.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 400

HOUSE BILL NO. 1215

(Representatives Owens, Dockter, Haak, Sanford, Silbernagel, Trottier, Weisz)
(Senators Armstrong, J. Lee, Poolman, Rust, Sorvaag)

AN ACT to provide for a legislative management study of individual income tax credits available for qualified care expenses paid for the care of a qualifying family member.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - TAX CREDIT FOR CARE OF FAMILY MEMBER. During the 2015-16 interim, the legislative management shall consider studying individual income tax credits available for qualified care expenses paid for the care of a qualifying family member. The study, if conducted, must determine whether the credit provides adequate incentives for individuals to provide care for those who cannot care for their own needs and the degree that care provided by individuals reduces the cost of state and local funding for care services. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 2, 2015
Filed April 2, 2015

CHAPTER 401

HOUSE BILL NO. 1279

(Representatives Fehr, D. Anderson, Bellew, Hofstad, Seibel)

AN ACT to provide for a legislative management study of family caregiver supports and services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying family caregiver supports and services. The study must identify policies, resources, and programs available for family caregivers and encourage additional innovative and creative means to support family caregivers so that they are able to continue to provide in-home support for older adults. The study must include input from stakeholders, including representatives of hospitals, social and clinical providers, advocacy organizations, tribal government, state and local agencies and institutions, and caregivers in this state. The study committee may receive testimony on the needs of family caregivers, including designation of caregivers, training, respite services, medical leave policies, and delegation of tasks to non-medical aides. The study must include an inventory of the resources available to family caregivers and may make any recommendations for administrative actions to support family caregivers. The legislative management may contract for consulting and coordination of study services. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 402

HOUSE BILL NO. 1302

(Representatives Mock, Onstad, Oversen, Schneider)

AN ACT to provide for a legislative management study of voter registration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - VOTER REGISTRATION.

During the 2015-16 interim, the legislative management shall consider studying voter registration and policies to implement a system of voter registration, including provisions necessary to allow same day voter registration. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 403

HOUSE BILL NO. 1374

(Representatives Maragos, Monson)

AN ACT to provide for a legislative management study of oil and gas put options, swap agreements, or other hedging strategies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PURCHASE OF OIL AND GAS SWAPS. During the 2015-16 interim, the legislative management shall consider studying the feasibility and desirability of authorizing the state investment board to purchase oil and gas put options, enter swap agreements, or utilize any other industrial commission-approved hedging strategies with designated counterparties for the office of management and budget in order to offset reduced state general fund oil and gas tax revenues in the case of decreases in oil and gas prices. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 18, 2015

Filed March 18, 2015

CHAPTER 404

HOUSE BILL NO. 1378

(Representative Keiser)

AN ACT to provide for a legislative management study, decisions, and directive regarding the federal Affordable Care Act and the state's benchmark plan and state-based essential health benefits package for the 2017 plan year and beyond.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY, DECISIONS, AND DIRECTIVE - AFFORDABLE CARE ACT.

1. During the 2015-16 interim, the legislative management shall assign a committee to study the proposed and final federal rules issued by the federal health and human services department relating to the essential health benefits under the federal Affordable Care Act. Specifically, the study must include a review of the rules relating to the state's ability to participate in defining the state-based essential health benefits package for plan years 2017 and beyond, how the state may be authorized to select a benchmark plan for plan years 2017 and beyond, and the deadlines related to these rules and related decisions.
2. Based on the committee's findings, the legislative management may issue a directive to the governor to notify the federal government of the state's decisions relating to the state's benchmark plan and state-based essential health benefits package for the 2017 plan year and beyond.
 - a. A directive issued by the legislative management under this section may not direct the federal government to modify the state's state-based essential health benefits for the 2017 plan year and beyond to include benefits that were not in one or more of the state's benchmark plan options for plan year 2014, the state's 2014 state-based essential health benefits package, or the state's benchmark plan options for plan years 2017 and beyond.
 - b. A directive issued by the legislative management under this section may not result in state liability due to state reimbursement requirements under the federal Affordable Care Act.
3. If during the course of the committee's study under this section, all or a portion of the federal Affordable Care Act is repealed, the committee shall consider whether the repeal impacts the state's decisions relating to the state's benchmark plan and state-based essential health benefits package for the 2017 plan year and beyond.
4. The legislative management shall report its findings, decisions, directives, and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 405

HOUSE BILL NO. 1389

(Representative Rick C. Becker)

AN ACT to provide for a legislative management study relating to verification of citizenship status for voting and for obtaining driver's licenses and nondriver photo identification cards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - VERIFICATION OF CITIZENSHIP STATUS FOR VOTING AND FOR OBTAINING DRIVER'S LICENSES AND NONDRIVER IDENTIFICATION CARDS. During the 2015-16 interim, the legislative management shall consider studying issues relating to verification of citizenship status for the purpose of voting, including absentee and mail ballot voting. The study also must address the process through which the department of transportation verifies citizenship status in the issuance of driver's licenses and nondriver identification cards and the feasibility and desirability of requiring the department of transportation to include on a driver's license or nondriver identification card of a noncitizen a notation indicating the individual is not a citizen of the United States. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 30, 2015

Filed March 31, 2015

CHAPTER 406

HOUSE BILL NO. 1395

(Representatives J. Nelson, D. Johnson, Maragos)
(Senator Oehlke)

AN ACT to provide for a legislative management study of an emergency information program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATEWIDE EMERGENCY INFORMATION PROGRAM. During the 2015-16 interim, the legislative management shall consider studying the benefit a statewide emergency information program would have on the current 911 and emergency services communication systems. An emergency information program is a supplemental 911 and emergency management database that would be used in emergency scenarios and allow for the collection of a variety of formatted data relevant to 911, emergency management, and other public safety agencies. The study must include a review of any gap in the efficiency and services provided by the current 911 and emergency services communication systems employed in this state, and the technological advances and the needs of the residents of this state. The study may include research into the degree that a statewide emergency information program could benefit the current 911 and emergency services communication systems by filling current gaps, addressing school safety concerns and the unique challenges presented by the rapidly expanding western portion of our state due to oil activity, and promoting the health and welfare of our state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 407**HOUSE BILL NO. 1401**

(Representatives Weisz, Dockter, J. Nelson, Owens)
(Senators Dotzenrod, Klein, Unruh)

AN ACT to provide for a legislative management study of sales and use taxation application for purchases by contractors on behalf of an exempt entity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - TAXATION OF PURCHASES MADE ON BEHALF OF EXEMPT ENTITIES. During the 2015-2016 interim, the legislative management shall consider studying sales and use taxation application for purchases by contractors on behalf of an exempt entity. The legislative management shall report its findings and recommendations, to the sixty-fifth legislative assembly.

Approved April 2, 2015
Filed April 2, 2015

CHAPTER 408

HOUSE BILL NO. 1455

(Representatives D. Anderson, B. Anderson, Hofstad, Kreidt, J. Nelson)
(Senator O'Connell)

AN ACT to provide for a legislative management study regarding contract nursing agencies in the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - CONTRACT NURSING AGENCIES. The legislative management shall consider studying, during the 2015-16 interim, issues related to contract nursing agencies in the state. The study shall consider the desirability and feasibility of enacting contract nursing agencies legislation similar to legislation in Minnesota, Maryland, and Illinois. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 2, 2015
Filed April 2, 2015

CHAPTER 409

HOUSE BILL NO. 1469

(Representatives Boschee, Amerman, Klein, Laning, Schneider)
(Senator Dotzenrod)

AN ACT to provide for a legislative management study regarding the provision of transportation services to veterans and the impact on transportation service providers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall consider studying the provision of transportation services to veterans and the impact on those who provide or will provide free transportation services to veterans. The study may include a determination of cities that have public transportation systems, the availability of transportation services for veterans, feedback from transportation providers regarding the provision of free transportation services to veterans, and the impact on cities that have public transportation systems. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 13, 2015
Filed April 13, 2015

CHAPTER 410**SENATE BILL NO. 2049**

(Legislative Management)
(Human Services Committee)

AN ACT to provide for a department of human services study and report to the legislative management regarding statutory references to mental health professionals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. STATUTORY REFERENCES TO MENTAL HEALTH PROFESSIONALS - REPORT TO LEGISLATIVE MANAGEMENT. During the 2015-16 interim, the department of human services, in consultation with the state department of health and other stakeholders, shall study statutory references to mental health professionals to determine whether changes in the law may help to more fully utilize these professionals within their scope of practice, as it relates to the responsibilities of the department of human services to provide services or license facilities. In addition, the department of human services shall study statutory language and report recommended changes in alignment with the most current professional standard or with most current diagnostic and statistical manual. Before August 1, 2016, the department of human services shall report to the legislative management the outcome of the study together with any recommendations.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 411**SENATE BILL NO. 2119**

(Agriculture Committee)

(At the request of the Public Service Commission)

AN ACT to provide for a legislative management study of requirements for the submission of financial statements by public warehouses and grain buyers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SUBMISSION OF FINANCIAL STATEMENTS BY PUBLIC WAREHOUSES AND GRAIN BUYERS.**

During the 2015-16 interim, the legislative management shall consider studying requirements for the submission of financial statements, to the public service commission, by public warehouses and grain buyers in this state, including the time and manner in which the statements must be submitted and confidentiality protections for the information contained therein. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 8, 2015

Filed April 8, 2015

CHAPTER 412

SENATE BILL NO. 2167

(Senators Rust, Burckhard, Warner)
(Representatives B. Anderson, Froseth, Onstad)

AN ACT to provide for a legislative management study of the one-call system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ONE-CALL EXCAVATION NOTICE SYSTEM. During the 2015-16 interim, the legislative management shall consider studying the one-call excavation notice system. The study must include the financial and operational impact on the underground facilities owners from the tremendous increase in the number of locates, a review of who should be responsible for the expenses associated with locating underground facilities in certain situations, the appropriateness of penalties for one-call excavation notice system violators, and the enforcement of penalties by the appropriate state agencies. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations to the sixty-fifth legislative assembly.

Approved March 13, 2015
Filed March 13, 2015

CHAPTER 413

SENATE BILL NO. 2174

(Senators Mathern, J. Lee)
(Representatives Glassheim, Keiser, M. Nelson)

AN ACT to provide for a legislative management study of the state's health care delivery system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - HEALTH CARE DELIVERY SYSTEM.

1. During the 2015-16 interim, the legislative management shall consider continuing its ongoing study of the needs and challenges of the North Dakota health care delivery system. The study may include:
 - a. Monitoring the implementation of the federal Affordable Care Act;
 - b. Examining medicaid expansion and medicaid reform;
 - c. Considering the feasibility of developing a state-based plan for a health care model that will comply with the federal Affordable Care Act in a manner that will provide high-quality access and affordable care for North Dakota citizens;
 - d. Considering changing from a federally facilitated marketplace to a state-based or state partnership marketplace;
 - e. Considering the feasibility of coordinating with neighboring states to create a regional marketplace; and
 - f. Considering the feasibility of offering to the public via the marketplace a qualified public employees retirement system uniform group health plan.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 18, 2015
Filed March 18, 2015

CHAPTER 414

SENATE BILL NO. 2234

(Senators Dever, Axness, Mathern, Oban, Wanzek)
(Representative Brandenburg)

AN ACT to provide for a department of human services study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. DEPARTMENT OF HUMAN SERVICES STUDY - REPORT TO LEGISLATIVE MANAGEMENT. The department of human services shall study eligibility for developmental disability waivers and report to the legislative management by January 1, 2016.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 415

SENATE BILL NO. 2245

(Senators Marcellais, Schneider, Warner)
(Representatives Mock, M. Nelson, Onstad)

AN ACT to provide for a legislative management study of making provisions for Indian veterans' service representatives.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - INDIAN VETERANS' SERVICE REPRESENTATIVES STUDY. During the 2015-16 interim, the legislative management shall consider studying the feasibility and desirability of funding Indian veterans' service representatives to provide equivalent services to those provided by county veterans' service officers. The study must include an evaluation of the number of Indian veterans in each county and where the Indian veterans' service representatives should be located. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 416

SENATE BILL NO. 2276

(Senators Klein, G. Lee, Murphy)
(Representatives Holman, Silbernagel, Weisz)

AN ACT to provide for a legislative management study related to providing natural gas service to underserved communities in this state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - NATURAL GAS SERVICE IN UNDERSERVED COMMUNITIES. The legislative management shall consider studying, during the 2015-16 interim, issues related to providing natural gas service to underserved communities in this state from available natural gas not otherwise committed in main gas transmission lines near those underserved communities. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 417

SENATE BILL NO. 2356

(Senators Miller, Rust, Warner)
(Representatives Damschen, M. Nelson, Zubke)

AN ACT to provide for a legislative management study of abandoned gravel pit reclamation practices and standards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - RECLAMATION PRACTICES. During the 2015-16 interim, the legislative management shall consider studying abandoned gravel pit reclamation practices. The study may address the feasibility and desirability of utilizing state funds for the reclamation of abandoned gravel pits and financially difficult reclamation projects on state and county lands, for the purpose of restoring land for farming, ranching, or other economic enterprises. The study may emphasize consideration of the potential economic benefit of restored land. The study may include consideration of current reclamation practices and standards for all North Dakota industries; use of the North Dakota outdoor heritage fund or other funds for financing; and input from departments, organizations, and associations with interest in reclamation practices. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 418**SENATE BILL NO. 2372**

(Senators Unruh, Oban)
(Representatives Boe, Delzer, Porter, Seibel)

AN ACT to provide for a legislative management study of environmental protection agency regulations regarding carbon dioxide emissions for new and existing electric generation units.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ENVIRONMENTAL PROTECTION AGENCY REGULATIONS ON CARBON DIOXIDE EMISSIONS.**

During the 2015-16 interim, the legislative management shall consider studying the impacts and costs of environmental protection agency regulations on carbon dioxide emissions for new and existing electric generation units. The study must include the regulations' estimated compliance costs on the industry, estimated impacts on regional grid reliability, estimated economic impact to ratepayers in this state, and the feasibility of implementing the regulations, including the proposed timeline. The study must also include an update on the status of technologies related to reduction of carbon dioxide emissions. The legislative management may consult with the lignite energy council, state department of health, public service commission, attorney general, and other state and federal agencies as needed. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 25, 2015
Filed March 25, 2015

CHAPTER 419**SENATE BILL NO. 2375**

(Senators Bekkedahl, Unruh)
(Representatives Hatlestad, Steiner, Streyle, Zubke)

AN ACT to provide for a legislative management study of the formation of community facilities districts for public improvements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - COMMUNITY FACILITIES DISTRICTS. During the 2015-16 interim, the legislative management shall consider studying the formation of community facilities districts for public improvements. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved March 30, 2015
Filed March 31, 2015

CHAPTER 420

SENATE BILL NO. 2300

(Senators Unruh, Cook, Poolman)
(Representatives Delzer, Guggisberg, Headland)

AN ACT to amend and reenact sections 54-35.2-01, 54-35.2-02, 54-35.2-03, 54-35.2-04, and 54-35.2-05 of the North Dakota Century Code, relating to transforming the advisory commission on intergovernmental relations into legislative management appointed task forces on intergovernmental issues.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35.2-01 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-01. ~~Advisory~~ Task force on intergovernmental ~~relations~~issues - Membership - ~~Terms~~ - Meetings.

1. ~~The advisory commission~~ legislative management may appoint task forces on intergovernmental relations ~~consists of twelve members:~~
 - a. ~~The North Dakota league of cities executive committee shall appoint two members of the commission.~~
 - b. ~~The North Dakota association of counties executive committee shall appoint two members of the commission.~~
 - c. ~~The North Dakota township officers association executive board of directors shall appoint one member of the commission.~~
 - d. ~~The North Dakota recreation and park association executive board shall appoint one member of the commission.~~
 - e. ~~The North Dakota school boards association board of directors shall appoint one member of the commission.~~
 - f. ~~The governor or the governor's designee is a member of the commission.~~
 - g. The legislative management shall appoint four members of the legislative assembly as members of the commission ~~issues assigned by the legislative management based on a study directive of a legislative bill or resolution and may appoint to each task force representatives of political subdivisions, the governor or the governor's designee, and members of the legislative assembly. The majority of the members of any task force appointed must be members of the legislative assembly. Task force appointees as representatives of political subdivisions may be selected from nominees of the North Dakota league of cities, association of counties, township officers association, recreation and park association, and school boards association.~~

2. ~~The legislative management shall designate the chairman and vice chairman and the study directive of the commission each task force.~~
3. ~~All members of the commission shall serve for a term of two years, beginning July first of each odd-numbered year, and may be reappointed for additional terms.~~
4. ~~If any member of the commission resigns or ceases to be a member of the class the member represents, that person's membership on the commission ceases immediately and the appropriate appointing authority may appoint a new member for the remainder of the term.~~
5. ~~The commission~~Each task force shall meet at least semiannually ~~at the call of its chairman.~~

SECTION 2. AMENDMENT. Section 54-35.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-02. Functions and duties.

~~The advisory commission~~Each task force on intergovernmental relations ~~issues~~ shall:

1. ~~Serve~~ serve as a forum for the discussion of resolution of intergovernmental ~~problems~~ issues relating to its study directive.
2. Engage in activities and studies relating to the following subjects:
 - a. ~~Local governmental structure.~~
 - b. ~~Fiscal and other powers and functions of local governments.~~
 - c. ~~Relationships between and among local governments and the state or any other government.~~
 - d. ~~Allocation of state and local resources.~~
 - e. ~~Interstate issues involving local governments, including cooperation with appropriate authorities of other states.~~
 - f. ~~Statutory changes required to implement commission recommendations.~~
3. ~~Present reports and recommended legislative bills to the legislative management for consideration in the same manner as legislative management interim committees.~~
4. ~~Prepare model ordinances or resolutions for consideration by officials of political subdivisions.~~

SECTION 3. AMENDMENT. Section 54-35.2-03 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-03. Staff services.

~~The advisory commission~~Each task force on intergovernmental relations ~~issues~~ may request provision of appropriate staff services from the legislative council.

SECTION 4. AMENDMENT. Section 54-35.2-04 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-04. Finances Compensation and expenses.

1. A member of the ~~advisory commission~~task force on intergovernmental ~~relations~~issues who is a member of the legislative assembly is entitled to receive, from funds available to the ~~commission~~task force, compensation per day for each day spent in attendance at ~~commission~~task force meetings in the same amount as provided for members of interim committees of the legislative management and reimbursement for travel and other necessary expenses incurred in the performance of official duties in the amounts provided by law for other state officers. Members of the ~~advisory commission~~task force on intergovernmental ~~relations~~issues who are ~~appointed by an organization representing~~represent political subdivisions may be reimbursed for attendance at ~~commission~~task force meetings by the organization by which they were ~~appointed~~they represent.

2. ~~The commission may apply for, contract for, receive, and expend for its purposes any appropriation or grant from any public or private source.~~
3. ~~Political subdivisions of the state may appropriate funds to the commission to share in the cost of its operations.~~

SECTION 5. AMENDMENT. Section 54-35.2-05 of the North Dakota Century Code is amended and reenacted as follows:

54-35.2-05. Reports.

~~The advisory commission~~Each task force on intergovernmental ~~relations~~issues shall report its findings and recommendations and any proposed legislation necessary to implement the recommendations to the legislative management ~~at the time and in the manner reports are made by interim committees of the legislative management.~~ ~~The legislative management may accept, reject, or amend the report of the advisory commission on intergovernmental relations. The legislative management shall include the report, or any portion of it, as accepted, rejected, or amended, in the legislative management's final report. Copies of the report of the advisory commission on intergovernmental relations, as accepted, rejected, or amended by the legislative management, must be available to counties, cities, townships, appropriate state departments and agencies, and the public~~by the deadline provided by the legislative management when the task force was appointed. A majority of the members of each task force and a majority of the legislative assembly members of each task force must vote in favor of any proposed legislation before the proposed legislation may be recommended to the legislative management.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 421

SENATE BILL NO. 2226

(Senators Schaible, Bekkedahl, Marcellais)
(Representatives D. Anderson, Froseth, D. Johnson)

AN ACT to amend and reenact sections 54-40.2-04, 54-40.2-05, 57-51.2-01, and 57-51.2-02 of the North Dakota Century Code, relating to legislative confirmation of state-tribal tax collection agreements and the authority of the governor to enter agreements relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation, Standing Rock Sioux Tribe Reservation, or Turtle Mountain Band of Chippewa Indians Reservation and on certain trust properties outside reservation boundaries; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-04. Approval of agreement by governor and tribes - Approval by legislative assembly for tax collection agreements.

As a condition precedent to an agreement made under this chapter becoming effective, it must have the approval of the governor of North Dakota and the governing bodies of the tribes involved. If the agreement is a tax collection agreement between the tax commissioner and one or more tribes, the agreement also is subject to confirmation by a majority of members elected to the house of representatives and the senate and does not become effective until its legislative confirmation date or the effective date in the agreement, whichever is later. Each tax collection agreement presented for legislative confirmation must contain an expiration date not more than sixteen years after its effective date and the expiration date must be March thirty-first of an odd-numbered year. If the agreement so provides obtains the approvals under this section and, if required, legislative confirmation under this section, it may be submitted to the secretary for approval.

SECTION 2. AMENDMENT. Section 54-40.2-05 of the North Dakota Century Code is amended and reenacted as follows:

54-40.2-05. Filing of agreement.

~~Within ten days after a declaration of~~ After approval by the governor and ~~following approval of the agreement by the tribe or tribes affected by the agreement and, if required, legislative confirmation,~~ and prior to commencement of its performance, an agreement made pursuant to this chapter must be filed with:

1. The secretary.
2. The clerk of court of each county where the principal office of one of the parties to the agreement is located.
3. The secretary of state.

4. The affected tribal government.

SECTION 3. AMENDMENT. Section 57-51.2-01 of the North Dakota Century Code is amended and reenacted as follows:

57-51.2-01. Authority to enter agreements.

The governor, in consultation with the tax commissioner, may enter separate agreements with the Three Affiliated Tribes, Standing Rock Sioux Tribe, and Turtle Mountain Band of Chippewa Indians, relating to taxation and regulation of oil and gas exploration and production within the boundaries of the Fort Berthold Reservation, Standing Rock Sioux Tribe Reservation, or Turtle Mountain Band of Chippewa Indians Reservation and on trust properties outside reservation boundaries. Each tribal governing body is entitled to enter a separate agreement that conforms with the requirements of this chapter.

Each agreement under this chapter is subject to confirmation by a majority of members elected to the house of representatives and the senate and does not become effective until its confirmation date or the effective date in the agreement, whichever is later. Each agreement presented for confirmation must contain an expiration date not more than sixteen years after its effective date and the expiration date must be March thirty-first of an odd-numbered year.

SECTION 4. AMENDMENT. Section 57-51.2-02 of the North Dakota Century Code is amended and reenacted as follows:

57-51.2-02. Agreement requirements.

An agreement under this chapter is subject to the following:

1. The only taxes subject to agreement are the state's oil and gas gross production and oil extraction taxes attributable to production from wells located within the exterior boundaries of the ~~Fort Berthold Reservation~~reservation and wells located on trust properties outside reservation boundaries. For purposes of this chapter, "trust properties outside reservation boundaries" means land in this state located outside the exterior boundaries of a reservation which are held in trust by the United States for any Indian tribe or owned by an Indian tribe or tribal member subject to a restriction against alienation imposed by the United States.
2. The state's oil and gas gross production tax under chapter 57-51 must apply to all wells located within the ~~Fort Berthold Reservation~~reservation and on trust properties outside reservation boundaries.
3. The state's oil extraction tax under chapter 57-51.1 as applied to oil and gas production attributable to trust lands on the ~~Fort Berthold Reservation~~reservation and on trust properties outside reservation boundaries may not exceed six and one-half percent but may be reduced through negotiation between the governor and the ~~Three Affiliated Tribes~~tribal governing body.
4. Any exemptions for oil and gas production from trust lands under chapters 57-51 and 57-51.1 do not apply to production within the boundaries of the ~~Fort Berthold Reservation~~reservation and on trust properties outside reservation boundaries except as otherwise provided in the agreement.

5. The allocation of revenue from oil and gas gross production and oil extraction taxes on the ~~Fort Berthold Reservation~~reservation must be as follows:
 - a. Production attributable to trust lands. All revenues and exemptions from all oil and gas gross production and oil extraction taxes attributable to production from trust lands on the ~~Fort Berthold Reservation~~reservation and on trust properties outside reservation boundaries must be evenly divided between the tribe and the state.
 - b. All other production. The tribe must receive fifty percent of the total oil and gas gross production and oil extraction taxes collected from all production attributable to nontrust lands on the ~~Fort Berthold Reservation~~reservation in lieu of the application of the ~~Three Affiliated Tribes'~~tribal fees and taxes related to production on such lands. The state must receive the remainder.
 - c. The state's share of the oil and gas gross production tax revenue as divided in subdivisions a and b is subject to distribution among political subdivisions as provided in chapter 57-51.
6. An oil or gas well that is drilled and completed during the time of an agreement under this chapter must be subject to the terms of the agreement for the life of the well.
7. The ~~Three Affiliated Tribes~~tribal governing body must agree not to impose a tribal tax or any fee on future exploration and production of oil and gas on the ~~Fort Berthold Reservation~~reservation and on trust properties outside reservation boundaries during the term of the agreement.
8. To address situations in which the tax commissioner refunds taxes to a taxpayer, the agreement must allow the tax commissioner to offset future distributions to the tribe.
9. The tax commissioner must retain authority to administer and enforce chapters 57-51 and 57-51.1 as applied to wells subject to any agreement authorized by this chapter.
10. An oil or gas well that is drilled and completed during the time an agreement under this chapter is in effect is subject to state regulatory provisions for the life of the well in addition to any other applicable regulatory provisions.
11. The federal district court for the ~~western~~northwestern division of North Dakota is the venue for any dispute arising from a revenue-sharing agreement between the state and the Three Affiliated Tribes or between the state and the Turtle Mountain Band of Chippewa Indians. The federal district court for the southwestern division of North Dakota is the venue for any dispute arising from a revenue-sharing agreement between the state and the Standing Rock Sioux Tribe.
12. The agreement must require that the ~~Three Affiliated Tribes~~tribal governing body report annually to the budget section of the legislative management and that the report:
 - a. Identifies projects totaling investment of at least ten percent of tribal oil and gas gross production and oil extraction tax receipts of the tribe for that year in essential infrastructure.

- b. At a minimum, informs the budget section of tribal investments in essential infrastructure and fees, expenses, and charges the tribe imposes on the oil industry.

SECTION 5. EFFECTIVE DATE. This Act is effective for agreements entered after July 31, 2015.

Approved April 29, 2015

Filed April 30, 2015

CHAPTER 422

SENATE BILL NO. 2024

(Legislative Management)
(Advisory Commission on Intergovernmental Relations)

AN ACT to amend and reenact section 54-40.5-04 of the North Dakota Century Code, relating to reclaiming township or city zoning authority previously relinquished to the county; and to repeal section 11-33-20 of the North Dakota Century Code, relating to relinquishing township or city zoning authority to the county.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-40.5-04 of the North Dakota Century Code is amended and reenacted as follows:

54-40.5-04. Revocation of transfer.

An agreement may be amended by further agreement of the parties in the same manner as the original agreement was made. An agreement may be terminated as provided in the agreement or, if no provision is made for the termination, by joint action of all parties, or by an individual party not less than one year after its notice in writing to all other parties. If a political subdivision that is a party to the agreement is dissolved, the agreement may be terminated as provided in this section by the governing body of the political subdivision upon its reincorporation or reestablishment, by a petition submitted to the county and signed by a majority of the electors residing within the previous territorial jurisdiction of the dissolved political subdivision, or in some other manner specified in the agreement.

A township or city that unilaterally transferred its zoning authority to the county may reacquire that zoning authority by mutual agreement between the board of county commissioners and the board of township supervisors or city governing body.

SECTION 2. REPEAL. Section 11-33-20 of the North Dakota Century Code is repealed.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 423

HOUSE BILL NO. 1034

(Legislative Management)
(Government Finance Committee)

AN ACT to amend and reenact section 54-44.1-12 of the North Dakota Century Code, relating to the allotment of appropriations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.1-12 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-12. Control over rate of expenditures.

1. The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of state government, with the exception of the legislative and judicial branches. Execution means the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of allotments. The allotment must be made by specific fund and all departments and agencies that receive moneys from that fund must be allotted on a uniform percentage basis, except that appropriations to the department of public instruction for foundationstate school aid, transportation aid, and special education aid may only be allotted to the extent that the allotment can be offset by transfers from the foundation aid stabilization fund as follows:
 - a. The first two and one-half percent allotment from the general fund must be offset with a transfer from the foundation aid stabilization fund.
 - b. Any general fund allotment in excess of two and one-half percent that is necessary, after all moneys available in the budget stabilization fund have been transferred to the general fund under section 54-27.2-03, may be offset with a transfer from the foundation aid stabilization fund.
2. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director shall find one or more of the following circumstances to exist:
 4. a. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
 2. b. The payment or the obligation incurred is not authorized by law.
 3. c. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, including:

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- a. (1) Statements of legislative intent expressed in enacted appropriation measures or other measures enacted by the legislative assembly; and
 - b. (2) Statements of purpose of amendment explaining amendments to enacted appropriation measures, as recorded in the journals of the legislative assembly.
4. d. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 424

SENATE BILL NO. 2102

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 54-52-06.2, 54-52-06.4, and 54-52-06.5, and subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to state employee retirement plans and retirement contributions by national guard security officers and firefighters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52-06.2 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06.2. Contribution by national guard security officers or firefighters - Employer contribution.

Each national guard security officer or firefighter who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Member contributions increase by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2014. Effective August 1, 2015, each national guard security officer or firefighter who is a participating member of the plan under this section becomes a participating member of the plan under section 54-52-06.4 and the board shall thereafter manage any account balance associated with those participating members under section 54-52-06.4. After July 31, 2015, a new eligible employee may not become a participating member of the plan under this section. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The national guard security officer's or firefighter's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the security officer's or firefighter's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required national guard security officer's or firefighter's assessment.

SECTION 2. AMENDMENT. Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06.4. Contribution by peace officers employed by the bureau of criminal investigation or security officers employed by the national guard - Employer contribution.

Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the reporting period of January 2013. Effective August 1, 2015, each

national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or security officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's or security officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or security officer's assessment.

SECTION 3. AMENDMENT. Section 54-52-06.5 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06.5. Reduction in member and employer contributions.

The required increase in the amount of member and employer contributions under sections 54-52-02.9, 54-52-05, 54-52-06, 54-52-06.1, ~~54-52-06.2~~, 54-52-06.3, 54-52.6-02, and 54-52.6-09 must be reduced to the rate in effect on July 1, 2013, effective on the July first that follows the first valuation of the public employees retirement system main system showing a ratio of the actuarial value of assets to the actuarial accrued liability of the public employees retirement system main system that is equal to or greater than one hundred percent.

¹⁹⁰ **SECTION 4. AMENDMENT.** Subsection 3 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

3. Retirement dates are defined as follows:

- a. Normal retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:

- (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
- (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

- b. Normal retirement date for a national guard security officer or firefighter is ~~the~~:

- (1) ~~The~~ first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment ~~as a; or~~

¹⁹⁰ Section 54-52-17 was also amended by section 6 of House Bill No. 1062, chapter 259, section 27 of Senate Bill No. 2015, chapter 49, and section 28 of Senate Bill No. 2015, chapter 49.

- (2) When the national guard security officer or firefighter has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- c. Normal retirement date for a peace officer or correctional officer employed by a political subdivision is:
- (1) The first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment as a peace officer or correctional officer; or
 - (2) When the peace officer or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
- (1) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment as a peace officer; or
 - (2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- f. Early retirement date, except for a national guard security officer or firefighter or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment. For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment. For a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- g. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by

subdivision a of subsection 3 of section 27-23-03. A member is eligible to receive disability retirement benefits only if the member:

- (1) Became disabled during the period of eligible employment; and
- (2) Applies for disability retirement benefits within twelve months of the date the member terminates employment.

A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board determines that a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services it deems necessary and these payments are appropriated from the retirement fund for those purposes.

Approved March 13, 2015
Filed March 13, 2015

CHAPTER 425

HOUSE BILL NO. 1038

(Legislative Management)
(Health Care Reform Review Committee)

AN ACT to create and enact section 54-52.1-04.13 of the North Dakota Century Code, relating to public employees retirement system uniform group insurance coverage of telehealth; to require a report regarding coverage of telehealth; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 54-52.1-04.13 of the North Dakota Century Code is created and enacted as follows:

54-52.1-04.13. Insurance coverage of telehealth services.

1. As used in this section:

- a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
- b. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
- c. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
- d. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
- e. "Policy" means health benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2.
- f. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.
- g. "Telehealth":
 - (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility

at a distant site to deliver health services at an originating site; and that is delivered over a secure connection that complies with the requirements of state and federal laws.

- (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.
 - (3) Does not include the use of audio-only telephone, email, or facsimile transmissions.
2. For all policies that become effective after June 30, 2015, and which do not extend past June 30, 2017, the board shall provide health benefits coverage under a policy that provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
 3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the board or the board's contractor with the health services providers in the same manner as the board establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
 4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
 5. This section does not require:
- a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
 - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
 - c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
 - d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

SECTION 2. PUBLIC EMPLOYEES RETIREMENT SYSTEM - COVERAGE OF TELEHEALTH SERVICES. Pursuant to section 54-03-28, the public employees retirement system shall prepare and submit for introduction a bill to the sixty-fifth legislative assembly to repeal the expiration date for section 1 of this Act and to extend the coverage of telehealth services to apply to all group and individual health insurance policies. The public employees retirement system shall append to the bill a report regarding the effect of the telehealth coverage requirement on the system's health insurance programs, information on the utilization and costs relating to the coverage, and a recommendation regarding whether the coverage should continue.

SECTION 3. EXPIRATION DATE. Section 1 of this Act is effective through July 31, 2017, and after that date is ineffective.

Approved April 9, 2015

Filed April 9, 2015

CHAPTER 426

SENATE BILL NO. 2277

(Senators Armstrong, Hogue)
(Representatives Hawken, Karls)

AN ACT to amend and reenact section 54-55-01 of the North Dakota Century Code, relating to membership on the commission on uniform state laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-55-01 of the North Dakota Century Code is amended and reenacted as follows:

54-55-01. Commission on uniform state laws - Membership.

The commission on uniform state laws consists of an individual engaged in the practice of law in this state, the dean or a full-time member of the faculty of the law school of the university of North Dakota, a law-trained judge of a court of record in this state, a member of the house of representatives and a member of the senate of the legislative assembly, and a member of the legislative council. The attorney general may appoint a member of the commission. The commission also consists of any residents of this state who, because of long service in the cause of uniformity of state legislation, have been elected life members of the national conference of commissioners on uniform state laws, and may also consist of any residents of this state who have been previously appointed to at least five years of service on the commission. Except for the member appointed by the attorney general, the members of the legislative assembly, the member of the legislative council, and life members, commissioners first appointed after July 21, 2011, must be residents of the state, must be appointed by the governor for terms of four years each, commencing on the first day of September following each presidential election, and shall serve until their respective successors are appointed. Commissioners first appointed after July 21, 2011, must be residents of the state. The members of the legislative assembly on the commission must be appointed by the legislative management for a term not to exceed four years as prescribed by the legislative management, and the member of the legislative council must be appointed by the chairman of the legislative management. The term of the member appointed by the attorney general may not extend beyond the term of that attorney general.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 427

SENATE BILL NO. 2364

(Senator J. Lee)

AN ACT to amend and reenact subsections 1 and 2 of section 54-59-25, subsections 1 and 2 of section 54-59-26, and section 54-59-29 of the North Dakota Century Code, relating to the health information technology loan fund and confidential health information; and to repeal section 6-09-42 of the North Dakota Century Code, relating to the health information technology loan fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹¹ **SECTION 1. AMENDMENT.** Subsection 1 of section 54-59-25 of the North Dakota Century Code is amended and reenacted as follows:

1. The health information technology advisory committee consists of the state chief information officer or the chief information officer's designee, the state health officer or the state health officer's designee, the governor or the governor's designee, the executive director of the department of human services or the executive director's designee, the chairman of the house human services committee and the chairman of the senate human services committee or if either or both of them are unwilling or unable to serve then the chairman of the legislative management shall appoint a replacement who is a member of the same legislative chamber as the individual being replaced, and individuals appointed by the governor to represent a broad range of public and private health information technology stakeholders. A committee member who is not an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to mileage and expenses as provided by law for state officers and employees, to be paid by the health information technology office. A committee member who is an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to receive that member's regular salary and receive mileage and expenses, to be paid by the employing agency.

¹⁹² **SECTION 2. AMENDMENT.** Subsection 2 of section 54-59-25 of the North Dakota Century Code is amended and reenacted as follows:

2. The health information technology advisory committee shall collaborate with and make recommendations to the health information technology office, as provided under sections 6-09-42, 6-09-43, 54-59-26, and 54-59-27.

¹⁹³ **SECTION 3. AMENDMENT.** Subsection 1 of section 54-59-26 of the North Dakota Century Code is amended and reenacted as follows:

¹⁹¹ Section 54-59-25 was also amended by section 2 of Senate Bill No. 2364, chapter 427.

¹⁹² Section 54-59-25 was also amended by section 1 of Senate Bill No. 2364, chapter 427.

¹⁹³ Section 54-59-26 was also amended by section 4 of Senate Bill No. 2364, chapter 427.

1. The health information technology office is created in the department. The health information technology advisory committee shall make recommendations to the health information technology office for implementing ~~a statewide~~ interoperable health information infrastructure that is consistent with emerging national standards; promote the adoption and use of electronic health records and other health information technologies; and promote interoperability of health information systems for the purpose of improving health care quality, patient safety, and the overall efficiency of health care and public health services.

¹⁹⁴ **SECTION 4. AMENDMENT.** Subsection 2 of section 54-59-26 of the North Dakota Century Code is amended and reenacted as follows:

2. The health information technology office director, in collaboration with the health information technology advisory committee, shall:
 - a. Apply for federal funds that may be available to assist the state and health care providers in implementing and improving health information technology.
 - b. Implement and administer a health information exchange that utilizes information infrastructure and systems in a secure and cost-effective manner to facilitate the collection, storage, and transmission of health records.
 - c. Adopt rules under chapter 28-32 for the use of health information, use of the health information exchange, and participation in the health information exchange.
 - d. Adopt rules under chapter 28-32 for accessing the health information exchange to ensure appropriate and required privacy and security protections and relating to the authority of the director to suspend, eliminate, or terminate the right to participate in the health information exchange.
 - e. ~~Establish a health information technology loan program to provide loans to health care providers for the purpose of purchasing and upgrading certified electronic health record technology, training personnel in the use of such technology, and improving the secure electronic exchange of health information, and for any other purpose under section 6-09-42.~~
 - f. Establish a health information technology planning loan program to provide low-interest loans to health care entities to assist those entities in improving their health information technology infrastructure under section 6-09-43.
 - ~~g-f.~~ Facilitate and expand electronic health information exchange in the state, directly or by awarding grants.
 - ~~h-g.~~ Establish an application process and eligibility criteria for and accept and process applications for loans and grants under subdivisions e, f, and g. The eligibility criteria must be consistent with federal requirements associated with federal funds received under subdivision a. The eligibility

¹⁹⁴ Section 54-59-26 was also amended by section 3 of Senate Bill No. 2364, chapter 427.

criteria for loans under subdivision f must include a requirement that the recipient's approved health information technology be strategically aligned with the state's health information technology plan and the associated federal standards and that the recipient has passed an onsite electronic medical record readiness assessment conducted by an assessment team determined by the health information technology advisory committee and the health information technology office director.

- i-h. Determine fees and charges for access and participation in the health information exchange. Any moneys collected under this subdivision must be deposited in the electronic health information exchange fund.
- j.i. Consult and coordinate with the state department of health and the department of human services to facilitate the collection of health information from health care providers and state agencies for public health purposes, including identifiable health information that may be used by state agencies, departments, or institutions to comply with applicable state or federal laws.

SECTION 5. AMENDMENT. Section 54-59-29 of the North Dakota Century Code is amended and reenacted as follows:

54-59-29. Health information exchange - Confidential and exempt records.

~~Any individually identifiable health information, as defined under the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191], information submitted to, stored in, or transmitted by the health information exchange under this chapter and any such data or record in the possession of the health information technology office is an exempt record under chapter 44-04 unless the information is confidential under applicable federal or state law. Any other information relating to patients, individuals, or individually identifiable demographic information contained in a master client index submitted to, stored in or transmitted by the health information exchange or in the possession of the health information technology office is an exempt record.~~

SECTION 6. REPEAL. Section 6-09-42 of the North Dakota Century Code is repealed.

Approved March 27, 2015
Filed March 27, 2015

CHAPTER 428

SENATE BILL NO. 2136

(Industry, Business and Labor Committee)
(At the request of the Department of Commerce)

AN ACT to amend and reenact section 54-60.1-05 of the North Dakota Century Code, relating to business incentive accountability reports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-60.1-05 of the North Dakota Century Code is amended and reenacted as follows:

54-60.1-05. State grantor recipient reports.

1. The department shall create state grantor recipient report forms that include:
 - a. The name and address of the recipient;
 - b. The type, public purpose, and value of the business incentive;
 - c. The number of new jobs to be created or retained in association with the business incentive;
 - d. The average compensation of all jobs to be created or retained in association with the business incentive, including identification of the average benefits and the average earnings provided by the employer on all jobs created or retained in association with the business incentive;
 - e. The date the job and average compensation goals are expected to be reached;
 - f. A statement of goals identified in the business incentive agreement and an update on achievement of these goals, including the actual number of jobs created or retained and the average compensation of jobs created or retained at that point, including identification of the average benefits actually provided and the average earnings actually provided by the employer on all jobs created or retained;
 - g. The location of the recipient prior to receiving the business incentive;
 - h. The name and address of the parent corporation of the recipient, if any;
 - i. A list of business incentives by all grantors for the project; and
 - j. Other information the department and grantor may request.
2. Each state grantor shall use recipient report forms created by the department to monitor the progress by each state grantor recipient in achieving business incentive agreement goals. At a minimum, each of these recipients shall provide the state grantor with an annual recipient report for two years following

the benefit date or until the goals are met, whichever is later. If the business incentive agreement goals are not met, the state grantor recipient shall continue to provide recipient reports to the state grantor until the incentive is repaid. A state grantor shall file with the department a copy of each completed recipient report.

3. ~~Before March 1, 2007, and each March first thereafter~~sixty days after the anniversary of the benefit date, a state grantor recipient shall file with the state grantor the recipient report for the previous ~~calendar year~~twelve months. If a state grantor recipient fails to file a recipient report before ~~March eighth~~the sixtieth day after the anniversary of the benefit date, the state grantor shall mail the recipient a warning letter. If a noncompliant state grantor recipient fails to file the recipient report within fourteen days of the postmarked date of the warning letter, the recipient shall pay to the state grantor a penalty of one hundred dollars for each subsequent day until the report is filed. The maximum penalty under this section may not exceed one thousand dollars.

Approved March 19, 2015

Filed March 19, 2015

CHAPTER 429

HOUSE BILL NO. 1129

(Industry, Business and Labor Committee)
(At the request of the Department of Commerce)

AN ACT to amend and reenact section 54-60.2-02 of the North Dakota Century Code, relating to workforce development grants for tribally controlled community colleges; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-60.2-02 of the North Dakota Century Code is amended and reenacted as follows:

54-60.2-02. Purpose of grants.

1. Any grant awarded under section 54-60.2-01 may be used at the discretion of the college:
4.
 - a. For development or enhancement of programs that assist in providing certificates or degrees to North Dakota students attending the college that qualify the student to obtain jobs for which applicants are being sought within the state, as identified by the department of commerce, job service North Dakota, or any of the federally recognized Indian tribes within North Dakota; or
 2.
 - b. To assist any North Dakota student attending the college to establish, or to assist in establishing, a new business operating within North Dakota that will employ North Dakota citizens.
2. Any funds provided to tribally controlled community colleges must be used to supplement, not supplant, any existing program or funding source of the college.

SECTION 2. EXPIRATION DATE. This Act is effective through July 31, 2017, and after that date is ineffective.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 430

HOUSE BILL NO. 1138

(Representatives Skarphol, Thoreson, Klemin, Rick C. Becker, Kasper, Streyle,
Monson, Pollert)
(Senators Hogue, Carlisle, Armstrong, Larsen)

AN ACT providing for the adoption of an interstate compact entitled "Compact for a Balanced Budget".

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Adoption of compact.

The state of North Dakota enacts, adopts, and agrees to be bound by the Compact for a Balanced Budget with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I - DECLARATION OF POLICY, PURPOSE, AND INTENT

Whereas, every state enacting, adopting and agreeing to be bound by this compact intends to ensure that their respective legislature's use of the power to originate a Balanced Budget Amendment under Article V of the Constitution of the United States will be exercised conveniently and with reasonable certainty as to the consequences thereof.

Now, therefore, in consideration of their expressed mutual promises and obligations, be it enacted by every state enacting, adopting and agreeing to be bound by this compact, and resolved by each of their respective legislatures, as the case may be, to exercise herewith all of their respective powers as set forth herein notwithstanding any law to the contrary.

ARTICLE II - DEFINITIONS

1. "Compact" means this "Compact for a Balanced Budget".
2. "Convention" means the convention for proposing amendments organized by this compact under Article V of the Constitution of the United States and, where contextually appropriate to ensure the terms of this compact are not evaded, any other similar gathering or body, which might be organized as a consequence of Congress receiving the application set out in this compact and claim authority to propose or effectuate any amendment, alteration or revision to the Constitution of the United States. This term does not encompass a convention for proposing amendments under Article V of the Constitution of the United States that is organized independently of this compact based on the separate and distinct application of any state.
3. "State" means one of the several states of the United States. Where contextually appropriate, the term "state" shall be construed to include all of its

branches, departments, agencies, political subdivisions, and officers and representatives acting in their official capacity.

4. "Member state" means a state that has enacted, adopted, and agreed to be bound to this compact. For any state to qualify as a member state with respect to any other state under this compact, each such state must have enacted, adopted, and agreed to be bound by substantively identical compact legislation.
5. "Compact notice recipients" means the archivist of the United States, the president of the United States, the president of the United States Senate, the office of the secretary of the United States Senate, the speaker of the United States House of Representatives, the office of the clerk of the United States House of Representatives, the chief executive officer of each state, and the presiding officers of each house of the legislatures of the several states.
6. Notice. All notices required by this compact shall be by United States certified mail, return receipt requested, or an equivalent or superior form of notice, such as personal delivery documented by evidence of actual receipt.
7. "Balanced Budget Amendment" means the following:

"Article _____

Section 1. Total outlays of the government of the United States shall not exceed total receipts of the government of the United States at any point in time unless the excess of outlays over receipts is financed exclusively by debt issued in strict conformity with this article.

Section 2. Outstanding debt shall not exceed authorized debt, which initially shall be an amount equal to 105 percent of the outstanding debt on the effective date of this article. Authorized debt shall not be increased above its aforesaid initial amount unless such increase is first approved by the legislatures of the several states as provided in Section 3.

Section 3. From time to time, Congress may increase authorized debt to an amount in excess of its initial amount set by Section 2 only if it first publicly refers to the legislatures of the several states an unconditional, single subject measure proposing the amount of such increase, in such form as provided by law, and the measure is thereafter publicly and unconditionally approved by a simple majority of the legislatures of the several states, in such form as provided respectively by state law; provided that no inducement requiring an expenditure or tax levy shall be demanded, offered or accepted as a quid pro quo for such approval. If such approval is not obtained within sixty (60) calendar days after referral then the measure shall be deemed disapproved and the authorized debt shall thereby remain unchanged.

Section 4. Whenever the outstanding debt exceeds 98 percent of the debt limit set by Section 2, the President shall enforce said limit by publicly designating specific expenditures for impoundment in an amount sufficient to ensure outstanding debt shall not exceed the authorized debt. Said impoundment shall become effective thirty (30) days thereafter, unless Congress first designates an alternate impoundment of the same or greater amount by concurrent resolution, which shall become immediately

effective. The failure of the President to designate or enforce the required impoundment is an impeachable misdemeanor. Any purported issuance or incurrence of any debt in excess of the debt limit set by Section 2 is void.

Section 5. No bill that provides for a new or increased general revenue tax shall become law unless approved by a two-thirds roll call vote of the whole number of each House of Congress. However, this requirement shall not apply to any bill that provides for a new end user sales tax which would completely replace every existing income tax levied by the government of the United States; or for the reduction or elimination of an exemption, deduction, or credit allowed under an existing general revenue tax.

Section 6. For purposes of this article, "debt" means any obligation backed by the full faith and credit of the government of the United States; "outstanding debt" means all debt held in any account and by any entity at a given point in time; "authorized debt" means the maximum total amount of debt that may be lawfully issued and outstanding at any single point in time under this article; "total outlays of the government of the United States" means all expenditures of the government of the United States from any source; "total receipts of the government of the United States" means all tax receipts and other income of the government of the United States, excluding proceeds from its issuance or incurrence of debt or any type of liability; "impoundment" means a proposal not to spend all or part of a sum of money appropriated by Congress; and "general revenue tax" means any income tax, sales tax, or value-added tax levied by the government of the United States excluding imposts and duties.

Section 7. This article is immediately operative upon ratification, self-enforcing, and Congress may enact conforming legislation to facilitate enforcement."

ARTICLE III - COMPACT MEMBERSHIP AND WITHDRAWAL

1. This compact governs each member state to the fullest extent permitted by their respective constitutions, superseding and repealing any conflicting or contrary law.
2. By becoming a member state, each such state offers, promises, and agrees to perform and comply strictly in accordance with the terms and conditions of this compact, and has made such offer, promise, and agreement in anticipation and consideration of, and in substantial reliance upon, such mutual and reciprocal performance and compliance by each other current and future member state, if any. Accordingly, in addition to having the force of law in each member state upon its respective effective date, this compact and each of its articles shall also be construed as contractually binding each member state when:
 - a. At least one other state has likewise become a member state by enacting substantively identical legislation adopting and agreeing to be bound by this compact; and
 - b. Notice of such state's member state status is or has been seasonably received by the compact administrator, if any, or otherwise by the chief executive officer of each other member state.

3. For purposes of determining member state status under this compact, as long as all other provisions of the compact remain identical and operative on the same terms, legislation enacting, adopting, and agreeing to be bound by this compact shall be deemed and regarded as "substantively identical" with respect to such other legislation enacted by another state notwithstanding:
 - a. Any difference in subsection 2 of article IV with specific regard to the respectively enacting state's own method of appointing its member to the commission;
 - b. Any difference in subsection 5 of article IV with specific regard to the respectively enacting state's own obligation to fund the commission;
 - c. Any difference in subsections 1 and 2 of article VI with specific regard to the number and identity of each delegate respectively appointed on behalf of the enacting state, provided that no more than three delegates may attend and participate in the Convention on behalf of any state; or
 - d. Any difference in subsection 7 of article X with specific regard to the respectively enacting state as to whether subsection 1 of article V of this compact shall survive termination of the compact, and thereafter become a continuing resolution of the legislature of such state applying to Congress for the calling of a convention of the states under Article V of the Constitution of the United States, under such terms and limitations as may be specified by such state.
4. When fewer than three-fourths of the states are member states, any member state may withdraw from this compact by enacting appropriate legislation, as determined by state law, and giving notice of such withdrawal to the compact administrator, if any, or otherwise to the chief executive officer of each other member state. A withdrawal shall not affect the validity or applicability of the compact with respect to remaining member states, provided that there remain at least two such states. However, once at least three-fourths of the states are member states, then no member state may withdraw from the compact prior to its termination absent unanimous consent of all member states.

ARTICLE IV - COMPACT COMMISSION AND COMPACT ADMINISTRATOR

1. Nature of the compact commission. The compact commission ("commission") is hereby established. It has the power and duty:
 - a. To appoint and oversee a compact administrator;
 - b. To encourage states to join the compact and Congress to call the Convention in accordance with this compact;
 - c. To coordinate the performance of obligations under the compact;
 - d. To oversee the Convention's logistical operations as appropriate to ensure this compact governs its proceedings;
 - e. To oversee the defense and enforcement of the compact in appropriate legal venues;

- f. To request funds and to disburse those funds to support the operations of the commission, compact administrator, and Convention; and
 - g. To cooperate with any entity that shares a common interest with the commission and engages in policy research, public interest litigation, or lobbying in support of the purposes of the compact. The commission shall only have such implied powers as are essential to carrying out these express powers and duties. It shall take no action that contravenes or is inconsistent with this compact or any law of any state that is not superseded by this compact. It may adopt and publish corresponding bylaws and policies.
2. Commission membership. The commission initially consists of three unpaid members. Each member state may appoint one member to the commission through an appointment process to be determined by their respective chief executive officer until all positions on the commission are filled. Positions shall be assigned to appointees in the order in which their respective appointing states became member states. The bylaws of the commission may expand its membership to include representatives of additional member states and to allow for modest salaries and reimbursement of expenses if adequate funding exists.
3. Commission action. Each commission member is entitled to one vote. The commission shall not act unless a majority of its appointed membership is present, and no action shall be binding unless approved by a majority of the commission's appointed membership. The commission shall meet at least once a year, and may meet more frequently.
4. First order of business. The commission shall at the earliest possible time elect from among its membership a chairperson, determine a primary place of doing business, and appoint a compact administrator.
5. Funding. The commission and the compact administrator's activities shall be funded exclusively by each member state, as determined by their respective state law, or by voluntary donations.
6. Compact administrator. The compact administrator has the power and duty:
 - a. To timely notify the states of the date, time, and location of the Convention;
 - b. To organize and direct the logistical operations of the Convention;
 - c. To maintain an accurate list of all member states, their appointed delegates, including contact information; and
 - d. To formulate, transmit, and maintain all official notices, records, and communications relating to this compact. The compact administrator shall only have such implied powers as are essential to carrying out these express powers and duties; and shall take no action that contravenes or is inconsistent with this compact or any law of any state that is not superseded by this compact. The compact administrator serves at the pleasure of the commission and must keep the commission seasonably apprised of the performance or nonperformance of the terms and conditions of this compact. Any notice sent by a member state to the compact administrator concerning this compact shall be adequate notice

- to each other member state provided that a copy of said notice is seasonably delivered by the compact administrator to each other member state's respective chief executive officer.
7. Notice of key events. Upon the occurrence of each of the following described events, or otherwise as soon as possible, the compact administrator shall immediately send the following notices to all compact notice recipients, together with certified conforming copies of the chaptered version of this compact as maintained in the statutes of each member state:
- a. Whenever any state becomes a member state, notice of that fact shall be given;
 - b. Once at least three-fourths of the states are member states, notice of that fact shall be given together with a statement declaring that the legislatures of at least two-thirds of the several states have applied for a convention for proposing amendments under Article V of the Constitution of the United States, petitioning Congress to call the Convention contemplated by this compact, and further requesting cooperation in organizing the same in accordance with this compact;
 - c. Once Congress has called the Convention contemplated by this compact, and whenever the date, time, and location of the Convention has been determined, notice of that fact shall be given together with the date, time, and location of the Convention and other essential logistical matters;
 - d. Upon approval of the Balanced Budget Amendment by the Convention, notice of that fact shall be given together with the transmission of certified copies of such approved proposed amendment and a statement requesting Congress to refer the same for ratification by three-fourths of the legislatures of the several states under Article V of the Constitution of the United States. However, in no event shall any proposed amendment other than the Balanced Budget Amendment be transmitted; and
 - e. When any article of this compact prospectively ratifying the Balanced Budget Amendment is effective in any member state, notice of the same shall be given together with a statement declaring such ratification and further requesting cooperation in ensuring that the official record confirms and reflects the effective corresponding amendment to the Constitution of the United States. However, whenever any member state enacts appropriate legislation, as determined by the laws of the respective state, withdrawing from this compact, the compact administrator shall immediately send certified conforming copies of the chaptered version of such withdrawal legislation as maintained in the statutes of each such withdrawing member state, solely to each chief executive officer of each remaining member state, giving notice of such withdrawal.
8. Cooperation. The commission, member states, and compact administrator shall cooperate with each other and give each other mutual assistance in enforcing this compact and shall give the chief law enforcement officer of each other member state any information or documents that are reasonably necessary to facilitate the enforcement of this compact.
9. This article does not take effect until there are at least two member states.

ARTICLE V - RESOLUTION APPLYING FOR CONVENTION

1. Be it resolved, as provided for in Article V of the Constitution of the United States, the legislature of each member state herewith applies to Congress for the calling of a convention for proposing amendments limited to the subject matter of proposing for ratification the Balanced Budget Amendment.
2. Congress is further petitioned to refer the Balanced Budget Amendment to the states for ratification by three-fourths of their respective legislatures.
3. This article does not take effect until at least three-fourths of the several states are member states.

ARTICLE VI - DELEGATE APPOINTMENT, LIMITATIONS, AND INSTRUCTIONS

1. Number of delegates. Each member state shall be entitled to one delegate as its sole and exclusive representative at the Convention as set forth in this article.
2. Identity of delegates. Each member state's chief executive officer, who is serving on the enactment date of this compact, is appointed in an individual capacity to represent his or her respective state at the Convention as its sole and exclusive delegate.
3. Replacement or recall of delegates. A delegate appointed hereunder may be replaced or recalled by the legislature of his or her respective state at any time for good cause, such as criminal misconduct or the violation of this compact. If replaced or recalled, any delegate previously appointed hereunder must immediately vacate the Convention and return to their respective state's capital.
4. Oath. The power and authority of a delegate under this article may only be exercised after the Convention is first called by Congress in accordance with this compact and such appointment is duly accepted by such appointee publicly taking the following oath or affirmation: "I do solemnly swear (or affirm) that I accept this appointment and will act strictly in accordance with the terms and conditions of the compact for a balanced budget, the constitution of the state I represent, and the Constitution of the United States. I understand that violating this oath (or affirmation) forfeits my appointment and may subject me to other penalties as provided by law."
5. Term. The term of a delegate hereunder commences upon acceptance of appointment and terminates upon the permanent adjournment of the Convention, unless shortened by recall, replacement, or forfeiture under this article. Upon expiration of such term, any person formerly serving as a delegate must immediately withdraw from and cease participation at the Convention, if any is proceeding.
6. Delegate authority. The power and authority of any delegate appointed hereunder is strictly limited:
 - a. To introducing, debating, voting upon, proposing, and enforcing the Convention rules specified in this compact, as needed to ensure those rules govern the Convention; and

- b. To introducing, debating, voting upon, and rejecting or proposing for ratification the Balanced Budget Amendment. All actions taken by any delegate in violation of this section are void ab initio.
7. Delegate authority. No delegate of any member state may introduce, debate, vote upon, reject, or propose for ratification any constitutional amendment at the Convention unless:
 - a. Convention rules specified in this compact govern the Convention and their actions; and
 - b. The constitutional amendment is the Balanced Budget Amendment.
8. Delegate authority. The power and authority of any delegate at the Convention does not include any power or authority associated with any other public office held by the delegate. Any person appointed to serve as a delegate shall take a temporary leave of absence, or otherwise shall be deemed temporarily disabled, from any other public office held by the delegate while attending the Convention, and may not exercise any power or authority associated with any other public office held by the delegate, while attending the Convention. All actions taken by any delegate in violation of this section are void ab initio.
9. Order of business. Before introducing, debating, voting upon, rejecting, or proposing for ratification any constitutional amendment at the Convention, each delegate of every member state must first ensure the Convention rules in this compact govern the Convention and their actions. Every delegate and each member state must immediately vacate the Convention and notify the compact administrator by the most effective and expeditious means if the Convention rules in this compact are not adopted to govern the Convention and their actions.
10. Forfeiture of appointment. If any member state or delegate violates any provision of this compact, then every delegate of that member state immediately forfeits his or her appointment, and shall immediately cease participation at the Convention, vacate the Convention, and return to his or her respective state's capital.
11. Expenses. A delegate appointed hereunder is entitled to reimbursement of reasonable expenses for attending the Convention from his or her respective member state. No delegate may accept any other form of remuneration or compensation for service under this compact.

ARTICLE VII - CONVENTION RULES

1. Nature of the Convention. The Convention shall be organized, construed, and conducted as a body exclusively representing and constituted by the several states.
2. Agenda of the Convention. The agenda of the Convention shall be entirely focused upon and exclusively limited to introducing, debating, voting upon, and rejecting or proposing for ratification the Balanced Budget Amendment under the Convention rules specified in this article and in accordance with the compact. It shall not be in order for the Convention to consider any matter that is outside the scope of this agenda.

3. Delegate identity and procedure. States shall be represented at the Convention through duly appointed delegates. The number, identity, and authority of delegates assigned to each state shall be determined by this compact in the case of member states or, in the case of states that are not member states, by their respective state laws. However, to prevent disruption of proceedings, no more than three delegates may attend and participate in the Convention on behalf of any state. A certified chartered conforming copy of this compact, together with government-issued photographic proof of identification, shall suffice as credentials for delegates of member states. Any commission for delegates of states that are not member states shall be based on their respective state laws, but it shall furnish credentials that are at least as reliable as those required of member states.
4. Voting. Each state represented at the Convention shall have one vote, exercised by the vote of that state's delegate in the case of states represented by one delegate, or, in the case of any state that is represented by more than one delegate, by the majority vote of that state's respective delegates.
5. Quorum. A majority of the several states of the United States, each present through its respective delegate in the case of any state that is represented by one delegate, or through a majority of its respective delegates, in the case of any state that is represented by more than one delegate, shall constitute a quorum for the transaction of any business on behalf of the Convention.
6. Action by the Convention. The Convention shall only act as a committee of the whole, chaired by the delegate representing the first state to have become a member state, if that state is represented by one delegate, or otherwise by the delegate chosen by the majority vote of that state's respective delegates. The transaction of any business on behalf of the Convention, including the designation of a secretary, the adoption of parliamentary procedures, and the rejection or proposal of any constitutional amendment, requires a quorum to be present and a majority affirmative vote of those states constituting the quorum.
7. Emergency suspension and relocation of the Convention. In the event that the chair of the Convention declares an emergency due to disorder or an imminent threat to public health and safety prior to the completion of the business on the agenda, and a majority of the states present at the Convention do not object to such declaration, further Convention proceedings shall be temporarily suspended, and the commission shall subsequently relocate or reschedule the Convention to resume proceedings in an orderly fashion in accordance with the terms and conditions of this compact with prior notice given to the compact notice recipients.
8. Parliamentary procedure. In adopting, applying, and formulating parliamentary procedure, the Convention shall exclusively adopt, apply, or appropriately adapt provisions of the most recent editions of Robert's Rules of Order and the American Institute of Parliamentarians Standard Code of Parliamentary Procedure. In adopting, applying, or adapting parliamentary procedure, the Convention shall exclusively consider analogous precedent arising within the jurisdiction of the United States. Parliamentary procedures adopted, applied, or adapted pursuant to this section shall not obstruct, override, or otherwise conflict with this compact.

9. Transmittal. Upon approval of the Balanced Budget Amendment by the Convention to propose for ratification, the chair of the Convention shall immediately transmit certified copies of such approved proposed amendment to the compact administrator and all compact notice recipients, notifying them respectively of such approval and requesting Congress to refer the same for ratification by the states under Article V of the Constitution of the United States. However, in no event shall any proposed amendment other than the Balanced Budget Amendment be transmitted as aforesaid.
10. Transparency. Records of the Convention, including the identities of all attendees and detailed minutes of all proceedings, shall be kept by the chair of the Convention or secretary designated by the Convention. All proceedings and records of the Convention shall be open to the public upon request subject to reasonable regulations adopted by the Convention that are closely tailored to preventing disruption of proceedings under this article.
11. Adjournment of the Convention. The Convention shall permanently adjourn upon the earlier of twenty-four hours after commencing proceedings under this article or the completion of the business on its agenda.

ARTICLE VIII - PROHIBITION ON ULTRA VIRES CONVENTION

1. Member states shall not participate in the Convention unless:
 - a. Congress first calls the Convention in accordance with this compact; and
 - b. The Convention rules of this compact are adopted by the Convention as its first order of business.
2. Any proposal or action of the Convention is void ab initio and issued by a body that is conducting itself in an unlawful and ultra vires fashion if that proposal or action:
 - a. Violates or was approved in violation of the Convention rules or the delegate instructions and limitations on delegate authority specified in this compact;
 - b. Purports to propose or effectuate a mode of ratification that is not specified in Article V of the Constitution of the United States; or
 - c. Purports to propose or effectuate the formation of a new government. All member states are prohibited from advancing or assisting in the advancement of any such proposal or action.
3. Member states shall not ratify or otherwise approve any proposed amendment, alteration, or revision to the Constitution of the United States, which originates from the Convention, other than the Balanced Budget Amendment.

ARTICLE IX - RESOLUTION PROSPECTIVELY RATIFYING THE BALANCED BUDGET AMENDMENT

1. Each member state, by and through its respective legislature, hereby adopts and ratifies the Balanced Budget Amendment.

2. This article does not take effect until Congress effectively refers the Balanced Budget Amendment to the states for ratification by three-fourths of the legislatures of the several states under Article V of the Constitution of the United States.

ARTICLE X - CONSTRUCTION, ENFORCEMENT, VENUE, AND SEVERABILITY

1. To the extent that the effectiveness of this compact or any of its articles or provisions requires the alteration of local legislative rules, drafting policies, or procedure to be effective, the enactment of legislation enacting, adopting, and agreeing to be bound by this compact shall be deemed to waive, repeal, supersede, or otherwise amend and conform all such rules, policies, or procedures to allow for the effectiveness of this compact to the fullest extent permitted by the constitution of any affected member state.
2. Date and location of the Convention. Unless otherwise specified by Congress in its call, the Convention shall be held in Dallas, Texas, and commence proceedings at 9:00 a.m. central standard time on the sixth Wednesday after the latter of the effective date of article V of this compact or the enactment date of the Congressional resolution calling the Convention.
3. In addition to all other powers and duties conferred by state law which are consistent with the terms and conditions of this compact, the chief law enforcement officer of each member state is empowered to defend the compact from any legal challenge, as well as to seek civil mandatory and prohibitory injunctive relief to enforce this compact; and shall take such action whenever the compact is challenged or violated.
4. The exclusive venue for all actions in any way arising under this compact shall be in the United States District Court for the northern district of Texas or the courts of the state of Texas within the jurisdictional boundaries of the foregoing district court. Each member state shall submit to the jurisdiction of said courts with respect to such actions. However, upon written request by the chief law enforcement officer of any member state, the commission may elect to waive this provision for the purpose of ensuring an action proceeds in the venue that allows for the most convenient and effective enforcement or defense of this compact. Any such waiver shall be limited to the particular action to which it is applied and not construed or relied upon as a general waiver of this provision. The waiver decisions of the commission under this provision shall be final and binding on each member state.
5. The effective date of this compact and any of its articles is the latter of:
 - a. The date of any event rendering the same effective according to its respective terms and conditions; or
 - b. The earliest date otherwise permitted by law.
6. Article VIII of this compact is hereby deemed nonseverable prior to termination of the compact. However, if any other phrase, clause, sentence, or provision of this compact, or the applicability of any other phrase, clause, sentence, or provision of this compact to any government, agency, person, or circumstance, is declared in a final judgment to be contrary to the Constitution of the United States, contrary to the state constitution of any member state, or is otherwise held invalid by a court of competent jurisdiction, such phrase,

clause, sentence, or provision shall be severed and held for naught, and the validity of the remainder of this compact and the applicability of the remainder of this compact to any government, agency, person, or circumstance shall not be affected. Furthermore, if this compact is declared in a final judgment by a court of competent jurisdiction to be entirely contrary to the state constitution of any member state or otherwise entirely invalid as to any member state, such member state shall be deemed to have withdrawn from the compact, and the compact shall remain in full force and effect as to any remaining member state. Finally, if this compact is declared in a final judgment by a court of competent jurisdiction to be wholly or substantially in violation of Article I, Section 10, of the Constitution of the United States, then it shall be construed and enforced solely as reciprocal legislation enacted by the affected member states.

7. Termination. This compact shall terminate and be held for naught when the compact is fully performed and the Constitution of the United States is amended by the Balanced Budget Amendment. However, notwithstanding anything to the contrary set forth in this compact, in the event such amendment does not occur within seven years after the first state passes legislation enacting, adopting, and agreeing to be bound to this compact, the compact shall terminate as follows:
 - a. The commission shall dissolve and wind up its operations within ninety days thereafter, with the compact administrator giving notice of such dissolution and the operative effect of this section to the compact notice recipients; and
 - b. Upon the completed dissolution of the commission, this compact shall be deemed terminated, repealed, void ab initio, and held for naught.

Approved April 1, 2015
Filed April 1, 2015

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 431

HOUSE BILL NO. 1379

(Representatives Zubke, Hatlestad, Porter)

AN ACT to create and enact a new subsection to section 55-01-02 of the North Dakota Century Code, relating to Yellowstone-Missouri Rivers confluence projects; and to repeal chapter 55-06 of the North Dakota Century Code, relating to the Yellowstone-Missouri Rivers confluence commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 55-01-02 of the North Dakota Century Code is created and enacted as follows:

Formulate and execute projects to preserve and enhance sites of historical importance in the Yellowstone-Missouri Rivers confluence area with funding from legislative appropriations, public grants, and private grants.

SECTION 2. REPEAL. Chapter 55-06 of the North Dakota Century Code is repealed.

Approved April 13, 2015
Filed April 13, 2015

TAXATION

CHAPTER 432

HOUSE BILL NO. 1133

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to create and enact a new section to chapter 57-01, a new subsection to section 57-01-02.1, a new subsection to section 57-38-30.5, and a new subsection to section 57-40.3-04 of the North Dakota Century Code, relating to minimum tax payments and refunds, offsets of overpaid local option taxes from future distributions, the effect of the expiration of the federal research tax credit on the state income tax credit for research and experimental expenditures, and exemptions from motor vehicle excise tax; to amend and reenact sections 5-03-05, 40-57.1-04.4, and 40-57.3-04, subsection 4 of section 57-02-27.2, subsection 2 of section 57-38-62, section 57-40.2-11, and subsection 1 of section 57-43.2-02 of the North Dakota Century Code, relating to authority of the tax commissioner to adopt rules, the tax lien of record clearance requirement for the new and expanding business income tax exemption, offsets of restaurant, restaurant and lodging, and city motor vehicle rental taxes from future distributions, removal of obsolete language from provisions relating to the valuation and assessment of agricultural lands, estimated income tax requirements for corporations, articles taxed in other states or political subdivisions of other states, and establishing energy per volume equivalent of liquefied natural gas for special fuels tax purposes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-03-05 of the North Dakota Century Code is amended and reenacted as follows:

5-03-05. Tax commissioner to adopt rules - Appeal.

The state tax commissioner, pursuant to ~~under~~ chapter 28-32, shall adopt rules governing retailers, ~~wholesalers~~ licensees, direct shippers, and manufacturers necessary to carry out the provisions of this title and to ensure efficient collection of beer and liquor taxes. All decisions of the state tax commissioner are subject to court review.

SECTION 2. AMENDMENT. Section 40-57.1-04.4 of the North Dakota Century Code is amended and reenacted as follows:

40-57.1-04.4. Tax lien of record clearance Clearance of tax obligations and tax liens of record.

1. A project operator is not eligible for the income tax exemption under section 40-57.1-04 until a showing is made that the project operator has satisfied all state ~~and~~ local tax obligations and tax liens of record for delinquent property,

income, income withholding, sales, or use taxes owed to the state or a political subdivision.

2. A certificate from the tax commissioner to the state board of equalization satisfies the requirement of subsection 1.
3. If the project operator is a corporation or a ~~limited liability company~~ passthrough entity defined in section 57-38-01, any of its officers, governors, or managers charged with the responsibility for making either property, income, income withholding, sales, or use tax returns and payments are subject to the provisions of subsections 1 and 2 with respect to all state or local tax obligations and tax liens of record for delinquent property, income, income withholding, sales, or use taxes for which the individual is personally liable. If the project operator is a partnership, each general partner is subject to the provisions of subsections 1 and 2 with respect to all state or local tax obligations or tax liens of record for delinquent property, income, income withholding, sales, or use taxes for which the individual is personally liable.

SECTION 3. AMENDMENT. Section 40-57.3-04 of the North Dakota Century Code is amended and reenacted as follows:

40-57.3-04. Payment of tax - Collection by tax commissioner - Administrative expenses allowed - Rules.

The taxes imposed under this chapter are due and payable at the same time the taxpayer is required to file a return under chapter 57-39.2 and must be collected and administered by the state tax commissioner in accordance with the relevant provisions of chapter 57-39.2. The taxpayer shall add the taxes imposed under this chapter to the sales, lease, or rental price and shall collect the tax from the consumer. A retailer may not advertise or hold out or state to the public, or to any consumer, directly or indirectly, that the taxes or any part of the taxes imposed under this chapter shall be assumed, absorbed, or refunded by the taxpayer. The amount the tax commissioner remits monthly to each city as taxes collected for that city's visitors' promotion fund and visitors' promotion capital construction fund must be reduced by three percent as an administrative fee necessary to defray the cost of collecting the taxes and the expenses incident to collection. The administrative fee must be deposited in the general fund in the state treasury. The tax commissioner shall adopt rules necessary for the administration of this chapter. The penalties and liabilities provided in sections 57-39.2-18 and 57-39.2-18.1 specifically apply to the filing of returns and administration of the taxes imposed under this chapter. The taxes imposed under this chapter are not taxes subject to chapter 57-39.4. The tax commissioner may offset future distributions of a tax imposed and collected under this chapter if there was a previous overpayment of the tax distributed to the city. The tax commissioner, after consulting the appropriate local political subdivision, may determine the offset amount and time period for recovery of the overpayment of the tax distribution.

SECTION 4. A new section to chapter 57-01 of the North Dakota Century Code is created and enacted as follows:

Minimum refunds and collections.

1. Except as otherwise provided in this title, a refund may not be made by the tax commissioner to any taxpayer unless the amount to be refunded, including interest, is at least five dollars. The tax commissioner shall transfer any amount that is not refunded to a taxpayer under this subsection to the state

treasurer for deposit in the same manner as other revenue relating to the tax being administered.

2. A remittance of tax need not be made and any assessment or collection of tax may not be made unless the amount is at least five dollars, including penalties and interest.

SECTION 5. A new subsection to section 57-01-02.1 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner may offset future distributions of a city's or county's tax imposed and collected under chapters 40-05.1 or 11-09.1 if there was a previous overpayment of the tax distributed to that city or county. The tax commissioner, after consulting the appropriate local political subdivision, may determine the offset amount and time period for recovery of the overpayment of the tax distribution.

SECTION 6. AMENDMENT. Subsection 4 of section 57-02-27.2 of the North Dakota Century Code is amended and reenacted as follows:

4. To find the "capitalized average annual gross return", the average annual gross return must be capitalized by a rate that is a ten-year average of the gross agribank mortgage rate of interest for North Dakota, ~~but the rate used for capitalization under this section may not be less than eight percent for taxable year 2009, seven and seven-tenths percent for taxable year 2010, and seven and four-tenths percent for taxable year 2011.~~ The ten-year average must be computed from the twelve years ending with the most recent year used under subdivision a of subsection 3, discarding the highest and lowest years, and the gross agribank mortgage rate of interest for each year must be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate may not be adjusted as provided in section 20.2032A-4(e)(2).

SECTION 7. A new subsection to section 57-38-30.5 of the North Dakota Century Code is created and enacted as follows:

For any taxable year in which the federal research tax credit provisions of section 41 of the Internal Revenue Code are ineffective, the provisions of section 41 of the Internal Revenue Code [26 U.S.C. 41] referenced in this section have the same meaning and application as provided in section 41 of the Internal Revenue Code, as amended through the most recent taxable year in which the provisions were in effect.

SECTION 8. AMENDMENT. Subsection 2 of section 57-38-62 of the North Dakota Century Code is amended and reenacted as follows:

2. A corporation shall, at the time prescribed in this chapter, pay estimated tax for the current taxable year if the corporation's estimated tax can reasonably be expected to exceed five thousand dollars and if the corporation's net tax liability for the immediately preceding taxable year exceeded five thousand dollars. If payment of estimated tax is required, the corporation shall, at the time prescribed in this chapter, pay the lesser of the following:

- a. ~~Ninety~~An amount which, when added to the corporation's withholding, equals ninety percent of the corporation's current taxable year's net tax liability.
- b. ~~One~~An amount which, when added to the corporation's withholding, equals one hundred percent of the corporation's net tax liability for the immediately preceding taxable year.

SECTION 9. AMENDMENT. Section 57-40.2-11 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-11. ~~Articles taxed~~ Tax paid on articles in other states or political subdivisions of other states.

If ~~tax has been paid on~~ any article or tangible personal property ~~has been subjected already to a tax by~~in any other state or political subdivision thereof in respect to its sale or use in an amount less than the tax imposed by this chapter, the provisions of this chapter apply, but ~~at a rate measured by~~in an amount equal to the difference only between the rate fixed in tax imposed by this chapter and the rate by which the previous tax upon the sale or use was computed~~tax paid in the other state or political subdivision thereof~~. If the tax ~~imposed~~paid in ~~such~~the other state or political subdivision thereof is the same or more, then no tax is due on such article. The provisions of this section apply only if such other state or political subdivision thereof allows a tax credit with respect to the retail sales and use taxes imposed by this state which is substantially similar in effect to the credit allowed by this section. The tax commissioner may require the taxpayer to provide written proof from the other state or political subdivision that the tax was legally due and paid.

¹⁹⁵ **SECTION 10.** A new subsection to section 57-40.3-04 of the North Dakota Century Code is created and enacted as follows:

Any damaged motor vehicle transferred to an insurance company in the settlement of an insurance claim.

SECTION 11. AMENDMENT. Subsection 1 of section 57-43.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in this chapter, an excise tax of twenty-three cents per gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or used in this state. For the purpose of determining the tax upon compressed natural gas and liquefied natural gas under this section, one hundred twenty cubic feet [3.40 cubic meters] of compressed natural gas, and one and seven-tenths gallons [6.44 liters] of liquefied natural gas is equal to one gallon [3.79 liters] of other special fuel.

SECTION 12. EFFECTIVE DATE. Section 2 of this Act is effective for applications filed after June 30, 2015. Sections 7 and 8 of this Act are effective for taxable years beginning after December 31, 2014. Sections 9 and 10 of this Act are effective for taxable periods beginning after June 30, 2015. Sections 1, 3, 4, 5, and 11 of this Act become effective on July 1, 2015.

Approved April 9, 2015
Filed April 9, 2015

¹⁹⁵ Section 57-40.3-04 was also amended by section 1 of House Bill No. 1130, chapter 460, and section 1 of Senate Bill No. 2363, chapter 461.

CHAPTER 433

HOUSE BILL NO. 1059

(Legislative Management)

(Taxation Committee and Advisory Commission on Intergovernmental Relations)

AN ACT to create and enact section 57-02-01.1 of the North Dakota Century Code, relating to training and certification of assessors; to amend and reenact sections 11-10.1-01, 11-10.1-05, 18-10-07, and 57-01-05, subsection 1 of section 57-02-08.1, and sections 57-02-33, 57-06-17.3, 57-20-07.2, and 57-33.2-02 of the North Dakota Century Code, relating to training and certification of assessors, the homestead tax credit, rural fire protection district increased levy approval, a new transmission line property tax exemption, a state-paid property tax relief credit, and the transmission line mile tax rate; to provide for transition; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-10.1-01 of the North Dakota Century Code is amended and reenacted as follows:

11-10.1-01. County director of tax equalization.

1. The board of county commissioners of each county in this state shall appoint a county director of tax equalization who must be qualified and experienced in property appraisals, familiar with assessment and equalization procedures and techniques, and who is the holder of holds a current certificate certification as a class I assessor issued by the state supervisor of assessments. The state supervisor of assessments shall confer with representatives of the county commissioners, city governing bodies, state township officers association, and personnel at North Dakota state university to establish or revise the minimum requirements for attaining the certificate. Any person who is denied such certificate may appeal to the state tax commissioner for a hearing under the provisions of chapter 28-32.
2. The board of county commissioners may, in its discretion, appoint a person county director of tax equalization on a probationary basis who does not hold a current certificate as provided for in subsection 1 certification as a class I assessor, if the board deems such person the individual qualified to act as county director of tax equalization by virtue of education, training, and experience, and willingness to obtain certification as a class I assessor. The appointment must be for a term of not more than threetwo years. Any person receiving a probationary appointment who does not obtain a certificate certification as a class I assessor within threetwo years from the appointment is not eligible for reappointment.
3. The county director of tax equalization shall serve at the pleasure of the board of county commissioners and may be employed on a full-time or part-time basis. Vacancies in the office of county director of tax equalization must be filled in the same manner as the original appointment.

SECTION 2. AMENDMENT. Section 11-10.1-05 of the North Dakota Century Code is amended and reenacted as follows:

11-10.1-05. Powers and duties of county director of tax equalization - Qualifications of assessors.

1. The county director of tax equalization shall ~~have~~has the power, duty, and responsibility to call upon and confer with ~~township and city~~ assessors in the county and to ~~instruct~~assist them in the preparation and proper use of land maps and property record cards, ~~the preparation of assessment books, the changes in assessment laws and regulations~~rules, the determination of proper standards of value, ~~the use of proper classifications of property, determination of what property qualifies as exempt from property taxes,~~ and the authority to require attendance at meetings, ~~to the end that a promote~~ uniform assessment of all real property in the county ~~will prevail~~.
2. Any city with a population of under five thousand or township may, by resolution of its governing body, retain an assessor who is certified or eligible to be certified as a class II assessor who shall retain the powers, duties, and responsibilities of the office. Any city with a population of five thousand or greater may, by resolution of its governing body, retain an assessor who is certified or eligible to be certified as a class I assessor who shall retain the powers, duties, and responsibilities of the office. A person may not serve as an assessor for longer than twenty-four months before being certified by the state supervisor of assessments as having met the minimum requirements. The expenses of the city or township assessors must be paid by the city or township exercising this option.
- ~~2.3. On January 1, 1981, the~~The county director of tax equalization shall ~~succeed to all the powers and duties of assessors of townships, cities with a population of under five thousand, and unorganized districts~~supervise all individuals performing assessor services in the county and arrange for the assessment of property within the county, except that any city with a population of under five thousand or township may, at its option by resolution of its governing body, employ an assessor who shall retain the powers, duties, and responsibilities of the office. The resolution within the jurisdiction of a city or township in which the governing body to employ an retains a certified class I or class II assessor continues in force until rescinded by the governing body. ~~Notwithstanding any other provision of law to the contrary, the state supervisor of assessments shall confer with representatives of the county commissioners, city governing bodies, state township officers association, and personnel at North Dakota state university to establish minimum requirements for all city and township assessors. The standards shall reflect their limited jurisdiction and need not be equal to those minimum requirements set for county directors of tax equalization. Any courses of instruction included in those minimum requirements for assessors of townships or cities with a population under five thousand must be conducted by the county director of tax equalization who may cooperate with other county directors of tax equalization in holding joint classes. The county director of tax equalization may call upon the state supervisor of assessments for any necessary materials and assistance. No person may serve as an assessor of a township or a city with a population under five thousand for longer than twelve months before being certified by the state supervisor of assessments as having met the minimum requirements. No person may serve as an assessor of a city with a population of five thousand or more for longer than three years before being certified by the state supervisor of assessments as having met the minimum~~

requirements. The expenses and salaries of city and township assessors must be paid by the city or township exercising this option.

- ~~3-4.~~ Any city or township ~~which that~~ does not employ its own ~~retain a certified class I or class II~~ assessor shall utilize the certified assessor of the county in which the city or township is located. The county commission may require the city or township to reimburse the county for the expenses incurred in assessing the property of that city or township.
- ~~4-5.~~ Any assessment made by an assessor who is not currently certified as qualified for that assessment jurisdiction must be reviewed and approved by a certified county director of tax equalization, or a certified city assessor of a city with a population of five thousand or more assessor, prior to the township or city board of equalization annual meeting. The cost of the assessment review must be paid by the township or city having jurisdiction over the assessment at the same rate as paid to a special assessor in section 57-14-08.

¹⁹⁶ **SECTION 3. AMENDMENT.** Section 18-10-07 of the North Dakota Century Code as amended in section 1 of House Bill No. 1056, as approved by the sixty-fourth legislative assembly, is amended and reenacted as follows:

18-10-07. Fire protection policy to be determined - Tax levy.

The board of directors shall determine a general fire protection policy for the district and shall annually estimate the probable expense for carrying out the contemplated program. The annual estimate of probable expense may include an amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year, who shall levy a tax upon the taxable property within the district for the maintenance of the fire protection district for the fiscal year as provided by law. The tax may not exceed a tax rate of five mills per dollar of the taxable valuation of property in the district except upon resolution adopted by the board of directors and approval by a majority of the qualified electors voting on the question at an annual or special meeting of electors called by the board of directors, the levy may be made in an amount not exceeding thirteen mills. If an election to approve or reauthorize an excess levy will be held at an annual or special meeting of electors of the district called by the board of directors, notice of the meeting and the proposed excess levy election must be provided by at least one publication in the official newspaper of each county in which the district is located at least seven days, but not more than fourteen days, before the date of the public meeting. The published notice must include the amount of the proposed tax rate increase in mills and the duration for which elector approval of the increase is sought and must include the location where, and hours during which, ballots may be cast.

Votes to approve or disapprove the levy increase must be cast on the date of the meeting. The polling place must remain open for at least six hours on the date of the meeting. The secretary-treasurer of the district shall prepare and distribute to qualified electors at the polling place paper ballots to conduct the election on the question of increased levy authority. Three election judges to receive and count the ballots, who are qualified electors of the district but not members of the board, must be selected at

¹⁹⁶ Section 18-10-07 was also amended by section 1 of House Bill No. 1056, chapter 166, section 21 of Senate Bill No. 2144, chapter 439, and section 12 of Senate Bill No. 2217, chapter 92.

least seven days before the meeting by approval of a majority of the members of the board. A marked ballot must be delivered to one of the judges, folded to conceal its contents, the judge shall deposit it in the ballot box, and another judge shall enter the name of the elector who cast the ballot in the poll book. When the election is closed, the judges shall count the ballots and announce the result. Results of the election must be certified by the secretary-treasurer of the district and each of the election judges to the tax commissioner and to the county auditor of each county in which the district is located within ten days after the election. The certificate must include a statement of the question as it appeared on the ballot, together with the total number of votes cast in favor, and the number of votes cast against, authorizing the excess levy.

After July 31, 2015, approval or reauthorization by electors of increased levy authority under this section may not be effective for more than ten taxable years or the period of time necessary for repayment of indebtedness incurred which was intended to be repaid from the increased levy, whichever expires later. Additional levy authority authorized by the board of directors after petition of electors before August 1, 2015, remains in effect under the provisions of law at the time the levy was authorized for the time period authorized by the electors but not exceeding five ten taxable years or the period of time necessary for repayment of indebtedness incurred which was intended to be repaid from the increased levy, whichever expires later. The tax must be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural fire protection district, who shall have a surety bond in the amount of at least five thousand dollars.
3. Placed to the credit of the rural fire protection district so authorizing the same by its secretary-treasurer in a state or national bank, except amounts to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles may be invested to earn the maximum return available.
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the rural fire protection district.

The amount of tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year and including any amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles.

SECTION 4. AMENDMENT. Section 57-01-05 of the North Dakota Century Code is amended and reenacted as follows:

57-01-05. State supervisor of assessments.

The state tax commissioner shall appoint a state supervisor of assessments who must be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. The state supervisor of assessments serves at the pleasure of the state tax commissioner and office space must be furnished to the state supervisor of assessments by the commissioner.

The state supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. The state supervisor of assessments shall advise and give the various assessors in the state the necessary instructions and directions as to their duties under the laws of this state, to the end that a promote uniform assessment of all real and personal property in this state will be attained.
2. The state supervisor of assessments shall assist and instruct the various assessors in this state in the use of soil reconnaissance surveys, land classification methods, in the preparation and proper use of land maps and record cards, in the proper classification of real and personal property, and in the determination of proper standards of value.
3. The state supervisor of assessments may require the attendance of groups of assessors at meetings called by the state supervisor of assessments for the purpose of giving them further assistance and instruction as to their duties.
4. The state supervisor of assessments may make sales, market, and productivity studies and other studies of property assessments in the various counties and cities of this state for the purpose of to properly advise the various assessors and directors of tax equalization in the state and for the purpose of recommending to recommend to the tax commissioner changes to be made by the state board of equalization in the performance of their equalization powers and duties prescribed for it by section 57-13-04. In any sales, market, and productivity study made according to section 57-01-06, the county directors of tax equalization or city assessors, as the case may be, are responsible for compiling shall compile a record of sales of property made in the county or city, and in conjunction with the board of county commissioners shall analyze the sales for the purpose of advising the state supervisor of assessments as to the value of using the sales in any such study. The compilations must be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the number of sales of properties is insufficient for making a sales, market, and productivity study, the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or that person's assistants shall make appraisals of properties in order to determine the market value.
5. The state supervisor of assessments shall cooperate with North Dakota state university in the development of a soil mapping program, a land classification system, valuation studies, and other matters relating to the assessment of property and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. The state supervisor of assessments has general supervision of assessors and county directors of tax equalization pertaining to methods and procedures of assessment of all property and has authority to require all county directors of tax equalization to do any act necessary to obtain uniform methods and procedures of assessment.
7. Whenever an investigation by the state supervisor of assessments shows there is probable cause to believe the holder of a certificate issued by the state supervisor of assessments under chapter 11-10-1 section 57-02-01.1 has failed to comply with any of the provisions of this title law pertaining to

assessments, or any rules ~~prescribed~~adopted by the tax commissioner, the state supervisor of assessments may petition the tax commissioner for a hearing to show cause why the certificate should be suspended or revoked.

- a. The state supervisor of assessments must provide the certificate holder at least ten days' notice of the time and place of the hearing.
 - b. If cause to suspend or revoke the certificate is shown, the tax commissioner may suspend or revoke the certificate.
 - c. The tax commissioner may restore a certificate after suspension or revocation.
 - d. An individual whose certificate has been suspended or revoked in the manner provided in this section may appeal that determination to the district court as provided in section 28-32-42.
8. If a certificate holder's certificate is suspended or revoked under this section, the governing body of the county in which the certificate holder performs duties shall ensure the continued administration of assessments within that county by a person authorized under section 11-10.1-05 and be responsible for any expenses associated with the fulfillment of this responsibility. Expenses incurred by a county to fulfill the duties of a township or city assessment official whose certificate has been suspended or revoked must be charged to the political subdivision in which the certificate holder is employed and must either be paid directly to the county by the political subdivision or deducted by the county treasurer from funds coming into the treasurer's control which are apportionable to the subdivision.
9. The state supervisor of assessments shall perform such other duties relating to assessment and taxation of property as the tax commissioner directs.
10. The tax commissioner may ~~prescribe~~adopt rules under chapter 28-32 necessary for the ~~detailed and efficient~~ administration of this section.

SECTION 5. Section 57-02-01.1 of the North Dakota Century Code is created and enacted as follows:

57-02-01.1. Certification of assessors.

The state supervisor of assessments shall certify assessors as provided in this section.

1. To be certified as a class I assessor, an individual must:
 - a. Have a high school diploma or its equivalent.
 - b. Successfully complete one hundred eighty hours of assessment and appraisal instruction approved by the state supervisor of assessments. The number of hours of instruction determined necessary by the state supervisor of assessments for each of the following topics is required:
 - (1) Tax administration.
 - (2) Principles and theory of value.

- (3) Residential property appraisal.
 - (4) Commercial property appraisal.
 - (5) Agricultural property valuation.
2. To be certified as a class II assessor, an individual must:
- a. Have a high school diploma or its equivalent.
 - b. Successfully complete eighty hours of assessment and appraisal instruction approved by the state supervisor of assessments. The number of hours of instruction determined necessary by the state supervisor of assessments for each of the following topics is required:
 - (1) Tax administration.
 - (2) Principles and theory of value.
 - (3) Residential property appraisal.
 - (4) Commercial property appraisal.
 - (5) Agricultural property valuation.
3. The state supervisor of assessments may allow credit against required instruction in any topic under subdivision b of subsection 1 and subdivision b of subsection 2 upon receipt of documented training in this state or another state in the topic.
4. An individual appointed as an assessor must hold the required assessor certificate at the time of appointment or obtain that certificate within two years after initial appointment or by July 31, 2017, whichever is later. An assessor who does not obtain the required certificate within two years after initial appointment or by July 31, 2017, whichever is later, or who does not maintain that certificate in good standing is not eligible for reappointment.
5. An assessor certificate is valid for a term of two years from the first day of the calendar year for which it becomes effective.
6. A class I assessor certificate may be renewed if the holder has completed twenty hours of approved classroom instruction or seminars during the term of the certificate. For purposes of this subsection, an assessor certificate holder is entitled to one and one-half hours of credit for each hour spent as an instructor of approved classroom instruction or seminars during the term of the certificate.
7. A class II assessor certificate may be renewed if the holder has completed ten hours of approved classroom instruction or seminars during the term of the certificate.
8. The state supervisor of assessments shall notify the holder of an assessor certificate of the time for application for renewal of the individual's certificate. The state supervisor of assessments shall notify the governing body of the

taxing district employing an assessor whose certificate is not renewed or whose certificate is suspended or revoked.

9. Any person who is denied a certificate under this section may appeal to the tax commissioner for a hearing under chapter 28-32.
10. The tax commissioner may adopt rules under chapter 28-32 for the administration of this section.

SECTION 6. AMENDMENT. Subsection 1 of section 57-02-08.1 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with an income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.
- b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.
- c. The exemption must be determined according to the following schedule:
 - (1) If the person's income is not in excess of twenty-two thousand dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~four~~five thousand ~~five~~six hundred ~~twenty~~five dollars of taxable valuation.
 - (2) If the person's income is in excess of twenty-two thousand dollars and not in excess of twenty-six thousand dollars, a reduction of eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~three~~four thousand ~~six~~five hundred dollars of taxable valuation.
 - (3) If the person's income is in excess of twenty-six thousand dollars and not in excess of thirty thousand dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~two~~three thousand ~~seven~~three hundred ~~seventy~~five dollars of taxable valuation.
 - (4) If the person's income is in excess of thirty thousand dollars and not in excess of thirty-four thousand dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~one~~two thousand ~~eight~~two hundred ~~fifty~~ dollars of taxable valuation.
 - (5) If the person's income is in excess of thirty-four thousand dollars and not in excess of thirty-eight thousand dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~nine~~one thousand ~~one~~ hundred ~~twenty~~five dollars of taxable valuation.

- (6) If the person's income is in excess of thirty-eight thousand dollars and not in excess of forty-two thousand dollars, a reduction of ten percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~four~~five hundred ~~fiftysixty-three~~ dollars of taxable valuation.
- d. Persons residing together, as spouses or when one or more is a dependent of another, are entitled to only one exemption between or among them under this subsection. Persons residing together, who are not spouses or dependents, who are co-owners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.
 - e. This subsection does not reduce the liability of any person for special assessments levied upon any property.
 - f. Any person claiming the exemption under this subsection shall sign a verified statement of facts establishing the person's eligibility.
 - g. A person is ineligible for the exemption under this subsection if the value of the assets of the person and any dependent residing with the person exceeds five hundred thousand dollars, including the value of any assets divested within the last three years.
 - h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet.
 - i. An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.

SECTION 7. AMENDMENT. Section 57-02-33 of the North Dakota Century Code is amended and reenacted as follows:

57-02-33. Assessor districtsservices for unorganized territory.

~~All counties or parts of counties in this state not organized into civil townships~~Any area not within an organized township or city must be divided into assessor districts, which must be designated by the board of county commissioners~~assessed by a certified assessor under the supervision and direction of the county director of tax equalization. The board of county commissioners shall appoint the district assessors to a four-year term of office, the first term commencing on January 1, 1974. In case of vacancy in the office of district assessor in any of such districts, such vacancies must be filled by the board of county commissioners for the balance of the term. In making the appointment of a district assessor, the~~assessor under the supervision and direction of the county director of tax equalization. The board of county commissioners shall appoint the district assessors to a four-year term of office, the first term commencing on January 1, 1974. In case of vacancy in the office of district assessor in any of such districts, such vacancies must be filled by the board of county commissioners for the balance of the term. In making the appointment of a district assessor, the~~The county director of tax equalization for such county is eligible for appointment to a district assessor position~~may serve as an assessor of property under this section. Every individual performing assessor of territory not organized into civil townships shall receive asservices under this section is entitled to compensation for services a sum and mileage and travel expenses determined by the board of county commissioners for the time actually and necessarily employed in making and completing the assessment of the district property. The compensation and expenses must be paid from the treasury of the county in which such districtthe assessed property is located only upon submission of an itemized statement setting forth the actual time spent in the work of the assessor and mileage traveled, approved by the board of county commissioners. In addition, the district assessor must be paid such mileage as is required to perform the duties of the office. The board of county commissioners has the authority to

appoint a deputy assessor if needed, to be compensated in the same manner as the district assessor.

SECTION 8. AMENDMENT. Section 57-06-17.3 of the North Dakota Century Code is amended and reenacted as follows:

57-06-17.3. New transmission line property tax exemption.

A transmission line of two hundred thirty kilovolts or larger, and its associated transmission substations, which is not taxable under chapter 57-33.2 and is initially placed in service on or after October 1, 2002, is subject to a tax at the rate of three hundred dollars per mile [1.61 kilometers] or fraction of a mile. A transmission line subject to taxation under this section is exempt from property taxes for the first taxable year after the line is initially placed in service, and the taxable valuation as otherwise determined by law on the transmission line and its associated transmission substation taxes under this section must be reduced by:

1. Seventy-five percent for the second taxable year of operation of the transmission line.
2. Fifty percent for the third taxable year of operation of the transmission line.
3. Twenty-five percent for the fourth taxable year of operation of the transmission line.

After the fourth taxable year of operation of the transmission line, the transmission line and its associated transmission substations are exempt from property taxes and are subject to a tax at the rate of three hundred dollars per mile [1.61 kilometers] or fraction thereof of the line located in this state. The per mile tax imposed by this section applies to the transmission line and its associated transmission substations and is subject to allocation among counties in the proportion that the miles of that transmission line in the county bears to the miles of that transmission line in the state.

For purposes of this section, "initially placed in service" includes both new construction and substantial expansion of the carrying capacity of a preexisting line, and "substantial expansion" means an increase in carrying capacity of fifty percent or more.

¹⁹⁷ **SECTION 9. AMENDMENT.** Section 57-20-07.2 of the North Dakota Century Code is amended and reenacted as follows:

~~57-20-07.2. (Effective for the first two taxable years beginning after December 31, 2012) State-paid property tax relief credit.~~

1. The owner of taxable property is entitled to a credit against property taxes levied against the total amount of property or mobile home taxes in dollars levied against the taxable value of the property. The credit is equal to twelve percent of property or mobile home taxes levied in dollars against that property.
2. The owner, operator, or lessee of railroad property assessed by the state board of equalization under chapter 57-05 or public utility operative property assessed by the state board of equalization under chapter 57-06 is entitled to a credit against property taxes levied within each county against that property

¹⁹⁷ Section 57-20-07.2 was also amended by section 5 of Senate Bill No. 2005, chapter 39.

in the amount provided in subsection 1 against property taxes levied in dollars against that property in that county.

3. The owner, operator, or lessee of transmission lines assessed by the state board of equalization under section 57-06-17.3 is entitled to a credit against taxes per mile in the amount provided in subsection 1. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the electric generation, transmission, and distribution tax fund. The credit for each transmission company must be allocated and distributed to counties in the same manner as the tax collected from that company is allocated.
4. The owner, operator, or lessee of electric transmission or distribution property assessed by the state board of equalization under section 57-33.2-02 or 57-33.2-03 is entitled to a credit against the transmission or distribution tax in the amount provided in subsection 1. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the electric generation, transmission, and distribution tax fund. The credit for each transmission or distribution company must be allocated and distributed to counties in the same manner as the tax collected from that company is allocated.
5. The owner, operator, or lessee of operative property of an air carrier transportation company assessed and taxed under chapter 57-32 is entitled to a credit in the amount provided in subsection 1 against property taxes in dollars levied against that property. The tax commissioner shall determine the total amount of credits under this subsection and certify the amount to the state treasurer for transfer from the general fund to the air transportation fund. The credit for each air transportation company must be allocated to each city or municipal airport authority where that company makes regularly scheduled landings, in the same manner as the tax collected from that company is allocated.
- 4-6. The tax commissioner shall estimate the amount necessary to provide each county advance payment of seventy-five percent of the amount the county and the taxing districts in the county will ultimately receive for a taxable year under this section and certify the estimated amounts to the state treasurer by March fifteenth for transfer by April first to the county treasurer and distribution to the county and taxing districts in the county as provided in subsection 57.
- 5-7. The tax commissioner shall determine the total amount of credits under this section for each county from the abstract of the tax list filed by the county auditor under section 57-20-04, as audited and corrected by the tax commissioner. The tax commissioner shall certify to the state treasurer for payment, by June first following receipt of the abstract of the tax list, the amount determined for each county under this subsection. No penalty or interest applies to any state payment under this section, regardless of when the payment is made. The tax commissioner shall reduce the June certification of payments to reflect the April estimated payments previously made to counties under subsection 46.
- 6-8. Upon receipt of the payment from the state treasurer under subsections 46 and 57, the county treasurer shall apportion and distribute it to the county and the taxing districts in the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.

- ~~7-9.~~ After payments to counties under subsection ~~57~~ have been made, the tax commissioner shall certify to the state treasurer as necessary any supplemental amounts payable to counties or the air transportation fund or any amounts that must be returned by counties or returned from the air transportation fund for deposit in the state general fund to correct any errors in payments or reflect any abatement or compromise of taxes, court-ordered tax reduction or increase, or levy of taxes against omitted property. The county auditor shall provide any supplemental information requested by the tax commissioner after submission of the abstract of the tax list. The county treasurer shall apply to the tax commissioner for any supplemental payments to which the county treasurer believes the county is entitled.
- ~~8-10.~~ Notwithstanding any other provision of law, for any property other than mobile homes, the property tax credit under this section does not apply to any property subject to payments or taxes that are stated by law to be in lieu of personal or real property taxes.

SECTION 10. AMENDMENT. Section 57-33.2-02 of the North Dakota Century Code is amended and reenacted as follows:

57-33.2-02. Transmission line mile tax - Exemption.

Transmission lines are subject to annual taxes per mile [1.61 kilometers] or fraction of a mile based on their nominal operating voltages on January first of each year, as follows:

1. For transmission lines that operate at a nominal operating voltage of less than fifty kilovolts, a tax of fifty dollars.
2. For transmission lines that operate at a nominal operating voltage of fifty kilovolts or more, but less than one hundred kilovolts, a tax of one hundred dollars.
3. For transmission lines that operate at a nominal operating voltage of one hundred kilovolts or more, but less than two hundred kilovolts, a tax of two hundred dollars.
4. For transmission lines that operate at a nominal operating voltage of two hundred kilovolts or more, but less than three hundred kilovolts, a tax of four hundred dollars.
5. For transmission lines that operate at a nominal operating voltage of three hundred kilovolts or more, a tax of six hundred dollars.
6. A transmission line initially placed in service after January 1, 2009, and before December 31, 2013, is exempt from transmission line taxes under this section for the first taxable year after the line is initially placed in service, and transmission line taxes under this section must be reduced by:
 - a. Seventy-five percent for the second taxable year of operation of the transmission line.
 - b. Fifty percent for the third taxable year of operation of the transmission line.
 - c. Twenty-five percent for the fourth taxable year of operation of the transmission line.

- d. After the fourth taxable year of operation, such transmission lines are subject to the standard transmission line taxes under this section.
7. A transmission line of two hundred thirty kilovolts or larger initially placed in service after January 1, 2009, is subject to a tax at the rate of three hundred dollars per mile [1.61 kilometers] or fraction of a mile. A transmission line subject to tax under this subsection is exempt for the first taxable year after the line is initially placed in service, and transmission line taxes under this subsection must be reduced by:
 - a. Seventy-five percent for the second taxable year of operation of the transmission line.
 - b. Fifty percent for the third taxable year of operation of the transmission line.
 - c. Twenty-five percent for the fourth taxable year of operation of the transmission line.
 - d. After the fourth taxable year of taxable operation, such transmission lines are subject to the standard transmission line taxes under this subsection.
 8. For purposes of this section, "initially placed in service" includes both new construction and substantial expansion of the carrying capacity of a preexisting line, and "substantial expansion" means an increase in carrying capacity of fifty percent or more.

SECTION 11. TRANSITION. The state supervisor of assessments shall recertify assessors at the end of the term of any certification that expires after July 31, 2017, upon application and submission by the certificate holder of evidence of completion of required educational sessions under North Dakota Administrative Code chapter 81-02.1-02 or under section 57-02-01.1 or rules adopted to administer that section, subject to the following additional requirements:

1. The holder of a township assessor or class II city assessor certification may be recertified as a certified class II assessor upon completion of the instruction required for class II assessor certification, with credit allowed by the state supervisor of assessments for any instruction previously received by the applicant for certification as a township assessor.
2. The holder of a class I city assessor or county director of tax equalization certification may be recertified as a certified class I assessor upon submission of evidence of completion of required education sessions during the term of the class I city assessor or county director of tax equalization certification.

SECTION 12. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2014, except section 6, which is effective for taxable years beginning after December 31, 2015.

Approved April 29, 2015
Filed April 30, 2015

CHAPTER 434

SENATE BILL NO. 2115

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact section 57-01-11, subsection 5 of section 57-39.2-12.1, and subsection 5 of section 57-40.2-07.1 of the North Dakota Century Code, relating to the assessment of taxes and compensation allowance to retailers for administrative expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-01-11 of the North Dakota Century Code is amended and reenacted as follows:

57-01-11. Assessment of or determination of additional tax liability by tax commissioner - Hearing - Appeal.

1. In any case in which the provisions of any tax law are administered by the tax commissioner and the tax is collected by the tax commissioner or the amount thereof is certified by the tax commissioner to any other official for collection and the law providing for such tax authorizes the tax commissioner to assess or determine a tax liability that is in addition to that reported by the taxpayer, the taxpayer has a right to a hearing before the tax commissioner on such assessment or determination and has a right to appeal to the courts from the decision of the tax commissioner on such hearing and all of the provisions of chapter 28-32 relating to proceedings before an administrative agency, including the right to appeal to the courts from the decision of the tax commissioner in such a proceeding, are applicable to and govern the notice of hearing, the hearing, and the right of appeal from the tax commissioner's decision thereon. Notwithstanding the provisions of any other law heretofore or hereafter enacted, it is the intent and purpose of this section to provide that in those circumstances hereinbefore described every taxpayer shall have both the right to a hearing before the tax commissioner and the right to appeal to the courts from the tax commissioner's decision on such hearing in accordance with the provisions of chapter 28-32 unless the provisions of any such law expressly provide that the decision of the tax commissioner is final or expressly provide that the provisions of chapter 28-32 are not applicable.
2. If a tax administered by the tax commissioner is assessed under any provision of law that expressly provides the assessed tax is final and nonreviewable and the assessed tax has not been paid, the tax commissioner may accept for legal settlement purposes, a reduced amount of tax if information is received from the taxpayer that the tax as assessed exceeds the actual amount due. If the tax commissioner receives information that the tax was under-assessed, the additional amount of tax that is determined to be due may be assessed by the tax commissioner, notwithstanding the fact that the assessment made by the tax commissioner is final and nonreviewable.

SECTION 2. AMENDMENT. Subsection 5 of section 57-39.2-12.1 of the North Dakota Century Code is amended and reenacted as follows:

5. Compensation may not be deducted and retained under this section unless the tax due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or chapter 57-39.4. If a retailer fails to timely file a return or pay the tax due, the tax commissioner may, for good cause shown, allow the retailer to deduct and retain the compensation under this section.

SECTION 3. AMENDMENT. Subsection 5 of section 57-40.2-07.1 of the North Dakota Century Code is amended and reenacted as follows:

5. Compensation may not be deducted and retained under this section unless the tax due is paid within the time limitations under section 57-39.2-12 or 57-40.2-07 or chapter 57-39.4. If a retailer fails to timely file a return or pay the tax due, the tax commissioner may, for good cause shown, allow the retailer to deduct and retain the compensation under this section.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 435

HOUSE BILL NO. 1082

(Representative Keiser)

AN ACT to amend and reenact subsection 38 of section 57-02-08 and subsection 1 of 57-02-26 of the North Dakota Century Code, relating to application of property taxes to the value or the leasehold interest in state lands leased for pasture or grazing purposes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 38 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

38. ~~The leasehold interest in property~~Property owned by the state which has been leased for pasture or grazing purposes or upon which payments in lieu of property taxes are made by the state.

SECTION 2. AMENDMENT. Subsection 1 of section 57-02-26 of the North Dakota Century Code is amended and reenacted as follows:

1. Property held under a lease for a term of years, or under a contract for the purchase thereof, belonging to the United States or to the state or a political subdivision thereof, except such lands ~~as have been leased for pasture or grazing purposes or~~ upon which the state makes payments in lieu of property taxes, or to any religious, scientific, or benevolent society or institution, whether incorporated or unincorporated, or to any railroad corporation whose property is not taxed in the same manner as other property, must be considered, for all purposes of taxation, as the property of the person so holding the same.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2014.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 436

SENATE BILL NO. 2113

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact section 57-02-08.8 of the North Dakota Century Code, relating to the property tax credit for disabled veterans and extension of the disabled veterans' property tax credit to the disabled veteran's surviving spouse; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-02-08.8 of the North Dakota Century Code is amended and reenacted as follows:

57-02-08.8. Property tax credit for disabled veterans - Certification - Distribution.

1. A disabled veteran of the United States armed forces with an armed forces service-connected disability of fifty percent or greater or a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, who was discharged under honorable conditions or who has been retired from the armed forces of the United States, or the unremarried surviving spouse if the disabled veteran is deceased, is eligible for a credit applied against the first six thousand seven hundred fifty dollars of taxable valuation of the fixtures, buildings, and improvements of the homestead owned and occupied by the disabled veteran or unremarried surviving spouse equal to the percentage of the disabled veteran's disability compensation rating for service-connected disabilities as certified by the department of veterans' affairs for the purpose of applying for a property tax exemption credit. An unremarried surviving spouse who is receiving department of veterans' affairs dependency and indemnity compensation receives a one hundred percent exemption credit as described in this subsection.
2. If two disabled veterans are married to each other and living together, their combined credits may not exceed one hundred percent of six thousand seven hundred fifty dollars of taxable valuation of the fixtures, buildings, and improvements of the homestead. If a disabled veteran co-owns the homestead property with someone other than the disabled veteran's spouse, the credit is limited to that disabled veteran's interest in the fixtures, buildings, and improvements of the homestead, to a maximum amount calculated by multiplying six thousand seven hundred fifty dollars of taxable valuation by the disabled veteran's percentage of interest in the homestead property and multiplying the result by the applicant's certified disability percentage.
3. A disabled veteran or unremarried surviving spouse claiming a credit under this section for the first time shall file with the county auditor an affidavit showing the facts herein required, a description of the property, and a certificate from the United States department of veterans' affairs, or its

successor, certifying to the amount of the disability. The affidavit and certificate must be open for public inspection. A person shall thereafter furnish to the assessor or other assessment officials, when requested to do so, any information which is believed will support the claim for credit for any subsequent year.

4. For purposes of this section, and except as otherwise provided in this section, "homestead" has the meaning provided in section 47-18-01 except that it also applies to a person who otherwise qualifies under the provisions of this section whether the person is the head of the family.
5. This section does not reduce the liability of a person for special assessments levied upon property.
6. A credit under this section terminates at the end of the taxable year of the death of the applicant.
7. The board of county commissioners may cancel the portion of unpaid taxes that represents the credit calculated in accordance with this section for any year in which the qualifying owner has held title to the homestead property. Cancellation of taxes for any year before enactment of this section must be based on the law that was in effect for that tax year.
- ~~7-8.~~ Before the first of March of each year, the county auditor of each county shall certify to the tax commissioner on forms prescribed by the tax commissioner the name and address of each person for whom the property tax credit for homesteads of disabled veterans was allowed for the preceding year, the amount of credit allowed, the total of the tax mill rates of all taxing districts, exclusive of any state mill rates, that was applied to other real estate in the taxing districts for the preceding year, and such other information as may be prescribed by the tax commissioner.
- ~~8-9.~~ On or before the first of June of each year, the tax commissioner shall audit the certifications, make the required corrections, and certify to the state treasurer for payment to each county the sum of the amounts computed by multiplying the credit allowed for each homestead of a disabled veteran in the county by the total of the tax mill rates, exclusive of any state mill rates that were applied to other real estate in the taxing districts for the preceding year.
- ~~9-10.~~ The county treasurer upon receipt of the payment from the state treasurer shall apportion and distribute the payment without delay to the county and to the local taxing districts of the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.
- ~~10-11.~~ On or before the first day of June of each year, the tax commissioner shall certify to the state treasurer the amount computed by multiplying the property tax credit allowed under this section for homesteads of disabled veterans in the state for the preceding year by one mill for deposit in the state medical center fund.
- ~~11-12.~~ Supplemental certifications by the county auditor and by the tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed in this section to make such corrections as may be necessary because of errors or because of approval of an application for

abatement filed by a person because the credit provided for the homestead of a disabled veteran was not allowed in whole or in part.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2014.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 437

HOUSE BILL NO. 1057

(Legislative Management)
(Taxation Committee)

AN ACT to create and enact section 57-02-53 of the North Dakota Century Code, relating to notice to a property owner of an assessment increase; to amend and reenact sections 57-09-04, 57-11-03, and 57-12-06 and subsection 2 of section 57-15-02.1 of the North Dakota Century Code, relating to notice to a property owner of an assessment increase; to repeal section 57-12-09 of the North Dakota Century Code, relating to notice to a property owner of an assessment increase; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 57-02-53 of the North Dakota Century Code is created and enacted as follows:

57-02-53. Assessment increase notice to property owner.

1.
 - a. When any assessor has increased the true and full valuation of any lot or tract of land and improvements to an amount that is an increase of three thousand dollars or more and ten percent or more from the amount of the previous year's assessment, the assessor shall deliver written notice of the amount of increase and the amount of the previous year's assessment to the property owner at the expense of the assessment district for which the assessor is employed. Delivery of written notice to a property owner under this subdivision must be completed at least fifteen days before the meeting of the local board of equalization.
 - b. If written notice by the assessor was not required under subdivision a and action by the township, city, or county board of equalization or order of the state board of equalization has increased the true and full valuation of any lot or tract of land and improvements to an amount that results in a cumulative increase of three thousand dollars or more and ten percent or more from the amount of the previous year's assessment, written notice of the amount of increase and the amount of the previous year's assessment must be delivered to the property owner. The written notice under this subdivision must be mailed or delivered at the expense of the township, city, or county that made the assessment increase or at the expense of the township, city, or county that was ordered to make the increase by the state board of equalization. Delivery of written notice to a property owner under this subdivision must be completed within fifteen days after the meeting of the township, city, or county board of equalization that made or ordered the assessment increase and within thirty days after the meeting of the state board of equalization, if the state board of equalization ordered the assessment increase.
 - c. The tax commissioner shall prescribe suitable forms for written notices under this subsection. The written notice under subdivision a must show the true and full value of the property, including improvements, that the

- assessor determined for the current year and for the previous year and must also show the date prescribed by law for the meeting of the local board of equalization of the assessment district in which the property is located and the meeting date of the county board of equalization.
- d. Delivery of written notice under this section must be by personal delivery to the property owner, mail addressed to the property owner at the property owner's last-known address, or electronic mail to the property owner directed with verification of receipt to an electronic mail address at which the property owner has consented to receive notice.
 2. The form of notice prescribed by the tax commissioner must require a statement to inform the taxpayer that an assessment increase does not mean property taxes on the parcel will increase. The notice must state that each taxing district must provide mailed notice of public hearing to the property owner if a greater property tax levy is being proposed than a zero increase number of mills. The notice may not contain an estimate of a tax increase resulting from the assessment increase.
 3. The assessor shall provide an electronic or printed list including the name and address of the addressee of each assessment increase notice required under subdivision a of subsection 1 and the officer responsible for providing notice under subdivision b of subsection 1 shall provide an electronic or printed list including the name and address of the addressee of each assessment increase notice required under subdivision b of subsection 1 to each city, county, school district, or city park district in which the subject property is located, but a copy does not have to be provided to any such taxing district that levied a property tax levy of less than one hundred thousand dollars for the prior year.

SECTION 2. AMENDMENT. Section 57-09-04 of the North Dakota Century Code is amended and reenacted as follows:

57-09-04. Duties of board - Limitation on increase - Notice.

The township board of equalization shall ascertain whether all taxable property in its township has been properly placed upon the assessment list and duly valued by the assessor. In case any real property has been omitted by inadvertence or otherwise, the board shall place the same upon the list with the true value thereof. The board shall proceed to correct the assessment so that each tract or lot of real property is entered on the assessment list at the true value thereof. The assessment of the property of any person may not be raised until such person has been notified of the intent of the board to raise the same. The board may not increase the valuation returned by the assessor to an amount that results in a cumulative increase of more than fifteen percent from the amount of the previous year's assessment without giving the owner or the owner's agent reasonable notice and opportunity to be heard regarding the intention of the board to increase it. All complaints and grievances of residents of the township must be heard and decided by the board and it may make corrections as appear to be just. Complaints by nonresidents with reference to the assessment of any real property and complaints by others with reference to any assessment made after the meeting of the township board of equalization must be heard and determined by the county board of equalization. The board must comply with any requirement for notice of an assessment increase under section 57-02-53.

SECTION 3. AMENDMENT. Section 57-11-03 of the North Dakota Century Code is amended and reenacted as follows:

57-11-03. Duties of board - Limitation on increase - Notice.

At its meeting, the board of equalization shall proceed to equalize and correct the assessment roll. It may change the valuation and assessment of any real property upon the roll by increasing or diminishing the assessed true and full valuation thereof as is reasonable and just to render taxation uniform, except that the board may not increase the valuation of any property returned by the assessor may not be increased to an amount that results in a cumulative increase of more than twenty-five fifteen percent from the amount of the previous year's assessment without first giving the owner or the owner's agent reasonable notice and opportunity to be heard regarding the intention of the board to increase it. The notice must state the time when the board will be in session to act upon the matter and must be given by personal notice served upon the owner or the owner's agent or by leaving a copy at the owner's last known place of residence. All complaints and grievances of residents of the city must be heard and decided by the board and it may make corrections as appear to be just. Complaints by nonresidents with reference to the assessment of any real property and complaints by others with reference to any assessment made after the meeting of the city board of equalization must be heard and determined by the county board of equalization. The board shall comply with any requirement for notice of an assessment increase under section 57-02-53.

SECTION 4. AMENDMENT. Section 57-12-06 of the North Dakota Century Code is amended and reenacted as follows:

57-12-06. Requirements to be followed in equalizing County board of equalization - Equalizing between assessment districts and in equalizing between property owners between properties - Limitation on increase - Notice.

1. The rules prescribed in section 57-12-05 apply when the board of county commissioners is equalizing assessments between the several assessment and taxing districts in the county provided that in such case, except as otherwise provided in subsection 2, the board may raise or lower the valuation of classes of property only so as to equalize the assessments as between districts. If the board orders an increase under this subsection, the board must comply with any requirement for notice of an assessment increase under section 57-02-53.
2. Notwithstanding any other provision of this section:
 - a. The county board of equalization after notice to the local board of equalization may reduce the assessment on any separate piece or parcel of real estate even though such property was assessed in a city or township having a local board of equalization; provided, that the The county board of equalization does not have authority to may not reduce any such assessment unless the owner of the property or the person to whom it was assessed first appeals to the county board of equalization, either by appearing personally or by a representative before the board or by mail or other communication to the board, in which the owner's reasons for asking for the reduction are made known to the board. The proceedings of the board shall show the manner in which the appeal was made known to the board and the reasons for granting any reduction in any such assessment.

- b. The county board of equalization after notice to the local board of equalization may increase the assessment on any separate piece or parcel of real property even though such property was assessed in a city or township having a local board of equalization; ~~provided, that the~~ The county board of equalization does may not have authority to increase any such assessment unless it first gives the valuation returned by the assessor or the local board of equalization to an amount that results in a cumulative increase of more than fifteen percent from the amount of the previous year's assessment without giving the owner or the owner's agent notice by mail to the owner of the property that such person may appear before the board on the date designated in the notice, which date must be at least five days after the mailing of the notice. The county auditor as clerk of the board shall send such notice to the person or persons concerned. If the board orders an increase under this subdivision, the board must comply with any requirement for notice of an assessment increase under section 57-02-53.
- c. If the county board of equalization during the course of its equalization sessions determines that any property of any person has been listed and assessed in the wrong classification, it shall direct the county auditor to correct the listing so as to include such assessment in the correct classification.
3. The owner of any separate piece or parcel of real estate that has been assessed may appeal the assessment thereon to the state board of equalization as provided in section 57-13-04; provided, however, that such owner has first appealed the assessment to the local equalization board of the taxing district in which the property was assessed and to the county board of equalization of the county in which the property was assessed. Notwithstanding this requirement, an owner of property which has been subjected to a new assessment authorized under section 57-14-08 may appeal the new assessment to the state board of equalization in the manner provided for in section 57-14-08.

SECTION 5. AMENDMENT. Subsection 2 of section 57-15-02.1 of the North Dakota Century Code is amended and reenacted as follows:

2. At least seven days before a public hearing on its property tax levy under this section, the governing body shall cause notice of the information required under subsection 1 to be mailed to each property owner who received notice of an assessment increase for the taxable year under section ~~57-12-09~~57-02-53.

SECTION 6. REPEAL. Section 57-12-09 of the North Dakota Century Code is repealed.

SECTION 7. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX INFORMATION. During the 2015-16 interim, the legislative management shall consider studying delivery and contents of property tax information to taxpayers when the property assessment has been determined by the assessor, when the budget hearing will be held for each taxing district in which the property is located, and when the property tax statement for the taxable year is delivered. The study must consider the feasibility and desirability of changes to the timing of events scheduled by law for the taxable year and must consider improvements to the transparency, administration, and understanding of the property tax system. The legislative management shall

report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 8. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2015.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 438

SENATE BILL NO. 2037

(Legislative Management)
(Energy Development and Transmission Committee)

AN ACT to amend and reenact section 57-06-14.1, subsection 1 of section 57-38-01.8, and section 57-39.2-04.8 of the North Dakota Century Code, relating to taxation of wind turbine electric generation units, an income tax credit for installation of geothermal, solar, wind, or biomass energy devices, and a sales tax exemption for machinery or equipment used to produce coal from a new mine; to provide for a legislative management study; to provide for a report; to provide an effective date; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-06-14.1 of the North Dakota Century Code is amended and reenacted as follows:

57-06-14.1. ~~Taxable valuation~~Taxation of centrally assessed wind turbine electric generators.

1. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more on which construction is completed before January 1, 2015, must be valued at three percent of assessed value to determine taxable valuation of the property except:
 - 4- a. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, for which a purchased power agreement was executed after April 30, 2005, and before January 1, 2006, and construction was completed after April 30, 2005, and before July 1, 2006, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property ~~for the duration of the initial purchased power agreement for the generation unit; and~~
 - 2- b. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after June 30, 2006, and before January 1, 2015, must be valued at one and one-half percent of assessed value to determine taxable valuation of the property.
2. A centrally assessed wind turbine electric generation unit with a nameplate generation capacity of one hundred kilowatts or more, on which construction is completed after December 31, 2014, or which is twenty years or more from the date of first assessment, is subject to taxes in lieu of property taxes, to be determined as provided in subsection 1 of section 57-33.2-04 and subject to any associated administrative provisions of chapter 57-33.2.

¹⁹⁸ **SECTION 2. AMENDMENT.** Subsection 1 of section 57-38-01.8 of the North Dakota Century Code is amended and reenacted as follows:

1. A taxpayer filing a North Dakota income tax return pursuant to the provisions of this chapter may claim a credit against the tax liability under section 57-38-30 for the cost of a geothermal, solar, ~~wind~~, or biomass energy device installed before January 1, 2015, in a building or on property owned or leased by the taxpayer in North Dakota. A wind energy device on which construction was commenced before January 1, 2015, and which is installed before January 1, 2017, is eligible for the credit provided in this section. The credit ~~provided in this section~~ for a device installed before January 1, 2001, must be in an amount equal to five percent per year for three years, and for a device installed after December 31, 2000, must be in an amount equal to three percent per year for five years of the actual cost of acquisition and installation of the geothermal, solar, wind, or biomass energy device and must be subtracted from any income tax liability of the taxpayer as determined pursuant to the provisions of this chapter.

SECTION 3. AMENDMENT. Section 57-39.2-04.8 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.8. Sales tax exemption for machinery or equipment used to produce coal from a new mine.

1. Gross receipts from sales of machinery or equipment used to produce coal from a new mine located in this state are exempt from the tax imposed by this chapter. The exemption for each new mine under this section is limited to the first five million dollars of sales and use tax paid.
2. Purchase of replacement machinery or equipment is exempt if the capitalized investment in the new mine exceeds twenty million dollars using the United States generally accepted accounting principles. Purchases of repair or replacement parts for existing machinery or equipment are not exempt under this section.
3. The mine operator shall apply to the commissioner for a refund of sales and use taxes paid for which the exemption is claimed under this section. A refund claim may not exceed the limitation in subsection 1. If the machinery or equipment is used directly or indirectly to produce coal, the interest provisions of section 57-39.2-25 do not apply to purchases made before July 1, 2015. Application for the refund must be made at the time and in the manner directed by the commissioner and must include sufficient information to verify the correctness of the refund claim.
4. For purposes of this section:
 - a. "Machinery or equipment" means machinery or equipment purchased after December 31, 2010, and used directly or indirectly to uncover, sever, crush, handle, or transport coal removed from the earth. "Machinery or equipment" includes draglines, excavators, rolling stock, conveyor equipment, reclamation equipment, ~~and~~ equipment to pulverize coal, water trucks, fuel trucks, low-boys, cranes, lubrication trucks, motor graders, service trucks, light plants, and dewatering equipment, but does not

¹⁹⁸ Section 57-38-01.8 was also amended by section 1 of House Bill No. 1228, chapter 443.

include rail spurs, office buildings, workshops, or any component not used directly to uncover, sever, crush, handle, or transport coal removed from the earth.

- b. "New mine" means an area permitted under chapter 38-14.1 by the public service commission after December 31, 2010.
- c. "Produce coal" means mining operations to uncover, sever, crush, handle, or transport coal from its natural location under the earth's surface to the mouth of the mine and all activities necessary and incidental to the reclamation of that location.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - WIND GENERATION TAXATION. During the 2015-16 interim, the legislative management shall consider studying wind generation taxation, including analysis of property, generation, sales, and income tax application and equity within the industry. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 5. REPORTS BY PUBLIC SERVICE COMMISSION. At least once in each year of the 2015-16 interim, the public service commission shall present a report to the interim committee designated by the legislative management on the most current information available on the status of retail sales of electricity in the state meeting or exceeding the state renewable and recycled energy objective established in section 49-02-28 and a comparison of the amount of renewable and recycled energy produced in the state with the amount sold at retail in the state.

SECTION 6. EFFECTIVE DATE. Sections 1 and 2 of this Act are effective for taxable years beginning after December 31, 2014.

SECTION 7. RETROACTIVE APPLICATION. Section 3 of this Act applies retroactively to purchases of machinery or equipment made after December 31, 2010.

Approved April 8, 2015
Filed April 8, 2015

CHAPTER 439

SENATE BILL NO. 2144

(Senators Unruh, Cook, Dotzenrod)
(Representatives Belter, Headland, Kelsh)

AN ACT to create and enact six new subsections to section 11-11-14 and subsection 4 of section 11-11.1-01 of the North Dakota Century Code, relating to consolidation and revision of provisions governing property tax levy authority; to amend and reenact section 2-02-07, subsection 9 of section 2-06-01, section 2-06-07, sections 4-02-26, 4-02-27.3, and 4-08-15, subsection 17 of section 4-22-26, sections 4-33-11, 4.1-47-14, 4.1-47-16, 4.1-47-25, 11-11-53, 11-11-65, 11-11.1-04, 11-28-06, 11-28.3-03, 11-28.3-09, 18-06-10, 18-10-07, and 18-11-10, subsection 1 of section 21-03-06, subsections 3, 5, and 6 of section 21-03-07, sections 23-06-30, 23-18-01, 23-30-01, 23-30-07, 24-05-01, 24-05-02, 24-05-05, 24-05-16, 24-08-07, 32-12.1-08, 32-12.1-11, 40-05-09.2, 40-05-19, 40-05-20, 40-26-08, 40-28-05, 40-29-14, 40-31-08, and 40-37-03, subsections 1 and 3 of section 40-38-02, sections 40-38.1-02, 40-43-01, 40-45-01, 40-45-27, 40-46-02, 40-46-25, 40-46-26, 40-48-07, 40-49-22, 40-55-08, 40-55-09, 40-57.2-04, and 40-57.4-04, subsection 8 of section 40-58-07, subsection 2 of section 40-58-15, section 40-59-01, subsection 2 of section 40-60-02, subsection 3 of section 40-61-03.1, sections 40-61-10, 50-03-01, 50-03-06, 50-06.2-05, 57-15-01.1, 57-15-06, 57-15-06.4, 57-15-06.6, 57-15-06.7, 57-15-08, 57-15-10, 57-15-10.1, 57-15-12, 57-15-12.1, 57-15-12.3, 57-15-19.4, 57-15-19.5, 57-15-19.6, 57-15-20, 57-15-20.2, 57-15-22.2, 57-15-27.1, 57-15-28, 57-15-28.1, 57-15-30.1, 57-15-38, 57-15-42, 57-15-48, 57-15-50, 57-15-51, 57-15-51.1, 57-15-53, and 57-15-55, subsection 1 of section 57-15-56, sections 57-20-23 and 57-47-04, subsection 16 of section 58-03-07, and sections 58-17-02, 61-04.1-26, and 61-24-02 of the North Dakota Century Code, relating to consolidation and revision of provisions governing property tax levy authority of counties, cities, park districts, soil conservation districts, and various boards and commissions; to repeal sections 4-02-27, 4-02-27.1, 4-02-27.2, 4-02-35, 4-02-37, and 4-08-15.1, chapter 4-16, sections 11-11-18, 11-11-20, 11-11-21, 11-11-22, 11-11-23, 11-11-24, 11-11-25, 11-11-45, 11-11-46, 11-11-47, 11-11-59, 11-11-60, 11-11-61, 11-11.1-06, 11-28-12, 11-28-13, 11-28-14, 11-28-15, 11-28-16, 11-28-17, 11-28-18, 11-28-19, 11-28-20, 11-28-21, and 11-28-22, chapters 11-36 and 11-37, sections 18-06-11, 18-07-01, and 18-10-14, chapters 23-18, 23-18.1, and 23-18.2, sections 32-12.1-12, 32-12.1-14, 40-05-09.1, 40-43-02, 40-43-03, 40-43-04, 40-45-02, 40-57-19, and 40-57-19.1, chapters 49-17.2 and 52-09, sections 57-15-06.3, 57-15-06.5, 57-15-06.8, 57-15-06.9, 57-15-06.10, 57-15-12.2, 57-15-20.3, 57-15-20.4, 57-15-26.3, 57-15-26.5, 57-15-27.2, 57-15-36, 57-15-37.1, 57-15-43, 57-15-44, 57-15-54, 57-15-55.1, 57-15-57, 57-15-59, 57-15-60, and 57-15-62, chapter 57-17, section 58-02-30, and chapter 58-15 of the North Dakota Century Code, relating to consolidation, revision, and elimination of obsolete provisions relating to property tax levy authority of counties, cities, park districts, soil conservation districts, and various boards and commissions; to provide for a transition; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 2-02-07 of the North Dakota Century Code is amended and reenacted as follows:

2-02-07. Authority to raise money by taxation and use airport income.

The local public authorities having power to appropriate moneys within the political subdivisions acquiring, establishing, developing, operating, maintaining, or controlling airports ~~or landing fields~~ under the provisions of this chapter may appropriate and cause to be raised by taxation under section 2-06-15 or ~~otherwise from revenue derived from general fund levy authority~~ in such political subdivisions, moneys sufficient to carry out therein the provisions of this chapter, and also may use for such purpose or purposes moneys derived from said airports ~~or landing fields~~.

SECTION 2. AMENDMENT. Subsection 9 of section 2-06-01 of the North Dakota Century Code is amended and reenacted as follows:

9. "Municipality" means any county, city, ~~town, park district, or public~~
~~body~~township of this state.

SECTION 3. AMENDMENT. Section 2-06-07 of the North Dakota Century Code is amended and reenacted as follows:

2-06-07. General powers of an authority.

An authority has all the powers necessary or convenient to carry out the purposes of this chapter including the power to certify, annually to the governing bodies creating it, the amount of the proposed tax to be levied by said governing bodies for airport purposes within the limitations in section 2-06-15, including the power:

1. To sue and be sued, to have a seal, and to have perpetual succession.
2. To execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this chapter.
3. To plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect airports and air navigation facilities, within this state and within any adjoining state, including the acquisition, construction, installation, equipment, maintenance, and operation at such airports or buildings and other facilities for the servicing of aircraft or for comfort and accommodation of air travelers, and the purchase and sale of supplies, goods, and commodities as are incident to the operation of its airport properties. For such purposes an authority may by purchase, gift, devise, lease, eminent domain proceedings, or otherwise acquire property, real or personal, or any interest therein, including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards or to prevent the establishment of airport hazards.
4. To establish comprehensive airport zoning regulations in accordance with the laws of this state. For the purpose of this chapter, a regional airport authority has the same powers as all other political subdivisions in the adoption and enforcement of comprehensive airport zoning regulations as provided for by the laws of this state.
5. To acquire, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, existing airports and air navigation facilities; provided, however, an

authority may not acquire or take over any airport or air navigation facility owned or controlled by another authority, a municipality, or public agency of this or any other state without the consent of such authority, municipality, or public agency.

6. To establish or acquire and maintain airports in, over, and upon any public waters of this state, any submerged lands under such public waters; and to construct and maintain terminal buildings, landing floats, causeways, roadways, and bridges for approaches to or connecting with any such airport, and landing floats and breakwaters for the protection thereof.
7. To establish toll access roadways leading to air carrier terminal buildings. The toll access charge may not exceed one dollar per vehicle.

SECTION 4. AMENDMENT. Section 4-02-26 of the North Dakota Century Code is amended and reenacted as follows:

4-02-26. County fairs - Association - Aiding County funding.

A county fair association may be organized in any county having taxable property of a taxable valuation of not less than seven hundred fifty thousand dollars. The executive officers and directors must be residents of the county. The association may apply make written application to the board of county commissioners of the county for a grant to aid in the erection of suitable buildings and other improvements to accommodate its patrons and exhibits; and to pay premiums and expenses that may be awarded on such fair exhibits at any fair. An application for the grant must be in writing and must state the incorporation of the association, the names and places of residence of all its executive officers, and the ownership of real property in the county sufficient in area for the purpose of its fair and of the value of at least two thousand five hundred dollars. If the board of county commissioners is satisfied that the statements in the application are true and that the association intends in good faith to hold a fair within the county annually for the exhibition of agricultural, horticultural, mechanical, and manufactured products of the county, and of such articles as are usually exhibited at fairs, it may levy for the first year's grant of aid a tax not exceeding the limitation in section 57-15-06.7 which must be collected as other taxes are collected provide funding from revenues derived from the county general fund levy authority. If the tax funding is levied approved, the board of county commissioner treasurer shall pay to the secretary of the association, not later than by the following July thirty-first thereafter, the amount of the tax levied funding approved and shall take the receipt of the association therefor for the payment.

Any amount received by the county fair association must be deposited by the secretary of the association in a fund to be known as the "county fair fund". To promote holding a county fair, the board of county commissioners may purchase or lease in the name of the county not to exceed two hundred forty acres [97.12 hectares] of real estate and construct buildings and improvements for the conduct of a county fair. The board of county commissioners may issue bonds in the name of the county if approved by electors of the county in accordance with sections 21-03-06 and 21-03-07 to purchase not to exceed two hundred forty acres [97.12 hectares] of real estate and construct buildings and improvements for the conduct of a county fair.

The board of county commissioners may continue the levy to provide funding under this section after the first year's grant of aid upon the board's own motion.

The authority of this section may be used by a county to join in formation and funding of a multicounty fair association under terms of an agreement with one or more other counties.

SECTION 5. AMENDMENT. Section 4-02-27.3 of the North Dakota Century Code is amended and reenacted as follows:

4-02-27.3. Disposition of property.

Any property used for county fair purposes may be sold by the board of county commissioners upon such terms and conditions as the board shall determine, and the proceeds of such sale shall be placed in the county fair fund and used exclusively for county fair purposes, ~~provided that if~~. If the county fails to hold a fair within the county for two successive years, any property on hand may be sold and the proceeds of such sale, together with any other unexpended balance in the county fair fund, at the discretion of the board of county commissioners, may be transferred to the county general fund. The board of county commissioners of any county in which a county fair has not been held for five consecutive years shall transfer any funds in the county fair fund or funds budgeted for county fairs to the county general fund to be used for general county purposes. The levy of the taxfunding from revenues derived from the county general fund levy authority authorized by section 4-02-27.24-02-26, expenditures of thethose proceeds thereof, and the conduct of the fair shall be governed by sections 4-02-07 through 4-02-31 to the extent such sections are consistent with section 4-02-27.24-02-26 and this section.

SECTION 6. AMENDMENT. Section 4-08-15 of the North Dakota Century Code is amended and reenacted as follows:

4-08-15. TaxExtension work levy - Appropriation from county general fund - Both authorizedand funding - Additional levy with voter approval.

~~The board of county commissioners of any county of this state in whichIf a levy for extension work has been voted on and approved by the people as provided for inunder sections 4-08-01 and 4-08-03, the board of county commissioners may levy not to exceed an amount necessary for such purpose, as provided in section 4-08-09, for extension work in an amount not exceeding the limitation in subsection 42 of section 57-15-06.7. The statutory mill levy limitation in effect during any biennium, and not the limitation in effect at the time of a county's vote for extension work or the number of mills that may have been stated in the ballot for such a vote, is the applicable limitation. If it determines that the amount derived from the levy will not be sufficient for such purpose, the~~

The board of county commissioners may submit to the electors at a primary or general election the question of approval of voter-approved levy authority for extension work for a period not exceeding ten years and if approved by a majority of the electors voting on the question the board of county commissioners may levy an additional tax not exceeding the limitation in subsection 2 of section 57-15-06.7. Voter-approved levy authority authorized by electors of a county before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first. After January 1, 2015, approval or re-authorization by electors of voter-approved levy authority under this section may not be effective for more than ten taxable years.

The board of county commissioners may appropriate additional funds out of the county general fund to cover theany unanticipated deficiency in funding for extension work.

SECTION 7. AMENDMENT. Subsection 17 of section 4-22-26 of the North Dakota Century Code is amended and reenacted as follows:

17. To levy taxes as follows:

- a. The supervisors may make a general fund tax levy, not exceeding two and one-half mills, for the payment of the expenses of the district, including mileage and other expenses of the supervisors, and technical, administrative, clerical, and other operating expenses.
- b. Immediately after the completion of the district budget and the adoption of the annual tax levy by the district supervisors, but not later than July first, the supervisors shall send one certified copy of the levy as adopted to the county auditor of each county in the district.
- c. The county auditor of each county in the district shall extend the levy upon the tax list of the county for the current year against each description of real property lying both within the county and the district in the same manner and with the same effect as other taxes are extended.
- d. The treasurer of each county in the district shall collect all district taxes together with interest and penalty thereon in the same manner as the general taxes are collected, and shall pay over to the soil conservation district by the tenth working day of each month, all taxes so collected during the preceding month, with interest and penalties collected thereon and shall immediately send notification of such payment to the treasurer of the soil conservation district.
- e. ~~Whenever the supervisors of a soil conservation district deem it advisable to raise funds by taxation in excess of the levy provided by this section, for any purpose for which the supervisors of a district are authorized to expend moneys raised by taxes, the supervisors of the district shall submit to the qualified electors of the district at the next general election the question of increasing the levy by a certain number of mills. Notice of the question must be filed with the county auditor fifty-five days before the election. When authorized by a majority of qualified electors of the soil conservation district voting on the question at an election in which the question has been submitted, the supervisors may increase the levy in the amount so authorized.~~ Voter-approved levy authority authorized by electors of a district under the provisions of this section before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first.

No provisions with respect to the acquisition, operation, or disposition of property by other public bodies are applicable to a district unless the same specifically are made applicable by law.

SECTION 8. AMENDMENT. Section 4-33-11 of the North Dakota Century Code is amended and reenacted as follows:

4-33-11. Authority for financing local control programs - County pest coordinator.

1. ~~The governing body of any political subdivision~~ board of county commissioners may appropriate money for the control of pests under this chapter. If state funds are involved, the money must be expended according to control plans

~~approved by the commissioner. The governing body of a political subdivision board of county commissioners shall determine the portion, if any, of control program costs to be paid by the political subdivision county. Costs of the control program may be paid by moneys in the emergency fund. If the emergency fund is not sufficient to carry out the program, the governing body may expend money from the general fund and in this event the governing body, except the governing body of a park district, upon approval of sixty percent of those voting in any special election or the next regularly scheduled primary or general election, may levy a tax during the following year upon all taxable property in the political subdivision to fully reimburse the general fund for the amount expended except that the levy may not exceed the limitation in subsection 1 of section 57-15-28.1 from revenues derived from general fund levy authority of the county or from the county levy authority under section 4.1-47-14.~~

2. The board of county commissioners for any county shall designate an individual to serve as county pest coordinator. The county weed control officer may serve in that capacity if approved by the board of county commissioners. The county pest coordinator shall administer local and private funds in cooperation with state and federal pest control programs. When state funds are involved, the county pest coordinator shall submit county and township control plans to the agriculture commissioner for approval.

¹⁹⁹ **SECTION 9. AMENDMENT.** Section 4.1-47-14 of the North Dakota Century Code is amended and reenacted as follows:

4.1-47-14. County noxious weed control program - Payment of expenses - Mill levy authorization.

1. The board of county commissioners may pay the expenses of a county noxious weed control program authorized under this chapter from the county general fund, the noxious weed control fund, or both. In addition to the other program expenditures authorized in this chapter, the board of county commissioners may expend funds from the levy authorized under subsection 11 of section 57-15-06.7 to control noxious weeds or undesirable vegetation along county or township roads in the county.
2. a. The county weed board may annually certify ~~to request from~~ the board of county commissioners the levy of a tax, not to exceed two mills on the taxable valuation of all property in the county, other than that which ~~the levy limitation in subsection 11 of section 57-15-06.7, but any tax levied under this section does not apply to property that~~ lies within the boundaries of a city having a noxious weed control program under this chapter.
- b. ~~In addition to the levy authorized in subdivision a, the board of county commissioners may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the county, other than that which lies within the boundaries of a city having a noxious weed control program under this chapter.~~
- e. The board of county commissioners shall may levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is may be used to pay

¹⁹⁹ Section 4.1-47-14 was also amended by section 5 of Senate Bill No. 2056, chapter 88, and section 3 of Senate Bill No. 2217, chapter 92.

~~the expenses of a county noxious weed control program authorized under this section.~~

- d. ~~The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.~~
3. For purposes of this section, the expenses of a county noxious weed control program include compensation for and the reimbursement of expenses incurred by the county weed board, the county weed control officer, and other employees of the board, and expenses incurred ~~in the provision of noxious weed control~~, as authorized by this chapter.

SECTION 10. AMENDMENT. Section 4.1-47-16 of the North Dakota Century Code is amended and reenacted as follows:

4.1-47-16. State appropriations for noxious weed control - Landowner assistance program.

1. The commissioner shall consult with representatives of county and city weed boards and develop a formula for the distribution to eligible county weed boards and eligible city weed boards of all moneys appropriated by the state for the landowner assistance program.
2. a. The formula must require that county officials budget, from revenues derived from county sources, an amount equal to the revenue that could be raised by a levy of at least three mills for noxious weed control; ~~provided, however, that this amount does not apply to property that lies against taxable property in the county which does not lie~~ within the boundaries of a city having a noxious weed control program under this chapter.
- b. The formula must require that city officials budget, from city sources, an amount equal to the revenue that could be raised by a levy of at least three mills for noxious weed control.
3. a. The formula must require that the landowner contribute an amount equal to at least twenty percent of the cost to be expended on behalf of the landowner.
- b. The nature and type of the landowner's contribution must be determined by the weed board having jurisdiction over the area in which the landowner's property is located.

²⁰⁰ **SECTION 11. AMENDMENT.** Section 4.1-47-25 of the North Dakota Century Code is amended and reenacted as follows:

4.1-47-25. City noxious weed control program - Payment of expenses ~~—Mill levy authorization.~~

1. The governing body of a city may ~~pay the expenses of~~ provide funding for a city noxious weed control program authorized under this chapter ~~from the city general fund, the noxious weed control fund, or both from revenues derived from its general fund levy authority.~~

²⁰⁰ Section 4.1-47-25 was also amended by section 6 of Senate Bill No. 2056, chapter 88, and section 4 of Senate Bill No. 2217, chapter 92.

- 2.a. ~~The city weed board may annually certify to request the governing body of a city a tax, not to exceed two mills on the taxable valuation of all property in the city to provide funds derived from its general fund levy authority in the amount necessary for the city noxious weed control program.~~
- b. ~~In addition to the levy authorized in subdivision a, the governing body of a city may levy an amount not to exceed two mills per dollar on the taxable valuation of all property in the city.~~
- c. ~~The governing body of a city shall levy the taxes authorized by this subsection and shall place those moneys in a separate fund designated as the noxious weed control fund, which is used to pay the expenses of a city noxious weed control program.~~
- d. ~~The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.~~
3. For purposes of this section, the expenses of a city noxious weed control program include compensation for and the reimbursement of expenses incurred by the city weed board, the city weed control officer, and other employees of the board, and expenses incurred in the provision of noxious weed control, as authorized by this chapter.

²⁰¹ **SECTION 12.** Five new subsections to section 11-11-14 of the North Dakota Century Code is created and enacted as follows:

To expend county funds for eradication of gophers, prairie dogs, rabbits, crows, or magpies.

To expend county funds to enhance communications infrastructure for countywide benefit.

To provide for the planning, design, acquisition, development, operation, maintenance, and support of automation and telecommunications resources.

To provide for firebreaks and other fire protection and suppression measures.

To construct, equip, operate, and maintain county buildings, including court facilities, correction centers, jails, and other law enforcement facilities.

To require that all financial records, including all revenues, expenditures, fund balances, and complete budgets be submitted to the board of county commissioners at a time and in a format requested by the board of county commissioners by all boards, authorities, committees, and commissions appointed by the board of county commissioners before consideration by the board of county commissioners of the budget and levy request.

²⁰¹ Section 11-11-14 was also amended by section 1 of House Bill No. 1376, chapter 89, and section 8 of Senate Bill No. 2056, chapter 88.

²⁰² **SECTION 13. AMENDMENT.** Section 11-11-53 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The board of county commissioners of any county may appropriate out of the general fund of the county a sum, not exceeding five thousand dollars annually, to be paid to the historical society of the county and used for the promotion of historical work within the borders of the county, including the collection, preservation, and publication of historical material, and to disseminate historical information of the county, and in general to defray the expense of carrying on historical work in the county.
2. The board of county commissioners may levy a tax, not exceeding the limitation in subsection 83 of section 57-15-06.7, for the promotion of historical works within the borders of the county and in general defray the expense of carrying on historical work in the county, including the maintenance of any historical room or building, and furthering the work of the historical society of the county. The levy is in addition to any moneys appropriated from the general fund of the county for historical work as provided in subsection 1.

The board of county commissioners may, by resolution, submit the question of ~~an additional voter-approved~~ tax levy to the qualified electors of the county at the next countywide general, primary, or special election. If sixty percent of the qualified electors voting on the question approve, a tax ~~must~~ may be levied not exceeding the limitation in subsection 83 of section 57-15-06.7, which tax may be expended as provided in this section. Voter-approved levy authority under this section authorized by electors of a county before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first. After January 1, 2015, approval or reauthorization by electors of voter-approved levy authority under this section may not be effective for more than ten taxable years.

3. The appropriation and levy authorized by this section may not be used to defray any expenses of a county historical society until it is incorporated under the laws of this state as a nonprofit corporation, is affiliated with and has its articles of incorporation and bylaws approved by the state historical society and the attorney general, and has contracted with the board of county commissioners in regard to the manner in which the funds received will be expended and the services to be provided. Historical societies that qualified for county funds under subsection 1 before July 1, 1965, are not required to have articles of incorporation and bylaws approved by the attorney general to receive funds under subsection 1.

SECTION 14. AMENDMENT. Section 11-11-65 of the North Dakota Century Code is amended and reenacted as follows:

²⁰² Section 11-11-53 was also amended by section 9 of Senate Bill No. 2056, chapter 88.

11-11-65. Programs and activities for handicapped persons - Expenditure of funds.

The board of county commissioners may establish or maintain programs and activities for handicapped persons, including recreational and other leisure-time activities and informational, health, welfare, transportation, counseling, and referral services. The board may expend funds received from state, federal, or private sources or provide funding from revenues derived from its general fund levy authority for the public purposes provided for in this section. No expenditure may be made to defray any expenses of any organization or agency until the organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the board in regard to the manner in which the funds will be expended and the services will be provided. An organization or agency that receives the funds must be reviewed or approved annually by the board to determine its eligibility to receive funds under this section.

SECTION 15. Subsection 4 to section 11-11.1-01 of the North Dakota Century Code is created and enacted as follows:

4. The board of county commissioners in a county where an active industrial development organization exists may enter a contract with the industrial development organization for performance of the functions of a job development authority or joint job development authority as provided in this chapter and may use the proceeds of the levy authority under section 11-11.1-04 for that purpose.

²⁰³ **SECTION 16. AMENDMENT.** Section 11-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

11-11.1-04. Tax levy for job development authorities.

The board of county commissioners of a county which has a job development authority or joint job development authority shall establish a job development authority fund and may levy a tax not exceeding the limitations in subsection 29 of section 57-15-06.7. The county treasurer shall keep the job development authority fund separate from other money of the county. ~~If directed by the board of county commissioners, the county treasurer shall keep a separate fund for the job development authority for the proceeds of any designated portion of the levy for promotion of tourism by the job development authority.~~ The county treasurer shall transmit all funds received pursuant to this section within thirty days to the board of directors of the authority. The funds when paid to the authority must be deposited in a special account, or special accounts if the authority chooses to maintain a separate account for promotion of tourism, in which other revenues of the authority are deposited. Moneys received by the job development authority from any other source must also be deposited in the special accounts. The moneys in the special accounts may be expended by the authority as provided in sections 11-11.1-02 and 11-11.1-03.

²⁰⁴ **SECTION 17. AMENDMENT.** Section 11-28-06 of the North Dakota Century Code is amended and reenacted as follows:

²⁰³ Section 11-11.1-04 was also amended by section 10 of Senate Bill No. 2056, chapter 88, and section 5 of Senate Bill No. 2217, chapter 92.

²⁰⁴ Section 11-28-06 was also amended by section 11 of Senate Bill No. 2056, chapter 88, and section 7 of Senate Bill No. 2217, chapter 92.

11-28-06. Tax levy County parks and recreation areas funding and county parks and recreation areas capital projects levy by board of county commissioners.

At the time of levying county general fund taxes for other county purposes, the board of county commissioners shall consider the certificate and budget statement and levy request of the board of county park commissioners and shall levy each year upon all taxable property in the county a tax sufficient in amount may fund from revenues derived from county general fund levy authority an amount to pay the actual necessary expenses of the county park and recreational areas and activities program of the board of county park commissioners, including construction, improvement, repair, and operation, and maintenance of the park and recreational areas and their facilities under its control and those recreational activities of benefit to the general populace of the county which are under the control of a city or a city park district within the county, not exceeding the limitation in subsection 10 of section 57-15-06.7. No levy in excess of this limitation shall be made without approval of the eligible voters in the county at a special or general election. The county auditor shall credit the proceeds of such tax funding authorized by the board of county commissioners to the separate fund of the board of county park commissioners. This levy shall not apply to cities that already have a park levy unless the governing body of the city by resolution consents to the levy.

The board of county commissioners shall consider the certificate and budget statement of the board of county park commissioners and may levy taxes annually as provided in section 57-15-06.6 for county park capital projects; acquiring real estate as a site for public parks; and construction, equipping, and maintaining structural and mechanical components of parks and recreational facilities. The question of whether the levy for county park capital projects for county parks and recreational facilities is to be discontinued must be submitted to the qualified electors at the next regular election upon petition of twenty-five percent of the qualified electors voting in the last regular county election, if the petition is filed not less than sixty days before the election. A levy may not be discontinued or reduced if it is dedicated to the payment of bonds issued pursuant to subsection 6 of section 21-03-07. If the majority of the qualified electors vote to discontinue the levy for county park capital projects for county parks and recreational facilities, it may not again be levied without a majority vote of the qualified electors at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board. The levy for county park capital projects for county parks and recreational facilities does not apply to any property located in a city in which park district taxes are levied, unless the governing body of the city in which the property is located consents, by resolution, to the levy.

SECTION 18. AMENDMENT. Section 11-28.3-03 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-03. Notice of election.

In addition to the usual requirements of notices of election, the notice for an election at which the question provided for in this chapter will be voted upon shall include a statement describing the boundaries of the proposed rural ambulance service district, expressed, wherever possible, in terms of the government survey, a statement setting forth a specified mill levy for the proposed district, which levy shall not exceed the limitation in section ~~57-15-26.5~~ 11-28.3-09. The notice of election shall also state the voting areas in which the question provided by this chapter will be on the ballot.

²⁰⁵ **SECTION 19. AMENDMENT.** Section 11-28.3-09 of the North Dakota Century Code is amended and reenacted as follows:

11-28.3-09. Emergency medical service policy to be determined- Levy.

The board of directors shall establish a general emergency medical service policy for the district and shall annually estimate the probable expense for carrying out that policy. The estimate shall be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. ~~The auditor or auditors shall board or boards of county commissioners may~~ levy a tax not to exceed the mill rate approved by the electors of the district under section 11-28.3-04, and in no event exceeding a mill rate of ten mills upon the taxable property within the district for the maintenance of the rural ambulance service district for the fiscal year as provided by law. A rural ambulance service district may be dissolved by approval of electors of the district as provided in section 11-28.3-13.

The tax levied for a rural ambulance service district shall be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural ambulance service district, who shall be bonded in the amount of at least five thousand dollars.
3. Deposited by the secretary-treasurer in a state or national bank in a district account.
4. Paid out upon warrants drawn upon the district account by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president.

In no case shall the amount of the tax levy exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year. The district may include in its operating budget no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated emergency medical services sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent emergency medical services sinking fund may be in addition to the actual annual operating budget, but the total of the annual operating budget and the annual ten percent emergency medical services sinking fund shall not exceed the approved amount of revenue that would be generated by application of the maximum mill levy approved by the electors.

SECTION 20. AMENDMENT. Section 18-06-10 of the North Dakota Century Code is amended and reenacted as follows:

18-06-10. Township may contract for prevention and extinguishment of fires.

The electors of each township at the annual township meeting may authorize and empower the board of township supervisors to ~~levy, not exceeding the limitation in subsection 1 of section 57-15-20.2, and fund from revenues derived from the general fund levy authority of the township and provide by contract or otherwise for the prevention of, protection from, and extinguishment of fires within the townships in such manner as the board of supervisors deems advisable to township.~~

²⁰⁵ Section 11-28.3-09 was also amended by section 9 of Senate Bill No. 2217, chapter 92.

When so authorized, the supervisors may enter into a five-year contract and levy, ~~not exceeding the limitation in subsection 1 of section 57-15-20.2,~~ for the payment of the services obtained under ~~such~~the contract. ~~Such~~The contract may be renewed or renegotiated for another five-year period upon authorization by the electors of the township at the annual meeting.

A voter-approved levy under this section authorized by electors of a township before January 1, 2015, remains in effect under the provisions of this section at the time the levy was authorized but not exceeding ten taxable years. Upon expiration of any mill levy under this section authorized by electors of a township before January 1, 2015, the governing body of the township or county may, by resolution, transfer any unobligated balance in the fund in which the levy proceeds were deposited to the general fund of the township.

²⁰⁶ **SECTION 21. AMENDMENT.** Section 18-10-07 of the North Dakota Century Code is amended and reenacted as follows:

18-10-07. Fire protection policy to be determined - Tax levy limit - Voter-approved levy authority.

The board of directors shall determine a general fire protection policy for the district and shall annually estimate the probable expense for carrying out the contemplated program. The annual estimate of probable expense may include an amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year, who shall levy a tax upon the taxable property within the district for the maintenance of the fire protection district for the fiscal year as provided by law. The tax may not exceed the ~~limitation in section 57-15-26.3. No signature on the petition may be considered valid if made more than ninety days prior to receipt of the petition~~ a tax rate of five mills per dollar of the taxable valuation of property in the district. Voter-approved levy authority authorized by the board of directors and the electors, before January 1, 2015, remains in effect under the provisions of law at the time the levy was authorized for the time period authorized by the electors but not exceeding ten taxable years or the period of time necessary for repayment of indebtedness incurred which was intended to be repaid from the increased levy, the tax may be increased to a tax rate not exceeding thirteen mills per dollar of the taxable valuation of property in the district for a period not exceeding ten taxable years.

The tax must be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural fire protection district, who shall have a surety bond in the amount of at least five thousand dollars.
3. Placed to the credit of the rural fire protection district so authorizing the same by its secretary-treasurer in a state or national bank, except amounts to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles may be invested to earn the maximum return available.

²⁰⁶ Section 18-10-07 was also amended by section 1 of House Bill No. 1056, chapter 166, section 3 of House Bill No. 1059, chapter 433, and section 12 of Senate Bill No. 2217, chapter 92.

4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the rural fire protection district.

The amount of tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense, including the amount of principal and interest upon the indebtedness of the district for the ensuing year and including any amount determined by the board of directors to be necessary to be carried over to a future year for purchase of firefighting equipment, ambulances, or other emergency vehicles.

SECTION 22. AMENDMENT. Section 18-11-10 of the North Dakota Century Code is amended and reenacted as follows:

18-11-10. Additional city levy firefighters relief fund contributions.

~~At the time the tax levies for the support of the city are made the governing body of any~~A city that has adopted a plan under this chapter shall also levy a tax on all taxable property within the city fund from revenues derived from its general fund levy authority a sufficient in amount for firefighters relief association contributions to equal a minimum of eight percent of the current annual salary of a first-class firefighter as last determined and approved by the governing body of the city, for each active member of the fire department relief association at the time the levy is made. This tax must be levied notwithstanding the city maximum annual tax levy for all purposes as limited by statute. This tax is in addition to the tax levy as so limited.

SECTION 23. AMENDMENT. Subsection 1 of section 21-03-06 of the North Dakota Century Code is amended and reenacted as follows:

1. By any county:
 - a. To provide county buildings and to acquire land for county purposes, but all outstanding unpaid bonds for this purpose may not exceed in amount at any one time five percent of the value of taxable property in such county.
 - b. To construct, enlarge, or repair, or aid in the construction, enlargement, or repair, of bridges within or without the county, but all outstanding unpaid bonds for this purpose may not exceed in amount at any one time one percent of the value of taxable property in the county.
 - c. To provide funds for the original construction and for the improvement and maintenance of highways, but all outstanding unpaid bonds for these purposes may not exceed in amount at any one time four percent of the value of taxable property in such county.
 - d. To provide funds for the construction of solid waste disposal facilities, for the acquisition of real estate for that purpose, for facilities and equipment for the collection of solid wastes, and for facilities and equipment to dispose of waste products.
 - e. To provide money for the payment of any deficiency in the fund of any special improvement district whenever the special assessment or taxes levied and collected for the specific improvements are insufficient to pay the principal or interest of any special improvement warrants or bonds issued for the improvement and due and unpaid, but only to the extent of that deficiency.

- f. To provide funds for the acquiring, laying out, equipping, and improving parks and recreational facilities and to acquire land for these purposes.
- g. To provide funds to purchase not to exceed two hundred forty acres [97.12 hectares] of real estate and construct buildings and improvements for the conduct of a county fair.

SECTION 24. AMENDMENT. Subsections 3, 5, and 6 of section 21-03-07 of the North Dakota Century Code are amended and reenacted as follows:

3. The governing body of any municipality may issue bonds of the municipality for the purpose of providing funds to meet its share of the cost of any federal-aid highway project undertaken under an agreement entered into by the governing body with the United States government, the director of the department of transportation, the board of county commissioners, or any of them, including the cost of any construction, improvement, financing, planning, and acquisition of right of way of a bridge eligible for federal matching funds, federal-aid highway routed through the municipality and of any bridges and controlled access facilities thereon and any necessary additional width or capacity of the bridge or roadway thereof greater than that required for federal or state bridge or highway purposes, and of any necessary relaying of utility mains and conduits, curbs and gutters, and the installation of utility service connections and streetlights. The portion of the total cost of the project to be paid by the municipality under the agreement, including all items of cost incurred directly by the municipality and all amounts to be paid by it for work done or contracted for by other parties to the agreement, may not exceed a sum equal to thirty percent of the total cost, including engineering and other incidental costs, of all construction and reconstruction work to be done plus fifty percent of the total cost of all right of way to be acquired in connection therewith. The initial resolution authorizing issuance of bonds under this subsection must be published in the official newspaper of the municipality. Within sixty days after publication, an owner of taxable property within the municipality may file with the auditor or chief fiscal officer of the municipality a written protest against adoption of the resolution. A protest must describe the property that is the subject of the protest. If the governing body finds protests have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property in the municipality, as most recently finally equalized, all further proceedings under the initial resolution are barred. Nothing herein may be deemed to prevent any municipality from appropriating funds for or financing out of taxes, special assessments, or utility revenues any work incidental to any such project, in the manner and to the extent otherwise permitted by law, and the cost of any work so financed may not be included in computing the portion of the project cost payable by the municipality, within the meaning of this subsection, unless the work is actually called for by the agreement between the municipality and the other governmental agencies involved.
5. The governing body of any city may also by resolution adopted by a two-thirds vote dedicate the mill levies ~~as~~ levy authorized by ~~sections~~ section 57-15-42 ~~and 57-15-44~~ and may authorize and issue general obligation bonds to be paid by ~~these~~ the dedicated levies levy for the purpose of providing funds for the purchase, construction, reconstruction, or repair of public buildings or fire stations; provided, that the initial resolution authorizing the mill levy dedication and general obligation bonds must be published in the official newspaper, and any owner of taxable property within the city may, within sixty days after

publication, file with the city auditor a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

6. The governing body of any county may also by resolution adopted by a two-thirds vote dedicate the tax levies ~~as~~ levy authorized by ~~sections~~ section 57-15-06.6 and ~~57-15-06.9~~ and may authorize and issue general obligation bonds to be paid by ~~these~~ the dedicated ~~levies~~ levy for the purpose of providing funds for the purchase, construction, reconstruction, or repair of regional or county correction centers, or parks and recreational facilities; provided, that the initial resolution authorizing the tax levy dedication and general obligation bonds must be published in the official newspaper, and any owner of taxable property within the county may, within sixty days after publication, file with the county auditor a protest against the adoption of the resolution. Protests must be in writing and must describe the property which is the subject of the protest. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to five percent or more of the assessed valuation of all taxable property within the county, as theretofore last finally equalized, all further proceedings under the initial resolution are barred.

SECTION 25. AMENDMENT. Section 23-06-30 of the North Dakota Century Code is amended and reenacted as follows:

23-06-30. Abandoned cemeteries to be maintained by counties.

The board of county commissioners of each county may provide for the identification, cataloguing, recording, and shall provide for the general maintenance and upkeep of each abandoned cemetery located within such county using revenues derived from its general fund levy authority. The board shall, at least once each year, proceed to have the weeds and grass cut, restore gravestones to their original placement, and perform any other general maintenance necessary to maintain the dignity and appearance of the grounds. For the purposes of this section, a cemetery means any tract of land used as a burial plot and which is filed with the recorder of the county as a public burying place. The board of county commissioners of each county shall provide for the registration, with the state department of health, of each abandoned cemetery within such county unless such cemetery has been previously registered. Such registration must take place within one year of notification being made to the board, by any interested party of the existence of such abandoned cemetery. ~~Expenditures may not exceed levy limitations as provided in section 57-15-27-2.~~

SECTION 26. AMENDMENT. Section 23-18-01 of the North Dakota Century Code is amended and reenacted as follows:

23-18-01. Hospital associations authorized - County tax levy in aid - Election.

A county or community hospital association may be established in any county in this state. The executive officers and directors must be residents of the county. The association may apply to the board of county commissioners of the county for a grant to aid in the erection or operation of a nonsectarian county hospital. The application

for the grant must be in writing and must state the incorporation of the association, the names and places of residence of all of its executive officers, and the assets of the association, and must specify the mill rate of levy applied for, which ~~may not be in excess of~~ must be within the limitation in subsection ~~424~~ of section 57-15-06.7. If the board of county commissioners is satisfied that the statements in the applications are true and that the association intends in good faith to establish or aid in the operation of a nonsectarian county or community hospital, it ~~shall~~ may submit to the electors of the county the question of levying a tax in aid of such nonsectarian county or community hospital, not exceeding the limitation in subsection ~~424~~ of section 57-15-06.7. The county auditor shall give notice of such election within the time and in the manner prescribed by law for the holding of county elections.

Voter-approved levy authority under this section authorized by electors of a county before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first. After January 1, 2015, re-authorization by electors of voter-approved levy authority under this section is allowable only for hospital associations in existence prior to January 1, 2015, and may not be effective for more than ten taxable years.

A hospital association under this chapter shall transition to a hospital district under chapter 23-30 by July 1, 2017, and is not required to obtain approval of electors under section 23-30-02 to make the transition.

SECTION 27. AMENDMENT. Section 23-30-01 of the North Dakota Century Code is amended and reenacted as follows:

23-30-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Hospital" means an institution with an organized medical staff, permanent facilities including inpatient beds, medical services including physician services and continuous nursing services, to provide diagnosis and treatment for medical conditions, both surgical and nonsurgical, and services including rehabilitation services.
2. "Hospital district" means a district organized pursuant to section 23-30-02 for the purpose of supporting one or more of the following types of institutions: a hospital, an intermediate health care facility, ~~and~~ a nursing home, or a clinic.
3. "Intermediate health care facility" means a health-related institution planned, organized, operated, and maintained to supply supportive, restorative, and preventive health care with related social care, to individuals who, because of their physical or mental condition, or both, require less than twenty-four-hour nursing care in an institutional environment, but who do not have an injury, illness, or disability for which regular medical care and twenty-four-hour nursing services are required.
4. "Nursing home" means an institution in which nursing care is rendered for compensation to two or more persons not related to the operator by blood or marriage, serving persons suffering from a prolonged physical or mental illness or defect, or persons recovering from some injury or disease. Care provided must include: administration of medicines, preparation of special diets, giving of bedside care, application of dressings and bandages, and carrying out treatments prescribed by duly licensed practitioners of the healing arts.

²⁰⁷ **SECTION 28. AMENDMENT.** Section 23-30-07 of the North Dakota Century Code is amended and reenacted as follows:

23-30-07. Tax levy authorized.

The board of directors shall annually estimate the probable expense for operating the hospital district. The estimate must be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. The auditor or auditors shall levy a tax not exceeding the limitation in section 57-15-26.4 for the maintenance of the district for the fiscal year as provided by law. The tax must be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the district, who must have a surety bond set by the board of directors in the amount of at least five thousand dollars.
3. Placed to the credit of the district authorizing it by its secretary-treasurer in a state or national bank qualifying as a public depository.
4. Paid out upon warrants drawn upon the fund by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president of the district.

The amount of the tax levy may not exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense including the amount of principal and interest upon the indebtedness of the district for the ensuing year.

Voter-approved levy authority under this section or section 23-18-01 authorized by electors of a county before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first. After January 1, 2015, approval or re-authorization by electors of voter-approved levy authority under this section may not be effective for more than ten taxable years.

SECTION 29. AMENDMENT. Section 24-05-01 of the North Dakota Century Code is amended and reenacted as follows:

24-05-01. County road system and construction plan - County road and bridge tax levy - Allocation and use of funds.

In each county having a population of two thousand or more, there must be levied and collected a property tax of not less than one-fourth of one mill, nor more than the maximum rate permitted by section 57-15-06, on each. The board of county commissioners of any county shall periodically prepare a proposed county construction program of roads on the county road system, setting forth a general description of the roads to be constructed, the location of bridges constituting a part of the program, the approximate total mileage, and the priority of construction.

1. The board of county commissioners may levy a tax not exceeding a tax rate of ten mills per dollar of the taxable valuation of all taxable property in the county for the improvement of highways, county roads and bridges.

²⁰⁷ Section 23-30-07 was also amended by section 15 of Senate Bill No. 2217, chapter 92.

2. When authorized by sixty percent a majority of the qualified electors voting upon the question at a regular or special election in the county, the county commissioners may levy and collect a property an additional tax for county road and bridge purposes not exceeding the limitation in subsection 14 of section 57-15-06.7a tax rate of ten mills per dollar of the taxable valuation of property in the county. The levy pursuant to such an election may be discontinued at the discretion of by the board of county commissioners; or, upon petition of five percent of the qualified electors of such county, the question of discontinuance of the levy must be submitted to the qualified electors of the county at any regular or special election and, upon a favorable vote to discontinue the levy of sixty percent a majority of the qualified electors voting, such levy must be discontinued.

Of the proceeds of the tax collected under levy authority under this subsection on account of property situated within any city, by the county treasurer of the county in which the city is located, twenty percent must be turned over by the treasurer to the auditor of the city, in the manner provided in section 11-13-06 to be expended under the direction of the governing body of the city in the improvement of its streets and highways.

3. When a county requires levy authority for county road and bridge purposes in excess of the limitations under subsections 1 and 2 and the county is authorized by a majority of the qualified electors voting upon the question at a regular or special election in the county, the board of county commissioners may levy and collect an additional tax not exceeding a tax rate of ten mills per dollar of the taxable valuation of property in the county. The levy pursuant to an election under this subsection may be discontinued by the board of county commissioners or, upon petition of five percent of the qualified electors of such county, the question of discontinuance of the levy must be submitted to the qualified electors of the county at any regular or special election and, upon a favorable vote to discontinue the levy of a majority of the qualified electors voting, such levy must be discontinued.
4. Additional levy authority authorized by electors of a county under this section or section 57-15-06.3 before January 1, 2015, remains in effect under the provisions of law at the time the levy was authorized for the time period authorized by the electors but not exceeding ten taxable years, unless discontinued earlier by the board of county commissioners or the electors of the county. After January 1, 2015, approval or re-authorization by electors of increased levy authority under this section may not be effective for more than ten taxable years.
5. The county treasurer shall retain and deposit in a fund known as the county road and bridge fund the county share of the tax under this section and any proceeds of this tax totaling less than twenty dollars in a taxable year which is collected on account of property situated within any city. Proceeds of the county share of the tax not turned over to cities pursuant to this section must be kept in the county road fund and under this section must be expended in the improvement of highways as provided in this chapter under the direction of the board of county commissioners. The provisions of this section in regard to allocation apply to the proceeds of any tax originally levied for other purposes if appropriated or transferred to the county road and bridge fund or for expenditure for road and bridge purposes. No allocation pursuant to this section may include the proceeds received by the county as its share of the allocation made pursuant to section 54-27-19, nor may any allocation under

this section include moneys received from the state as the result of any other intergovernmental transfer.

Any unobligated balance in the county special road fund and reserve road and bridge fund on August 1, 2015, must be transferred to the county road and bridge fund and the county special road fund and reserve road and bridge fund must be closed out.

SECTION 30. AMENDMENT. Section 24-05-02 of the North Dakota Century Code is amended and reenacted as follows:

24-05-02. Fund - How expended.

~~The county road and bridge fund created by section 24-05-01 may be expended only for road machinery and for grading, ditching, and surfacing, in proper form and condition for public travel, such highways or parts of highways, howsoever established, as constitute the principal thoroughfares of the county, communicating with shipping points and marketplaces resorted to by inhabitants of the county, for which the means otherwise provided, in the opinion of the board of county commissioners, are not sufficient and implementation of the proposed county construction program of roads on the county road system.~~

SECTION 31. AMENDMENT. Section 24-05-05 of the North Dakota Century Code is amended and reenacted as follows:

24-05-05. County auditor to issue warrants.

Upon the filing of the surveyor's certificate as provided in section 24-05-03, the county auditor shall issue warrants accordingly on the county treasurer in favor of the contractor, payable out of the county road and bridge fund appropriated thereto, and the same must be paid by the treasurer.

SECTION 32. AMENDMENT. Section 24-05-16 of the North Dakota Century Code is amended and reenacted as follows:

24-05-16. County road system - Designation.

~~The county road system may not exceed twenty-two thousand five hundred miles [36210.24 kilometers]. This system must remain substantially unchanged until such system has been improved.~~

The county road system must be the roads designated and selected by the boards of county commissioners. The director must be informed of the system so designated. Any changes of the original designation which can be justified and based on new developments must be made by the board of county commissioners and the director must be notified of such changes. In designating and selecting roads on the county road system, the boards of county commissioners of the several counties shall take into account such factors as the actual or potential traffic volumes, the conservation and development of the county's natural resources, the general economy of the communities, and the desirability of integrating such county roads into the general scheme of the statewide network of county roads.

~~The original designation and selection of twenty-two thousand five hundred miles [36210.24 kilometers] of the county road system as hereinabove provided must be allocated as near as possible to the several counties of the state in the following proportions:~~

County	Percent of Total 22,500
Adams	1.34
Barnes	2.56
Benson	1.97
Billings	0.62
Bottineau	2.55
Bowman	1.42
Burke	1.39
Burleigh	2.98
Cass	3.21
Cavalier	2.12
Dickey	1.96
Divide	1.94
Dunn	1.98
Eddy	1.03
Emmons	2.19
Foster	1.05
Golden Valley	0.80
Grand Forks	2.25
Grant	1.94
Griggs	1.09
Hettinger	1.63
Kidder	2.39
LaMoure	1.77
Logan	1.26
McHenry	2.84
McIntosh	1.65
McKenzie	1.64
McLean	3.22
Mercer	1.74
Morton	2.98
Mountrail	1.95
Nelson	1.37
Oliver	1.31
Pembina	1.46
Pierce	1.58
Ramsey	1.64
Ransom	1.81
Renville	1.37
Richland	2.39
Rolette	1.29
Sargent	1.45
Sheridan	1.71
Sioux	0.74
Slope	1.41
Stark	1.83
Steele	1.30
Stutsman	3.63
Towner	1.70
Traill	1.66
Walsh	2.08
Ward	3.29
Wells	1.93
Williams	3.59
Total	100.00

When, in the opinion of the board of county commissioners, the finances of the county permit, the county road system of such county may be extended beyond the limits herein fixed.

SECTION 33. AMENDMENT. Section 24-08-07 of the North Dakota Century Code is amended and reenacted as follows:

24-08-07. Issuance of bonds to meet expenses of construction of bridge.

When one-half, or such other proportion as may be provided, of the cost of a bridge to be constructed as provided in section 24-08-05 is provided by any municipality within this state, it may issue bonds for this purpose in accordance with chapter 21-03. In case the limit of indebtedness of such municipality would be exceeded thereby, then it is lawful for such municipality to make a sufficient tax levy for general purposes to meet the necessary expenditure in the construction of such bridge, and when the same is completed and accepted, the share of the cost thereof to be borne by such municipality must be paid out of the general fund by orders drawn in the usual form and manner provide funding from revenues derived from its general fund levy authority.

SECTION 34. AMENDMENT. Section 32-12.1-08 of the North Dakota Century Code is amended and reenacted as follows:

32-12.1-08. Political subdivision insurance reserve fund – Tax levy risk funding.

1. A political subdivision, ~~other than a school district or park district, may establish and maintain an insurance reserve fund for insurance purposes, and all political subdivisions, including school districts and park districts, may include in the annual~~ may provide funding from revenue derived from its general fund tax levy of the political subdivision such amounts as are determined by the governing body to be necessary for the purposes and uses of the insurance reserve fund risk financing purposes. The tax levy authorized by this section may not exceed the limitation in section 57-15-28.1, except a levy by a school district or park district must be within the general fund levy authority of the school district or park district. If a political subdivision has no annual tax levy, the political subdivision may appropriate from any unexpended balance in its general fund such amounts as the governing body of the political subdivision determines necessary for the purposes and uses of the insurance reserve fund.
2. ~~Except in the case of a school district or park district, the fund established pursuant to this section must be kept separate and apart from all other funds and~~ Any unobligated balance in a political subdivision insurance reserve fund must be transferred to the political subdivision's general fund and the insurance reserve fund must be closed out by December 31, 2015. The general fund of the political subdivision may be used only for risk financing purposes and the payment of claims against the political subdivision which have been settled or compromised, judgments rendered against the political subdivision for injuries arising out of risks established by this chapter, or costs incurred in the defense of claims. Payments by a school district or park district for the same purposes must be made out of the political subdivision's general fund.

SECTION 35. AMENDMENT. Section 32-12.1-11 of the North Dakota Century Code is amended and reenacted as follows:

32-12.1-11. Judgment against political subdivision - Levy authority - Additional tax levy for insured subdivisions.

If a final judgment is obtained or a settlement is agreed for a claim against any political subdivision, except a school district, the governing body of the political subdivision may by resolution provide for the levy and collection of an annual tax not exceeding the limitation in section 57-15-28.1 upon all the taxable valuation of property within the political subdivision for the payment of such judgment. The amount levied under this section for the payment of a judgment against a political subdivision shall not exceed the limitation set forth in section 57-15-28.1. This section also applies to a judgment obtained or a settlement agreed for a claim against the political subdivision by the state or any agency or instrumentality of the state.

SECTION 36. AMENDMENT. Section 40-05-09.2 of the North Dakota Century Code is amended and reenacted as follows:

40-05-09.2. Contracting for fire protection service -- Providing for the financing thereof.

Any city may, upon resolution of its governing body, execute a contract with a nonprofit corporation for the provision of fire protection and firefighting services. Such contracts may be executed only with nonprofit corporations which have if the nonprofit corporation has been in existence and have has provided fire protection and firefighting services to the contracting municipality city for a period of not less than twenty years.

Upon approval of sixty percent of the electors voting thereon at any regular election or special election called for such purpose, the The governing body of any the city may levy taxes annually, not exceeding the limitation in subsection 9 of section 57-15-10 for the purpose of paying provide funding from revenues derived from its general fund levy authority for contracted fire protection services and may also expend moneys otherwise available for the provision of such service.

SECTION 37. AMENDMENT. Section 40-05-19 of the North Dakota Century Code is amended and reenacted as follows:

40-05-19. City tax levy funding for animal shelters - Sterilization of animals.

The governing body of the city, when authorized by a vote of at least sixty percent of the electors voting on the question, may levy a tax not exceeding the limitation in subsection 27 of section 57-15-10 may provide funding from revenues derived from its general fund levy authority for the construction, operation, or maintenance of animal shelters. The proceeds of the tax must be kept in a separate fund and used exclusively for the purposes provided in this section. Voter-approved levy authority authorized by electors of a city under this section before January 1, 2015, remains in effect through taxable year 2024 or for the time period authorized by the electors, whichever expires first.

The levy authorized by this section may be used to defray expenses of any organization or agency incorporated under the laws of this state as a nonprofit corporation that has contracted with the governing body of the city in regard to the manner in which the funds will be expended and the services will be provided. No unclaimed dog or cat may be released for adoption by an animal shelter that receives funds from the levy under this section without being first sterilized, or without a written agreement and deposit from the adopter guaranteeing that the animal will be sterilized.

SECTION 38. AMENDMENT. Section 40-05-20 of the North Dakota Century Code is amended and reenacted as follows:

40-05-20. Programs and activities for handicapped persons - Expenditure of funds.

The governing body of any city or park district may establish or maintain programs and activities for handicapped persons, including recreational and other leisure-time activities and informational, health, welfare, transportation, counseling, and referral services. The governing body may provide funding from revenues derived from its general fund levy authority and may expend funds received from state, federal, or private sources for the public purposes provided for in this section. No expenditure may be made to defray any expenses of any organization or agency until the organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the governing body in regard to the manner in which the funds will be expended and the services will be provided. An organization or agency that receives the funds must be reviewed or approved annually by the governing body to determine its eligibility to receive funds under this section.

SECTION 39. AMENDMENT. Section 40-26-08 of the North Dakota Century Code is amended and reenacted as follows:

40-26-08. Municipality liable generally for deficiencies in special improvement fund.

Whenever all special assessments and all utility revenues and taxes, if any, appropriated and theretofore collected for a special improvement, made under authority of any law authorizing the payment of the cost thereof in whole or in part from special assessments, are insufficient to pay principal or interest then due on the special improvement warrants issued against such improvement, the governing body shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency. If at any time a deficiency is likely to occur within one year in such special improvement fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. This section applies to any deficiency in a special improvement fund, including a sewer and water connections assessment fund under chapter 40-28, sidewalk special fund under chapter 40-29, curbing special fund under chapter 40-31, and boulevard special fund under chapter 40-32. In case a balance remains unexpended in such a special improvement fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.

SECTION 40. AMENDMENT. Section 40-28-05 of the North Dakota Century Code is amended and reenacted as follows:

40-28-05. Sewer and water connections assessment fund - Warrants - Payment.

All money collected from assessments for laying and constructing sewer, water, and other service connections provided for in this chapter shall be kept in a fund called "sewer and water connections assessment fund", and warrants shall be drawn on such fund for the payment of the cost of such connections. All sewer and water connections assessment warrants shall be payable as specified and in such amount as in the judgment of the governing body will be provided by the taxes and assessments. Such warrants shall bear interest at a rate of not more than seven percent per annum and interest shall be payable annually. They may have coupons attached representing each year's interest. The warrants shall state on their face the

purpose for which they were issued and from what fund they are payable, and shall be signed by the executive officer, countersigned by the city auditor under the seal of the municipality, and shall be in denominations of not to exceed one thousand dollars each. The warrants may be used to make payment on contracts for making the connections or may be sold for cash at not less than par value thereof and the proceeds credited to the special fund and used to pay for such connections. Except as otherwise provided in this section ~~40-26-08~~, a municipality shall not be liable generally on any contracts for the making of such connections and shall not be required to pay funds raised by general taxation upon any such contract. ~~Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency; provided, however, that if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in the fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.~~

SECTION 41. AMENDMENT. Section 40-29-14 of the North Dakota Century Code is amended and reenacted as follows:

40-29-14. Sidewalk special fund - Warrants drawn upon - Levy.

All moneys received by a municipality from assessments for the construction, rebuilding, or repairing of sidewalks shall be kept in a separate fund designated as "sidewalk special fund". Warrants shall be drawn on such fund for the payment of the cost of constructing, rebuilding, and repairing sidewalks. ~~Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency; provided, however, that if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in the fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid over or transferred to the general fund of the municipality.~~Except as otherwise provided in section 40-26-08, a municipality is not liable generally on any contracts for the cost of constructing, rebuilding, and repairing sidewalks and may not be required to pay funds raised by general taxation upon any such contract.

SECTION 42. AMENDMENT. Section 40-31-08 of the North Dakota Century Code is amended and reenacted as follows:

40-31-08. Curbing special fund - Warrants drawn upon - Levy.

All moneys received by a city from assessments for building or repairing curbing shall be kept in a separate fund designated as the curbing special fund. Warrants shall be drawn upon such fund for the payment of the cost of building and repairing curbing in the municipality. ~~Whenever all taxes and assessments collected are insufficient to pay the warrants issued, with interest, the governing body, upon the maturity of the last warrant, shall levy a tax upon all of the taxable property in the municipality for the payment of such deficiency. However, if at any time prior to the maturity of the last warrant a deficiency is likely to occur within one year or exists in~~

~~the fund for the payment of principal and interest due on such warrants, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency. In case a balance remains unexpended in such fund after the payment of all warrants drawn thereon with interest, it shall be paid or transferred to the general fund of the municipality. Except as otherwise provided in section 40-26-08, a municipality is not liable generally on any contracts for the cost of building and repairing sidewalks and may not be required to pay funds raised by general taxation upon any such contract.~~

SECTION 43. AMENDMENT. Section 40-37-03 of the North Dakota Century Code is amended and reenacted as follows:

40-37-03. Votes required to authorize levy -- Limitations on tax levy City band funding.

~~The levy for municipal band purposes shall be authorized if sixty percent of the votes cast at the election are in favor of the proposition. The governing body of the municipality thereupon may include in its budget an appropriation provide funding from revenues derived from its general fund levy authority for the maintenance or employment of a band for municipal purposes and may levy a tax to cover the appropriation in its annual general fund tax levy. The amount of the levy to cover such appropriation, together with the aggregate amount levied for general purposes, shall be within the limitations prescribed in chapter 57-15. The amount appropriated for the maintenance or employment of a band for municipal purposes shall not exceed the amount which will be raised by a levy of one mill on the taxable valuation of the taxable property in the municipality.~~

²⁰⁸ **SECTION 44. AMENDMENT.** Subsections 1 and 3 of section 40-38-02 of the North Dakota Century Code are amended and reenacted as follows:

1. For the purpose of establishing and maintaining public library service, the governing body of a municipality or county authorizing the same shall establish a library fund. The library fund shall consist of annually levying and causing to be collected as other taxes are collected a municipal or county tax not exceeding the limitations in subsection 456 of section 57-15-06.7 and subsection 54 of section 57-15-10 and any other moneys received for library purposes from federal, state, county, municipal, or private sources.
3. ~~Whenever a tax for a county levies for county library service is levied, any and a city already levying levies a tax for public library service under the provisions of this section or other provisions of law shall, upon written application to the county board of the county, be exempted from the county tax levy to the extent that the city making the application levies taxes for a library fund during the year for which the tax levy is made, the county tax levy within that city must be reduced so the total levy in that city does not exceed four mills. If the city has been totally exempted from participation in any prospective county library programs service levy under this section, the phrase "not less than fifty-one percent of the qualified electors of the city or county as determined by the total number of votes cast at the last general election" as stated in section 40-38-01 shall mean fifty-one percent of the total number of votes cast at the last general election in the county less the total number of votes cast at the last general election in the city. If an election on the question is held, the qualified electors of any city so exempted from the county library~~

²⁰⁸ Section 40-38-02 was also amended by section 18 of Senate Bill No. 2056, chapter 88, and section 17 of Senate Bill No. 2217, chapter 92.

tax shall not be entitled to vote on the establishment or discontinuance of the county library service.

SECTION 45. AMENDMENT. Section 40-38.1-02 of the North Dakota Century Code is amended and reenacted as follows:

40-38.1-02. Municipal arts fund - Levy - Collection - Kept separate.

For the purpose of establishing and maintaining the municipal arts council, the governing body of a city authorizing the same shall establish a municipal arts fund. The fund shall consist of revenues from any city property tax authorized by this section, which levy may be made by the city at the direction of the municipal arts council in any amount, but not exceeding the limitation in subsection 76 of section 57-15-10 and any other moneys received from federal, state, county, city, or private sources. The city auditor shall keep the municipal arts fund separate and apart from the other money of the city, and it shall not revert to or be considered funds on hand by the governing body at the end of any fiscal year. The municipal arts fund shall be used exclusively for the establishment and maintenance of the municipal arts council and for grants by the council to appropriate arts organizations in the city. Upon motion of the governing body or upon petition of not less than twenty-five percent of the qualified electors voting in the last general election of the city, filed not less than sixty days before the next regular election, the governing body shall submit to the qualified electors at the next regular election the question of whether such governing body shall annually levy a specified amount not to exceed five mills for the municipal arts council.

SECTION 46. AMENDMENT. Section 40-43-01 of the North Dakota Century Code is amended and reenacted as follows:

40-43-01. Judgment or a settlement of a claim against municipality - Additional tax levied.

If a final judgment is obtained or a settlement is made of a claim against any municipality in this state, the governing body of the municipality, by resolution, may provide for the levy and collection of an annual tax upon all the taxable property within the municipality for the payment of such judgment or a settlement of a claim. The amount levied under this section for the payment of a judgment or a settlement of a claim against a municipality shall not exceed the limitation in subsection 4 of section 57-15-1057-15-28.1.

SECTION 47. AMENDMENT. Section 40-45-01 of the North Dakota Century Code is amended and reenacted as follows:

40-45-01. Tax levy Funding for police pension fund authorized – Limitations.

Any city having a population in excess of five thousand inhabitants according to the last official federal census and having an organized and paid police department may levy an annual tax not exceeding the limitation in subsection 10 of section 57-15-10 provide funding for the purpose of creating and maintaining a police pension fund from revenues derived from its general fund levy authority.

Any city having established by law a police retirement system based upon actuarial tables may provide funding for the police pension fund from revenues derived from its general fund levy authority.

SECTION 48. AMENDMENT. Section 40-45-27 of the North Dakota Century Code is amended and reenacted as follows:

40-45-27. Procedure upon discontinuance of police pension plan.

~~If the governing body of the city shall determine by a two-thirds vote as provided in section 40-45-26 that the police pension plan shall be discontinued, the plan shall be discontinued in such city and the governing body shall proceed to liquidate the pension fund created under such plan. Liquidation shall be accomplished by returning to each employee still in the employ of the city ten days after the date of the adoption of the resolution provided for in section 40-45-26 the entire amount which has been deducted from the employee's salary as an assessment or membership fee and then by payment of pension claims theretofore allowed in the same amounts as are then in effect until the death or disqualification of the pension claimant, and thereafter continuing such payments as would have accrued to survivors of such pension claimants under the local pension provisions if the plan had been continued. If the fund is insufficient to return the amount to which each employee is entitled as provided herein and to pay such pension claims in full, the governing body shall make an annual tax levy, which shall be in addition to any other tax levies authorized by law, in an amount sufficient to assure the payment in full of the pension claims theretofore allowed. If the fund exceeds the amount required to satisfy such returns and such claims, such excess shall be placed in the general fund of the city as provided in section 40-46-25.~~

SECTION 49. AMENDMENT. Section 40-46-02 of the North Dakota Century Code is amended and reenacted as follows:

40-46-02. Tax levy for city employees' pension fund authorized - Limitations.

~~Any city may levy an annual tax not exceeding the limitation in subsection 12 of section 57-15-10 provide funding from revenues derived from its general fund levy authority for the purpose of creating and maintaining a city employees' pension fund. A city may make payment from a city employees' pension fund to any pension plan or retirement program for city employees provided the receiving plan or program that is approved by the internal revenue service. Any pension system shall must be based on actuarial tables and actuarial valuation shall must be performed at intervals of not more than five years.~~

SECTION 50. AMENDMENT. Section 40-46-25 of the North Dakota Century Code is amended and reenacted as follows:

40-46-25. Procedure upon discontinuance of employees' pension or police pension plan.

If the governing body of the city shall determine by a two-thirds vote as provided in section 40-46-23 that the employees' pension or police pension plan be discontinued, the plan shall be discontinued in such city and the governing body shall proceed to liquidate the pension fund created under such plan. Liquidation shall be accomplished by returning to each employee still in the employ of the city ten days after the date of the adoption of the resolution, provided for in section 40-46-23, the entire amount which has been deducted from the employee's salary as an assessment or membership fee and then by payment of pension claims theretofore allowed in the same amounts as are then in effect until the death or disqualification of the pension claimant, and thereafter continuing such payments as would have accrued to survivors of such pension claimant under the local pension provisions if the plan had been continued. If the fund is insufficient to return the amount to which each employee is entitled as provided herein and to pay such claims in full, the governing body shall make an annual tax levy, which shall be in addition to any other tax levies authorized by law, in an amount sufficient to assure the payment in full of

the pension claims theretofore allowed. If the fund exceeds the amount required to satisfy such returns and such claims, such excess shall be placed in the general fund of the city.

SECTION 51. AMENDMENT. Section 40-46-26 of the North Dakota Century Code is amended and reenacted as follows:

40-46-26. Tax levy for city having provided its employees with the City provision of employee federal social security plan.

~~In addition to any other levies authorized by law for general purposes, any city having provided~~From revenues derived from its general fund levy authority, a city may provide its employees with the federal social security plan ~~may levy such annual tax upon its taxable valuation as will be necessary to and~~ pay such city's share as employer of the cost of providing its employees with the federal social security plan.

SECTION 52. AMENDMENT. Section 40-48-07 of the North Dakota Century Code is amended and reenacted as follows:

40-48-07. Limitations on expenditures of commission - Tax levy authorized.

The expenditures of the planning commission, exclusive of gifts, ~~shall~~must be within the amounts appropriated for that purpose ~~by funding provided from revenues derived from the general fund levy authority of~~ the governing body of the municipality. The governing body shall provide the funds, equipment, and accommodations ~~it deems~~ necessary for the commission's work. ~~Each municipality which has established a planning commission, in making its annual tax levy, may also levy and collect a tax not exceeding the limitation in subsection 14 of section 57-15-10 in any fiscal year for the purpose of defraying the lawful expenses incurred by the planning commission in carrying out the purposes of this chapter.~~

SECTION 53. AMENDMENT. Section 40-49-22 of the North Dakota Century Code is amended and reenacted as follows:

40-49-22. Tax levy for park district employees' pension fund.

A park district adopting the provisions of section 40-49-21 ~~may levy a tax not exceeding the limitation in subsection 1 of section 57-15-12.2. The proceeds of the tax levy must be placed in the~~provide funding from revenues derived from its general fund levy authority for the benefit of its employees' pension fund.

²⁰⁹ **SECTION 54. AMENDMENT.** Section 40-55-08 of the North Dakota Century Code is amended and reenacted as follows:

40-55-08. (Effective for the first two taxable years beginning after December 31, 2012) Election to determine desirability of establishing establish recreation system - How called Funding.

The governing body of any ~~municipality~~city, school district, or park district to which this chapter is applicable, may and upon receipt of a petition signed by at least ten qualified electors but not less than five percent of those qualified electors who voted at the last general election of the ~~municipality~~city, school district, or park district, shall submit to the qualified electors the question of the establishment, maintenance, and conduct of a public recreation system; ~~and except in the case of a school district, the~~

²⁰⁹ Section 40-55-08 was also amended by section 18 of Senate Bill No. 2031, chapter 137.

~~levying of an annual tax for the conduct and maintenance thereof of not more than two and five-tenths mills on each dollar of taxable valuation of all taxable property within the corporate limits or boundaries of such municipality or park district, to be voted upon at the next general election or special municipal election; provided, however, that such questions may not be voted upon at the next general election unless such action of the governing body shall be taken, or such petition to submit such if the question shall be placed on the ballot is filed thirty days prior to the date of such election.~~

If the electors of the city have approved a public recreation system, the governing body of the city may provide funding for the recreation system from revenues derived from its general fund levy authority in an amount not exceeding the revenue derived from a levy of two and five-tenths mills per dollar of taxable valuation of property within the city.

A school district or park district may provide funding from revenues derived from its general fund levy authority for the establishment, maintenance, and conduct of a public recreation system using the proceeds of levies, as permitted by section 57-15-14.2.

(Effective after the first two taxable years beginning after December 31, 2012) Election to determine desirability of establishing establish recreation system - How called Funding. The governing body of any municipality, school district, or park district to which this chapter is applicable, may and upon receipt of a petition signed by at least ten qualified electors but not less than five percent of those qualified electors who voted at the last general election of the municipality, school district, or park district, shall submit to the qualified electors the question of the establishment, maintenance, and conduct of a public recreation system, ~~and except in the case of a school district, the levying of an annual tax for the conduct and maintenance thereof of not more than two and five tenths mills on each dollar of taxable valuation of all taxable property within the corporate limits or boundaries of such municipality or park district, to be voted upon at the next general election or special municipal election; provided, however, that such questions may not be voted upon at the next general election unless such action of the governing body shall be taken, or such petition to submit such if the question shall be placed on the ballot is filed thirty days prior to the date of such election.~~

If the electors of the city have approved a public recreation system, the governing body of the city may provide funding for the recreation system from revenues derived from its general fund levy authority in an amount not exceeding the revenue derived from a levy of two and five-tenths mills per dollar of taxable valuation of property within the city.

A school district or park district may levy a tax provide funding from revenues derived from its general fund levy authority for the establishment, maintenance, and conduct of a public recreation system pursuant to subdivision q of subsection 1 of section 57-15-14.2.

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

²¹⁰ Section 40-55-09 was also amended by section 19 of Senate Bill No. 2031, chapter 137.

~~40-55-09. (Effective for the first two taxable years beginning after December 31, 2012) Favorable vote at election – Procedure.~~

~~Except in the case of a school district or park district, upon adoption of the public recreation system proposition at an election by a majority of the votes cast upon the proposition, the governing body of the municipality, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than eight and five-tenths mills if authorized as provided by this section, on each dollar of the taxable valuation of all taxable property within the corporate limits or boundaries of the municipality. This tax is in addition to the maximum of taxes permitted to be levied in such municipality. The mill levy authorized by this section may be raised to not more than eight and five-tenths mills when the increase is approved by the citizens of the municipality after submission of the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system. The governing body of the municipality shall continue to levy the tax annually for public recreation purposes until the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of the municipality may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. This chapter does not limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center, or character-building facility. A park district may levy a tax annually within the general fund levy authority of section 57-15-12 for the conduct and maintenance of a public recreation system.~~

~~(Effective after the first two taxable years beginning after December 31, 2012) Favorable vote at election – Procedure~~Voter-approved levy authority for city public recreation system.

~~Except in the case of a school district or park district, upon adoption of the public recreation system proposition at an election by a majority of the votes cast upon the proposition, the governing body of the municipality, by resolution or ordinance, shall provide for the establishment, maintenance, and conduct of a public recreation system, and thereafter levy and collect annually a tax of not more than two and five-tenths mills, or not more than eight and five-tenths mills if authorized as provided by this section, on each dollar of the taxable valuation of all taxable property within the corporate limits or boundaries of the municipality. This tax is in addition to the maximum of taxes permitted to be levied in such municipality. The mill levy authorized by this section may be raised to not more than eight and five-tenths mills when the increase is approved by the citizens of the municipality after submission of the question in the same manner as provided in section 40-55-08 for the establishment of the public recreation system.~~The governing body of a city may, and upon receipt of a petition signed by at least ten qualified electors but not less than five percent of those qualified electors who voted at the last general election of the city shall, submit to the qualified electors the question of approval or disapproval of voter-approved levy authority for establishment, maintenance, and conduct of a public recreation system at the next general election or special municipal election if the question to be placed on the ballot is filed thirty days prior to the date of the election. The ballot measure question to approve a levy under this section must be stated to ask if the elector approves a voter-approved tax by the city for a public recreation system in a stated number of mills, not exceeding six mills. If approved by a majority of city electors voting on the question, the city may levy an additional tax within the limitation of subsection 13 of section 57-15-10. After January 1, 2015, approval or re-authorization by electors of voter-approved levy authority under this section may not be effective for

~~more than ten taxable years. Any voter-approved levy under this section or section 40-55-08 approved by the electors of a city before January 1, 2015, remains effective for ten taxable years or the period of time for which it was approved by the electors after it was approved, whichever is less, under the provisions of law in effect at the time it was approved. The governing body of the municipality shall continue to city shall discontinue the levy the tax annually for public recreation purposes until the qualified voters, at a regular or special election, by a majority vote on the proposition, decide to discontinue the levy. The governing body of the municipality may appropriate additional funds for the operation of the public recreation system if in the opinion of the governing body additional funds are needed for the efficient operation thereof. This chapter does not limit the power of any municipality, school district, or park district to appropriate on its own initiative general municipal, school district, or park district tax funds for the operation of a public recreation system, a community center, or character-building facility. A school district may levy a tax annually for the conduct and maintenance of a public recreation system pursuant to subdivision q of subsection 1 of section 57-15-14.2. A park district may levy a tax annually within the general fund levy authority of section 57-15-12 for the conduct and maintenance of a public recreation system.~~

SECTION 56. AMENDMENT. Section 40-57.2-04 of the North Dakota Century Code is amended and reenacted as follows:

40-57.2-04. City or county may make tax levy provide funding.

~~Any city or county, after resolution by its governing body that the question be submitted to its electors shall upon approval of the question at a regular or special election by sixty percent of the qualified electors of the city or county voting in the election may levy a tax not exceeding the limitations in subsection 16 of section 57-15-06.7 and subsection 15 of section 57-15-10 for the purpose of providing funds may provide funding from revenues derived from its general fund levy authority for career and technical education and on-the-job training services and surveys and otherwise implementing this chapter. No levy for a specific year shall be made if the balance in the fund remaining from levies in prior years is in excess of ten thousand dollars.~~

²¹¹ **SECTION 57. AMENDMENT.** Section 40-57.4-04 of the North Dakota Century Code is amended and reenacted as follows:

40-57.4-04. Tax levy for city job development authorities or industrial development organizations.

~~The governing body of a city which has a city job development authority shall establish a city job development authority fund and levy a tax not exceeding the limitation in subsection 2812 of section 57-15-10. The city auditor shall keep the fund separate from other money of the city and transmit all funds received under this section within thirty days to the board of directors of the city job development authority. The funds when paid to the city job development authority must be deposited in a special account in which other revenues of the city job development authority are deposited and may be expended by the city job development authority as provided in sections 40-57.4-02 and 40-57.4-03.~~

~~In lieu of establishing a job development authority, the governing body of a city where an active industrial development organization exists may levy a tax not exceeding the limitation in subsection 2812 of section 57-15-10. The and use those~~

²¹¹ Section 40-57.4-04 was also amended by section 20 of Senate Bill No. 2056, chapter 88, and section 18 of Senate Bill No. 2217, chapter 92.

funds from the alternative levy may be used to enter into a contract with the industrial development organization for performance of the functions of a city job development authority.

SECTION 58. AMENDMENT. Subsection 8 of section 40-58-07 of the North Dakota Century Code is amended and reenacted as follows:

8. To appropriate funds and make expenditures that are necessary to carry out the purposes of this chapter, and to levy taxes within the limitations of the capital improvements fund under section 57-15-38 and to levy assessments for those purposes; to close, vacate, plan, or replan streets, roads, sidewalks, ways, or other places; to plan or replan or zone or rezone any part of the municipality or make exceptions from building regulations; and to enter into agreements with a housing authority or an urban renewal agency vested with urban renewal project powers under section 40-58-15, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by the municipality pursuant to any of the powers granted by this chapter.

SECTION 59. AMENDMENT. Subsection 2 of section 40-58-15 of the North Dakota Century Code is amended and reenacted as follows:

2. As used in this section, the term "urban renewal project powers" includes the rights, powers, functions, and duties of a municipality under this chapter, except the following:
 - a. The power to determine an area to be industrial or commercial property or a slum or blighted area or combination thereof and to designate the property or area as appropriate for a development or renewal project;
 - b. The power to approve and amend development or renewal plans and to hold any public hearings required with respect to those plans;
 - c. The power to establish a general plan for the locality as a whole;
 - d. The power to formulate a workable program under section 40-58-04;
 - e. The powers, duties, and functions referred to in section 40-58-18;
 - f. The power to make the determinations and findings provided for in sections 40-58-03 and 40-58-05 and subsection 4 of section 40-58-06;
 - g. The power to issue general obligation bonds; and
 - h. The power to appropriate funds, to levy taxes within the limitations of the capital improvements fund under section 57-15-38 and to levy assessments, and to exercise other powers provided for in subsection 8 of section 40-58-07.

SECTION 60. AMENDMENT. Section 40-59-01 of the North Dakota Century Code is amended and reenacted as follows:

40-59-01. Armory or memorial levy funding.

The governing body of any municipality maintaining an armory annually may levy a tax not exceeding the limitation in subsection 16 of section 57-15-10 provide funding

from revenues derived from its general fund levy authority for armory or memorial hall maintenance, repair, alteration, and reconstruction.

~~A municipality may not levy such tax, unless the governing body of the municipality shall have submitted to the voters of the municipality according to the procedure set forth in this chapter, the question of levying a tax for the purposes authorized by this statute. If the majority of the electors voting on the question approved such levy, there shall be levied, spread, and collected such tax as other taxes are collected in and for such municipality.~~

SECTION 61. AMENDMENT. Subsection 2 of section 40-60-02 of the North Dakota Century Code is amended and reenacted as follows:

2. To provide funds for this purpose by the budgeting of current funds from revenues derived from its general fund levy authority, the levy of ~~taxes or~~ special assessments, or the issuance of bonds or other obligations, or by any combination of these means, pursuant to and in accordance with the provisions of chapters 21-03, 40-22 to 40-27, 40-35, 40-40, and 40-57, and of all other applicable laws now in force or hereafter enacted.

SECTION 62. AMENDMENT. Subsection 3 of section 40-61-03.1 of the North Dakota Century Code is amended and reenacted as follows:

3. In cooperation with cities whereby cities may agree to assist in financing projects and facilities through the issuance of municipal bonds or other obligations, budgeting of current funds from revenues derived from its general fund levy authority, the levy of ~~taxes or~~ special assessments, or by any combination of these means pursuant to or in accordance with the provisions of chapters 21-03, 40-22 to 40-27, 40-35, 40-40, and 40-57 and all other applicable laws now in force or hereafter enacted.

SECTION 63. AMENDMENT. Section 40-61-10 of the North Dakota Century Code is amended and reenacted as follows:

40-61-10. Debt guarantee.

Prior to the issuance of any bonds authorized by this chapter, except revenue bonds authorized in subsection 8 of section 40-61-08, the authority shall require that the payment of not less than ten percent of the principal and interest of the bonds issued for any project be guaranteed through the use of one or more of the following methods:

1. A contract of personal guarantee entered into between the authority, the bondholders, and at least three benefited property owners.
2. The guarantee of said payments by the municipality through the issuance of municipal bonds or other obligations, budgeting of current funds from revenues derived from its general fund levy authority, the levy of ~~taxes or~~ special assessments or by any combination of these pursuant to and in accordance with the provisions of chapters 21-03, 40-22 to 40-27, 40-35, 40-40, and 40-57 and of all other applicable laws now in force or hereinafter enacted.

SECTION 64. AMENDMENT. Section 50-03-01 of the North Dakota Century Code is amended and reenacted as follows:

50-03-01. Board of county commissioners may levy human services taxfunding.

The board of county commissioners, if it deems it expedient, annually at its session at which the county tax is ordered to be levied and assessed, may levy and assess a human services tax for the support of needy persons in its county may levy a tax for support of human services programs in the county as provided in section 50-06.2-05.

SECTION 65. AMENDMENT. Section 50-03-06 of the North Dakota Century Code is amended and reenacted as follows:

50-03-06. Expenditure of total county appropriation -- How appropriation following year determinedCounty human services program levy insufficiency due to extraordinary impact - Application for state assistance.

If the board of county commissioners of any county, due to an emergency, expends in any one year such an amount for human services purposes that the total county appropriations for that year are exceeded, the appropriations for the following year, to make up the deficit caused by such expenditures, shall not be included within the appropriations subject to the tax levy limitation for general county purposes provided by law. The board of county commissioners may apply to the department of human services for a grant if that county has expended revenue exceeding the amount generated by a levy of twenty mills for support of human services programs in the county as provided in section 50-06.2-05 for the current or immediately preceding budget year due to extraordinary human services program impact. If it is shown to the satisfaction of the department of human services that the county has experienced extraordinary human services program impact from meeting human services needs resulting from proximity to an Indian reservation or proximity to the state hospital, the department may provide a grant, from funds available to the department for that purpose, of up to the excess amount expended.

²¹² **SECTION 66. AMENDMENT.** Section 50-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-05. Appropriation of county fundsCounty human services program funding - Tax levy authority.

The board of county commissioners of each county shall annually appropriate and make available to the human services fund an amount sufficient to pay the local expenses of administration and provision of the human services required by state law and by federal law or regulation as a condition for the receipt of federal financial participation in programs administered by county agencies under the provisions of this title. For purposes of this section, the board of county commissioners may levy an annual tax for human services purposes not exceeding the limitation in subsection 3415 of section 57-15-06.7, and if this amount is not sufficient, may levy for deficiency purposes under chapter 50-03.

²¹³ **SECTION 67. AMENDMENT.** Section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

²¹² Section 50-06.2-05 was also amended by section 19 of Senate Bill No. 2217, chapter 92.

²¹³ Section 57-15-01.1 was also amended by section 20 of Senate Bill No. 2031, chapter 137, and section 9 of Senate Bill No. 2206, chapter 329.

57-15-01.1. (Effective for the first two taxable years beginning after December 31, 2012) Protection of taxpayers and taxing districts.

Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
 - a. ~~"Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. For a park district general fund, the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;~~
 - b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
 - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
 - d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
 - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget

- year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.
- c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
 - d. If the base year is a taxable year before 2013, reduced by the amount of state aid under chapter 15.1-27, which is determined by multiplying the budget year taxable valuation of the school district by the lesser of:
 - (1) The base year mill rate of the school district minus sixty mills; or
 - (2) Fifty mills.
4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
 5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
 6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
 7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

(Effective after the first two taxable years beginning after December 31, 2012) Protection of taxpayers and taxing districts. Each taxing district may levy the lesser of the amount in dollars as certified in the budget of the governing body, or the amount in dollars as allowed in this section, subject to the following:

1. No taxing district may levy more taxes expressed in dollars than the amounts allowed by this section.
2. For purposes of this section:
 - a. "Base year" means the taxing district's taxable year with the highest amount levied in dollars in property taxes of the three taxable years immediately preceding the budget year. ~~For a park district general fund, the "amount levied in dollars in property taxes" is the sum of amounts levied in dollars in property taxes for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60;~~
 - b. "Budget year" means the taxing district's year for which the levy is being determined under this section;
 - c. "Calculated mill rate" means the mill rate that results from dividing the base year taxes levied by the sum of the taxable value of the taxable property in the base year plus the taxable value of the property exempt by local discretion or charitable status, calculated in the same manner as the taxable property; and
 - d. "Property exempt by local discretion or charitable status" means property exempted from taxation as new or expanding businesses under chapter 40-57.1; improvements to property under chapter 57-02.2; or buildings belonging to institutions of public charity, new single-family residential or townhouse or condominium property, property used for early childhood services, or pollution abatement improvements under section 57-02-08.
3. A taxing district may elect to levy the amount levied in dollars in the base year. Any levy under this section must be specifically approved by a resolution approved by the governing body of the taxing district. Before determining the levy limitation under this section, the dollar amount levied in the base year must be:
 - a. Reduced by an amount equal to the sum determined by application of the base year's calculated mill rate for that taxing district to the final base year taxable valuation of any taxable property and property exempt by local discretion or charitable status which is not included in the taxing district for the budget year but was included in the taxing district for the base year.
 - b. Increased by an amount equal to the sum determined by the application of the base year's calculated mill rate for that taxing district to the final budget year taxable valuation of any taxable property or property exempt by local discretion or charitable status which was not included in the taxing district for the base year but which is included in the taxing district for the budget year.

- c. Reduced to reflect expired temporary mill levy increases authorized by the electors of the taxing district. For purposes of this subdivision, an expired temporary mill levy increase does not include a school district general fund mill rate exceeding one hundred ten mills which has expired or has not received approval of electors for an extension under subsection 2 of section 57-64-03.
 - d. Increased, for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the base year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the budget year.
 - e. Reduced for a school district determining its levy limitation under this section, by the amount the school district's mill levy reduction grant under section 57-64-02 for the budget year exceeds the amount of the school district's mill levy reduction grant under section 57-64-02 for the base year.
4. In addition to any other levy limitation factor under this section, a taxing district may increase its levy in dollars to reflect new or increased mill levies authorized by the legislative assembly or authorized by the electors of the taxing district.
 5. Under this section a taxing district may supersede any applicable mill levy limitations otherwise provided by law, or a taxing district may levy up to the mill levy limitations otherwise provided by law without reference to this section, but the provisions of this section do not apply to the following:
 - a. Any irrevocable tax to pay bonded indebtedness levied pursuant to section 16 of article X of the Constitution of North Dakota.
 - b. The one-mill levy for the state medical center authorized by section 10 of article X of the Constitution of North Dakota.
 6. A school district choosing to determine its levy authority under this section may apply subsection 3 only to the amount in dollars levied for general fund purposes under section 57-15-14 or, if the levy in the base year included separate general fund and special fund levies under sections 57-15-14 and 57-15-14.2, the school district may apply subsection 3 to the total amount levied in dollars in the base year for both the general fund and special fund accounts. School district levies under any section other than section 57-15-14 may be made within applicable limitations but those levies are not subject to subsection 3.
 7. Optional levies under this section may be used by any city or county that has adopted a home rule charter unless the provisions of the charter supersede state laws related to property tax levy limitations.

SECTION 68. AMENDMENT. Section 57-15-06 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06. Limitations on county tax leviesCounty general fund levy.

County tax levies are limited as follows:

4. ~~The board of county commissioners may not levy any property taxes for county general or special county fund purposes which will exceed the amount produced by a levy of twenty-three at a tax rate not exceeding sixty mills on the per dollar of the taxable valuation of property in the county.~~

A county that levied more than sixty mills for taxable year 2015 for the combined number of mills levied for general fund purposes plus the number of mills levied for purposes consolidated into the general fund levy by this Act may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2017 sixty mills plus seventy-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2018 sixty mills plus fifty percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015. A county may levy for general fund purposes for taxable year 2019 sixty mills plus twenty-five percent of the combined number of mills exceeding sixty that was levied for those purposes for taxable year 2015.

2. ~~The board of county commissioners annually shall levy taxes sufficient to meet the obligations of the county for the maintenance of its patients in the charitable institutions of the state, but such taxes may not exceed the amount produced by a levy rate of one and one-quarter mills on the dollar of taxable valuation. Such levy must be within the amount produced by the twenty-three mill rate, and is a paramount charge, to the exclusion of all other budget items, upon the necessary part of the total tax levies; provided, that any funds now on hand or hereinafter levied for the purpose of this subsection shall not, in the discretion of the board of county commissioners, be included in the budget of the county.~~
3. ~~The twenty-three mill~~Unless a specific exception is provided by statute, the county general fund levy limitation under this section applies to all tax levies which property taxes the board of county commissioners is authorized to levy for general and special county purposes, including taxes levied for road and bridge purposes. Any unexpended balance in the county road fund at the end of the fiscal year may be transferred to a special road fund, except that such special fund may never exceed the amount a ten mill levy on the taxable valuation of the county would yield, and the balance in said fund may not be considered in determining the budget or the amount that may be levied. Such mill limitation does not apply to the levies in section 57-15-06.7.

SECTION 69. AMENDMENT. Section 57-15-06.4 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06.4. Levy authorized for county veterans' service officer's salary, traveling, and office expenses.

The county commissioners of each county may levy annually a tax not exceeding the limitation in subsection 487 of section 57-15-06.7 to provide a fund for the payment of the salary, traveling, and office expenses of the county veterans' service officer authorized to be appointed by section 37-14-18.

SECTION 70. AMENDMENT. Section 57-15-06.6 of the North Dakota Century Code is amended and reenacted as follows:

~~57-15-06.6. Levy authorized for regional or county corrections centersCounty capital projects levy.~~

The board of county commissioners of each county may levy an annual tax not exceeding the ~~limitation~~ten mills plus any voter-approved additional levy as provided in subsection 49-18 of section 57-15-06.7 for the purpose of ~~constructing~~the following capital projects:

1. ~~Constructing and equipping, operating, and maintaining structural and mechanical components of regional or county corrections centers andor for the purpose of contracting servicesfor corrections center space capacity from another public or private entity.~~
2. ~~Acquiring real estate as a site for public parks and construction and equipping and maintaining structural and mechanical components of recreational facilities under section 11-28-06.~~
3. ~~Acquiring real estate as a site for county buildings and operations and constructing and equipping and maintaining structural and mechanical components of county buildings and property.~~
4. ~~Acquiring real estate as a site for county fair buildings and operations and constructing and equipping and maintaining structural and mechanical components of county fair buildings and property as provided in section 4-02-26.~~
5. ~~Expenditures for the cost of leasing as an alternative means of financing for any of the purposes for which expenditures are authorized under subsections 1 through 4.~~

~~Any voter-approved levy for the purposes specified in this section approved by the electors before January 1, 2015, remains effective through 2024 or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved. After January 1, 2015, approval or re-authorization by electors of increased levy authority under this section may not be effective for more than ten taxable years.~~

²¹⁴ **SECTION 71. AMENDMENT.** Section 57-15-06.7 of the North Dakota Century Code is amended and reenacted as follows:

57-15-06.7. Additional levies - Exceptions to tax levy limitations in counties.

The tax levy limitations specified in section 57-15-06 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the county:

1. ~~Counties~~A county supporting airportsan airport or airport authoritiesauthority may levy a tax not exceeding four mills in accordance with section 2-06-15.
2. ~~Counties levying an additional tax as provided in section 4-02-27.2 may levy a tax not exceeding two mills for a period of not to exceed ten years.~~
3. Repealed by S.L. 1995, ch. 61, § 14.

²¹⁴ Section 57-15-06.7 was also amended by section 10 of Senate Bill No. 2206, chapter 329.

4. Counties~~A county~~ levying a tax for extension work as provided in section 4-08-15 may levy a tax not exceeding two mills and if a majority of the electors of the county have approved additional levy authority under section 4-08-15, the county may levy a voter-approved tax not exceeding an additional tax of two mills.
5. ~~Counties levying a tax for extension work as provided for in section 4-08-15.1 may levy a tax not exceeding two mills.~~
6. ~~Counties levying a tax for gopher, rabbit, and crow destruction as provided in section 4-16-02 may levy a tax not exceeding one-half of one mill.~~
7. ~~Counties levying a tax for payment of a judgment obtained by the state or a state agency against the county in accordance with section 11-11-46 may levy a tax not exceeding one mill.~~
- 8-3. Counties~~A county~~ levying a tax for historical works in accordance with section 11-11-53 may levy a tax not exceeding one-quarter of one mill, except that if sixty percent of the qualified electors voting on the question of an increase~~increase~~ levy limit increase as provided in section 11-11-53 shall approve, the tax levy limitation may be levied not exceeding three-quarters~~increased to not exceeding three-quarters~~ of one mill.
9. ~~A county levying a tax for a booster station in accordance with section 11-11-60 may levy a tax not exceeding two mills.~~
10. ~~A county levying a tax to pay expenses of the board of county park commissioners in accordance with section 11-28-06 may levy a tax not exceeding one mill.~~
11. ~~Repealed by S.L. 1999, ch. 154, § 2.~~
- 12-4. ~~A county levying a tax for a county or community hospital association as provided in section 23-18-01 may levy a tax for not more than five years not exceeding eight mills in any one year or, in the alternative, for not more than fifteen~~ten years at a mill rate not exceeding five mills.
13. ~~A county levying a tax for a nursing home authority in accordance with section 23-18.2-12 may levy a tax not exceeding five mills.~~
- 14-5. ~~A county levying a tax for county roads and bridges as provided in section 24-05-01 may levy a tax at a tax rate not exceeding five~~ten mills if approved as provided in that section. When authorized by a majority of the qualified electors voting upon the question at a primary or general election in the county, the county commissioners may levy and collect an additional tax for road and bridge purposes as provided in section 24-05-01, not exceeding a combined additional tax rate of twenty mills.
- 14-6. ~~A county levying a tax to establish and maintain a public library service as provided in section 40-38-02 may levy a tax not exceeding four mills.~~
16. ~~A county levying a tax to provide for career and technical education and on-the-job training services as provided in section 40-57.2-04 may levy a tax not exceeding one mill.~~

17. A county levying a tax for farm-to-market and federal-aid roads as provided in section 57-15-06.3 may levy a tax not exceeding the levy established by the ballot approved by the electors as provided in that section.
- 18.7. A county levying a tax for a county veterans' service officer's salary, traveling, and office expenses in accordance with section 57-15-06.4 may levy a tax not exceeding two mills.
19. A county levying a tax for planning purposes as provided in section 57-15-06.5 may levy a tax not exceeding three mills.
- 19.1.8. A county levying a tax for regional or county corrections centers according to capital projects under section 57-15-06.6 may levy a tax not exceeding ten mills. When authorized by a majority of the qualified electors voting upon the question of a specific capital project or projects at a primary or general election in the county, the county commissioners may levy and collect an additional voter-approved tax for capital projects under section 57-15-06.6 not exceeding a tax rate of ten mills per dollar of the taxable valuation of property in the county. After January 1, 2015, approval or re-authorization by electors of increased levy authority under this subsection may not be effective for more than ten taxable years. Any voter-approved levy in excess of ten mills for the purposes specified in section 57-15-06.6 approved by the electors before January 1, 2015, remains effective through 2024 or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved.
20. A county levying a tax for advertising purposes as provided in section 57-15-10.1 may levy a tax not exceeding one-half mill.
21. A county levying a tax for abandoned cemetery maintenance as provided in section 57-15-27.2 may levy a tax not exceeding one-tenth of one mill.
- 22.9. A county levying a tax for emergency purposes as provided in section 57-15-28 may levy a tax not exceeding two mills in a county with a population of thirty thousand or more, four mills in a county with a population under thirty thousand but more than five thousand, or six mills in a county with a population of five thousand or fewer.
- 23.10. A county levying a tax for county emergency medical service according to section 57-15-50 may levy a tax not exceeding ten mills.
- 24.11. A county levying a tax for ~~destruction of weeds along highways~~ weed control as provided in section 57-15-~~544.1-47-14~~ 47-14 may levy a tax not exceeding ~~two~~ four mills.
- 25.12. A county levying a tax for programs and activities for senior citizens according to section 57-15-56 may levy a tax not exceeding two mills.
26. A county levying a tax for county welfare in accordance with section 57-15-57 may levy a tax not exceeding two mills.
27. A county levying a tax to repay a loan according to section 57-47-04 may levy a tax not to exceed three mills.

- ~~28-13.~~ Tax levies made for paying the principal and interest on any obligations of the county evidenced by the issuance of bonds.
- ~~29-14.~~ A county levying a tax for a job development authority as provided in section 11-11.1-04 or for the support of an industrial development organization as provided in section 11-11.1-06 may levy a tax not exceeding four mills on the taxable valuation of property within the county. Upon approval by a majority of electors voting on the question at a regular or special county election, a county levying a tax for a job development authority as provided in section 11-11.1-04 or for the support of an industrial development organization as provided in section 11-11.1-06 may levy a separate and additional tax for promotion of tourism in an amount not exceeding one mill on the taxable valuation of property within the county. However, if any city within the county is levying a tax for support of a job development authority or for support of an industrial development organization and the total of the county and city levies exceeds ~~five~~four mills, the county tax levy within the city levying under subsection 28 of section 57-15-10 must be reduced so the total levy in the city does not exceed ~~five~~four mills.
- ~~30.~~ Counties levying a tax for county fairs according to section 4-02-26 may levy a tax not exceeding one mill.
- ~~31.~~ Counties levying a tax according to section 4-02-27 for a county fair association may levy a tax not exceeding one and one-half mills.
- ~~32.~~ Counties levying a tax in accordance with section 4-02-27.1 for a county fair association may levy a tax not exceeding one-half mill.
- ~~33.~~ A county levying a tax for programs and activities for handicapped persons according to section 11-11-65 may levy a tax not exceeding one-half mill.
- ~~34-15.~~ CountiesA county levying an annual tax for human services purposes as provided in section 50-06.2-05 may levy a tax not exceeding the lesser of twenty mills or the limitation as determined under section 11-23-01.
- ~~35.~~ A county levying a tax for county parks and recreational facilities in accordance with section 57-15-06.9 may levy a tax not exceeding three mills.
- ~~36.~~ A county levying a tax for old-age and survivors' insurance or comprehensive health care insurance employee benefit programs according to section 52-09-08, for social security, for an employee retirement program established by the governing body, for county automation and telecommunications under section 57-15-62, or for any combination of those purposes, may levy a tax not exceeding thirty mills. The portion of the levy under this subsection for county automation and telecommunications under section 57-15-62 may not exceed five mills. The portion of the levy under this subsection for comprehensive health care insurance employee benefit programs under section 52-09-08 may not exceed four mills.
- ~~37.~~ Counties supporting ports or port authorities may levy a tax not exceeding four mills in accordance with section 11-36-15.
- ~~38.~~ Counties supporting commerce authorities may levy a tax not exceeding four mills in accordance with section 11-37-14.

16. A levy for an extraordinary expenditure under section 11-11-24 approved by the electors of the county before January 1, 2015, may continue to be levied and collected under provisions of law in effect when the levy was approved, and for the term it was approved by the electors. When the levy authority for an extraordinary expenditure ends under this subsection, the fund must be closed out and any unobligated balance in the fund must be transferred to the county general fund.
17. Levies dedicated under section 57-15-59 before January 1, 2015, for lease payments may be continued to be levied and collected for the duration of the lease. When the levy authority for lease payments ends under this subsection, the fund must be closed out and any unobligated balance in the fund must be transferred to the county general fund. A lease for county facilities effective after December 31, 2014, is subject to the capital projects levy limitations of section 57-15-06.6.

Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 72. AMENDMENT. Section 57-15-08 of the North Dakota Century Code is amended and reenacted as follows:

57-15-08. General fund levy limitations in cities.

The aggregate amount levied for general city general fund purposes may not exceed an amount produced by a levy of ~~thirty-eight~~one hundred five mills on the taxable valuation of property in the city. ~~Cities with a population of over five thousand may levy an additional one-half of one mill for each additional one thousand population in excess of five thousand, up to a maximum levy for general city purposes of forty mills.~~ A city, when authorized by a majority vote of the electors of the city voting on the question at a regularly scheduled or special election called for such purpose pursuant to a resolution approved by the governing body of the city, may increase the maximum mill levy for general city purposes by not more than ten mills.

A city that levied more than one hundred five mills for taxable year 2015 in the combined number of mills levied for general fund purposes plus the number of mills levied for purposes consolidated into the general fund levy by this Act may levy for general fund purposes for taxable year 2016 the same number of mills that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2017 one hundred five mills plus seventy-five percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2018 one hundred five mills plus fifty percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015. A city may levy for general fund purposes for taxable year 2019 one hundred five mills plus twenty-five percent of the combined number of mills exceeding one hundred five that was levied for those purposes for taxable year 2015.

SECTION 73. AMENDMENT. Section 57-15-10 of the North Dakota Century Code is amended and reenacted as follows:

57-15-10. Exceptions to tax levy limitations in cities.

The tax levy limitations specified in section 57-15-08 do not apply to the following tax levies:

1. Taxes levied pursuant to law for a proportion of the cost of a special improvement project by general taxation.
2. Taxes levied pursuant to law for the purpose of paying a deficiency in connection with a special improvement project.
3. Taxes levied to pay interest on a bonded debt, or the principal of such debt, at maturity.
4. ~~Taxes levied for the purpose of paying any final judgment or judgments obtained against any city, if the aggregate amount levied for the purpose of paying any final judgment or judgments does not exceed such amount as will be produced by a levy of five mills on the taxable valuation of the property in the city. This section may not be deemed or construed to modify, qualify, or limit the authority of any city to issue bonds pursuant to law in case the governing body of any such city does not deem it advisable to pay such judgment or judgments out of current revenues.~~
5. Taxes, not exceeding four mills, levied for the purpose of establishing and maintaining a library fund for public library services in accordance with section 40-38-02.
- 6-5. Taxes levied on property of an agricultural fair association, a nonprofit club or like organization, or an organization of college students located within a municipality and otherwise exempt under subsection 10 or 11 of section 57-02-08, to pay such property's proportionate share of the cost of fire protection services maintained by the municipal corporation.
- 7-6. Taxes, not exceeding five mills, levied for the purpose of establishing and maintaining a municipal arts council in accordance with section 40-38.1-02.
8. ~~Taxes levied for fire department stations in accordance with section 40-05-09.1 may be levied in an amount not exceeding five mills.~~
9. ~~Taxes levied for the purpose of fire protection service in accordance with section 40-05-09.2 may be levied in an amount not exceeding fifteen mills.~~
10. ~~Taxes levied for a policemen's pension fund in accordance with section 40-45-01 may be levied in an amount not exceeding one mill.~~
11. ~~Taxes levied for a police retirement system based upon actuarial tables in accordance with section 40-45-02 may be levied in an amount not exceeding three mills.~~
12. ~~Taxes levied for a city employees' pension fund in accordance with section 40-46-02 may be levied in an amount not exceeding five mills.~~
13. Repealed by S.L. 1985, ch. 82, § 162; ch. 604, § 22.
14. ~~Taxes levied for expenditures of the planning commission in accordance with section 40-48-07 may be levied in an amount not to exceed one mill. Provided, that any municipality, in order to obtain the funds necessary to initiate or undertake a comprehensive study of the planning requirements of the municipality, may, without regard to any tax limitation provided by law, levy~~

~~a tax, for a period of not to exceed five successive years, of not more than one mill to raise funds required for comprehensive study.~~

- ~~15. Taxes levied for the purpose of career and technical education and on the job training services in accordance with section 40-57.2-04 may be levied in an amount not exceeding one mill.~~
- ~~16. Taxes levied for the purpose of an armory or memorial levy in accordance with section 40-59-01 may be levied in an amount not exceeding two mills.~~
- ~~17. Taxes levied for advertising purposes in accordance with section 57-15-10.1 may be levied in an amount not exceeding one mill.~~
- ~~18.7. Taxes levied for airport purposes in accordance with section 57-15-362-06-15 may be levied in an amount not exceeding four mills.~~
- ~~19.8. Taxes levied for a construction capital improvements fund approved by a majority of the electors of the city in accordance with section 57-15-38 may be levied in an amount not exceeding five ten mills. Taxes levied for a capital improvements fund approved by sixty percent or more of the electors of the city in accordance with section 57-15-38 may be levied in an amount not exceeding an additional ten mills.~~
- ~~20. Taxes levied for a city fire department reserve fund pursuant to section 57-15-42 may be levied in an amount not exceeding five mills.~~
- ~~21. Taxes levied for an organized firefighters relief association in accordance with section 57-15-43 may be levied in an amount not exceeding one-half of one mill.~~
- ~~22. Taxes levied for acquiring real estate for a public building or other purposes as provided in section 57-15-44 may be levied in an amount not exceeding five mills.~~
- ~~23.9. Taxes levied for emergency purposes pursuant to section 57-15-48 may be levied in an amount not exceeding two and one-half mills.~~
- ~~24. Taxes levied for police department stations according to section 57-15-53 may be levied in an amount not exceeding two mills.~~
- ~~25.10. Taxes levied for public transportation in accordance with section 57-15-55 may be levied in an amount not exceeding five mills.~~
- ~~25.1. Taxes levied for transportation of public school students in accordance with section 57-15-55.1.~~
- ~~26.11. Taxes levied for programs and activities for senior citizens in accordance with section 57-15-56 may be levied in an amount not exceeding two mills.~~
- ~~27. Taxes levied for construction, operation, and maintenance of animal shelters in accordance with section 40-05-19 may be levied in an amount not exceeding one-half mill.~~

- ~~28-12. Taxes levied for a city job development authority or industrial development organization as provided in section 40-57.4-04 may be levied in an amount not exceeding four mills.~~
- ~~29. Taxes levied for programs and activities for handicapped persons in accordance with section 57-15-60 may be levied in an amount not exceeding one-half mill.~~
- ~~30. Taxes levied for support of a city band may be levied in an amount not exceeding one mill.~~
- ~~31. Taxes levied for port purposes in accordance with section 57-15-10.2 may be levied in an amount not exceeding four mills.~~
- ~~32. Taxes levied for commerce authority purposes may be levied in an amount not exceeding four mills.~~
13. Taxes levied for a city public recreation system approved by electors as provided in section 40-55-09 may be levied in the amount approved by the electors, not exceeding six mills.
14. Taxes levied for maintenance and improvement of cemeteries owned by the city under section 57-15-27.1 may be levied in an amount not exceeding two mills.
15. Taxes levied for retirement of bonds issued before January 1, 2015, under section 40-57-19 or 40-57-19.1 may be levied in the amount required for annual payments until the bonds are retired.
16. Levies dedicated under section 57-15-59 before January 1, 2015, for lease payments may be continued to be levied and collected for the duration of the lease. When the levy authority for lease payments ends under this subsection, the fund must be closed out and any unobligated balance in the fund must be transferred to the county general fund.

SECTION 74. AMENDMENT. Section 57-15-10.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-10.1. Counties and cities may levy for certain advertising purposes.

The board of county commissioners of any county or the governing body of any city may ~~annually levy a tax~~provide funding for the purpose of advertising the resources and opportunities in the county or city and promoting industrial development ~~from revenues derived from the county or city general fund levy authority.~~ The tax may not exceed the limitations in subsection 20 of section 57-15-06.7 and subsection 17 of section 57-15-10.

When any county or city makes the levy provided for by this section, the expenditure of the fund must be under the direction of the governing ~~boards~~board of the county or city.

SECTION 75. AMENDMENT. Section 57-15-12 of the North Dakota Century Code is amended and reenacted as follows:

57-15-12. General fund levy limitations in park districts.

The aggregate amount levied for park district general fund purposes, exclusive of levies to pay interest on bonded debt and levies to pay and discharge the principal thereof, and levies to pay the principal and interest on special assessments assessed and levied against park board properties by other municipalities, may not exceed the sum of the number of mills levied by the park district in taxable year 2000 for the general fund under section 57-15-12 including any additional levy approved by the electors, the insurance reserve fund under section 32-12.1-08, the employee health care program under section 40-49-12, the public recreation system under section 40-55-09 including any additional levy approved by the electors, forestry purposes under section 57-15-12.1 except any additional levy approved by the electors, pest control under section 4-33-11, and handicapped person programs and activities under section 57-15-60.

1. A park district may levy for general fund purposes up to thirty-eight mills on the taxable valuation of property in the district, subject to the higher of the number of mills determined under the following limitations:
 - a. The general fund mill levy determined based upon the highest amount in dollars the park district levied for general fund purposes for the three taxable years immediately preceding the current year, plus twelve percent; or
 - b. The general fund mill levy determined by combining the highest number of mills the park district levied for general fund purposes plus the number of mills levied for employee pension contributions under section 40-49-22, old-age and survivors' insurance under section 52-09-08, an employee retirement program established by the governing body, and for forestry purposes for any one of the three taxable years immediately preceding the current year.
2. For taxable years after 2014, the highest amount in dollars the park district levied for general fund purposes for the three immediately preceding taxable years for purposes of subdivision a of subsection 1, must be adjusted by adding the highest amount in dollars the park district levied in any one of the three immediately preceding taxable years for the combined levies for employee pension contributions under section 40-49-22, old-age and survivors' insurance under section 52-09-08, an employee retirement program established by the governing body, and for forestry purposes under section 57-15-12.1.
3. Notwithstanding the limitation in subsection 1, a park district that levied more than thirty-eight mills for the 2014 taxable year in the combined number of mills levied for general fund purposes plus the number of mills levied for the additional purposes of employee pension contributions under section 40-49-22, old-age and survivors' insurance under section 52-09-08, an employee retirement program established by the governing body, and for forestry purposes may levy for general fund purposes for taxable year 2015 the number of combined mills determined for the 2014 taxable year. A park district may levy for general fund purposes for taxable year 2016 thirty-eight mills plus seventy-five percent of the number of mills levied for the additional purposes listed in this subsection for the 2014 taxable year. A park district may levy for general fund purposes for taxable year 2017 thirty-eight mills plus fifty percent of the number of mills levied for the additional purposes listed in this subsection for the 2014 taxable year. A park district may levy for general fund

purposes for taxable year 2018 thirty-eight mills plus twenty-five percent of the number of mills levied for the additional purposes listed in this subsection for the 2014 taxable year.

4. A park district may increase its general fund levy under this section to any number of mills approved by a majority of the electors of the park district voting on the question at a regular or special park district election, up to a maximum levy under this section of ~~thirty-five~~thirty-eight mills on the dollar of the taxable valuation of the district for the current year. After January 1, 2015, approval or re-authorization by electors of voter-approved levy authority under this section may not be effective for more than ten taxable years.

SECTION 76. AMENDMENT. Section 57-15-12.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-12.1. City or park district tax levy ~~or service charge~~ funding for forestry ~~purposes~~ activities.

1. ~~The governing body of a city or park district may levy annually a tax to provide funds provide funding from revenues derived from its general fund levy authority for the establishment, operation, and maintenance of forestry activities within the city or park district. A tax levied by a city governing body under this section may not exceed two mills per dollar of taxable valuation of property within the city. A tax levied by a park district under this section must be within the general fund levy authority of the park district. The governing board of a city or park district, upon approval by a majority vote of the qualified electors voting on the question at any citywide or districtwide election, may also levy annually an additional tax not in excess of three mills on the taxable valuation of property within the city or park district for the purpose of providing funds for forestry activities within the city or park district. Any park district levy approved by the electors and any city levy under this section is in addition to and not restricted by any mill levy limit prescribed by law. The proceeds of any levy funding under this section may be used for forestry activities, including prevention or control of Dutch elm disease or other diseases which may affect trees, shrubs, and other vegetation; purchasing, planting, or removal of trees, shrubs, and other vegetation; pruning and maintenance of trees, shrubs, and other vegetation; purchasing of necessary equipment; hiring of personnel; contracting for services; public information and technical assistance; and other items related to forestry activities which may be necessary to provide for proper care, maintenance, propagation, and improvement of forestry resources within the city or park district.~~
2. ~~In lieu of a levy as specified funding from revenues derived from general fund levy authority as described~~ in subsection 1, a city or park district may propose a service charge as an alternative form of financing. Such alternative form of financing must be approved by a majority vote of the qualified electors voting on the question at any general ~~or special~~ citywide or districtwide election. The proceeds of any service charge may be used for forestry activities, as specified in subsection 1.

SECTION 77. AMENDMENT. Section 57-15-12.3 of the North Dakota Century Code is amended and reenacted as follows:

~~57-15-12.3. Tax levy for parks and~~ Park district levy for land acquisition and development of recreational facilities.

~~An addition to its general fund levy authority, a board of park commissioners established pursuant to chapter 40-49 may levy taxes annually not exceeding the limitation in subsection 3 of section 57-15-12.2~~ five mills per dollar of taxable valuation in the district for a fund for the purpose of acquiring real estate as a site for public parks, construction of recreational facilities, renovation and repair of recreational facilities, and the furnishing of recreational facilities. The tax is to be levied, spread, and collected in the same manner as are other taxes in the park district. The question of whether the levy is to be discontinued must be submitted to the qualified electors at the next regular election upon petition of twenty-five percent or more of the qualified electors voting in the last regular park district election, if the petition is filed not less than sixty days before the election. If the majority of the qualified electors voting on the question vote to discontinue the levy, it may not again be levied without a majority vote of the qualified electors voting on the question at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board.

SECTION 78. AMENDMENT. Section 57-15-19.4 of the North Dakota Century Code is amended and reenacted as follows:

57-15-19.4. Township levy for roads.

1. The electors of each township at the annual meeting may levy a tax not to exceed the limitation in subsection 3 of section 57-15-20.2 for the purpose of cooperating with the county in constructing and maintaining federal-aid farm-to-market roads and bridges that are part of the county road system and located within the township. This tax levy may be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01. A township levy for roads approved by qualified electors of a township under this section before January 1, 2015, may continue to be imposed for five taxable years or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved. After January 1, 2015, approval by electors of increased levy authority under this section may not be effective for more than five taxable years.
2. ~~If no federal-aid farm-to-market roads are built within ten years of the date the first mill levy pursuant to funds from a levy under subsection 1 was made~~ are not expended for purposes of cooperating with the county in constructing and maintaining roads and bridges that are part of the county road system and located within the township, the board of township supervisors may by resolution authorize the expenditure of all such funds collected and accumulated and the earnings thereon for the construction, improvement, or maintenance of other roads or for any other township purpose.

SECTION 79. AMENDMENT. Section 57-15-19.5 of the North Dakota Century Code is amended and reenacted as follows:

57-15-19.5. Township ~~levy~~ funding for law enforcement - Authorization - Cooperation with other political subdivisions.

~~The electors of an organized township may authorize the levy of an amount not exceeding the limitation in subsection 4 of section 57-15-20.2~~ township to provide funding from revenues derived from its general fund levy authority for the purpose of

~~hiring law enforcement personnel. Such authorization must be granted upon a favorable vote of sixty percent of the electors present and voting on the question at the general election immediately succeeding the annual township meeting, provided the question has been included in the annual meeting notice issued by the township clerk pursuant to section 58-04-04. In providing for law enforcement services, the board of supervisors may cooperate with one or more additional townships, with a city, or with the county in accordance with the provisions of section 54-40-08chapter 54-40.~~

SECTION 80. AMENDMENT. Section 57-15-19.6 of the North Dakota Century Code is amended and reenacted as follows:

57-15-19.6. Township levyfunding for mowing or snow removal.

~~The electorsbudget of each township approved at the annual meeting may levy not exceeding the limitation in subsection 5 of section 57-15-20.2include provision of funding from revenues derived from the general fund levy authority of the township for the purpose of mowing or snow removal. This tax levy may be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01.~~

SECTION 81. AMENDMENT. Section 57-15-20 of the North Dakota Century Code is amended and reenacted as follows:

57-15-20. Tax levy limitations in townshipsTownship general fund levy - Approval of increased general fund levy authority.

~~The total amount of the annual taxgeneral fund levy in a civil township, exclusive of levies to pay interest on any bonded debt and to provide a sinking fund to pay and discharge the principal thereof bonded debt at maturity, may not exceed suchthe amount as will be produced by a levy of eighteen mills on the dollar of the taxable valuation thereofof property in the township.~~

~~Upon approval of a majority of electors of the township voting on the question, a civil township general fund levy may be increased by an additional amount not to exceed the amount produced by a levy of eighteen mills on the dollar of the taxable valuation of property in the township. The increased levy under this section may be made only if notice of the question of the approval of such levy has been included with or upon the notice of the annual meeting provided for in section 58-04-01. An excess levy approved by electors of a township under chapter 57-17 before January 1, 2015, may continue to be imposed for five taxable years or the period of time for which it was approved by the electors, whichever is less, under the provisions of law in effect at the time it was approved. After January 1, 2015, approval by electors of increased levy authority under this section may not be effective for more than five taxable years.~~

SECTION 82. AMENDMENT. Section 57-15-20.2 of the North Dakota Century Code is amended and reenacted as follows:

57-15-20.2. Exceptions to tax levy limitations in townships.

The tax levy limitations specified in section 57-15-20 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the township:

- ~~1. A township levying a tax for prevention and extinguishment of fires in accordance with section 18-06-10 may levy a tax not exceeding one mill.~~

2. A township levying a tax to establish a recreation system according to section 40-55-08 may levy a tax not exceeding two and five-tenths mills, except that a township may levy an amount not exceeding eight and five-tenths mills if the provisions of section 40-55-09 are met.
3. A township levying a tax for the purpose of cooperating with the county in constructing and maintaining federal-aid farm-to-market roads and bridges that are part of the county road system and located within the township in accordance with section 57-15-19.4 may levy a tax not exceeding five mills.
4. ~~A township levying a tax for law enforcement in accordance with section 57-15-19.5 may levy a tax not exceeding five mills.~~
5. ~~A township levying a tax for mowing or snow removal in accordance with section 57-15-19.6 may levy a tax not exceeding three mills.~~
- 5.1. ~~A township levying a tax for a legal contingency fund in accordance with section 57-15-22.2 may levy a tax not exceeding ten mills for not to exceed five years.~~
- 6.2. A township levying a tax for airport purposes in accordance with section 57-15-37.12-06-15 may levy a tax not exceeding four mills.
7. ~~A township levying a tax for emergency medical service in accordance with section 57-15-51.1 may levy a tax not exceeding ten mills.~~
8. ~~A township levying a tax for park purposes in accordance with section 58-17-02 may levy a tax not exceeding two mills.~~
- 9.3. A township levying a tax for special assessment districts in accordance with chapter 58-18.
10. ~~A township levying a tax for port purposes in accordance with section 57-15-20.3 may levy a tax not exceeding four mills.~~
11. ~~A township levying a tax for commerce authority purposes may levy a tax not exceeding four mills.~~

Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

SECTION 83. AMENDMENT. Section 57-15-22.2 of the North Dakota Century Code is amended and reenacted as follows:

57-15-22.2. Levy of taxes for township Township legal contingency fundfunding.

~~Upon presentation of a petition signed by twenty-five percent of the qualified electors in an organized or unorganized township voting in the last gubernatorial election, the governing bodyThe board of township supervisors of an organized township or the board of county commissioners; for an unorganized townships, may call a special election for the purpose of voting on the question of authorizing an excesstownship. may provide funding from revenue derived from the general fund levy authority for the township levy on property within the township for the current year and not to exceed four succeeding years, or may submit the question to the~~

qualified electors at the next regular township election, for organized townships, or at the next regular election, for unorganized townships. If a special election is called, the election must be held not later than September first of the year in which the tax is to be levied, and the election must be conducted as other elections of the political subdivision are conducted. The levy permitted by this section may not exceed the limitation in subsection 5.1 of section 57-15-20.2. Revenues from the levy must be deposited in a special fund in the township or county treasury known as the legal contingency fund. Revenue in the fund Funding authorized under this section may be used only for purposes of expenses of legal actions authorized or entered into by the governing body of the township or the county, on behalf of unorganized townships. If sixty percent of all votes cast on the question of authorizing the excess levy of taxes for the legal contingency fund are in favor of the excess levy, it is authorized and the county auditor shall extend such excess levy upon the tax list with other taxes. A levy under this section authorized by electors of an organized or unorganized township before January 1, 2015, remains effective for five taxable years or the period of time for which it was approved by the electors, whichever is less. Upon expiration of any mill levy authorized by electors of an organized or unorganized township before January 1, 2015, under this section, the governing body of the township or county may, by resolution, transfer any unobligated balance in the legal contingency fund to the general fund of the township or county.

SECTION 84. AMENDMENT. Section 57-15-27.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-27.1. Cemetery tax levies.

~~Organized townships and cities are hereby authorized to~~ A city may levy a tax, not exceeding two mills on the dollar of the taxable valuations of the organized townships or cities, in addition to all levies now authorized by law, for the purpose and ~~the limitation in subsection 14 of section 57-15-10 to be used exclusively for the care, maintenance, and improvement of established cemeteries, owned and maintained by such organized townships or cities~~ the city. In addition to all levies now authorized by law, ~~organized townships~~ An organized township may levy a tax not exceeding one-fourth of one mill on the dollar of taxable valuation of property in the township ~~provide funding from revenues derived from its general fund~~ levy authority for the care, maintenance, and improvement of established cemeteries maintained but not owned by the township.

SECTION 85. AMENDMENT. Section 57-15-28 of the North Dakota Century Code is amended and reenacted as follows:

57-15-28. Emergency fund - County.

The governing body of any county may levy a tax for emergency purposes not exceeding the limitation in subsection 229 of section 57-15-06.7. The emergency fund may not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes but must be shown in the budget as an "emergency fund" and may not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, must be deposited in the emergency fund, and must be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, or emergencies caused by nature ~~or by the entry by a court of competent jurisdiction of a judgment for damages against the county.~~ The emergency fund may not be used for the purchase of road equipment. The emergency fund may not be used for any road construction or maintenance, except for repair of roads

damaged by nature within sixty days preceding the determination to expend emergency funds; however, the emergency fund may be used to match federal funds appropriated to mitigate damage to roads related to a federally declared disaster that occurred more than sixty days preceding the determination. Any unexpended balance remaining in the emergency fund at the end of any fiscal year must be kept in the fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, equals the amount produced by a levy of five mills on the taxable valuation of property in a county with a population of thirty thousand or more, ten mills on the taxable valuation of property in a county with a population of less than thirty thousand but more than five thousand, or fifteen mills on the taxable valuation of property in a county with a population of five thousand or fewer, the levy authorized by this section must be discontinued, and no further levy may be made until required to replenish the emergency fund.

SECTION 86. AMENDMENT. Section 57-15-28.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-28.1. Exceptions to taxJudgment or claim payment levy limitations in political subdivisions.

A political subdivision, except a school district, levying a tax for the payment of a judgment or a settlement of a claim in accordance with section 32-12.1-11 may levy a tax not exceeding five mills. If the political subdivision held a liability insurance policy or insurance contract, purchased by a political subdivision or a government self-insurance pool in which the political subdivision participates pursuant to chapter 32-12.1, which provides coverage to at least the liability limits under section 32-12.1-03 and that coverage was in force at the time of the occurrence that gave rise to the claim of relief, the political subdivision may levy a tax not exceeding a total of ten mills for the payment of a judgment or a settlement of a claim in accordance with section 32-12.1-11. The tax levy limitations specified by law do not apply to the following mill levies under this section, expressed in mills per dollar of taxable valuation of property in the political subdivision. For purposes of this section, "political subdivision" has the same meaning as in section 32-12.1-02.

- ~~1. A political subdivision, except a park district, levying a tax for the control of pests in accordance with section 4-33-11 may levy a tax not exceeding one mill.~~
- ~~2. A political subdivision, except a school district or park district, levying a tax for an insurance reserve fund according to section 32-12.1-08 may levy a tax not exceeding five mills. A political subdivision, except a school district or park district, may use all or part of the levy under this subsection and the insurance reserve fund for payment of workforce safety and insurance contributions, premiums, judgments, and claims of the political subdivision.~~
- ~~3. A political subdivision, except a school district, levying a tax for the payment of a judgment in accordance with section 32-12.1-11 may levy a tax not exceeding five mills.~~
- ~~4. A political subdivision levying a tax for railroad purposes in accordance with section 49-17.2-21 may levy a tax not exceeding four mills.~~
- ~~5. A political subdivision, except a school district or county, levying a tax for old-age and survivors' insurance according to section 52-09-08, for social security, or for an employee retirement program established by the governing~~

body, or for any combination of these purposes, may levy a tax not exceeding thirty mills:

6. ~~A county levying a tax for comprehensive health care insurance employee benefit programs in accordance with section 52-09-08 may levy a tax not exceeding eight mills and the limitation in subsection 36 of section 57-15-06.7.~~

SECTION 87. AMENDMENT. Section 57-15-30.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-30.1. Tax levy for township debt or debt existing upon dissolution - Duty of county auditor - Duty of county treasurer.

1. Whenever any township is indebted to the county in which such township is located and such debt is more than one year past due, the county auditor, upon resolution of the board of county commissioners, shall levy a tax on the property within the township in an amount sufficient to pay the indebtedness, but in no case may the amount of the levy cause the total levy for such township to exceed the maximum levy limitations, including excess levy limitations, provided by law. The county treasurer shall place the taxes collected to the credit of the county in payment or partial payment of the township's indebtedness.
2. Upon the dissolution of a civil township, the board of county commissioners of the county in which the township lies shall attach the territory embraced within such township to such assessment district of the county as the board may deem advisable for the purpose of assessment and taxation. In addition to the other levies provided by law, the board shall levy on the taxable property in the township a sum sufficient to discharge all debts and liabilities of the township. The county auditor shall enter the levy on the county tax list to be collected by the county treasurer as other county taxes are collected. The county treasurer shall credit the money derived from such levy to a special fund to be used to pay the dissolved township's debts and liabilities. Any balance remaining in the special fund after the payment of the debts and liabilities must be transferred for use for road and bridge purposes within the assessment district to which the territory is attached.

SECTION 88. AMENDMENT. Section 57-15-38 of the North Dakota Century Code is amended and reenacted as follows:

57-15-38. Tax levy for construction fund in cities City capital improvements fund levy.

The governing body of any city may levy annually ~~for a period not to exceed ten successive years, for a construction fund,~~ a tax for a capital improvements fund not exceeding the limitation in subsection 19 ~~often~~ mills under section 57-15-10, when authorized to do so by ~~sixty percent~~ a majority of the electors voting upon the question at a regular ~~primary or special~~ general election in any city which, at the time of making the annual levy, has no outstanding unpaid certificates of indebtedness, and in which the limitation of levy has not been increased from the basic mill rate.

When authorized by sixty percent or more of the qualified electors voting upon the question at a regular or special election in the city, the governing body of the city may levy and collect an additional tax of ten mills for capital improvements fund purposes under section 57-15-10.

Any excess levy for capital improvements under this section approved by the electors of a city before July 1, 2015, remains effective for ten taxable years or the period of time for which it was approved by the electors, whichever is less, after it was approved, under the provisions of law in effect at the time it was approved. After June 30, 2015, approval or reauthorization by electors of increased levy authority under this section may not be effective for more than ten taxable years.

The construction capital improvements fund must be used for paying all or part of the construction of waterworks systems, sewage systems, public buildings, or any other public improvements for which cities are authorized by law to pay for from general tax levies, and the; acquiring real estate as a site for public buildings, maintaining structural and mechanical components of public buildings, and furnishing of public buildings; a city's participating share in urban renewal programs; capital improvements and equipment acquisition and maintaining structural and mechanical components for fire department stations; and capital improvements and equipment acquisition and maintaining structural and mechanical components for stations for police protection services and correctional facilities. The governing body of any city, when submitting to the electors of the city; the question of authorizing the tax levy, shall specify the purposes for which the construction capital improvements fund is to be used. The governing body of the city may create the building capital improvements fund by appropriating and setting up in its budget, for which may be accumulated in an amount not in excess of twenty percent of the current annual appropriation for all other purposes combined, exclusive of the appropriations to pay interest and principal of the bonded debt, and not in excess of the limitations prescribed by law.

SECTION 89. AMENDMENT. Section 57-15-42 of the North Dakota Century Code is amended and reenacted as follows:

57-15-42. City fire department reserve fund levy capital improvements and equipment acquisition funding.

The governing body of any city, when authorized by sixty percent of the electors voting on the question in a regular or special election called by the governing body, may levy taxes annually, not exceeding the limitation in subsection 20 of section 57-15-10 may provide funding from revenues derived from the capital improvements fund levy under section 57-15-38 for a fire department building or equipment reserve fund capital improvements and equipment acquisition and maintaining structural and mechanical components for fire department stations. The proceeds of the levy must be placed in a separate fund known as the fire department reserve fund and must be used exclusively for the purchase of necessary firefighting equipment or fire department building. No levy may be made under this section during any period in which the moneys in the fund equal or exceed an amount equal to the sum that would be produced by a levy of thirty mills upon the taxable valuation of the city. Any levy under this section approved by the electors of a city before January 1, 2015, remains effective for ten taxable years or the period of time for which it was approved by the voters, whichever is less, under the provisions of this section in effect at the time it was approved. When the authority to levy under this section expires in a city, any unobligated balance in the fire department reserve fund must be transferred to the city capital improvements fund.

SECTION 90. AMENDMENT. Section 57-15-48 of the North Dakota Century Code is amended and reenacted as follows:

57-15-48. TaxCity levy for emergency purposes.

The governing body of any city by a two-thirds vote may levy a tax annually for snow removal, natural disaster, or other emergency conditions not exceeding the limitation in subsection 239 of section 57-15-10. No city may make this levy after the amount of the unexpended funds raised by this levy plus the amount of money due the fund from outstanding taxes equals the amount produced by a levy of five mills on the taxable valuation of property within the city or five dollars per capita, whichever is greater.

SECTION 91. AMENDMENT. Section 57-15-50 of the North Dakota Century Code is amended and reenacted as follows:

57-15-50. Levy authorized for countyCounty emergency medical service levy.

Upon petition of ten percent of the number of qualified electors of the county voting in the last election for governor or upon its own motion, the board of county commissioners of each county shall levy annually a tax not exceeding the limitation in subsection 2310 of section 57-15-06.7, for the purpose of subsidizing county emergency medical services; provided, that this tax must be approved by a majority of the qualified electors of the county voting on the question at a regular or special countywide election. The county may budget, in addition to its annual operating budget for subsidizing emergency medical service, no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated emergency medical services sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent emergency medical services sinking fund must be in addition to the annual operating budget for subsidization, but the total of the annual operating budget and the annual ten percent emergency medical services sinking fund may not exceed the approved mill levy. If the county contains a rural ambulance service district or rural fire protection district that levies for and provides emergency medical service, the property within that district is exempt from the county tax levy under this section upon notice from the governing body of the district to the board of county commissioners of the existence of the district.

SECTION 92. AMENDMENT. Section 57-15-51 of the North Dakota Century Code is amended and reenacted as follows:

57-15-51. Levy authorized for cityCity emergency medical service funding.

~~Upon petition of ten percent of the number of qualified electors of the city voting in the last election for governor or upon its own motion, the~~The governing body of a city shall levy annually a tax of not to exceed ten mills upon its taxable valuation; ~~may provide funding from revenues derived from its general fund levy authority for the purpose of subsidizing city emergency medical services; provided, that such tax must be approved by a majority of the qualified electors of the city voting on the question at a regular or special city election.~~ Whenever a tax for county emergency medical services is levied by a county, any city ~~levying a tax for, or subsidizing city emergency medical services, shall upon written application to the county board of such county be exempted from such county tax levy.~~ The city may set aside, as a depreciation expense, up to ten percent of its annual emergency medical service operating or subsidization budget in a dedicated emergency medical services sinking fund, deposited with the auditor for replacement of equipment and ambulances. The ten percent emergency medical services sinking fund may be in addition to the actual annual emergency medical services budget ~~but the total of the annual emergency~~

medical services budget and the annual ten percent emergency medical services fund may not exceed the approved mill levy.

SECTION 93. AMENDMENT. Section 57-15-51.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-51.1. Levy authorizedFunding for township emergency medical service.

Pursuant to a vote of sixty percent of theThe qualified electors voting at the annual township meeting, or at a special election called for that purpose upon petition of fifty percent of the number of qualified electors of the township voting in the last election for governor, the board of township supervisors shall levy annually a tax approved by the qualified electors not exceeding the limitation in subsection 7 of section 57-15-20.2of an organized township may authorize the township to provide funding from revenues derived from its general fund levy authority for the purpose of subsidizing township emergency medical service. In providing for emergency medical service, the board of supervisors may cooperate with one or more additional townships or with a city, county, or rural ambulance service district in accordance with chapter 54-40.

SECTION 94. AMENDMENT. Section 57-15-53 of the North Dakota Century Code is amended and reenacted as follows:

57-15-53. Tax levy for policePolice department stations and correctional facilities capital improvements funding.

Upon approval of a majority of the electors voting thereon at any regular election or special election called for such purpose, theThe governing body of any city may levy taxes annually, not exceeding the limitation in subsection 24 of section 57-15-10;provide funding from revenues derived from the capital improvements fund levy authority under section 57-15-38 for the purpose of providing additional funds to meet the operational, maintenance, and construction costs and costs of maintaining structural and mechanical components of establishing stations for police protection services and correctional facilities. The proceeds of this levy must be placed in a separate fund known as the police station and correctional facility fund. No levy may be made under this section during any period in which the moneys to the fund equal or exceed an amount equal to the sum that would be produced by a levy of ten mills upon the taxable valuation of the city making the levyAny levy under this section approved by the electors of a city before January 1, 2015, remains effective for ten taxable years or for the period of time for which it was approved by the voters, whichever is less, under the provisions of this section in effect at the time it was approved. When the authority to levy under this section expires in a city, any unobligated balance in the police station and correctional facility fund must be transferred to the city capital improvements fund.

SECTION 95. AMENDMENT. Section 57-15-55 of the North Dakota Century Code is amended and reenacted as follows:

57-15-55. Tax levy for public transportation.

The governing body of any city, upon approval by a majority vote of the qualified electors of the city voting on the question at any citywide election, may annually levy a tax not exceeding the limitation in subsection 2510 of section 57-15-10 to provide funds for the provision and operation of a public transportation system within the city under a contract approved by the governing body with a private contractor, or by the city itself.

²¹⁵ **SECTION 96. AMENDMENT.** Subsection 1 of section 57-15-56 of the North Dakota Century Code is amended and reenacted as follows:

1. The board of county commissioners of any county is hereby authorized to levy a tax, or if no levy is made by the board of county commissioners, the governing body of any city in the county is authorized to levy a tax, in addition to all levies now authorized by law, for the purpose of establishing or maintaining services and programs for senior citizens including the maintenance of existing senior citizen centers which will provide informational, health, welfare, counseling, and referral services for senior citizens, and assisting such persons in providing volunteer community or civic services. If the tax authorized by this section is levied by the board of county commissioners, any existing levy under this section by a city in the county becomes void for subsequent taxable years. The removal of the levy is not subject to the requirements of subsection 3. This tax may not exceed the limitation in subsection ~~2512~~ of section 57-15-06.7 or subsection ~~2611~~ of section 57-15-10. The proceeds of the tax must be kept in a separate fund and used exclusively for the public purposes provided for in this section. This levy must be in addition to any moneys expended by the board of county commissioners pursuant to section 11-11-58 or by the governing body of any city pursuant to section 40-05-16.

SECTION 97. AMENDMENT. Section 57-20-23 of the North Dakota Century Code is amended and reenacted as follows:

57-20-23. County responsible for collecting and transmitting state taxes.

Each county is responsible to the state for the full amount of the taxes levied for state purposes, except such amounts or taxes as have been canceled as uncollectible, or canceled or abated, as provided by law. If any county treasurer proves to be a defaulter, to any amount, of state revenue, ~~such amount must be made up to the state within the ensuing three years by additional levies in such manner in annual amounts as the board of county commissioners may direct. In such case the county shall make up the deficiency from revenues derived from the county's general fund levy authority over a period of three years, without interest, and the county can have recourse to the official bond of the county treasurer for indemnity.~~

SECTION 98. AMENDMENT. Section 57-47-04 of the North Dakota Century Code is amended and reenacted as follows:

57-47-04. ~~Levy of tax to repay~~Funding for loan repayment - Limitation.

Upon the issuance of the evidence of indebtedness, the board of county commissioners shall ~~levy~~ provide funding from revenues derived from its general tax from year to year upon all of the general taxable property of the county, not exceeding the limitation in subsection 27 of section 57-15-06.7, for the purpose of providing funds sufficient ~~fund~~ levy authority to repay the amount of the loan, with interest, at the time of maturity ~~a loan under this chapter and under the terms established with the lender. The tax may not exceed three mills for any one year regardless of the number of loans outstanding under this chapter~~ County revenue from any other source that is not dedicated or obligated may be used to repay, or serve as collateral for, a loan under this chapter. If a county has issued evidence of indebtedness for acquisition of road machinery or equipment, the board of county

²¹⁵ Section 57-15-56 was also amended by section 1 of Senate Bill No. 2143, chapter 441.

commissioners may authorize use of funds derived from the county levy under section 24-05-01 to repay the loan, in addition to any other funding for loan repayment available to the county.

SECTION 99. AMENDMENT. Subsection 16 of section 58-03-07 of the North Dakota Century Code is amended and reenacted as follows:

16. To establish a fund authorize the expenditure of funds for the eradication of gophers, prairie dogs, crows, and magpies.

SECTION 100. AMENDMENT. Section 58-17-02 of the North Dakota Century Code is amended and reenacted as follows:

58-17-02. Townships - Parks - ~~Tax Levy~~Funding for park purposes.

~~In townships supporting parks, a levy not exceeding the limitation in subsection 8 of section 57-15-20-2 may be made~~ funding may be provided from revenues derived from the general fund levy authority of the township for such park purposes, but such levies do not apply to property in any city or park district which levies for park district purposes.

²¹⁶ **SECTION 101. AMENDMENT.** Section 61-04.1-26 of the North Dakota Century Code is amended and reenacted as follows:

~~61-04.1-26. Tax may be certified by~~ Funding for support of weather modification authority.

The weather modification authority may ~~certify~~ request annually ~~to that~~ the board of county commissioners a tax of not to exceed seven mills upon the taxable valuation of the property in the county for a weather modification fund. If weather modification services are not provided to the entire county, the weather modification authority may certify annually to the board of county commissioners a tax for a weather modification fund of not to exceed seven mills upon the taxable valuation of the property in the county ~~designated to receive~~ provide funding from revenues derived from its general fund levy for support of the authority and to provide weather modification services. The tax shall be levied funding under this section approved by the board of county commissioners and may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes. ~~They must be deposited in the~~ weather modification fund and shall be used only for weather modification activities in conjunction with the state of North Dakota. The tax certified by the weather modification authority is limited to the period of existence of the weather modification authority as provided for in this chapter.

²¹⁷ **SECTION 102. AMENDMENT.** Section 61-24-02 of the North Dakota Century Code is amended and reenacted as follows:

61-24-02. Garrison Diversion Conservancy District created.

The "Garrison Diversion Conservancy District", hereinafter referred to as the "district" consists of that part of the state that is included within the boundaries of the following counties: Barnes, Benson, Bottineau, Burleigh, Cass, Dickey, Eddy, Foster,

²¹⁶ Section 61-04.1-26 was also amended by section 21 of Senate Bill No. 2056, chapter 88, and section 22 of Senate Bill No. 2217, chapter 92.

²¹⁷ Section 61-24-02 was also amended by section 17 of Senate Bill No. 2053, chapter 62.

Grand Forks, Griggs, LaMoure, McHenry, McLean, Nelson, Pierce, Ramsey, Ransom, Renville, Richland, Sargent, Sheridan, Steele, Stutsman, Traill, Ward, and Wells.

The district is a governmental agency, body politic and corporate with the authority to exercise the powers specified in this chapter, or which may be reasonably implied.

Any county may join the district upon application of its board of county commissioners and the approval of the application by the board of directors of the district. ~~Such county is authorized to levy taxes as may be necessary to carry out its part of the agreement for becoming a part of the district, which levy is in addition to the amount that may otherwise be legally levied for county purposes.~~

SECTION 103. TRANSITION. The treasurer of each county, city, township, or other political subdivision maintaining a special fund for which levy authority is eliminated by this Act, by the end of the fiscal year for which deposit of revenue from levy authority is terminated by this Act, shall satisfy any obligations of that fund, transfer the remaining balance to the general fund of the political subdivision, and close out the special fund.

²¹⁸ **SECTION 104. REPEAL.** Sections 4-02-27, 4-02-27.1, 4-02-27.2, 4-02-35, 4-02-37, 4-08-15.1, chapter 4-16, sections 11-11-18, 11-11-20, 11-11-21, 11-11-22, 11-11-23, 11-11-24, 11-11-25, 11-11-45, 11-11-46, 11-11-47, 11-11-59, 11-11-60, 11-11-61, 11-11.1-06, 11-28-12, 11-28-13, 11-28-14, 11-28-15, 11-28-16, 11-28-17, 11-28-18, 11-28-19, 11-28-20, 11-28-21, and 11-28-22, chapters 11-36 and 11-37, sections 18-06-11, 18-07-01, and 18-10-14, chapters 23-18.1 and 23-18.2, sections 32-12.1-12, 32-12.1-14, 40-05-09.1, 40-43-02, 40-43-03, 40-43-04, 40-45-02, 40-57-19, and 40-57-19.1, chapters 49-17.2 and 52-09, sections 57-15-06.3, 57-15-06.5, 57-15-06.8, 57-15-06.9, 57-15-06.10, 57-15-12.2, 57-15-20.3, 57-15-20.4, 57-15-26.3, 57-15-26.5, 57-15-27.2, 57-15-36, 57-15-37.1, 57-15-43, 57-15-44, 57-15-54, 57-15-55.1, 57-15-57, 57-15-59, 57-15-60, and 57-15-62, chapter 57-17, section 58-02-30, and chapter 58-15 of the North Dakota Century Code are repealed.

SECTION 105. REPEAL. Chapter 23-18 of the North Dakota Century Code is repealed.

SECTION 106. EFFECTIVE DATE. Sections 1 through 104 of this Act are effective for taxable years beginning after December 31, 2014. Section 105 of this Act is effective July 1, 2017.

Approved April 22, 2015
Filed April 22, 2015

²¹⁸ Section 4-02-27 was amended by section 4 of Senate Bill No. 2056, chapter 88, and section 2 of Senate Bill No. 2217, chapter 92; section 11-11-18 was amended by section 1 of House Bill No. 1194, chapter 184; section 11-11.1-06 was amended by section 6 of Senate Bill No. 2217, chapter 92; section 11-28-17 was amended by section 12 of Senate Bill No. 2056, chapter 88, and section 8 of Senate Bill No. 2217, chapter 92; section 57-15-26.3 was amended by section 20 of Senate Bill No. 2217, chapter 92, and was also repealed by section 2 of House Bill No. 1056, chapter 166.

CHAPTER 440

SENATE BILL NO. 2195

(Senators Oehlke, Bekkedahl, Dotzenrod)
(Representatives Hatlestad, Trottier, Weisz)

AN ACT to amend and reenact section 57-15-19.2 of the North Dakota Century Code, relating to the township special road fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-15-19.2 of the North Dakota Century Code is amended and reenacted as follows:

57-15-19.2. Township supervisors authority to transfer funds into special road fund - Limitations - Use.

The board of supervisors, at the time of the annual township meeting, upon resolution, may transfer or set aside a part or all of any funds into a special road fund, which fund must be separate and distinct from all other funds. The special road fund may not exceed the sum of thirtyone hundred thousand dollars for any one congressional township. The special road fund may be expended, at the option of the board of supervisors, for the purpose of road construction, graveling, snow removal, or surfacing.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 441

SENATE BILL NO. 2143

(Senators Oehlke, Erbele, Robinson)
(Representatives Froseth, Kreidt, Trottier)

AN ACT to amend and reenact subsection 5 of section 57-15-56 and section 57-39.2-26.2 of the North Dakota Century Code, relating to matching grants to counties for senior citizen services and programs; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁹ **SECTION 1. AMENDMENT.** Subsection 5 of section 57-15-56 of the North Dakota Century Code is amended and reenacted as follows:

5. The state treasurer shall provide matching funds as provided in this subsection for counties for senior citizen services and programs funded as required by this section. The grants must be made on or before March first of each year to each eligible county. A county receiving a grant under this section which has not levied a tax under this section shall transfer the amount received to a city within the county which has levied a tax under this section. A grant may not be made to any county that has not filed with the state treasurer a written report verifying that grant funds received in the previous year under this subsection have been budgeted for the same purposes permitted for the expenditure of proceeds of a tax levied under this section. The written report must be received by the state treasurer on or before February first of each year following a year in which the reporting county received grant funds under this subsection. A matching fund grant must be provided from the senior citizen services and programs fund to each eligible county equal to ~~eighty-five~~eighty-seven and one-half percent of the amount levied ~~appropriated~~ in dollars in the county under this section for the taxable year, but the matching fund grant applies only to an amount equal to a levy of up to one mill under this section.

SECTION 2. AMENDMENT. Section 57-39.2-26.2 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.2. Allocation of revenues to senior citizen services and programs matching fund - Continuing appropriation.

Notwithstanding any other provision of law, a portion of sales, use, and motor vehicle excise tax collections equal to the amount of revenue that would have been generated by a levy of ~~eighty-five~~eighty-seven and one-half percent of one mill on the taxable valuation of all property in the state subject to a levy under section 57-15-56 in the previous taxable year must be deposited by the state treasurer in the senior citizen services and programs fund during the period from July first through December thirty-first of each year. The state tax commissioner shall certify to the state treasurer the portion of sales, use, and motor vehicle excise tax revenues which

²¹⁹ Section 57-15-56 was also amended by section 96 of Senate Bill No. 2144, chapter 439.

must be deposited in the fund as determined under this section. Revenues deposited in the senior citizen services and programs fund are provided as a standing and continuing appropriation for allocation as provided in subsection 5 of section 57-15-56. Any unexpended and unobligated amount in the senior citizen services and programs fund at the end of any biennium must be transferred by the state treasurer to the state general fund.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act is effective for taxable years beginning after December 31, 2014. Section 2 of this Act is effective for taxable events occurring after June 30, 2015.

Approved April 28, 2015
Filed April 28, 2015

CHAPTER 442

SENATE BILL NO. 2055

(Legislative Management)

(Taxation Committee and Advisory Commission on Intergovernmental Relations)

AN ACT to amend and reenact sections 57-33.2-06 and 57-33.2-20 of the North Dakota Century Code, relating to reports by electric transmission, distribution, and generation companies for tax purposes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-33.2-06 of the North Dakota Century Code is amended and reenacted as follows:

57-33.2-06. Transmission and distribution line and electric generation property location reports to county auditors.

By April fifteenth of each year, each ~~transmission or distribution~~ company subject to taxation under this chapter shall file, with the county auditor of each county in which any of its electric generation, transmission, or distribution line property is located, the following information:

1. Each transmission or distribution company shall file a report showing the length and nominal operating voltage of its transmission and distribution line within the county and within each taxing district within the county. Reports under this ~~section~~subsection must be based upon nominal operating voltage, ownership, and location of transmission and distribution lines as of January first of each year. Reports under this ~~section~~subsection must be prepared to distinguish transmission lines from distribution lines.
2. Each electric generation company shall file a report showing the location and rated capacity of each wind generator or grid-connected generator within the county and each taxing district in the county. Reports under this subsection must be based upon the rated capacity, ownership, and location as of January first of each year.

By February first of each year, the county auditor shall provide each ~~transmission or distribution~~ company having a transmission or distribution line in the county subject to taxation under this chapter with an accurate map of the county showing the boundaries of each taxing district in the county.

SECTION 2. AMENDMENT. Section 57-33.2-20 of the North Dakota Century Code is amended and reenacted as follows:

57-33.2-20. Penalty.

If any company refuses or neglects to make the reports required by this chapter, or refuses or neglects to furnish any information requested, the commissioner shall use the best facts and estimates available to determine the tax due. The tax must be imposed upon the basis of that information. If any company fails to make the report required under this chapter on or before the first day of ~~May~~June of any year, the

state board of equalization shall add a penalty of ten percent of the tax due for failure to make the required report which must be collected as a part of the tax, but the commissioner, upon application, may grant extensions of time within which the returns must be filed. For good cause shown, the commissioner may waive all or any part of the penalty that attached under this section.

SECTION 3. EFFECTIVE DATE. This Act is effective for reports due after December 31, 2015.

Approved March 13, 2015
Filed March 13, 2015

CHAPTER 443

HOUSE BILL NO. 1228

(Representatives Owens, Brandenburg, Delmore, Dockter)
(Senators Dotzenrod, Oehlke, Wanzek)

AN ACT to amend and reenact subsection 6 of section 57-38-01.8 of the North Dakota Century Code, relating to the carryforward period for excess geothermal, solar, wind, or biomass energy device income tax credits; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁰ **SECTION 1. AMENDMENT.** Subsection 6 of section 57-38-01.8 of the North Dakota Century Code is amended and reenacted as follows:

6. a. The credit allowed under this section may not exceed the liability for tax under this chapter. If the amount of credit determined under this section exceeds the liability for tax under this chapter, the excess may be used as a credit carryover to each of the five succeeding taxable years.
- b. Any excess tax credits earned for wind energy devices installed after September 30, 2008, and before January 1, 2012, may be used as a credit carryover to each of the ~~twenty~~thirty succeeding taxable years.
- c. For any tax credits for geothermal, solar, or biomass energy devices installed after September 30, 2008, and wind energy devices installed after December 31, 2011, the excess may be used as a credit carryover to each of the ten succeeding taxable years.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2014.

Approved April 2, 2015
Filed April 2, 2015

²²⁰ Section 57-38-01.8 was also amended by section 2 of Senate Bill No. 2037, chapter 438.

CHAPTER 444

SENATE BILL NO. 2286

(Senators Luick, Dotzenrod)
(Representatives Amerman, Kelsh, Mitskog, J. Nelson)

AN ACT to amend and reenact section 57-38-01.21 of the North Dakota Century Code, relating to a charitable gifts and qualified endowments income tax credit for charitable gifts to a border city hospital, nursing home, or medical center foundation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-01.21 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.21. Charitable gifts, planned gifts, and qualified endowments credit - Definitions.

1. For purposes of this section:

- a. "Permanent, irrevocable fund" means a fund comprising cash, securities, mutual funds, or other investment assets established for a specific charitable, religious, educational, or eleemosynary purpose and invested for the production or growth of income, or both, which may either be added to principal or expended.
- b. "Planned gift" means an irrevocable charitable gift to a North Dakota qualified nonprofit organization or qualified endowment held by or for a North Dakota qualified nonprofit organization, when the charitable gift uses any of the following techniques that are authorized under the Internal Revenue Code:
 - (1) Charitable remainder unitrusts, as defined by 26 U.S.C. 664;
 - (2) Charitable remainder annuity trusts, as defined by 26 U.S.C. 664;
 - (3) Pooled income fund trusts, as defined by 26 U.S.C. 642(c)(5);
 - (4) Charitable lead unitrusts qualifying under 26 U.S.C. 170(f)(2)(B);
 - (5) Charitable lead annuity trusts qualifying under 26 U.S.C. 170(f)(2)(B);
 - (6) Charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
 - (7) Deferred charitable gift annuities undertaken pursuant to 26 U.S.C. 1011(b);
 - (8) Charitable life estate agreements qualifying under 26 U.S.C. 170(f)(3)(B); or

(9) Paid-up life insurance policies meeting the requirements of 26 U.S.C. 170.

"Planned gift" does not include a charitable gift using a charitable remainder unitrust or charitable remainder annuity trust unless the agreement provides that the trust may not terminate and beneficiaries' interest in the trust may not be assigned or contributed to the qualified nonprofit organization or qualified endowment sooner than the earlier of the date of death of the beneficiaries or five years from the date of the planned gift.

"Planned gift" does not include a deferred charitable gift annuity unless the payment of the annuity is required to begin within the life expectancy of the annuitant or of the joint life expectancies of the annuitants, if more than one annuitant, as determined using the actuarial tables used by the internal revenue service in determining federal charitable income tax deductions on the date of the planned gift.

"Planned gift" does not include a charitable gift annuity or deferred charitable gift annuity unless the annuity agreement provides that the interest of the annuitant or annuitants in the gift annuity may not be assigned to the qualified nonprofit organization or qualified endowment sooner than the earlier of the date of death of the annuitant or annuitants or five years after the date of the planned gift.

"Planned gift" does not include a charitable gift annuity or deferred charitable gift annuity unless the annuity is a qualified charitable gift annuity for federal income tax purposes.

c. "Qualified endowment" means a permanent, irrevocable fund held by a:

(1) A North Dakota incorporated or established organization that is:

(1)(a) A qualified nonprofit organization; or

(1)(b) A bank or trust company holding the fund on behalf of a qualified nonprofit organization; or

(2) An organization incorporated or established in a state bordering North Dakota that is:

(a) A tax-exempt organization under 26 U.S.C. 501(c) to which contributions qualify for federal charitable income tax deductions which was incorporated or established for the support and benefit of a hospital, nursing home, or medical center, or a facility providing any combination of those services, which is located outside North Dakota but within five miles of a North Dakota city of five thousand or more population in which there is no hospital; or

(b) A bank or trust company holding the fund on behalf of an organization that meets the conditions of subparagraph a.

d. "Qualified nonprofit organization" means a North Dakota incorporated or established tax-exempt organization under 26 U.S.C. 501(c) to which

contributions qualify for federal charitable income tax deductions with an established business presence or situs in North Dakota.

2. a. An individual is allowed a tax credit against the tax imposed by section 57-38-30.3 in an amount equal to forty percent of the present value of the aggregate amount of the charitable gift portion of planned gifts made by the taxpayer during the taxable year to a qualified nonprofit organization or qualified endowment. The maximum credit that may be claimed under this subsection for planned gifts made in a taxable year is ten thousand dollars for an individual, or twenty thousand dollars for married individuals filing a joint return. The credit allowed under this section may not exceed the taxpayer's income tax liability.
 - b. An individual is allowed a tax credit against the tax imposed by section 57-38-30.3 for making a charitable gift to a qualified endowment. The credit is equal to forty percent of the charitable gift. If an individual makes a single charitable gift to a qualified endowment, the charitable gift must be five thousand dollars or more to qualify for the credit. If an individual makes more than one charitable gift to the same qualified endowment, the aggregate amount of the charitable gifts made to that qualified endowment must be five thousand dollars or more to qualify for the credit. The maximum credit that may be claimed under this subsection for charitable gifts made in a taxable year is ten thousand dollars for an individual or twenty thousand dollars for married individuals filing a joint return. The tax credit allowed under this section may not exceed the taxpayer's income tax liability.
3. A corporation is allowed a tax credit against the tax imposed by section 57-38-30 in an amount equal to forty percent of a charitable gift to a qualified endowment. The maximum credit that may be claimed by a corporation under this subsection for charitable gifts made in a taxable year is ten thousand dollars. The credit allowed under this section may not exceed the corporate taxpayer's income tax liability.
4. An estate or trust is allowed a tax credit in an amount equal to forty percent of a charitable gift to a qualified endowment. The maximum credit that may be claimed under this subsection for charitable gifts made in a taxable year is ten thousand dollars. The allowable credit must be apportioned to the estate or trust and to its beneficiaries on the basis of the income of the estate or trust allocable to each, and the beneficiaries may claim their share of the credit against the tax imposed by section 57-38-30 or 57-38-30.3. A beneficiary may claim the credit only in the beneficiary's taxable year in which the taxable year of the estate or trust ends. Subsections 6 and 7 apply to the estate or trust and its beneficiaries with respect to their respective shares of the apportioned credit.
5. A passthrough entity is entitled to a credit in an amount equal to forty percent of a charitable gift to a qualified endowment by the entity during the taxable year. The maximum credit that may be claimed by the entity under this subsection for charitable gifts made in a taxable year is ten thousand dollars. The credit determined at the entity level must be passed through to the partners, shareholders, or members in the same proportion that the charitable contributions attributable to the charitable gifts under this section are distributed to the partners, shareholders, or members. The partner, shareholder, or member may claim the credit only in the partner's,

shareholder's, or member's taxable year in which the taxable year of the passthrough entity ends. Subsections 6 and 7 apply to the partner, shareholder, or member.

6. The amount of the charitable gift upon which an allowable credit is computed must be added to federal taxable income in computing North Dakota taxable income in any taxable year in which the charitable gift reduces federal taxable income, but only to the extent that the charitable gift reduced federal taxable income.
7. The unused portion of a credit under this section may be carried forward for up to three taxable years.
8. If a charitable gift for which a credit was claimed is recovered by the taxpayer, an amount equal to the credit claimed in all taxable years must be added to the tax due on the income tax return filed for the taxable year in which the recovery occurs. For purposes of subsection 4, this subsection applies if the estate or trust recovers the charitable gift and the estate or trust and its beneficiaries are liable for the additional tax due with respect to their respective shares of the apportioned credit. For purposes of subsection 5, this subsection applies if the partnership, subchapter S corporation, or limited liability company recovers the charitable gift, and the partner, shareholder, or member is liable for the additional tax due.
9. A charitable gift used as the basis for a credit claimed under this section may not be used as the basis for the claim of a credit under any other provision of this chapter.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2014.

Approved March 18, 2015

Filed March 18, 2015

CHAPTER 445

SENATE BILL NO. 2340

(Senators Campbell, Robinson, Sorvaag)
(Representatives Keiser, Mock, Steiner)

AN ACT to amend and reenact section 57-38-01.33 and subdivision r of subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to an income tax credit for purchases of manufacturing machinery and equipment for automating manufacturing processes; to provide a statement of legislative intent; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-01.33 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.33. (Effective for the first three taxable years beginning after December 31, 20122014) Income tax credit for purchases of manufacturing machinery and equipment for the purpose of automating manufacturing processes.

1. A taxpayer that is a primary sector business is allowed a nonrefundable credit against the tax imposed under section 57-38-30 or 57-38-30.3 for purchases of manufacturing machinery and equipment for the purpose of automating manufacturing processes in this state. The amount of the credit under this section is twenty percent of the ~~costs incurred in the taxable year to purchase~~cost of the manufacturing machinery and equipment for the purpose of automating manufacturing processes ~~purchased in the taxable year.~~ Qualified expenditures under this section may not be used in the calculation of any other income tax deduction or credit allowed ~~by law~~under this chapter.
2. For purposes of this section:
 - a. "Manufacturing machinery and equipment for the purpose of automating manufacturing processes" means new or used automation and robotic equipment.
 - b. "Primary sector business" means a business certified by the department of commerce which, through the employment of knowledge or labor, adds value to a product, process, or service that results in the creation of new wealth.
 - c. "Purchase" includes manufacturing machinery and equipment acquired under a capital lease only for the taxable year in which the lease is executed. A capital lease is a lease which meets generally accepted accounting principles. The qualifying costs of the equipment acquired under a capital lease is the fair market value of the equipment at the inception of the lease.
3. The taxpayer shall claim the total credit amount for the taxable year in which the manufacturing machinery and equipment are purchased. The credit under

this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year.

4. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.
5. ~~For the 2015 calendar year, the aggregate amount of credits allowed under this section may not exceed two million dollars in any calendar year. Credits subject to this limitation must be determined based upon the date of the qualified purchase.~~ For the 2016 and 2017 calendar years, the aggregate amount of credits allowed each calendar year may not exceed five hundred thousand dollars. However, if the maximum amount of allowed credits are not claimed in any calendar year, any remaining unclaimed credits may be carried forward and made available in the next succeeding calendar year. If the aggregate amount of credits claimed under this section exceeds the amount available in a calendar year, the tax commissioner shall prorate the credits among the claimants.
6. If a taxpayer entitled to the credit provided by this section is a member of a group of corporations filing a North Dakota consolidated tax return using the combined reporting method, the credit may be claimed against the aggregate North Dakota tax liability of all the corporations included in the North Dakota consolidated return.
7. A passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of calculating the credit. The amount of the allowable credit must be determined at the passthrough entity level. The total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity. An individual taxpayer may take the credit passed through under this subsection against the individual's state income tax liability under section 57-38-30.3.
8. The department of commerce shall provide the tax commissioner the name, address, and federal identification number or social security number of the taxpayer approved as qualifying for the credit under this section, and a list of those items that were approved as a qualified expenditure by the department. The taxpayer claiming the credit shall file with the taxpayer's return, on forms prescribed by the tax commissioner, the following information:
 - a. The name, address, and federal identification number or social security number of the taxpayer who made the purchase; and
 - b. An itemization of:
 - (1) Each item of machinery or equipment purchased for automation;
 - (2) The amount paid for each item of machinery or equipment if the amount paid for the machinery or equipment is being used as a basis for calculating the credit; and
 - (3) The date on which payment for the purchase was made.

9. Notwithstanding the time limitations contained in section 57-38-38, this section does not prohibit the tax commissioner from conducting an examination of the credit claimed and assessing additional tax due under section 57-38-38.

²²¹ **SECTION 2. AMENDMENT.** Subdivision r of subsection 7 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

- r. Automating manufacturing processes tax credit under section 57-38-01.33 (effective for the first ~~three~~five taxable years beginning after December 31, 2012).

SECTION 3. LEGISLATIVE INTENT REGARDING AUTOMATING MANUFACTURING PROCESSES CREDIT. It is the intent of the sixty-fourth legislative assembly that the income tax credit for purchases of manufacturing machinery and equipment for automating manufacturing processes be one of the economic development tax incentives selected for analysis during the 2015-16 interim by the legislative management interim committee assigned the study responsibility under subsection 3 of section 1 of Senate Bill No. 2057, as approved by the sixty-fourth legislative assembly.

SECTION 4. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for the first three taxable years after December 31, 2014, and is thereafter ineffective.

Approved April 28, 2015
Filed April 28, 2015

²²¹ Section 57-38-30.3 was also amended by section 2 of House Bill No. 1462, chapter 448, and section 2 of Senate Bill No. 2349, chapter 447.

CHAPTER 446

SENATE BILL NO. 2292

(Senator Cook)

AN ACT to amend and reenact subsection 5 of section 57-38-04 and sections 57-38.1-09, 57-59-01, 57-59-05, 57-59-06, and 57-59-08 of the North Dakota Century Code, relating to apportionment of business income and the multistate tax compact; to repeal section 57-59-02 of the North Dakota Century Code, relating to the optional computation provision of the multistate tax compact; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 57-38-04 of the North Dakota Century Code is amended and reenacted as follows:

5. Whenever business activity is carried on partly within and partly without this state by a nonresident of this state as a sole proprietorship, or through a partnership, subchapter S corporation, or other passthrough entity, the entire income therefrom must be allocated to this state and to other states, according to the provisions of chapter 57-38.1 but only according to the apportionment method provided under subsection 1 of section 57-38.1-09, providing for allocation and apportionment of income of corporations doing business within and without this state.

SECTION 2. AMENDMENT. Section 57-38.1-09 of the North Dakota Century Code is amended and reenacted as follows:

57-38.1-09. Business income.

1. ~~All~~Except as permitted under subsections 2 through 4, all business income must be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.
2. For the first two taxable years beginning after December 31, 2015, a taxpayer that is not a passthrough entity may elect to apportion business income to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus two times the sales factor, and the denominator of which is four.
 - a. The election must be made on the return as originally and timely filed in the form and manner prescribed by the tax commissioner.
 - b. The election is applicable for all companies in a unitary group and for all companies filing a consolidated North Dakota return.
 - c. The election is binding for five consecutive taxable years after making the election, at which time the election lapses. The election under this subsection also includes the election to use the sales factor under subsections 3 and 4 for the taxable years those subsections apply.

- d. Unless a taxpayer makes another election under subsection 4 in the taxable year immediately following the final year of the binding effect of the election under this subsection, the taxpayer must file under subsection 1 for a period of three taxable years before it may make a new election under subsection 4.
3. For the first taxable year beginning after December 31, 2017, a taxpayer that is not a passthrough entity may elect to apportion business income to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus six times the sales factor, and the denominator of which is eight.
 - a. The election must be made on the return as originally and timely filed in the form and manner prescribed by the tax commissioner.
 - b. The election is applicable for all companies in a unitary group and for all companies filing a consolidated North Dakota return.
 - c. The election is binding for five consecutive taxable years after making the election, at which time the election lapses. The election under this subsection also includes the election to use the sales factor under subsection 4 for the taxable years that subsection applies.
 - d. Unless a taxpayer makes another election under subsection 4 in the taxable year immediately following the final year of the binding effect of the election under this subsection, the taxpayer must file under subsection 1 for a period of three taxable years before it may make a new election under subsection 4.
4. For taxable years beginning after December 31, 2018, a taxpayer that is not a passthrough entity may elect to apportion business income to this state by multiplying the income by the sales factor. A taxpayer electing to file using a single sales factor must comply with the following:
 - a. The election must be made on the return as originally and timely filed in the form and manner prescribed by the tax commissioner.
 - b. The election is applicable for all companies in a unitary group and for all companies filing a consolidated North Dakota return.
 - c. The election is binding for five consecutive taxable years after making the election, at which time the election lapses.
 - d. Unless a taxpayer makes another election under this subsection in the taxable year immediately following the final year of a prior single sales factor election, the taxpayer must file under subsection 1 for a period of three taxable years before it may make a new single sales factor election.

SECTION 3. AMENDMENT. Section 57-59-01 of the North Dakota Century Code is amended and reenacted as follows:

57-59-01. Multistate tax compact.

The multistate tax compact is hereby entered into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

MULTISTATE TAX COMPACT

ARTICLE I - PURPOSES

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

ARTICLE II - DEFINITIONS

As used in this compact:

1. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.
2. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.
3. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.
4. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.
5. "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.
6. "Subdivision" means any governmental unit or special district of a state.
7. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of ~~articles III, IV, and V~~ article III, IV, and V of this compact shall apply only to the taxes specifically designated therein and ~~the provisions of article IX of this compact shall apply only in respect to determinations pursuant to article IV.~~

8. "Taxpayer" means any corporation, partnership, firm, association, governmental unit, or agency or person acting as a business entity in more than one state.
9. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession, or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property, and (b) is complementary to a sales tax.

ARTICLE III - ELEMENTS OF INCOME TAX LAWS

Taxpayer Option, State and Local Taxes

1. ~~Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate the taxpayer's income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this subsection, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.~~

Taxpayer Option, Short Form

2. ~~Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of one hundred thousand dollars may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The multistate tax commission, not more than once in five years, may adjust the one hundred thousand dollar figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall replace the one hundred thousand dollar figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this subsection.~~

Coverage

3. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

ARTICLE IV – DIVISION OF INCOME

1. As used in this article, unless the context otherwise requires:
 - (a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.
 - (b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.
 - (c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.
 - (d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.
 - (e) "Nonbusiness income" means all income other than business income.
 - (f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water, or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state, or local government or governmental agency.
 - (g) "Sales" means all gross receipts of the taxpayer not allocated under subsections of this article.
 - (h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.
 - (i) "This state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.
2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion that taxpayer's net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of the taxpayer's income from activities subject to this article, the taxpayer may elect to allocate and apportion the taxpayer's entire net income as provided in this article.
3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if (a) in that state the taxpayer is subject to

a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (b) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. ~~Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections 5 through 8 of this article.~~
5. (a) ~~Net rents and royalties from real property located in this state are allocable to this state.~~
 - (b) ~~Net rents and royalties from tangible personal property are allocable to this state: (1) if and to the extent that the property is utilized in this state, or (2) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.~~
 - (c) ~~The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.~~
6. (a) ~~Capital gains and losses from sales of real property located in this state are allocable to this state.~~
 - (b) ~~Capital gains and losses from sales of tangible personal property are allocable to this state if (1) the property had a situs in this state at the time of the sale, or (2) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.~~
 - (c) ~~Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.~~
7. ~~Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.~~
8. (a) ~~Patent and copyright royalties are allocable to this state: (1) if and to the extent that the patent or copyright is utilized by the payer in this state, or (2) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.~~
 - (b) ~~A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the~~

- accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.
- (c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.
9. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.
10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.
11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.
12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.
13. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.
14. Compensation is paid in this state if:
- (a) The individual's service is performed entirely within the state;
 - (b) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
 - (c) Some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.
15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.
16. Sales of tangible personal property are in this state if:

- (a) ~~The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or~~
 - (b) ~~The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government, or (2) the taxpayer is not taxable in the state of the purchaser.~~
17. ~~Sales, other than sales of tangible personal property, are in this state if:~~
- (a) ~~The income-producing activity is performed in this state; or~~
 - (b) ~~The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.~~
18. ~~If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:~~
- (a) ~~Separate accounting;~~
 - (b) ~~The exclusion of any one or more of the factors;~~
 - (c) ~~The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or~~
 - (d) ~~The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.~~

ARTICLE V - ELEMENTS OF SALES AND USE TAX LAWS

Tax Credit

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by the purchaser with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

Exemption Certificates, Vendors May Rely

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

ARTICLE VIIV - THE COMMISSION

Organization and Management

1. (a) The multistate tax commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or the attorney general's designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under subdivision e of subsection 1 of this article.
- (b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.
- (c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.
- (d) The commission shall adopt an official seal to be used as it may provide.
- (e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular, and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.
- (f) The commission shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix the executive director's duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.
- (g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.
- (h) The commission may borrow, accept, or contract for the services of personnel from any state, the United States, or any other governmental entity.
- (i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials, and

services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

- (j) The commission may establish one or more offices for the transacting of its business.
- (k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.
- (l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

Committees

- 2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice chairman, treasurer, and four other members elected annually by the commission. The executive committee subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.
- (b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.
- (c) The commission may establish such additional committees as its bylaws may provide.

Powers

- 3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:
 - (a) Study state and local tax systems and particular types of state and local taxes.
 - (b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.
 - (c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

- (d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

Finance

- 4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.
- (b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, and sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this subsection.
- (c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under subdivision i of subsection 1 of this article; provided, that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under subdivision i of subsection 1, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.
- (d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.
- (e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.
- (f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE VIII - UNIFORM REGULATIONS AND FORMS

- 1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, the commission may adopt uniform regulations for any phase of the administration of such law,

including assertion of jurisdiction to tax, or prescribing uniform tax forms. ~~The commission may also act with respect to the provisions of article IV of this compact.~~

2. Prior to the adoption of any regulation, the commission shall:
 - (a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.
 - (b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.
3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

ARTICLE VIII - INTERSTATE AUDITS

1. This article shall be in force only in those party states that specifically provide therefor by statute.
2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records, or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.
3. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property, or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, the person may be required to attend for such purpose at any time and place fixed by the commission within the state of which the person is a resident; provided, that such state has adopted this article.
4. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in

which the object of the order being sought is situated. The provisions of this subsection apply only to courts in a state that has adopted this article.

5. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.
6. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions, or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.
7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.
8. In no event shall the commission make any charge against a taxpayer for an audit.
9. As used in this article, "tax", in addition to the meaning ascribed to it in article II, means any tax or license fee imposed in whole or in part for revenue purposes.

ARTICLE IX – ARBITRATION

1. ~~Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of article VII.~~
2. ~~The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.~~
3. ~~Whenever a taxpayer who has elected to employ article IV, or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if the taxpayer is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject the taxpayer to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.~~

- ~~4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this subsection shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if that member is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this subsection.~~
- ~~5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence, or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.~~
- ~~6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.~~
- ~~7. The board shall have power to administer oaths, take testimony, subpoena, and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this subsection apply only in states that have adopted this article.~~
- ~~8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless that person is required on account of that person's service to forego the regular compensation attaching to that person's public employment, but any such board member shall be entitled to expenses.~~
- ~~9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.~~
- ~~10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.~~

- ~~11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.~~
- ~~12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.~~
- ~~13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.~~

ARTICLE ~~XVII~~ - ENTRY INTO FORCE AND WITHDRAWAL

1. This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.
2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.
- ~~3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.~~

ARTICLE ~~XVIII~~ - EFFECT ON OTHER LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

1. Affect the power of any state or subdivision thereof to fix rates of taxation, ~~except that a party state shall be obligated to implement subsection 2 of article III of this compact.~~
2. Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax; provided, that the definition of "tax" in subsection 9 of article ~~VI~~ may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to subsection 3 of article ~~VI~~ may apply.
3. Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation, ~~limited liability company~~, or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.
4. Supersede or limit the jurisdiction of any court of the United States.

ARTICLE ~~XIX~~ - CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government,

agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

SECTION 4. AMENDMENT. Section 57-59-05 of the North Dakota Century Code is amended and reenacted as follows:

57-59-05. Legal counsel.

The chief counsel of the state tax department or the chief counsel's designee shall attend the meetings of the multistate tax commission as the legal counsel representing the state of North Dakota as provided for by subdivision a of subsection 1 of article VI of section 57-59-01.

SECTION 5. AMENDMENT. Section 57-59-06 of the North Dakota Century Code is amended and reenacted as follows:

57-59-06. Selection of representatives to meet with commission member.

The state tax commissioner shall appoint two persons who are representatives of subdivisions affected or likely to be affected by the multistate tax compact from among persons nominated by the association of counties and league of cities. The state tax commissioner, and any alternate designated by the state tax commissioner, shall consult with these appointees, in accordance with subdivision b of subsection 1 of article VI of section 57-59-01. The state tax commissioner shall also consult regularly with the chairman and ranking minority party member of the finance and taxation committees of the senate and house of representatives as provided for in subdivision b of subsection 2 of article VI of section 57-59-01.

SECTION 6. AMENDMENT. Section 57-59-08 of the North Dakota Century Code is amended and reenacted as follows:

57-59-08. Interaudits.

Article VII of the multistate tax compact relating to interaudits shall be in force in and with respect to the state of North Dakota.

SECTION 7. REPEAL. Section 57-59-02 of the North Dakota Century Code is repealed.

SECTION 8. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2014.

Approved April 20, 2015
Filed April 20, 2015

CHAPTER 447

SENATE BILL NO. 2349

(Senators Laffen, Bekkedahl, Murphy, Poolman)
(Representatives Rich S. Becker, Strinden)

AN ACT to amend and reenact section 57-38-30 and subsection 1 of section 57-38-30.3; of the North Dakota Century Code, relating to reduction of the individual and corporation income tax rates; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-30. Imposition and rate of tax on corporations.

A tax is hereby imposed upon the taxable income of every domestic and foreign corporation which must be levied, collected, and paid annually as in this chapter provided:

1. For the first twenty-five thousand dollars of taxable income, at the rate of one and ~~forty-eight~~forty-one hundredths percent.
2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of three and ~~seventy-three~~fifty-five hundredths percent.
3. On all taxable income exceeding fifty thousand dollars, at the rate of four and ~~fifty-three~~thirty-one hundredths percent.

²²² **SECTION 2. AMENDMENT.** Subsection 1 of section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A tax is hereby imposed for each taxable year upon income earned or received in that taxable year by every resident and nonresident individual, estate, and trust. A taxpayer computing the tax under this section is only eligible for those adjustments or credits that are specifically provided for in this section. Provided, that for purposes of this section, any person required to file a state income tax return under this chapter, but who has not computed a federal taxable income figure, shall compute a federal taxable income figure using a pro forma return in order to determine a federal taxable income figure to be used as a starting point in computing state income tax under this section. The tax for individuals is equal to North Dakota taxable income multiplied by the rates in the applicable rate schedule in subdivisions a through d corresponding to an individual's filing status used for federal income tax purposes. For an estate or trust, the schedule in subdivision e must be used for purposes of this subsection.

²²² Section 57-38-30.3 was also amended by section 2 of House Bill No. 1462, chapter 448, and section 2 of Senate Bill No. 2340, chapter 445.

a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$36,250	1.22%	\$0
\$36,250	\$87,850	\$442.25 + 2.27%	\$36,250
\$87,850	\$183,250	\$1,613.57 + 2.52%	\$87,850
\$183,250	\$398,350	\$4,017.65 + 2.93%	\$183,250
\$398,350		\$10,320.08 + 3.22%	\$398,350
\$0	\$37,450	1.10%	\$0
\$37,450	\$90,750	\$411.95 + 2.04%	\$37,450
\$90,750	\$189,300	\$1,499.27 + 2.27%	\$90,750
\$189,300	\$411,500	\$3,736.36 + 2.64%	\$189,300
\$411,500		\$9,602.44 + 2.90%	\$411,500

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$60,650	1.22%	\$0
\$60,650	\$146,400	\$739.93 + 2.27%	\$60,650
\$146,400	\$223,050	\$2,686.46 + 2.52%	\$146,400
\$223,050	\$398,350	\$4,618.04 + 2.93%	\$223,050
\$398,350		\$9,754.33 + 3.22%	\$398,350
\$0	\$62,600	1.10%	\$0
\$62,600	\$151,200	\$688.60 + 2.04%	\$62,600
\$151,200	\$230,450	\$2,496.04 + 2.27%	\$151,200
\$230,450	\$411,500	\$4,295.02 + 2.64%	\$230,450
\$411,500		\$9,074.74 + 2.90%	\$411,500

c. Married filing separately.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$30,325	1.22%	\$0
\$30,325	\$73,200	\$369.97 + 2.27%	\$30,325
\$73,200	\$111,525	\$1,343.23 + 2.52%	\$73,200
\$111,525	\$199,175	\$2,309.02 + 2.93%	\$111,525
\$199,175		\$4,877.17 + 3.22%	\$199,175
\$0	\$31,300	1.10%	\$0
\$31,300	\$75,600	\$344.30 + 2.04%	\$31,300
\$75,600	\$115,225	\$1,248.02 + 2.27%	\$75,600
\$115,225	\$205,750	\$2,147.51 + 2.64%	\$115,225
\$205,750		\$4,537.37 + 2.90%	\$205,750

d. Head of household.

If North Dakota taxable income is:

Over	Not over	The tax is equal to	Of amount over
\$0	\$48,600	1.22%	\$0
\$48,600	\$125,450	\$592.92 + 2.27%	\$48,600
\$125,450	\$203,150	\$2,337.42 + 2.52%	\$125,450
\$203,150	\$398,350	\$4,295.46 + 2.93%	\$203,150
\$398,350		\$10,014.82 + 3.22%	\$398,350
\$0	\$50,200	1.10%	\$0
\$50,200	\$129,600	\$552.20 + 2.04%	\$50,200

<u>\$129,600</u>	<u>\$209,850</u>	<u>\$2,171.96 + 2.27%</u>	<u>\$129,600</u>
<u>\$209,850</u>	<u>\$411,500</u>	<u>\$3,993.64 + 2.64%</u>	<u>\$209,850</u>
<u>\$411,500</u>		<u>\$9,317.20 + 2.90%</u>	<u>\$411,500</u>

e. Estates and trusts.

If North Dakota taxable income is:			
Over	Not over	The tax is equal to	Of amount over
\$0	\$2,450	1.22%	\$0
\$2,450	\$5,700	\$29.89 plus 2.27%	\$2,450
\$5,700	\$8,750	\$103.67 plus 2.52%	\$5,700
\$8,750	\$11,950	\$180.53 plus 2.93%	\$8,750
\$11,950		\$274.29 plus 3.22%	\$11,950
\$0	\$2,500	1.10%	\$0
<u>\$2,500</u>	<u>\$5,900</u>	<u>\$27.50 + 2.04%</u>	<u>\$2,500</u>
<u>\$5,900</u>	<u>\$9,050</u>	<u>\$96.86 + 2.27%</u>	<u>\$5,900</u>
<u>\$9,050</u>	<u>\$12,300</u>	<u>\$168.37 + 2.64%</u>	<u>\$9,050</u>
<u>\$12,300</u>		<u>\$254.17 + 2.90%</u>	<u>\$12,300</u>

f. For an individual who is not a resident of this state for the entire year, or for a nonresident estate or trust, the tax is equal to the tax otherwise computed under this subsection multiplied by a fraction in which:

- (1) The numerator is the federal adjusted gross income allocable and apportionable to this state; and
- (2) The denominator is the federal adjusted gross income from all sources reduced by the net income from the amounts specified in subdivisions a and b of subsection 2.

In the case of married individuals filing a joint return, if one spouse is a resident of this state for the entire year and the other spouse is a nonresident for part or all of the tax year, the tax on the joint return must be computed under this subdivision.

- g. The tax commissioner shall prescribe new rate schedules that apply in lieu of the schedules set forth in subdivisions a through e. The new schedules must be determined by increasing the minimum and maximum dollar amounts for each income bracket for which a tax is imposed by the cost-of-living adjustment for the taxable year as determined by the secretary of the United States treasury for purposes of section 1(f) of the United States Internal Revenue Code of 1954, as amended. For this purpose, the rate applicable to each income bracket may not be changed, and the manner of applying the cost-of-living adjustment must be the same as that used for adjusting the income brackets for federal income tax purposes.
- h. The tax commissioner shall prescribe an optional simplified method of computing tax under this section that may be used by an individual taxpayer who is not entitled to claim an adjustment under subsection 2 or credit against income tax liability under subsection 7.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2014.

Approved April 23, 2015

Filed April 23, 2015

CHAPTER 448

HOUSE BILL NO. 1462

(Representative Dosch)

AN ACT to create and enact a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to income tax credits for charitable contributions to private education institutions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²³ **SECTION 1. AMENDMENT.** Section 57-38-01.7 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.7. Income tax credit for charitable contributions - Limitation.

1. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the ~~corporation's~~taxpayer's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.
2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state. The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the ~~corporation's~~taxpayer's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.
3. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a nonrefundable credit against the income tax liability under section 57-38-30 or, in the case of contributions by a passthrough entity, under section 57-38-30.3 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable

²²³ Section 57-38-01.7 was also amended by section 31 of Senate Bill No. 2015, chapter 49.

contributions made by the taxpayer during the year directly to nonprofit private institutions of primary education, located within the state.

4. A passthrough entity entitled to a credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.
5. For purposes of this section, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through the twelfth grades. The term "nonprofit private institution of primary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in kindergarten through eighth grade.
- 4-6. For purposes of this section, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed in section 57-38-34 for filing the return for that taxable year, including extensions granted by the commissioner.

²²⁴ **SECTION 2.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Income tax credit for passthrough entity contributions to private education institutions under section 1 of this Act.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2014.

Approved April 9, 2015
Filed April 9, 2015

²²⁴ Section 57-38-30.3 was also amended by section 2 of Senate Bill No. 2340, chapter 445, and section 2 of Senate Bill No. 2349, chapter 447.

CHAPTER 449

SENATE BILL NO. 2069

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact subsection 2 of section 57-38-59.4 of the North Dakota Century Code, relating to the tax base and rate of withholding for recipients of oil and gas royalty payments; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 57-38-59.4 of the North Dakota Century Code is amended and reenacted as follows:

2. Except as provided in subsection 3, each remitter shall deduct and withhold from the ~~net~~gross amount of the royalty payment made to each nonresident individual or business entity that does not have its commercial domicile in this state at the highest marginal rate provided in ~~sections 57-38-30 and section 57-38-30.3~~ minus three-fourths of one percent. Sections 57-38-59 and 57-38-60 apply to the filing of the returns and payment of the tax under this subsection.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2015.

Approved March 19, 2015
Filed March 19, 2015

CHAPTER 450

SENATE BILL NO. 2096

(Senators Cook, Armstrong, Flakoll)
(Representatives Louser, Streytle, Headland)

AN ACT to amend and reenact subsections 21, 22, and 23 of section 57-39.2-01 and subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code, relating to elimination of sales taxes on sale of internet access services; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 21, 22, and 23 of section 57-39.2-01 of the North Dakota Century Code are amended and reenacted as follows:

21. "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrental. "Retail sale" or "sale at retail" includes the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, and communication service, excluding internet access service, to retail consumers or users; the sale of vulcanizing, recapping, and retreading services for tires; the ordering, selecting, or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, tickets, or admissions to any place of amusement, athletic event, or place of entertainment; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property, including containers which it is intended, by means of fabrication, compounding, manufacturing, producing, or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property must be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated in another state may not be considered a taxable sale if such delivery of possession would not be treated as a taxable sale in that state. As used in this subsection, the word "consumer" includes any hospital, infirmary, sanatorium, nursing home, home for the aged, or similar institution that furnishes services to any patient or occupant. The sale of an item of tangible personal property to a person under a finance leasing agreement over the term of which the property will be substantially consumed must be considered a retail sale if the purchaser elects to treat it as such by paying or causing the transferor to pay the sales tax thereon to the commissioner on or before the last day on which payments may be made without penalty as provided in section 57-39.2-12.

22. "Retailer" or "seller" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, and communication services, excluding internet access service, or tickets or admissions to places of amusement, entertainment, and athletic events, or magazines or other periodicals; and includes any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter, retailer shall also include every clerk, auctioneer, agent, or factor selling tangible personal property owned by any other retailer. A retailer also includes every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication system.
23. "Sale" means any transfer of title or possession, exchange or barter, conditional or otherwise, in any manner or by any means whatever, for a consideration, and includes the furnishing or service of steam, gas, or communication, excluding internet access service, the furnishing of hotel, motel, or tourist court accommodations, the furnishing of tickets or admissions to any place of amusement, athletic event, or place of entertainment, and sales of magazines and other periodicals. Provided, the words "magazines and other periodicals" as used in this subsection do not include newspapers nor magazines or periodicals that are furnished free by a nonprofit corporation or organization to its members or because of payment by its members of membership fees or dues.

SECTION 2. AMENDMENT. Subsection 1 of section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise expressly provided in this chapter, there is imposed a tax of five percent upon the gross receipts of retailers from all sales at retail, including the leasing or renting of tangible personal property as provided in this section, within this state of the following to consumers or users:
 - a. Tangible personal property, consisting of goods, wares, or merchandise, and bundled transactions consisting entirely of tangible personal property.
 - b. The furnishing or service of communication services, excluding internet access service but including one-way and two-way telecommunications services or steam other than steam used for processing agricultural products.

- c. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participation in an amusement, entertainment, or athletic activity.
- d. Magazines and other periodicals.
- e. The leasing or renting of a hotel or motel room or tourist court accommodations.
- f. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under chapter 57-40.2.
- g. Sale, lease, or rental of a computer and prewritten computer software, including prewritten computer software delivered electronically or by load and leave. For purposes of this subdivision:
 - (1) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.
 - (2) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.
 - (3) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.
 - (4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
 - (5) "Load and leave" means delivery to the purchaser by use of a tangible storage media when the tangible storage media is not physically transferred to the purchaser.
 - (6) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions thereof does not cause the combination to be other than "prewritten computer software". "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances "computer software" of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion thereof that is modified or enhanced to any degree, if such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software". However, if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute "prewritten computer software".

- h. A mandatory computer software maintenance contract for prewritten computer software.
- i. An optional computer software maintenance contract for prewritten computer software that provides only software upgrades or updates or an optional computer software maintenance contract for prewritten computer software that is a bundled transaction and provides software upgrades or updates and support services.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2017.

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 451

HOUSE BILL NO. 1319

(Representatives Beadle, Dockter, Hawken, Owens, Sanford, Thoreson)
(Senators Holmberg, Krebsbach)

AN ACT to amend and reenact subsection 4 of section 57-39.2-04 of the North Dakota Century Code, relating to the sales tax exemption for purchases of tickets or admissions to athletic, musical, or dramatic events of institutions of higher education; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁵ **SECTION 1. AMENDMENT.** Subsection 4 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

4. a. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs.
- b. Gross receipts from educational, religious, or charitable activities when the entire amount of net receipts is expended for educational, religious, or charitable purposes. The exemption specified in this subsection ~~subdivision~~ subdivision does not apply to:
 - (1) Gross receipts from taxable sales in excess of ten thousand dollars perfor an event if the activities are held in a publicly owned facility which is not an event otherwise exempt under subdivision c, d, or e; or
 - (2) Gross receipts from activities if the seller competes with retailers by maintaining inventory, conducting retail sales on a regular basis from a permanent or seasonal location, or soliciting sales from a website prepared for or maintained by the seller.
- c. Gross receipts derived by an institution of higher education located in this state from tickets or admissions to athletic, musical, dramatic, or scholastic events held, sponsored, hosted, or controlled by the institution of higher education, in which the primary performers or participants consist of students of an institution of higher education.
- d. Gross receipts derived by any public school district if such receipts are expended in accordance with section 15.1-07-10 or 15.1-07-11.
- ~~d.e.~~ Gross receipts of a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2015.

Approved April 9, 2015
Filed April 9, 2015

²²⁵ Section 57-39.2-04 was also amended by section 1 of House Bill No. 1110, chapter 452, and section 1 of Senate Bill No. 2036, chapter 453.

CHAPTER 452

HOUSE BILL NO. 1110

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact subsection 28 of section 57-39.2-04 and subsection 14 of section 57-40.2-04 of the North Dakota Century Code, relating to statements when tax has been paid on a transaction; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁶ **SECTION 1. AMENDMENT.** Subsection 28 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

28. Gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable and the retailer has separately indicated on an invoice, contract, lease agreement, or other supporting sale document that the retailer paid sales or use tax on the retailer's purchase of the tangible personal property.

SECTION 2. AMENDMENT. Subsection 14 of section 57-40.2-04 of the North Dakota Century Code is amended and reenacted as follows:

14. The leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid ~~pursuant to~~under the election of the purchaser ~~pursuant to~~under subsection 21 of section 57-39.2-01 or subsection 5 of section 57-40.2-01 and the retailer has separately indicated on an invoice, contract, lease agreement, or other supporting sale document that the retailer paid sales or use tax on the retailer's purchase of the tangible personal property.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2015.

Approved March 26, 2015

Filed March 26, 2015

²²⁶ Section 57-39.2-04 was also amended by section 1 of House Bill No. 1319, chapter 451, and section 1 of Senate Bill No. 2036, chapter 453.

CHAPTER 453

SENATE BILL NO. 2036

(Legislative Management)
(Energy Development and Transmission Committee)

AN ACT to amend and reenact sections 57-39.2-04, 57-39.2-04.2, 57-40.2-04.2, 57-60-02, and 57-61-01.4 of the North Dakota Century Code, relating to the sales and use tax exemption for beneficiated coal and equipment for certain power plants, an exemption from the coal conversion facility privilege tax for beneficiated coal produced for use within a coal conversion facility, and the severance and sales and use tax exemption for coal used in certain plants; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁷ **SECTION 1. AMENDMENT.** Section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04. (~~Effective through June 30, 2015~~) Exemptions.

There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of North Dakota.
2. Gross receipts from the sales, furnishing, or service of passenger transportation service and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier.
3. Repealed by S.L. 1971, ch. 567, § 1.
4. a. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs.
b. Gross receipts from educational, religious, or charitable activities when the entire amount of net receipts is expended for educational, religious, or charitable purposes. The exemption specified in this subsection does not apply to:
 - (1) Gross receipts from taxable sales in excess of ten thousand dollars per event if the activities are held in a publicly owned facility; or
 - (2) Gross receipts from activities if the seller competes with retailers by maintaining inventory, conducting retail sales on a regular basis from a permanent or seasonal location, or soliciting sales from a website prepared for or maintained by the seller.

²²⁷ Section 57-39.2-04 was also amended by section 1 of House Bill No. 1110, chapter 452, and section 1 of House Bill No. 1319, chapter 451.

- c. Gross receipts derived by any public school district if such receipts are expended in accordance with section 15.1-07-10 or 15.1-07-11.
 - d. Gross receipts of a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.
5. Gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private nonprofit elementary school, secondary school, or any other nonprofit institution of higher learning conducting courses of study similar to those conducted by public schools in this state.
 6. Gross receipts from all sales otherwise taxable under this chapter made to the United States, an Indian tribe, or to any state, including the state of North Dakota, or any of the subdivisions, departments, agencies, or institutions of any state. A political subdivision of another state is exempt under this subsection only if a sale to a North Dakota political subdivision is treated as an exempt sale in that state. The governmental units exempted by this subsection must be issued a certificate of exemption by the commissioner and the certificate must be presented to each retailer whenever this exemption is claimed. For purposes of this subsection, an Indian tribe means a tribal government agency, instrumentality, or political subdivision that performs essential government functions and does not include business entities or agencies the primary purpose of which is to operate a business enterprise.
 7. Gross receipts from the sale of drugs sold under a doctor's prescription.
 8. Gross receipts from sales of adjuvants, agrichemical tank cleaners and foam markers, commercial fertilizers, fungicides, seed treatments, inoculants and fumigants, herbicides, and insecticides to agricultural or commercial vegetable producers and commercial applicators; chemicals used to preserve agricultural crops being stored; and seeds, roots, bulbs, and small plants to commercial users or consumers for planting or transplanting for commercial vegetable gardens or agricultural purposes.
 9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for the person's own use for medical purposes.
 10. Gross receipts from the sale of motor vehicles, farm machinery, alcoholic beverages, gasoline, insurance premiums, gaming tickets, or any other article or product, except as otherwise provided, upon which the state of North Dakota imposes a special tax.
 11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, milk, meat, fibers, or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur-bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a feed ration, and other generally recognized animal feeds. The term "feed" includes drugs used as part of a feed ration, medicants, disinfectants, wormers, tonics, and like items.

12. Gross receipts from a sale otherwise taxable under this chapter made to a person from an adjoining state which does not impose or levy a retail sales tax, under the following conditions:
 - a. The person is in the state of North Dakota for the express purpose of making a purchase.
 - b. The person furnishes to the North Dakota retailer a certificate signed by the person in a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless the certificate is furnished it must be presumed, until the contrary is shown, that the person was not in the state of North Dakota for the express purpose of making a purchase.
 - c. The sale is fifty dollars or more.
13. Gross receipts from the sale of any motor vehicle taxable under the provisions of the motor vehicle excise tax laws of North Dakota. However, gross receipts from the rental of any motor vehicle for fewer than thirty days are not exempt but taxes imposed under home rule authority do not apply to such rentals.
14. Repealed by S.L. 1969, ch. 528, § 24.
15. Gross receipts from sales in which a contractor furnishes to the retailer a certificate which includes the contractor's license number assigned to the contractor under the provisions of chapter 43-07. Such certificate shall be in the form prescribed by the commissioner and shall be furnished by the contractor to the retailer each calendar year prior to the making of any purchases during such calendar year from the retailer without liability for paying the tax to the retailer. Any contractor furnishing such certificate must report and remit the tax to the commissioner on purchases taxable under this chapter made by the contractor in the same manner as retailers remit such tax under this chapter.
16. Gross receipts from the sale of newsprint and ink used in the publication of a newspaper.
17. Gross receipts from the sale of all services furnished by any hospital, infirmary, sanatorium, nursing home, basic care facility, or similar institution to any patient or occupant.
18. Repealed by S.L. 1973, ch. 480, § 6.
19. Repealed by S.L. 1971, ch. 555, § 3.
20. Gross receipts from the sale of food supplies to any public school, to any parochial or private nonprofit school conducting courses of study similar to those conducted by public schools in this state, or to any nonprofit organization, for use by the public, parochial, or private school or nonprofit organization in sponsoring or conducting a lunch program or programs in and for any such public, parochial, or private nonprofit school.
21. Gross receipts from the leasing or renting of motion picture film to motion picture exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film is subject to the sales tax imposed by this chapter.

22. Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or tourist court accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days.
23. Food purchased by a student under a boarding contract with a college, university, fraternity, or sorority.
24. Gross receipts from all sales when made to an eligible facility or emergency medical services provider for the use or benefit of its patient or occupant. For the purposes of this subsection:
 - a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care facility, or basic care facility licensed by the state department of health, or any assisted living facility licensed by the department of human services; and
 - b. "Emergency medical services provider" means an emergency medical services operation licensed by the state department of health under chapter 23-27.
25. Gross receipts from the sale of Bibles, hymnals, textbooks, and prayerbooks sold to nonprofit religious organizations.
26. Gross receipts from sales of prosthetic devices, durable medical equipment, mobility-enhancing equipment, or supplies for ostomy care or bladder dysfunction. For purposes of this subsection:
 - a. "Durable medical equipment" means equipment, not including mobility-enhancing equipment, for home use, including repair and replacement parts for such equipment, which:
 - (1) Can withstand repeated use;
 - (2) Is primarily and customarily used to serve a medical purpose;
 - (3) Generally is not useful to a person in the absence of illness or injury; and
 - (4) Is not worn in or on the body."Durable medical equipment" includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction. An exemption certificate is not required to obtain exemption. Repair and replacement parts as used in this definition include all components or attachments used in conjunction with the durable medical equipment. Repair and replacement parts do not include items which are for single patient use only.
 - b. "Mobility-enhancing equipment" means equipment, not including durable medical equipment sold under a doctor's written prescription, including repair and replacement parts for mobility-enhancing equipment, which:

- (1) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle;
- (2) Is not generally used by persons with normal mobility; and
- (3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

"Mobility-enhancing equipment" includes crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.

- c. "Prosthetic device" means a replacement, corrective, or supportive device sold under a doctor's written prescription, including repair and replacement parts for such a device, worn on or in the body to:

- (1) Artificially replace a missing portion of the body;
- (2) Prevent or correct a physical deformity or malfunction; or
- (3) Support a weak or deformed portion of the body.

"Prosthetic device" includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure, including the extremities of the individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.

- d. "Supplies for ostomy care or bladder dysfunction" includes:

- (1) Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.
- (2) Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.

27. Gross receipts from the sale of electricity.

28. Gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable.
29. Gross receipts from all sales otherwise taxable under this chapter when made to any nonprofit organization for meals, including the containers, packages, and materials used for wrapping food items, for delivery to persons who are confined to their homes by illness or incapacity, including senior citizens and disabled persons, for consumption by such shut-ins in their homes.
30. Gross receipts from all sales of recreational travel trailers not exceeding eight feet [2.44 meters] in width or thirty-two feet [9.75 meters] in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of such recreational travel trailers.
31. Gross receipts from the sale of money, including all legal tender coins and currency, and from the sale of precious metal bullion that has been refined to a purity of not less than nine hundred ninety-nine parts per one thousand and is in such form or condition that its value depends upon its precious metal content and not its form.
32. Gross receipts from sales to nonprofit voluntary health associations which are exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a voluntary health association is an organization recognized by the internal revenue service, the national health council, the state tax commissioner, and the North Dakota secretary of state as a nonprofit organization that is exempt under section 501(c)(3) of the United States Internal Revenue Code and meets the following requirements: It has been organized and operated exclusively in providing services for the purposes of preventing and alleviating human illness and injury. Methods used to obtain these goals would include education, research, community service, and direct patient services, income being derived solely from private donations with some exceptions of a minimal membership fee. Its members are not limited to only individuals, who themselves are licensed or otherwise legally authorized to render the same professional services as the organization. The disbursement of funds within a volunteer health association is to be controlled by a board of directors who work voluntarily and without pay.
33. Repealed by S.L. 2005, ch. 580, § 19.
34. Gross receipts from the sale of byproducts, arising from the processing of agricultural products, for use in the manufacture or generation of steam or electricity.
35. Gross receipts from the sale of a manufactured home that has been sold, bargained, exchanged, given away, or transferred by the person who first acquired it from a retailer in a sale at retail and upon which the North Dakota sales tax has previously been imposed.
36. Gross receipts from all sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician, all sales of glucose usable for treatment of insulin reactions, all sales of urine and blood testing kits and materials, and all sales of insulin measuring and injecting devices, including insulin syringes and hypodermic needles.

37. Gross receipts from the sale of any aircraft taxable under the provisions of chapter 57-40.5.
38. Gross receipts from all sales of air carrier transportation property subject to ad valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-08, 57-13, and 57-32.
39. Gross receipts from sales of tangible personal property consisting of flight simulators or mechanical or electronic equipment for use in association with a flight simulator.
40. Gross receipts from sales of tickets or admissions to, or sales made at, an annual church supper or bazaar held in a publicly owned facility. For purposes of this subsection, "annual" means occurring not more than once in any calendar year.
41. Gross receipts from the initial sale of beneficiated coal.
42. Gross receipts from electronic gaming devices licensed by the attorney general under chapter 53-06.1.
43. Gross receipts from all sales made to a nonprofit medical research institute. For purposes of this subsection, "nonprofit medical research institute" means an institute that is a member of the association of independent research institutes, which is not a private foundation, and which is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3).
44. Gross receipts from all sales of coal that is exempt from the coal severance tax.
45. Gross receipts from the sale or lease of farm machinery, farm machinery repair parts, irrigation equipment, or irrigation equipment repair parts used exclusively for agricultural purposes.
46. Gross receipts from sales of tangible personal property purchased by a charitable organization to be awarded as a prize in a raffle conducted in accordance with law if the winner of the tangible personal property will be subject to sales or use taxes upon receiving the property.
47. Gross receipts from the sale of lottery tickets under chapter 53-12.1.
48. Gross receipts from all sales of tangible personal property purchased by a commerce authority and made a part of the infrastructure of a commerce authority, otherwise taxable under this chapter, if the personal property is placed within the geographic boundaries of the political subdivisions that created the commerce authority and is necessary and directly services infrastructure needs of the commerce authority. The commissioner shall issue a certificate of exemption to a political subdivision exempted by this subsection, and the political subdivision shall present the certificate of exemption to each retailer whenever the exemption is claimed.
49. Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas.

50. Gross receipts from the sale at retail of hydrogen to power an internal combustion engine or fuel cell and equipment used directly and exclusively in production and storage of the hydrogen by a hydrogen generation facility in this state. For purposes of this subsection, "storage" means stationary and portable hydrogen containers or pressure vessels, piping, tubing, fittings, gaskets, controls, valves, gauges, pressure regulators, safety relief devices, and other accessories intended for hydrogen storage containers or pressure vessels.
51. Gross receipts from the sale of equipment to a facility, licensed under section 57-43.2-05, to enable the facility to sell diesel fuel containing at least two percent biodiesel or green diesel fuel as defined under section 57-43.2-01 by volume.
52. Gross receipts from sales within the boundaries of any reservation in this state to an individual who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe.
53. Gross receipts from sales of natural gas or sales of fuels used for heating purposes.
54. Gross receipts from the sale of items delivered electronically, including specified digital products. For purposes of this subsection:
 - a. "Specified digital products" means:
 - (1) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;
 - (2) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and
 - (3) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.
 - b. For purposes of the definition of "specified digital products", "transferred electronically" means obtained by the purchaser by means other than tangible storage media.
 - c. For purposes of the definition of "digital audio work", "ringtones" means digitized sound files that are downloaded onto a device and which may be used to alert the customer with respect to a communication.
 - d. "Specified digital products" may not be construed to include prewritten computer software as that term is defined in subdivision g of subsection 1 of section 57-39.2-02.1.
55. Gross receipts from memberships, admissions, and entrance fees to activities and events organized and operated by nonprofit social and recreation clubs organized under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] and operated solely by nonsalaried officers and staff.
56. Gross receipts from the sale of any potash or byproducts taxable under chapter 57-65.

57. Gross receipts from coin-operated amusement or entertainment machines.
58. **(Contingent effective date - See note)** Gross receipts from sales of liquefied natural gas used for agricultural, industrial, or railroad purposes as defined in section 57-43.2-01.

~~**(Effective after June 30, 2015) Exemptions.** There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:~~

- ~~1. Gross receipts from sales of tangible personal property which this state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of North Dakota.~~
- ~~2. Gross receipts from the sales, furnishing, or service of passenger transportation service and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier.~~
- ~~3. Repealed by S.L. 1971, ch. 567, § 1.~~
- ~~4. a. Gross receipts from sales of tickets, or admissions to state, county, district, and local fairs.~~
 - ~~b. Gross receipts from educational, religious, or charitable activities when the entire amount of net receipts is expended for educational, religious, or charitable purposes. The exemption specified in this subsection does not apply to:

 - ~~(1) Gross receipts from taxable sales in excess of ten thousand dollars per event if the activities are held in a publicly owned facility; or~~
 - ~~(2) Gross receipts from activities if the seller competes with retailers by maintaining inventory, conducting retail sales on a regular basis from a permanent or seasonal location, or soliciting sales from a website prepared for or maintained by the seller.~~~~
 - ~~c. Gross receipts derived by any public school district if such receipts are expended in accordance with section 15.1-07-10 or 15.1-07-11.~~
 - ~~d. Gross receipts of a nonprofit music or dramatic arts organization that is exempt from federal income taxation and is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis.~~
- ~~5. Gross receipts from sales of textbooks to regularly enrolled students of a private or public school and from sales of textbooks, yearbooks, and school supplies purchased by a private nonprofit elementary school, secondary school, or any other nonprofit institution of higher learning conducting courses of study similar to those conducted by public schools in this state.~~
- ~~6. Gross receipts from all sales otherwise taxable under this chapter made to the United States, an Indian tribe, or to any state, including the state of North Dakota, or any of the subdivisions, departments, agencies, or institutions of any state. A political subdivision of another state is exempt under this subsection only if a sale to a North Dakota political subdivision is treated as an exempt sale in that state. The governmental units exempted by this~~

subsection must be issued a certificate of exemption by the commissioner and the certificate must be presented to each retailer whenever this exemption is claimed. For purposes of this subsection, an Indian tribe means a tribal government agency, instrumentality, or political subdivision that performs essential government functions and does not include business entities or agencies the primary purpose of which is to operate a business enterprise.

7. Gross receipts from the sale of drugs sold under a doctor's prescription.
8. Gross receipts from sales of adjuvants, agrichemical tank cleaners and foam markers, commercial fertilizers, fungicides, seed treatments, inoculants and fumigants, herbicides, and insecticides to agricultural or commercial vegetable producers and commercial applicators; chemicals used to preserve agricultural crops being stored; and seeds, roots, bulbs, and small plants to commercial users or consumers for planting or transplanting for commercial vegetable gardens or agricultural purposes.
9. Gross receipts from sales of oxygen sold to any person who purchases it upon the written order of a doctor for the person's own use for medical purposes.
10. Gross receipts from the sale of motor vehicles, farm machinery, alcoholic beverages, gasoline, insurance premiums, gaming tickets, or any other article or product, except as otherwise provided, upon which the state of North Dakota imposes a special tax.
11. Gross receipts from the sale of feed which is fed to poultry or livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, milk, meat, fibers, or other products for human consumption and the gross receipts from the sale of feed purchased for the purpose of being fed to draft or fur-bearing animals. The word "feed" as used herein shall be construed to mean and include only salt, grains, hays, tankage, oyster shells, mineral supplements, limestone, molasses, beet pulp, meat and bone scraps, meal, drugs to be used as part of a feed ration, and other generally recognized animal feeds. The term "feed" includes drugs used as part of a feed ration, medicants, disinfectants, wormers, tonics, and like items.
12. Gross receipts from a sale otherwise taxable under this chapter made to a person from an adjoining state which does not impose or levy a retail sales tax, under the following conditions:
 - a. The person is in the state of North Dakota for the express purpose of making a purchase.
 - b. The person furnishes to the North Dakota retailer a certificate signed by the person in a form as the commissioner may prescribe reciting sufficient facts establishing the exempt status of the sale. Unless the certificate is furnished it must be presumed, until the contrary is shown, that the person was not in the state of North Dakota for the express purpose of making a purchase.
 - c. The sale is fifty dollars or more.
13. Gross receipts from the sale of any motor vehicle taxable under the provisions of the motor vehicle excise tax laws of North Dakota. However, gross receipts

from the rental of any motor vehicle for fewer than thirty days are not exempt but taxes imposed under home rule authority do not apply to such rentals.

14. Repealed by S.L. 1969, ch. 528, § 24.
15. ~~Gross receipts from sales in which a contractor furnishes to the retailer a certificate which includes the contractor's license number assigned to the contractor under the provisions of chapter 43-07. Such certificate shall be in the form prescribed by the commissioner and shall be furnished by the contractor to the retailer each calendar year prior to the making of any purchases during such calendar year from the retailer without liability for paying the tax to the retailer. Any contractor furnishing such certificate must report and remit the tax to the commissioner on purchases taxable under this chapter made by the contractor in the same manner as retailers remit such tax under this chapter.~~
16. ~~Gross receipts from the sale of newsprint and ink used in the publication of a newspaper.~~
17. ~~Gross receipts from the sale of all services furnished by any hospital, infirmary, sanatorium, nursing home, basic care facility, or similar institution to any patient or occupant.~~
18. Repealed by S.L. 1973, ch. 480, § 6.
19. Repealed by S.L. 1971, ch. 555, § 3.
20. ~~Gross receipts from the sale of food supplies to any public school, to any parochial or private nonprofit school conducting courses of study similar to those conducted by public schools in this state, or to any nonprofit organization, for use by the public, parochial, or private school or nonprofit organization in sponsoring or conducting a lunch program or programs in and for any such public, parochial, or private nonprofit school.~~
21. ~~Gross receipts from the leasing or renting of motion picture film to motion picture exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film is subject to the sales tax imposed by this chapter.~~
22. ~~Gross receipts from the leasing or renting of manufactured homes, modular living units, or sectional homes, whether or not placed on a permanent foundation, for residential housing for periods of thirty or more consecutive days and the gross receipts from the leasing or renting of a hotel or motel room or tourist court accommodations occupied by the same person or persons for residential housing for periods of thirty or more consecutive days.~~
23. ~~Food purchased by a student under a boarding contract with a college, university, fraternity, or sorority.~~
24. ~~Gross receipts from all sales when made to an eligible facility or emergency medical services provider for the use or benefit of its patient or occupant. For the purposes of this subsection:
 - a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care facility, or basic care facility licensed by the state department of~~

health, or any assisted living facility licensed by the department of human services; and

b. ~~"Emergency medical services provider" means an emergency medical services operation licensed by the state department of health under chapter 23-27.~~

25. ~~Gross receipts from the sale of Bibles, hymnals, textbooks, and prayerbooks sold to nonprofit religious organizations.~~

26. ~~Gross receipts from sales of prosthetic devices, durable medical equipment, mobility-enhancing equipment, or supplies for ostomy care or bladder dysfunction. For purposes of this subsection:~~

a. ~~"Durable medical equipment" means equipment, not including mobility-enhancing equipment, for home use, including repair and replacement parts for such equipment, which:~~

~~(1) Can withstand repeated use;~~

~~(2) Is primarily and customarily used to serve a medical purpose;~~

~~(3) Generally is not useful to a person in the absence of illness or injury; and~~

~~(4) Is not worn in or on the body.~~

~~"Durable medical equipment" includes equipment and devices designed or intended for ostomy care and management and equipment and devices used exclusively for a person with bladder dysfunction. An exemption certificate is not required to obtain exemption. Repair and replacement parts as used in this definition include all components or attachments used in conjunction with the durable medical equipment. Repair and replacement parts do not include items which are for single patient use only.~~

b. ~~"Mobility-enhancing equipment" means equipment, not including durable medical equipment sold under a doctor's written prescription, including repair and replacement parts for mobility-enhancing equipment, which:~~

~~(1) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either at home or in a motor vehicle;~~

~~(2) Is not generally used by persons with normal mobility; and~~

~~(3) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.~~

~~"Mobility-enhancing equipment" includes crutches and wheelchairs for the use of disabled persons, equipment, including manual control units, van lifts, van door opening units, and raised roofs for attaching to or modifying a motor vehicle for use by a permanently physically disabled person, equipment, including elevators, dumbwaiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by~~

~~a permanently physically disabled person in that person's principal dwelling, and equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.~~

~~e. "Prosthetic device" means a replacement, corrective, or supportive device sold under a doctor's written prescription, including repair and replacement parts for such a device, worn on or in the body to:~~

- ~~(1) Artificially replace a missing portion of the body;~~
- ~~(2) Prevent or correct a physical deformity or malfunction; or~~
- ~~(3) Support a weak or deformed portion of the body.~~

~~"Prosthetic device" includes artificial devices individually designed, constructed, or altered solely for the use of a particular disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure, including the extremities of the individual, artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body, artificial teeth sold by a dentist, and eyeglasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.~~

~~d. "Supplies for ostomy care or bladder dysfunction" includes:~~

- ~~(1) Supplies designed or intended for ostomy care and management, including collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.~~
- ~~(2) Supplies to be used exclusively by a person with bladder dysfunction, including catheters, collection devices, incontinent pads and pants, and other items used for the care and management of bladder dysfunction.~~

27. Gross receipts from the sale of electricity.
28. Gross receipts from the leasing or renting of any tangible personal property upon which a North Dakota sales tax or use tax has been paid or is payable.
29. Gross receipts from all sales otherwise taxable under this chapter when made to any nonprofit organization for meals, including the containers, packages, and materials used for wrapping food items, for delivery to persons who are confined to their homes by illness or incapacity, including senior citizens and disabled persons, for consumption by such shut-ins in their homes.
30. Gross receipts from all sales of recreational travel trailers not exceeding eight feet [2.44 meters] in width or thirty-two feet [9.75 meters] in length which are designed to be principally used as temporary vacation dwellings when made to persons who are residents of other states which impose excise taxes upon registration of such recreational travel trailers.

31. ~~Gross receipts from the sale of money, including all legal tender coins and currency, and from the sale of precious metal bullion that has been refined to a purity of not less than nine hundred ninety-nine parts per one thousand and is in such form or condition that its value depends upon its precious metal content and not its form.~~
32. ~~Gross receipts from sales to nonprofit voluntary health associations which are exempt from federal income tax under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)]. As used in this subsection, a voluntary health association is an organization recognized by the internal revenue service, the national health council, the state tax commissioner, and the North Dakota secretary of state as a nonprofit organization that is exempt under section 501(c)(3) of the United States Internal Revenue Code and meets the following requirements: It has been organized and operated exclusively in providing services for the purposes of preventing and alleviating human illness and injury. Methods used to obtain these goals would include education, research, community service, and direct patient services, income being derived solely from private donations with some exceptions of a minimal membership fee. Its members are not limited to only individuals, who themselves are licensed or otherwise legally authorized to render the same professional services as the organization. The disbursement of funds within a volunteer health association is to be controlled by a board of directors who work voluntarily and without pay.~~
33. ~~Repealed by S.L. 2005, ch. 580, § 19.~~
34. ~~Gross receipts from the sale of byproducts, arising from the processing of agricultural products, for use in the manufacture or generation of steam or electricity.~~
35. ~~Gross receipts from the sale of a manufactured home that has been sold, bargained, exchanged, given away, or transferred by the person who first acquired it from a retailer in a sale at retail and upon which the North Dakota sales tax has previously been imposed.~~
36. ~~Gross receipts from all sales of insulin in all its forms dispensed pursuant to the direction of a licensed physician, all sales of glucose usable for treatment of insulin reactions, all sales of urine and blood testing kits and materials, and all sales of insulin measuring and injecting devices, including insulin syringes and hypodermic needles.~~
37. ~~Gross receipts from the sale of any aircraft taxable under the provisions of chapter 57-40.5.~~
38. ~~Gross receipts from all sales of air carrier transportation property subject to ad valorem property taxation pursuant to the provisions of chapters 57-06, 57-07, 57-08, 57-13, and 57-32.~~
39. ~~Gross receipts from sales of tangible personal property consisting of flight simulators or mechanical or electronic equipment for use in association with a flight simulator.~~
40. ~~Gross receipts from sales of tickets or admissions to, or sales made at, an annual church supper or bazaar held in a publicly owned facility. For purposes~~

of this subsection, "annual" means occurring not more than once in any calendar year.

41. ~~Gross receipts from the initial sale of beneficiated coal taxed under chapter 57-60.~~
42. ~~Gross receipts from electronic gaming devices licensed by the attorney general under chapter 53-06.1.~~
43. ~~Gross receipts from all sales made to a nonprofit medical research institute. For purposes of this subsection, "nonprofit medical research institute" means an institute that is a member of the association of independent research institutes, which is not a private foundation, and which is recognized by the internal revenue service as having exempt status under 26 U.S.C. 501(c)(3).~~
44. ~~Gross receipts from all sales of coal that is exempt from the coal severance tax.~~
45. ~~Gross receipts from the sale or lease of farm machinery, farm machinery repair parts, irrigation equipment, or irrigation equipment repair parts used exclusively for agricultural purposes.~~
46. ~~Gross receipts from sales of tangible personal property purchased by a charitable organization to be awarded as a prize in a raffle conducted in accordance with law if the winner of the tangible personal property will be subject to sales or use taxes upon receiving the property.~~
47. ~~Gross receipts from the sale of lottery tickets under chapter 53-12.1.~~
48. ~~Gross receipts from all sales of tangible personal property purchased by a commerce authority and made a part of the infrastructure of a commerce authority, otherwise taxable under this chapter, if the personal property is placed within the geographic boundaries of the political subdivisions that created the commerce authority and is necessary and directly services infrastructure needs of the commerce authority. The commissioner shall issue a certificate of exemption to a political subdivision exempted by this subsection, and the political subdivision shall present the certificate of exemption to each retailer whenever the exemption is claimed.~~
49. ~~Gross receipts from sales of carbon dioxide used for enhanced recovery of oil or natural gas.~~
50. ~~Gross receipts from the sale at retail of hydrogen to power an internal combustion engine or fuel cell and equipment used directly and exclusively in production and storage of the hydrogen by a hydrogen generation facility in this state. For purposes of this subsection, "storage" means stationary and portable hydrogen containers or pressure vessels, piping, tubing, fittings, gaskets, controls, valves, gauges, pressure regulators, safety relief devices, and other accessories intended for hydrogen storage containers or pressure vessels.~~
51. ~~Gross receipts from the sale of equipment to a facility, licensed under section 57-43.2-05, to enable the facility to sell diesel fuel containing at least two percent biodiesel or green diesel fuel as defined under section 57-43.2-01 by volume.~~

- ~~52. Gross receipts from sales within the boundaries of any reservation in this state to an individual who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe.~~
- ~~53. Gross receipts from sales of natural gas or sales of fuels used for heating purposes.~~
- ~~54. Gross receipts from the sale of items delivered electronically, including specified digital products. For purposes of this subsection:~~
- ~~a. "Specified digital products" means:~~
- ~~(1) "Digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;~~
- ~~(2) "Digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones; and~~
- ~~(3) "Digital books" which means works that are generally recognized in the ordinary and usual sense as books.~~
- ~~b. For purposes of the definition of "specified digital products", "transferred electronically" means obtained by the purchaser by means other than tangible storage media.~~
- ~~c. For purposes of the definition of "digital audio work", "ringtones" means digitized sound files that are downloaded onto a device and which may be used to alert the customer with respect to a communication.~~
- ~~d. "Specified digital products" may not be construed to include prewritten computer software as that term is defined in subdivision g of subsection 1 of section 57-39.2-02.1.~~
- ~~55. Gross receipts from memberships, admissions, and entrance fees to activities and events organized and operated by nonprofit social and recreation clubs organized under section 501(c)(7) of the Internal Revenue Code [26 U.S.C. 501(c)(7)] and operated solely by nonsalaried officers and staff.~~
- ~~56. Gross receipts from the sale of any potash or byproducts taxable under chapter 57-65.~~
- ~~57. Gross receipts from coin-operated amusement or entertainment machines.~~
- ~~58. **(Contingent effective date – See note)** Gross receipts from sales of liquefied natural gas used for agricultural, industrial, or railroad purposes as defined in section 57-43.2-01.~~

SECTION 2. AMENDMENT. Section 57-39.2-04.2 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.2. (Effective through June 30, 2017) Sales tax exemption for power plant construction, production, environmental upgrade, and repowering equipment and oil refinery or gas processing plant environmental upgrade equipment.

1. As used in this section, unless the context otherwise requires:
 - a. (1) "Environmental upgrade" means an investment greater than twenty-five million dollars or one hundred thousand dollars per megawatt of installed nameplate capacity, whichever is less, in machinery, equipment, and related facilities for reducing emissions or increasing efficiency at an existing power plant.
 - (2) "Environmental upgrade" for purposes of a process unit means an investment greater than one hundred thousand dollars in machinery, equipment, and related facilities for reducing emissions, increasing efficiency, or enhancing reliability of the equipment at a new or existing process unit.
 - b. "Operator" means any person owning, holding, or leasing a power plant or process unit.
 - c. "Power plant" means:
 - (1) An electrical generating plant, and all additions to the plant, which processes or converts coal in its natural form or beneficiated coal into electrical power and which has at least one single electrical energy generation unit with a capacity of fifty thousand kilowatts or more.
 - (2) A wind-powered electrical generating facility, on which construction is completed before January 1, 2017, and all additions to the facility, which provides electrical power through wind generation and which has at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts or more.
 - (3) Any other type of electrical power generating facility excluding the types of power plants identified in paragraphs 1 and 2 which has a capacity of one hundred kilowatts or more and produces electricity for resale or for consumption in a business activity.
 - d. "Process unit" means an oil refinery or gas processing plant and all adjacent units that are utilized in the processing of crude oil or natural gas.
 - e. "Production equipment" means machinery and attachment units, other than replacement parts, directly and exclusively used in the generation, transmission, or distribution of electrical energy for sale by a power plant.
 - f. "Repowering" means an investment of more than two hundred million dollars or one million dollars per megawatt of installed nameplate capacity, whichever is less, in an existing power plant that modifies or replaces the process used for converting coal in its natural form or beneficiated coal into electrical power.
2. Sales of production or environmental upgrade equipment that is delivered on or after January 1, 2007, and used exclusively in power plants or repowering

existing power plants or in processing units are exempt from the tax imposed by this chapter.

3. Sales of tangible personal property, other than production or environmental upgrade equipment, which is used in the construction of new power plants or to expand existing power plants or to add environmental upgrades to existing power plants or repowering existing power plants or to add environmental upgrades to existing process units are exempt from the tax imposed by this chapter.
4. To receive the exemption at the time of purchase, the operator must receive from the commissioner a certificate that the tangible personal property or production equipment the operator intends to purchase qualifies for the exemption. If a certificate is not received prior to the purchase, the operator shall pay the applicable tax imposed by this chapter and apply to the commissioner for a refund.
5. If the tangible personal property or production equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the operator may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section.

~~(Effective after June 30, 2017) Sales tax exemption for power plant construction, production, environmental upgrade, and repowering equipment and oil refinery or gas processing plant environmental upgrade equipment.~~

1. As used in this section, unless the context otherwise requires:
 - a. (1) ~~"Environmental upgrade" means an investment greater than twenty-five million dollars or one hundred thousand dollars per megawatt of installed nameplate capacity, whichever is less, in machinery, equipment, and related facilities for reducing emissions or increasing efficiency at an existing power plant.~~
 - (2) ~~"Environmental upgrade" for purposes of a process unit means an investment greater than one hundred thousand dollars in machinery, equipment, and related facilities for reducing emissions, increasing efficiency, or enhancing reliability of the equipment at a new or existing process unit.~~
- b. ~~"Operator" means any person owning, holding, or leasing a power plant or process unit.~~
- c. ~~"Power plant" means:~~
 - (1) ~~An electrical generating plant, and all additions to the plant, which processes or converts coal from its natural form into electrical power and which has at least one single electrical energy generation unit with a capacity of fifty thousand kilowatts or more.~~
 - (2) ~~A wind-powered electrical generating facility, on which construction is completed before January 1, 2017, and all additions to the facility, which provides electrical power through wind generation and which has at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts or more.~~

- ~~(3) Any other type of electrical power generating facility excluding the types of power plants identified in paragraphs 1 and 2 which has a capacity of one hundred kilowatts or more and produces electricity for resale or for consumption in a business activity:~~
- ~~d. "Process unit" means an oil refinery or gas processing plant and all adjacent units that are utilized in the processing of crude oil or natural gas.~~
 - ~~e. "Production equipment" means machinery and attachment units, other than replacement parts, directly and exclusively used in the generation, transmission, or distribution of electrical energy for sale by a power plant.~~
 - ~~f. "Repowering" means an investment of more than two hundred million dollars or one million dollars per megawatt of installed nameplate capacity, whichever is less, in an existing power plant that modifies or replaces the process used for converting coal from its natural form into electrical power.~~
- ~~2. Sales of production or environmental upgrade equipment that is delivered on or after January 1, 2007, and used exclusively in power plants or repowering existing power plants or in processing units are exempt from the tax imposed by this chapter.~~
 - ~~3. Sales of tangible personal property, other than production or environmental upgrade equipment, which is used in the construction of new power plants or to expand existing power plants or to add environmental upgrades to existing power plants or repowering existing power plants or to add environmental upgrades to existing process units are exempt from the tax imposed by this chapter.~~
 - ~~4. To receive the exemption at the time of purchase, the operator must receive from the commissioner a certificate that the tangible personal property or production equipment the operator intends to purchase qualifies for the exemption. If a certificate is not received prior to the purchase, the operator shall pay the applicable tax imposed by this chapter and apply to the commissioner for a refund.~~
 - ~~5. If the tangible personal property or production equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the operator may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section.~~

SECTION 3. AMENDMENT. Section 57-40.2-04.2 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-04.2. (Effective through June 30, 2015) Use tax exemption for power plant construction, production, environmental upgrade, and repowering equipment and oil refinery or gas processing plant environmental upgrade equipment.

1. As used in this section, unless the context otherwise requires:
 - a. (1) "Environmental upgrade" means an investment greater than twenty-five million dollars or one hundred thousand dollars per megawatt of installed nameplate capacity, whichever is less, in machinery, equipment, and related facilities for reducing emissions or increasing efficiency at an existing power plant.

- (2) "Environmental upgrade" for purposes of a process unit means an investment greater than one hundred thousand dollars in machinery, equipment, and related facilities for reducing emissions, increasing efficiency, or enhancing reliability of the equipment at a new or existing process unit.
 - b. "Operator" means any person owning, holding, or leasing a power plant or process unit.
 - c. "Power plant" means:
 - (1) An electrical generating plant, and all additions to the plant, which processes or converts coal in its natural form or beneficiated coal into electrical power and which has at least one single electrical energy generation unit with a capacity of fifty thousand kilowatts or more.
 - (2) A wind-powered electrical generating facility, on which construction is completed before January 1, 2015, and all additions to the facility, which provides electrical power through wind generation and which has at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts or more.
 - (3) Any other type of electrical power generating facility excluding the types of power plants identified in paragraphs 1 and 2 which has a capacity of one hundred kilowatts or more and produces electricity for resale or for consumption in a business activity.
 - d. "Process unit" means an oil refinery or gas processing plant and all adjacent units that are utilized in the processing of crude oil or natural gas.
 - e. "Production equipment" means machinery and attachment units, other than replacement parts, directly and exclusively used in the generation, transmission, or distribution of electrical energy for sale by a power plant.
 - f. "Repowering" means an investment of more than two hundred million dollars or one million dollars per megawatt of installed nameplate capacity, whichever is less, in an existing power plant that modifies or replaces the process used for converting coal in its natural form or beneficiated coal into electric power.
2. Sales of production or environmental upgrade equipment that is delivered on or after January 1, 2007, and used exclusively in power plants or repowering existing power plants or in process units are exempt from the tax imposed by this chapter.
 3. Sales of tangible personal property, other than production or environmental upgrade equipment, which is used in the construction of new power plants or to expand existing power plants or to add environmental upgrades to existing power plants or repowering existing power plants or to add environmental upgrades to existing process units are exempt from the tax imposed by this chapter.
 4. To receive the exemption at the time of purchase, the operator must receive from the commissioner a certificate that the tangible personal property or production equipment the operator intends to purchase qualifies for the

reduced rate or exemption. If a certificate is not received prior to the purchase, the operator shall pay the applicable tax imposed by this chapter and apply to the commissioner for a refund.

5. If the tangible personal property or production equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the operator may apply for a refund of the difference between the amount remitted by the contractor and the reduced rate or exemption imposed or allowed by this section.

~~(Effective after June 30, 2015) Use tax exemption for power plant construction, production, environmental upgrade, and repowering equipment and oil refinery or gas processing plant environmental upgrade equipment.~~

1. As used in this section, unless the context otherwise requires:
 - a. ~~(1) "Environmental upgrade" means an investment greater than twenty-five million dollars or one hundred thousand dollars per megawatt of installed nameplate capacity, whichever is less, in machinery, equipment, and related facilities for reducing emissions or increasing efficiency at an existing power plant.~~
 - ~~(2) "Environmental upgrade" for purposes of a process unit means an investment greater than one hundred thousand dollars in machinery, equipment, and related facilities for reducing emissions, increasing efficiency, or enhancing reliability of the equipment at a new or existing process unit.~~
 - b. "Operator" means any person owning, holding, or leasing a power plant or process unit.
 - c. "Power plant" means:
 - ~~(1) An electrical generating plant, and all additions to the plant, which processes or converts coal from its natural form into electrical power and which has at least one single electrical energy generation unit with a capacity of fifty thousand kilowatts or more.~~
 - ~~(2) A wind-powered electrical generating facility, on which construction is completed before January 1, 2015, and all additions to the facility, which provides electrical power through wind generation and which has at least one single electrical energy generation unit with a nameplate capacity of one hundred kilowatts or more.~~
 - ~~(3) Any other type of electrical power generating facility excluding the types of power plants identified in paragraphs 1 and 2 which has a capacity of one hundred kilowatts or more and produces electricity for resale or for consumption in a business activity.~~
 - d. "Process unit" means an oil refinery or gas processing plant and all adjacent units that are utilized in the processing of crude oil or natural gas.
 - e. "Production equipment" means machinery and attachment units, other than replacement parts, directly and exclusively used in the generation, transmission, or distribution of electrical energy for sale by a power plant.

- f. "Repowering" means an investment of more than two hundred million dollars or one million dollars per megawatt of installed nameplate capacity, whichever is less, in an existing power plant that modifies or replaces the process used for converting coal from its natural form into electric power.
2. Sales of production or environmental upgrade equipment that is delivered on or after January 1, 2007, and used exclusively in power plants or repowering existing power plants or in process units are exempt from the tax imposed by this chapter.
 3. Sales of tangible personal property, other than production or environmental upgrade equipment, which is used in the construction of new power plants or to expand existing power plants or to add environmental upgrades to existing power plants or repowering existing power plants or to add environmental upgrades to existing process units are exempt from the tax imposed by this chapter.
 4. To receive the exemption at the time of purchase, the operator must receive from the commissioner a certificate that the tangible personal property or production equipment the operator intends to purchase qualifies for the reduced rate or exemption. If a certificate is not received prior to the purchase, the operator shall pay the applicable tax imposed by this chapter and apply to the commissioner for a refund.
 5. If the tangible personal property or production equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the operator may apply for a refund of the difference between the amount remitted by the contractor and the reduced rate or exemption imposed or allowed by this section.

SECTION 4. AMENDMENT. Section 57-60-02 of the North Dakota Century Code is amended and reenacted as follows:

57-60-02. Imposition of taxes.

There is hereby imposed upon the operator of each coal conversion facility a tax paid monthly for the privilege of producing products of such coal conversion facility. The rate of the tax must be computed as follows:

1. For all coal conversion facilities, except as otherwise provided in this section, the tax is measured by the gross receipts derived from such facility for the preceding month and is in the amount of four and one-tenth percent of such gross receipts. For purposes of this subsection, "gross receipts" of a coal gasification plant do not include any amount that is received by the operator of the plant for production of synthetic natural gas in excess of one hundred ten million cubic feet per day. Gross receipts derived from the sale of a capital asset are not subject to the tax imposed by this subsection.
2. For electrical generating plants, the tax is at a rate of sixty-five one-hundredths of one mill times sixty percent of the installed capacity of each unit times the number of hours in the taxable period. All electrical energy generating units that begin construction or complete repowering are exempt from eighty-five percent of the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. The board of county commissioners may, by resolution, grant to the operator of an electrical generating plant

located within the county partial or complete exemption from the remaining fifteen percent of the tax imposed by this subsection for a period not exceeding five years from the date of the first taxable production or from the date of the first taxable production after repowering from the unit. If a board of county commissioners grants a partial or complete exemption for a specific coal conversion facility under this subsection, the provisions of subsection 2 of section 57-60-14 do not apply as that subsection relates to revenue from the specific unit of the coal conversion facility for which the partial or complete exemption has been granted. Notwithstanding section 57-60-14, any tax collected from a unit subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15. If a unit is incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the cost of repair of the unit bears to the original cost of the unit. This reduced rate remains in effect until the unit is capable of generating electricity.

3. For electrical generating plants, in addition to the tax imposed by subsection 2, there is a tax at the rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale. For all electrical generating plants that begin construction or complete repowering, the production from the plants is exempt from the tax imposed by this subsection for five years from the date of the first taxable production or from the date of the first taxable production after repowering from the plant.
4. For coal gasification plants, the tax is the greater of either the amount provided in subsection 1 or thirteen and one-half cents on each one thousand cubic feet [28316.85 liters] of synthetic natural gas produced for the purpose of sale but not including any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day.
5.
 - a. For all coal conversion facilities, other than electrical generating plants, the production from the facilities is exempt from eighty-five percent of the tax imposed by this section for a period of five years from the date of first taxable production from the facility. The operator of each facility applying for exemption under this subsection shall certify to the tax commissioner the date of first taxable production of the facility.
 - b. The board of county commissioners may, by resolution, grant to the operator of a coal conversion facility, other than an electrical generating plant, located within the county a partial or complete exemption from the remaining fifteen percent of tax imposed by this section for a period not exceeding five years from the date of the first taxable production from the facility. Notwithstanding the provisions of section 57-60-14, any tax collected which is based upon the production of a facility subject to the exemption provided by this subsection must be allocated entirely to the county for allocation as provided in section 57-60-15.
6. For coal beneficiation plants, the tax is twenty cents on each ton of two thousand pounds [907.18 kilograms] of beneficiated coal produced for the purpose of sale, or one and one-quarter percent of the gross receipts derived from such facility for the preceding month, whichever amount is greater. Any amount of beneficiated coal produced in excess of eighty percent of the design capacity of the coal beneficiation plant or produced for use within a coal conversion facility is exempt from such tax.

SECTION 5. AMENDMENT. Section 57-61-01.4 of the North Dakota Century Code is amended and reenacted as follows:

57-61-01.4. ~~(Effective through June 30, 2015)~~ Severance and sales and use tax exemptions for coal used in certain plants.

No state severance tax may be imposed on coal used in, or coal used to produce steam that is used in, agricultural commodity processing facilities as defined in subsection 4 of section 57-39.2-04.4 located within North Dakota or adjacent states or any facility owned by the state or a political subdivision of the state. No state severance tax may be imposed on coal purchased for improvement through the process of coal beneficiation defined in ~~subsection 2 of section 57-60-01~~ which is subsequently used in, or used to produce steam that is used in, agricultural commodity processing facilities located within North Dakota or adjacent states or any facility owned by the state or a political subdivision of the state. The coal mine owner or operator shall require the person purchasing the coal to certify that amount of coal purchased for use in agricultural commodity processing facilities or for beneficiation and subsequent use in agricultural commodity processing facilities or any facility owned by the state or a political subdivision of the state or to produce steam that is used in any of those facilities.

~~**(Effective after June 30, 2015) Severance and sales and use tax exemptions for coal used in certain plants.** No state severance tax may be imposed on coal used in agricultural processing or sugar beet refining plants located within North Dakota or adjacent states. The coal mine owner or operator shall require the person purchasing the coal to certify that amount of coal purchased for agricultural processing or sugar beet refining purposes. Coal exempted from the severance tax by this section is not subject to sales and use taxes.~~

SECTION 6. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2015.

Approved March 12, 2015
Filed March 12, 2015

CHAPTER 454

SENATE BILL NO. 2094

(Senators Sorvaag, Burckhard, Laffen)
(Representatives Guggisberg, Kading, Schmidt)

AN ACT to amend and reenact section 57-39.2-04.3 of the North Dakota Century Code, relating to a sales tax exemption for molds used in manufacturing; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-04.3 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.3. Sales tax exemption for manufacturing or recycling machinery and equipment and primary sector business computer and telecommunications equipment.

1. Gross receipts from sales of machinery or equipment used directly in manufacturing of tangible personal property for wholesale, retail, or lease are exempt from taxes under this chapter. To be exempt, the machinery or equipment must be used in a new manufacturing plant or in a physical or economic expansion of an existing manufacturing plant. Purchase of replacement machinery or equipment is not exempt unless it results in a physical or economic expansion of the plant.
2. Gross receipts from sales of machinery or equipment used directly in recycling of tangible personal property are exempt from taxes under this chapter. To be exempt, the machinery or equipment must be used in a new recycling facility or in physical or economic expansion of an existing recycling facility. Purchase of replacement machinery or equipment is not exempt unless it results in a physical or economic expansion of the facility.
3. Gross receipts from sales of computer and telecommunications equipment that is an integral part of a new primary sector business or a physical or economic expansion of a primary sector business are exempt from taxes under this chapter. Purchase of replacement equipment is not exempt under this subsection.
4. To qualify for exemption at the time of purchase, the customer, manufacturer, recycler, or primary sector business must receive from the commissioner a certificate stating that the machinery or equipment qualifies for the exemption. If a certificate is not received before the purchase, the customer, manufacturer, recycler, or primary sector business must pay the tax and apply to the commissioner for a refund.
5. If the machinery or equipment is purchased or installed by a contractor subject to tax under this chapter, the manufacturer, recycler, or primary sector business must apply for a refund of the amount remitted by the contractor.
6. For purposes of this section, the following definitions apply:

- a. "Economic expansion" means an increase in production volume, employment, or the types of products that can be manufactured or recycled.
- b. "Equipment":
- (1) For purposes of a customer, means a mold purchased by a customer and used directly by a manufacturer in the manufacturing process;
 - (2) For purposes of a manufacturer or recycler, means any tangible personal property other than machinery used directly in the manufacturing or recycling process; and
 - (2)(3) For purposes of a primary sector business other than manufacturing or recycling, means telecommunications equipment and computer equipment, printers, and software that are an integral part of the operations of the primary sector business.
- c. "Machinery" means mechanical devices purchased or constructed by the manufacturer or recycler, or its agent, and used directly in manufacturing or recycling operations at any time from the initial stage where the raw material is first received at the plant site through the completion of the product, including packaging and all processes prior to transportation of the product from the site. The term includes electrical, mechanical, and electronic components that are part of machinery and necessary for a machine to produce its effect or result and environmental control equipment required to maintain certain levels of humidity or temperature in a special and limited area of the manufacturing facility where the regulation is essential for production to occur. The term includes computer equipment that controls or monitors the functions of machinery used directly in the manufacturing operations.
- d. "Machinery" and "equipment":
- (1) For purposes of a manufacturer or recycler, do not include handtools, buildings, or transportation equipment not used directly in manufacturing or recycling; machines and equipment used primarily in administrative, accounting, sales, or other nonmanufacturing segments of the business; any property that becomes a part of the manufactured or recycled product; or any other equipment or machinery not used directly in manufacturing or recycling; and
 - (2) For purposes of a primary sector business other than manufacturing or recycling, do not include equipment that is not an integral part of the operations of the primary sector business.
- e. "Manufacturing", in addition to the meaning ordinarily ascribed to it, means the processing of agricultural products, including registered and certified seed, but does not include mining, refining, extracting oil and gas, or the generation of electricity.
- f. "Primarily" means more than fifty percent of the time the machinery or equipment is used.

- g. "Primary sector business" means an individual, corporation, limited liability company, partnership, or association that through the employment of knowledge or labor adds value to a product, process, or service which results in the creation of new wealth and which has been certified by the department of commerce division of economic development and finance to be qualified under this subdivision.
- h. "Recycling" means collecting or recovering material that would otherwise be solid waste and performing all or part of the process in which the material becomes a raw material for manufacturing or becomes a product for sale at retail or wholesale.
- i. "Used directly" with respect to manufacturing means used primarily in the actual production, processing, fabrication, or assembly of raw materials, or partially finished materials, into the form in which the product is finalized, packaged, and ready for market. The term also means:
- (1) To effect a direct physical change upon the tangible personal property.
 - (2) To guide or measure a direct physical change upon the property when the function is an integral and essential part of tuning, verifying, or aligning the component parts of the tangible personal property.
 - (3) To test or measure the property on the production line or at a site in the location of production.
 - (4) To transport, convey, or handle the tangible personal property during the manufacturing.
 - (5) To package the product for sale and shipment.
 - (6) To conduct research and development and design activities related to the manufacturing process of the plant.

"Used directly" with respect to recycling means used solely in processing, compacting, altering, transporting, or otherwise affecting material as a part of the recycling process.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2015.

Approved March 19, 2015
Filed March 19, 2015

CHAPTER 455

HOUSE BILL NO. 1067

(Representatives Delzer, Carlson, Kempenich, Steiner)
(Senator Burckhard)

AN ACT to create and enact subsection 3 to section 57-39.2-26.1 of the North Dakota Century Code, relating to allocation of revenues among political subdivisions; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subsection 3 to section 57-39.2-26.1 of the North Dakota Century Code is created and enacted as follows:

3. The state treasurer, for the purpose of making revenue allocations to counties and cities for each quarterly period of the fiscal year under this section, shall determine the population of counties and cities before the first day of the fiscal year using the most recent actual or estimated census data published by the United States census bureau.

SECTION 2. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for tax collections received by the tax commissioner after June 30, 2015, and before July 1, 2021, and is thereafter ineffective.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 456

HOUSE BILL NO. 1089

(Representatives Owens, Sanford, Streyle, Nathe)
(Senators Laffen, Campbell)

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales tax exemption for enterprise information technology equipment and computer software purchased for use in a qualified data center; to provide for a retroactive effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for enterprise information technology equipment and computer software used in a qualified data center.

1. Gross receipts from sales of enterprise information technology equipment and computer software purchased for use by a qualifying business in a qualified data center are exempt from the tax imposed by this chapter. To qualify for the exemption, the enterprise information technology equipment or computer software must be incorporated into or physically located within the qualified data center. Purchases of upgraded or replacement enterprise information technology equipment and computer software for use in a qualified data center are also exempt.
2. The future owner of a proposed data center must apply to the tax commissioner to be certified as a qualified data center. The exemption provided in this section is limited to the first four facilities approved by the tax commissioner as qualified data centers. Applications must be processed in the order received by the tax commissioner. An applicant must respond to a request for additional information from the tax commissioner within thirty days of the request or the application may no longer be considered.
3. To receive the exemption at the time of purchase, the qualified business must receive from the tax commissioner a certificate that the enterprise information technology equipment or computer software which the qualified business intends to purchase qualifies for the exemption. If a certificate is not received before the purchase, the qualified business must pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
4. If the enterprise information technology equipment is purchased or installed by a contractor subject to the tax imposed by this chapter, the qualified business may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.

5. For purposes of this section:

- a. "Computer software" includes software used or loaded at a qualified data center, software maintenance, software licensing, and software customization.
- b. "Data center" means a centralized repository for the storage, management, and dissemination of electronic data and information organized around a particular body or bodies of knowledge.
- c. "Enterprise information technology equipment" includes:
 - (1) Computer hardware, servers, routers, cooling systems, and cooling towers.
 - (2) Temperature control infrastructure and power infrastructure used for transformation, distribution, or management of electricity used for the maintenance and operation of a qualified data center.
 - (3) Exterior dedicated business-owned substations, backup power generation systems, battery systems, or other related infrastructure.
 - (4) Racking systems, raised flooring, cabling, or trays necessary for the maintenance and operation of a qualified data center.
- d. "Qualified business" means the owner, operator, or tenants of a qualified data center.
- e. "Qualified data center" means a newly constructed or substantially refurbished facility located in this state:
 - (1) Comprised of one or more buildings, the primary purpose of which is to contain a data center, consisting of an aggregate amount of sixteen thousand square feet [1486 square meters] or more;
 - (2) Located on a single parcel or on contiguous parcels;
 - (3) On which construction is completed or which is substantially refurbished after December 31, 2014;
 - (4) Having the following attributes:
 - (a) Uninterrupted power supplies, generator backup, or both;
 - (b) Sophisticated fire suppression and prevention systems;
 - (c) Enhanced security with security features including permanent security guards; video camera surveillance; an electronic system requiring pass codes, key cards, or biometric scans such as hand scans or retinal or fingerprint recognition to restrict access to selected personnel; or other similar security features; and
 - (5) Certified by the tax commissioner as a qualified data center.
- f. "Substantially refurbished" means a data center used to house enterprise information technology equipment in which sixteen thousand square feet

[1486 square meters] or more has been rebuilt, modified, or improved through methods including energy efficiency improvements, building improvements, and the installation of enterprise information technology equipment, environmental controls, and computer software.

6. In determining the total square footage of a qualified data center, the square footage of office space, meeting space, mechanical space, and other support facility spaces shall be included if those spaces are used to support the operation of enterprise information technology equipment.
7. Qualified data center owners who intend to collocate operators or tenants within the center shall provide the operators or tenants with documentation from the tax commissioner that the center meets the definition of a qualified data center under this section. Operators or tenants shall obtain and submit a copy of the documentation with all applications for sales tax exemption on information technology equipment and computer software purchased for use in the qualified data center.

SECTION 2. EFFECTIVE DATE - RETROACTIVE APPLICATION. This Act is retroactively effective, and applies to taxable events occurring after December 31, 2014.

SECTION 3. EXPIRATION DATE. This Act is effective through December 31, 2020, and after that date is ineffective.

Approved April 9, 2015
Filed April 9, 2015

CHAPTER 457

SENATE BILL NO. 2035

(Legislative Management)
(Energy Development and Transmission Committee)

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to a sales tax exemption for tangible personal property used to construct a fertilizer or chemical processing facility; to amend and reenact section 40-57.1-03 and subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to requirements of a city or county granting a property tax exemption and a use tax exemption for tangible personal property used to construct a fertilizer or chemical processing facility; to provide for studies by the legislative management and industrial commission; and to provide for a retroactive effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-57.1-03 of the North Dakota Century Code is amended and reenacted as follows:

~~40-57.1-03. (Effective for the first taxable year beginning after December 31, 2013) Municipality's authority to grant or revoke tax exemption or payments in lieu of taxes – Notice to competitors – Limitations.~~

- ~~1. After negotiation with a potential project operator, a municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements used in or necessary to the operation of a project for a period not exceeding five years from the date of commencement of project operations. A municipality may also grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements used in or necessary to the operation of a project that produces or manufactures a product from agricultural commodities for all or part of the sixth year through the tenth year from the date of commencement of project operations.~~
- ~~2. In addition to, or in lieu of, a property tax exemption granted under this section, a municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings, structures, fixtures, and improvements used in the operation of a project. The governing body of the municipality shall designate the amount of the payments for each year and the beginning year and the concluding year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this section may not extend beyond the twentieth year from the date of commencement of project operations. To establish the amount of payments in lieu of taxes, the governing body of the municipality may use actual or estimated levels of assessment and taxation or may establish payment amounts based on other factors. The governing body of the municipality may designate different amounts of payments in lieu of taxes in different years to recognize future project expansion plans or other considerations.~~

3. ~~By November first of each year, the municipality that granted the option to make payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of taxes due under this section in the following year. After receiving the statement from the municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer for collection at the time when, and in the manner in which, ad valorem taxes must be certified. Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this section, the county treasurer shall apportion and distribute that amount to taxing districts on the basis on which the general real estate tax levy is apportioned and distributed. The municipality may enter into a written agreement with the local school district and any other local taxing districts that wish to enter the agreement for an alternate method of apportionment and distribution. If such an agreement is entered into, the county treasurer shall apportion and distribute the money according to the written agreement. All provisions of law relating to enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem taxes apply to payments in lieu of taxes under this section. However, the discount for early payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this section. The buildings, structures, fixtures, and improvements comprising a project for which payments in lieu of taxes are allowed under this section must be excluded from the valuation of property in the taxing district for purposes of determining the mill rate for the taxing district.~~
4. ~~Negotiations with potential project operators for tax exemption or payments in lieu of taxes must be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if the project is proposed to be located outside the corporate limits of any city. A partial exemption must be stated as a percentage of the total ad valorem taxes assessed against the property. Unless the governing body of the municipality determines that there is no existing business within the municipality for which the potential project would be a competitor, the potential project operator shall publish two notices to competitors, the form of which must be prescribed by the tax commissioner, of the application for tax exemption or payments in lieu of taxes in the official newspaper of the municipality at least one week apart. The publications must be completed not less than fifteen nor more than thirty days before the governing body of the municipality is to consider the application. The municipality shall determine whether the granting of the exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if it so determines, shall give its approval.~~
5. ~~By motion approved by the governing body of the municipality before the beginning of a taxable year for which a property tax exemption or the option to make payments in lieu of taxes under this section previously has been approved by the governing body, a property tax exemption may be revoked or reduced and payments in lieu of taxes may be revoked or increased for that taxable year for reasons specified in a negotiated agreement or if the governing body finds that:~~
 - a. ~~Information provided by the project operator during the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes has proven to be inaccurate or untrue;~~

- b. ~~Use of the property by the project operator does not comply with the reasonable expectations of the governing body at the time the property tax exemption or the option to make payments in lieu of taxes was approved;~~
 - c. ~~The property has been improved to a substantially greater extent than the governing body reasonably anticipated at the time the property tax exemption or the option to make payments in lieu of taxes was approved;~~
~~or~~
 - d. ~~There has been a change of ownership of the property since the property tax exemption or the option to make payments in lieu of taxes was approved.~~
6. ~~During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action.~~

~~(Effective for taxable years beginning after December 31, 2014)~~
Municipality's authority to grant or revoke tax exemption or payments in lieu of taxes - Notice to competitors - Limitations.

1. After negotiation with a potential project operator, a municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements used in or necessary to the operation of a project for a period not exceeding five years from the date of commencement of project operations. A municipality may also grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements used in or necessary to the operation of a project that produces or manufactures a product from agricultural commodities for all or part of the sixth year through the tenth year from the date of commencement of project operations. Before a municipality may grant a partial or complete exemption from ad valorem taxation under this section:
 - a. The governing body of the municipality must have received the certification of the department of commerce division of economic development and finance that the project is a primary sector business, as defined in subsection 3 of section 40-57.1-02; or
 - b. The city council or commission, if the project is proposed to be located within the boundaries of a city of fewer than forty thousand population, or the board of county commissioners, of a county of fewer than forty thousand population and if the project is proposed to be located in the county but outside the corporate limits of any city, may grant a partial or complete exemption from ad valorem taxation for a project operating in the retail sector if that governing body has obtained the approval of exemption of property under this subdivision from a majority of the qualified electors of the city or county voting on the question at a city or county election held in conjunction with a statewide general election and if that governing body has established by resolution or ordinance the criteria that will be applied by the governing body to determine whether it is appropriate to grant a partial or complete exemption from ad valorem taxation under this section for a project operating in the retail sector. The ballot for elector approval of

exemption of property under this subdivision must present the question at the election for a yes or no vote on the question:

Shall the governing body of [name of county or city] be empowered to grant property tax exemptions upon application of new or expanding retail sector businesses?

Only a governing body of a city or county that meets the requirements of this subdivision may grant a partial or complete exemption from ad valorem taxation under this section for a project operating in the retail sector. Criteria established by the governing body under this subdivision, at a minimum, must be intended to require:

- (1) Evaluation of the potential positive or adverse consequences for existing retail sector businesses in the municipality from granting the exemption;
 - (2) Evaluation of the short-term and long-term effects for other property taxpayers in the municipality from granting the exemption;
 - (3) A written agreement with the project operator, including performance requirements for which the exemption may be terminated by the governing body of the municipality if those requirements are not met; and
 - (4) Evaluation of whether the project operator would locate the project within the municipality without the exemption.
2. In addition to, or in lieu of, a property tax exemption granted under this section, a municipality may establish an amount due as payments in lieu of ad valorem taxes on buildings, structures, fixtures, and improvements used in the operation of a project. The governing body of the municipality shall designate the amount of the payments for each year and the beginning year and the concluding year for payments in lieu of taxes, but the option to make payments in lieu of taxes under this section may not extend beyond the twentieth year from the date of commencement of project operations. To establish the amount of payments in lieu of taxes, the governing body of the municipality may use actual or estimated levels of assessment and taxation or may establish payment amounts based on other factors. The governing body of the municipality may designate different amounts of payments in lieu of taxes in different years to recognize future project expansion plans or other considerations.
3. Before a governing body may grant a partial or complete exemption from ad valorem taxation or the option to make payments in lieu of ad valorem taxes under this chapter, the governing body shall consult with the department of commerce. If the department of commerce determines that the total project costs are estimated to exceed one billion dollars, the department of commerce shall conduct a public hearing and notice of that hearing must be provided to each affected taxing district and any existing business within the municipality for which the potential project would be a competitor.
4. By November first of each year, the municipality that granted the option to make payments in lieu of taxes shall certify to the county auditor the amount of payments in lieu of taxes due under this section in the following year. After

receiving the statement from the municipality, the county auditor shall certify the payments in lieu of taxes to the county treasurer for collection at the time when, and in the manner in which, ad valorem taxes must be certified. Upon receipt by the county treasurer of the amount of payments in lieu of taxes under this section, the county treasurer shall apportion and distribute that amount to taxing districts on the basis on which the general real estate tax levy is apportioned and distributed. The municipality may enter into a written agreement with the local school district and any other local taxing districts that wish to enter the agreement for an alternate method of apportionment and distribution. If such an agreement is entered into, the county treasurer shall apportion and distribute the money according to the written agreement. All provisions of law relating to enforcement, administration, collection, penalties, and delinquency proceedings for ad valorem taxes apply to payments in lieu of taxes under this section. However, the discount for early payment of taxes under section 57-20-09 does not apply to payments in lieu of taxes under this section. The buildings, structures, fixtures, and improvements comprising a project for which payments in lieu of taxes are allowed under this section must be excluded from the valuation of property in the taxing district for purposes of determining the mill rate for the taxing district.

- 4-5. Negotiations with potential project operators for tax exemption or payments in lieu of taxes must be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if the project is proposed to be located outside the corporate limits of any city. A partial exemption must be stated as a percentage of the total ad valorem taxes assessed against the property. Unless the governing body of the municipality determines that there is no existing business within the municipality for which the potential project would be a competitor, the potential project operator shall publish two notices to competitors, the form of which must be prescribed by the tax commissioner, of the application for tax exemption or payments in lieu of taxes in the official newspaper of the municipality at least one week apart. The publications must be completed not less than fifteen nor more than thirty days before the governing body of the municipality is to consider the application. The municipality shall determine whether the granting of the exemption or payments in lieu of taxes, or both, is in the best interest of the municipality, and if it so determines, shall give its approval.
- 5-6. By motion approved by the governing body of the municipality before the beginning of a taxable year for which a property tax exemption or the option to make payments in lieu of taxes under this section previously has been approved by the governing body, a property tax exemption may be revoked or reduced and payments in lieu of taxes may be revoked or increased for that taxable year for reasons specified in a negotiated agreement or if the governing body finds that:
- a. Information provided by the project operator during the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes has proven to be inaccurate or untrue;
 - b. Use of the property by the project operator does not comply with the reasonable expectations of the governing body at the time the property tax exemption or the option to make payments in lieu of taxes was approved;

- c. The property has been improved to a substantially greater extent than the governing body reasonably anticipated at the time the property tax exemption or the option to make payments in lieu of taxes was approved; or
 - d. There has been a change of ownership of the property since the property tax exemption or the option to make payments in lieu of taxes was approved.
- 6-7. During the negotiation and deliberation of a property tax exemption or the option to make payments in lieu of taxes under this chapter, a municipality shall include, as nonvoting ex officio members of its governing body, a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action.
- 7-8. A city or county may not supersede or expand the provisions of this section under home rule authority.

SECTION 2. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for materials used to construct a fertilizer or chemical processing facility.

1. Gross receipts from sales of tangible personal property used to construct a fertilizer or chemical processing facility in this state, and any component integral to the fertilizer or chemical processing plant, are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated in the structure of the facility or used in the construction process to the point of having no residual economic value. The exemption provided in this section applies to all phases of construction under the permit or application for permit required by subsection 2. An integral component to the fertilizer or chemical processing plant:
 - a. May be owned directly or indirectly by the fertilizer or chemical processing facility, or by an unrelated third party;
 - b. Must be located at the facility site; and
 - c. Must be necessary for the plant's processing of fertilizer or chemicals.
2. On or before June 30, 2019, the owner of the fertilizer or chemical processing plant must receive from the state department of health an air quality permit or a notice that the air quality permit application is complete. The owner shall provide this documentation to the tax commissioner to qualify for the exemption under this section. Denial, expiration, or revocation of a permit terminates the exemption under this section.
3. To receive the exemption under this section at the time of purchase, the owner of the processing facility must receive from the tax commissioner a certificate that the tangible personal property used to construct the processing facility which the owner intends to purchase qualifies for exemption. If a certificate is not received before the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.

4. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
5. For purposes of this section, a fertilizer or chemical processing facility means a processing plant that produces for retail or wholesale a fertilizer, chemical, or chemical derivative from natural gas, natural gas liquids, or crude oil components.

228 **SECTION 3. AMENDMENT.** Subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

4. The tax imposed by this section does not apply to:
 - a. Production equipment or tangible personal property as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.2;
 - b. Machinery, equipment, or other tangible personal property used to construct an agricultural commodity processing facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.3 or 57-39.2-04.4;
 - c. Tangible personal property used to construct or expand a system used to compress, process, gather, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas-processing facility in this state as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.5;
 - d. Tangible personal property used to construct or expand a qualifying oil refinery as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.6;
 - e. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.10;
 - f. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.11; or
 - g. Telecommunications infrastructure that is capable of providing telecommunications service as authorized or approved for exemption by the commissioner under chapter 57-39.2; or
 - h. Tangible personal property used to construct a qualifying fertilizer or chemical processing facility as authorized or approved for exemption by the tax commissioner under section 2 of this Act.

228 Section 57-40.2-03.3 was also amended by section 2 of Senate Bill No. 2318, chapter 458.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - ECONOMIC DEVELOPMENT IMPACT. During the 2015-16 interim, the legislative management shall consider studying the impact of large economic development projects on political subdivisions. The study may include a review of the current process for seeking out input from political subdivisions potentially impacted by a large economic development project and any mechanisms in place to address the potential impact. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 5. OIL AND GAS RESEARCH - NATURAL GAS PRODUCTION STUDY. The industrial commission may use the sum of one hundred thousand dollars or so much of the sum as necessary from the oil and gas research fund, or so much of the amount as may be necessary, pursuant to its continuing appropriation under section 57-51.1-07.3 for the purpose of contracting for an independent, nonmatching natural gas production study.

SECTION 6. EFFECTIVE DATE - RETROACTIVE APPLICATION. Section 1 of this Act is effective for taxable years beginning after December 31, 2014. Sections 2 and 3 of this Act are retroactively effective, and apply to taxable events occurring after December 31, 2014.

Approved April 22, 2015
Filed April 22, 2015

CHAPTER 458

SENATE BILL NO. 2318

(Senator Cook)

AN ACT to create and enact a new section to chapter 57-39.2 and a new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales and use tax exemption for carbon dioxide capture equipment used for enhanced oil recovery; to amend and reenact section 57-60-06 of the North Dakota Century Code, relating to ad valorem property tax exemption for carbon dioxide capture equipment used for enhanced oil recovery; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Sales and use tax exemption for materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas.

1. Gross receipts from sales of tangible personal property used to construct or expand a system used to compress, gather, collect, store, transport, or inject carbon dioxide for use in enhanced recovery of oil or natural gas in this state are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated into a system used to compress, gather, collect, store, transport, or inject carbon dioxide for use in enhanced recovery of oil or natural gas. Tangible personal property used to replace an existing system to compress, gather, collect, store, transport, or inject carbon dioxide for use in enhanced recovery of oil or natural gas does not qualify for exemption under this section unless the replacement creates an expansion of the system.
2. To receive the exemption under this section at the time of purchase, the owner of the gas compressing, gathering, collecting, storing, transporting, or injecting system must receive from the tax commissioner a certificate that the tangible personal property used to construct or expand a system used to compress, gather, collect, store, transport, or inject carbon dioxide for use in enhanced recovery of oil or natural gas qualifies for the exemption. If a certificate is not received before the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner of the gas compressing, gathering, collecting, storing, transporting, or injecting system may apply to the tax commissioner for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for a refund must be made at the time and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.

4. This chapter and chapter 57-40.2 apply to the exemption under this section.

²²⁹ **SECTION 2.** A new subdivision to subsection 4 of section 57-40.2-03.3 of the North Dakota Century Code is created and enacted as follows:

Materials used in compressing, gathering, collecting, storing, transporting, or injecting carbon dioxide for use in enhanced recovery of oil or natural gas as provided in section 1 of this Act.

SECTION 3. AMENDMENT. Section 57-60-06 of the North Dakota Century Code is amended and reenacted as follows:

57-60-06. Property classified and exempted from ad valorem taxes - In lieu of certain other taxes - Credit for certain other taxes.

Each coal conversion facility and any carbon dioxide capture system located at the coal conversion facility, and any equipment directly used for enhanced recovery of oil or natural gas must be classified as personal property and is exempt from all ad valorem taxes except for taxes on the land on which ~~such~~the facility, capture system, or equipment is located. The exemption provided by this section may not be interpreted to apply to tangible personal property incorporated as a component part of a carbon dioxide pipeline but this restriction does not affect eligibility of such a pipeline for the exemption under section 57-06-17.1. The taxes imposed by this chapter are in lieu of ad valorem taxes on the property so classified as personal property.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - OIL EXTRACTION TAX EXEMPTION FOR CARBON DIOXIDE RECOVERY PROJECTS. During the 2015-16 interim, the legislative management shall study the oil extraction tax exemption available for incremental production from a tertiary recovery project that uses carbon dioxide. The study must include consideration of the potential benefits and costs to industry, the state, and the environment of using carbon dioxide enhanced recovery methods. The legislative management shall secure assistance from the energy and environmental research center to analyze potential future usage of carbon dioxide in oil recovery operations in the Bakken and Three Forks formations, the potential production and environmental benefits of that usage for energy industries in this state, the economic conditions in which that usage is feasible for oil producers, and the estimated fiscal effect of that usage for the state and political subdivisions. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 5. EFFECTIVE DATE. Sections 1 and 2 of this Act are effective for tax periods beginning after June 30, 2015. Section 3 of this Act is effective for taxable years beginning after December 31, 2014.

Approved April 16, 2015
Filed April 16, 2015

²²⁹ Section 57-40.2-03.3 was also amended by section 3 of Senate Bill No. 2035, chapter 457.

CHAPTER 459

HOUSE BILL NO. 1406

(Representatives Schmidt, Boe, Brandenburg, D. Johnson, Onstad)
(Senators Heckaman, Oehlke, Schaible)

AN ACT to create and enact section 57-39.4-33.4 and chapter 57-39.8 of the North Dakota Century Code, relating to administration of the streamlined sales and use tax agreement and to authorizing entry of state-tribal agreements for administration and collection of state and tribal sales, use, and gross receipts taxes imposed and collected within the exterior boundaries of the Standing Rock Indian Reservation within this state; and to amend and reenact subsection 2 of section 57-39.2-04.1, sections 57-39.4-29 and 57-39.4-31, and subsection 2 of section 57-40.2-04.1 of the North Dakota Century Code, relating to the definition of prepared food for sales tax purposes, the taxability matrix to be used for administration of the sales and use tax agreement, the streamlined sales tax governing board and advisory council and the definition of prepared food for use tax purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 57-39.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

2. For purposes of this section:
 - a. "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.
 - b. "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavoring in the form of bars, drops, or pieces. Candy does not include any preparation containing flour and does not require refrigeration.
 - c. "Dietary supplement" means any product, other than tobacco, intended to supplement the diet which contains one or more of the following dietary ingredients: a vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; an oral concentrate, metabolite, constitute, extract, or combination of any dietary ingredients described in this sentence and which is intended for ingestion in tablet, capsule, powder, soft gel, gel cap, or liquid form, or if not represented for use as a sole item of a meal or of a diet; and is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 CFR section 101.36.
 - d. "Prepared food" means:
 - (1) Food sold in a heated state or heated by the seller;

- (2) Two or more food ingredients mixed or combined by the seller for sale as a single item; or
 - (3) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.
- e. "Prepared food" does not mean:
- (1) Food that is only cut, repackaged, or pasteurized by the seller.
 - (2) Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the food and drug administration in chapter 3, part 401.11, of its food code so as to prevent foodborne illness.
 - (3) If sold without eating utensils provided by the seller:
 - (a) Food sold by a seller whose proper primary North American industry classification system classification is manufacturing in sector 311, except subsector 3118, bakeries.
 - (b) Food sold in an unheated state by weight or volume as a single item.
 - (c) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.
 - (d) Food sold that ordinarily requires additional cooking, as opposed to just reheating, by the consumer prior to consumption.
- f. "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume.
- g. "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

SECTION 2. AMENDMENT. Section 57-39.4-29 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-29. (328) Taxability matrix.

1. a. To ensure uniform application of terms defined in part II and part III(B) of the library of definitions as adopted by the governing board under section 57-39.4-28, each member state shall complete a, to the best of its ability, section 1 of the taxability matrix-adopted by the governing board.
- b. To inform the general public of its practices regarding certain products, procedures, services, or transactions adopted by the governing board under section 57-39.4-33.4, each member state shall complete, to the best of its ability, section 2 of the taxability matrix.

2. The member state's entries in the matrix shall be provided and maintained in a database that is in a downloadable format approved by the governing board. A member state shall provide notice of changes in the taxability of the products or services listed in the taxability matrix as required by the governing board.
- ~~2-3.~~ A member state shall relieve sellers and certified service providers from liability to the member state and its local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by the member state in the taxability matrix. If a member state amends an existing provision of its taxability matrix, the member state shall, to the extent possible, relieve sellers and certified service providers from liability to the member state and its local jurisdictions until the first day of the calendar month that is at least thirty days after notice of change to a member state's taxability matrix is submitted to the governing board, provided the seller or certified service provider relied on the prior version of the taxability matrix.
- ~~3-4.~~ If a state levies sales and use tax on a specified digital product and provides an exemption for an item within the definition of such specified digital product under subsection 8 of section 57-39.4-33.1, such exemption must be noted in the taxability matrix.
- ~~4-5.~~ Each state that provides for a sales tax holiday under section 57-39.4-23 shall, in a format approved by the governing board, give notice in the taxability matrix of the products for which a tax exemption is provided.

SECTION 3. AMENDMENT. Section 57-39.4-31 of the North Dakota Century Code is amended and reenacted as follows:

~~57-39.4-31. Membership of streamlined sales tax governing board and state and local advisory council.~~

1. Two members of the house of representatives and two members of the senate, to be appointed by the chairman of the legislative management, shall represent ~~the~~this state of North Dakota on the streamlined sales tax governing board.
- ~~2. One member of the house of representatives and one member of the senate, to be appointed by the chairman of the legislative management, shall represent the state of North Dakota on the streamlined sales tax state and local advisory council.~~
- ~~3. The tax commissioner shall designate a member of the tax commissioner's staff to accompany and advise the members appointed under this section with regard to multistate discussions to review or revise the agreement or to conduct such other business as comes before the board or council.~~

SECTION 4. Section 57-39.4-33.4 of the North Dakota Century Code is created and enacted as follows:

57-39.4-33.4. Best practices.

1. For purposes of this section, "best practices" means those practices adopted by the governing board as the best practices in administration of the sales and use taxes in the member states regarding certain identified products, procedures, services, or transactions.

2. A majority vote of the entire governing board is required to approve a motion to adopt a best practices standard. The governing board shall provide public notice and opportunity for comment prior to voting on a motion to adopt a best practice.
3. Best practices adopted by the governing board must be maintained in an appendix to the agreement.
4. Conformance by a member state to best practices adopted by the governing board is voluntary and a state may not be found to be out of compliance with the agreement because the effect of the state's laws, rules, regulations, and policies do not follow each of the best practices adopted by the governing board.
5. A state shall complete the best practice matrix by the first day of the calendar month that is at least thirty days after the date the governing board approves a best practice and submits it to the executive director for posting on the governing board's website. For subsequent best practices approved by the governing board, a state shall update its best practice matrix by the first day of the calendar month that is at least thirty days after the date the governing board approves a new best practice and submits it to the executive director for posting on the governing board's website.

SECTION 5. Chapter 57-39.8 of the North Dakota Century Code is created and enacted as follows:

57-39.8-01. Authority to enter state-tribal sales, use, and gross receipts tax agreements.

The governor may enter an agreement on behalf of the state with the governing body of the Standing Rock Sioux Tribe which complies with the provisions of this chapter relating to administration and allocation of state and tribal sales, use, and gross receipts taxes imposed and collected within the exterior boundaries of the Standing Rock Indian Reservation within this state.

57-39.8-02. Agreement requirements.

Any agreement under this chapter is subject to the following:

1. The only taxes subject to agreement are state and tribal sales, use, and gross receipts taxes for taxable transactions and activities within the exterior boundaries of the Standing Rock Indian Reservation within this state.
2. If the Standing Rock Sioux Tribe governing body chooses to impose sales, use, and gross receipts taxes on persons subject to the tribe's taxing powers and enter an agreement under this chapter, the tribal tax code provisions:
 - a. Must impose a tribal tax of equal rate, except as provided in subdivision b, and conform in all respects with regard to the taxable or exempt status of transactions and activities under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 but must be applied to only those taxable transactions and activities that are exempt from state taxes because they occur within the tribe's jurisdiction.
 - b. Must also impose a separate and additional tribal sales, use, and gross receipts tax at a rate of one-fourth of one percent which conforms in all

- respects with regard to the taxable or exempt status of transactions and activities under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2. However, taxable transactions and activities exempt from state taxes because they occur within the tribe's jurisdiction must also be subject to the tax under this subdivision by the tribe. The entire tax revenue from the tax imposed under this subdivision must be transferred to the state treasurer and paid to the Standing Rock Sioux Tribe.
- c. May not be newly imposed except to be effective on the first day of a calendar quarter beginning at least ninety days after the imposition is approved by the governing body and notice is provided to the tax commissioner.
 - d. The provisions of chapter 57-39.2 pertaining to administration of the retail sales tax, including provisions for refunds, credits, retailer compensation, adoption of rules, and allocation and deposit of the state share of revenues, not in conflict with this chapter or federal law, must govern the administration of any tax subject to an agreement under this chapter.
 3. The agreement must provide for an amount equal to three percent of the total amount collected, from the tribal taxes imposed under subdivisions a and b of subsection 2, to be allowed to the tax commissioner for collection and administration services to the Standing Rock Sioux Tribe government under this chapter. Any sums collected for services must be paid to the state treasurer for deposit in the general fund.
 4. The tax revenue from taxable transactions and activities within the exterior boundaries of the Standing Rock Indian Reservation within this state and subject to taxes imposed by the state or the tax imposed under subdivision a of subsection 2 is to be allocated eighty percent to the Standing Rock Sioux Tribe and twenty percent to this state. The tribal share of the tax allocated under this subdivision must be transferred to the state treasurer and paid to the Standing Rock Sioux Tribe. However, the tribal share paid to the Standing Rock Sioux Tribe under the agreement is limited to two million dollars during a state biennium and any amount exceeding that limitation must be deposited by the state treasurer in the state general fund.
 5. The governing body of the Standing Rock Sioux Tribe must agree not to impose any other taxes or any fee on transactions and activities subject to a sales, use, and gross receipts tax administered by the tax commissioner.
 6. The agreement must allow the tax commissioner to offset future distributions to the tribe if there was a previous overpayment of the tax distributed to the tribe.
 7. The tax commissioner must be given authority to administer and enforce within the exterior boundaries of the Standing Rock Indian Reservation state and tribal taxes that are subject to an agreement authorized by this chapter.
 8. The federal district court for the western division of North Dakota is the venue for any dispute arising from an agreement under this chapter.
 9. The agreement must require that the governing body of the Standing Rock Sioux Tribe report annually to the budget section of the legislative management and that the report identify projects totaling investment in

essential infrastructure of at least ten percent of tribal receipts under the agreement for that year.

10. Taxes imposed under chapters 11-09.1 and 40-05.1 are not subject to allocation under any agreement entered under the provisions of this chapter.

57-39.8-03. Inapplicability of chapter 54-40.2.

Chapter 54-40.2 does not apply to any agreement entered under this chapter.

SECTION 6. AMENDMENT. Subsection 2 of section 57-40.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

2. For purposes of this section:

- a. "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.
- b. "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavoring in the form of bars, drops, or pieces. Candy does not include any preparation containing flour and that does not require refrigeration.
- c. "Dietary supplement" means any product, other than tobacco, intended to supplement the diet which contains one or more of the following dietary ingredients: a vitamin; a mineral; an herb or other botanical; an amino acid; a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; an oral concentrate, metabolite, constitute, extract, or combination of any dietary ingredients described in this subdivision and which is intended for ingestion in tablet, capsule, powder, soft gel cap, or liquid form, or if not represented for use as a sole item of a meal or of a diet; and is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 CFR 101.36.
- d. "Prepared food" means:
 - (1) Food sold in a heated state or heated by the seller;
 - (2) Two or more food ingredients mixed or combined by the seller for sale as a single item; or
 - (3) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.
- e. "Prepared food" does not mean:
 - (1) Food that is only cut, repackaged, or pasteurized by the seller.
 - (2) Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the food and drug administration in chapter 3, part 401.11, of its food code so as to prevent foodborne illness.

(3) If sold without eating utensils provided by the seller:

- (a) Food sold by a seller whose proper primary North American industry classification system classification is manufacturing in sector 311, except subsector 3118, bakeries.
 - (b) Food sold in an unheated state by weight or volume as a single item.
 - (c) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.
 - (d) Food sold that ordinarily requires additional cooking, as opposed to just reheating, by the consumer prior to consumption.
- f. "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume.
- g. "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

Approved April 23, 2015
Filed April 23, 2015

CHAPTER 460

HOUSE BILL NO. 1130

(Representative Keiser)
(Senator Poolman)

AN ACT to create and enact a new subsection to section 57-40.3-04 of the North Dakota Century Code, relating to a motor vehicle excise tax exemption for donations of motor vehicles to a nonprofit organization that donates motor vehicles to individuals with demonstrated need of a motor vehicle to enable them to become self-sufficient members of the workforce; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³⁰ **SECTION 1.** A new subsection to section 57-40.3-04 of the North Dakota Century Code is created and enacted as follows:

A motor vehicle donated to a qualified nonprofit organization that is exempt from federal taxation under Internal Revenue Code section 501(c)(3) [26 U.S.C. 501(c)(3)] if that organization is organized or incorporated in this state, has its certificate of incorporation or certificate of authority in good standing with the secretary of state, and has an established program with the primary purpose of receiving donations of motor vehicles that it then donates to individuals with demonstrated need of a motor vehicle necessary to the individual's effort to become a self-sufficient member of the workforce.

- a. An exemption under this subsection is rescinded if the organization has not transferred title to a donated motor vehicle and donated that motor vehicle to an individual with demonstrated need of a motor vehicle necessary to the individual's effort to become a self-sufficient member of the workforce within ninety days after taking possession or ownership of the motor vehicle, in which case the organization shall pay the tax based on the retail value of the motor vehicle, as determined by the national automobile dealers association official used car guide, at the time it took possession or ownership.
- b. An exemption under this subsection is rescinded if the organization sells a donated motor vehicle for more than five hundred dollars after taking possession or ownership of the motor vehicle, in which case the organization shall pay the tax based on the retail value of the motor vehicle, as determined by the national automobile dealers association official used car guide, at the time it took possession or ownership.
- c. The commissioner shall issue a certificate of exemption to a qualified nonprofit organization exempted by this subsection. The qualified nonprofit organization shall present the certificate of exemption to the registrar whenever the exemption under this subsection is claimed.

²³⁰ Section 57-40.3-04 was also amended by section 10 of House Bill No. 1133, chapter 432, and section 1 of Senate Bill No. 2363, chapter 461.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2015.

Approved March 25, 2015

Filed March 25, 2015

CHAPTER 461

SENATE BILL NO. 2363

(Senator Dotzenrod)

AN ACT to amend and reenact subsection 5 of section 57-40.3-04 of the North Dakota Century Code, relating to a motor vehicle excise tax exemption for transfer of a motor vehicle without consideration from grandparent to grandchild; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³¹ **SECTION 1. AMENDMENT.** Subsection 5 of section 57-40.3-04 of the North Dakota Century Code is amended and reenacted as follows:

5. a. A motor vehicle acquired by inheritance from, by bequest of, or operation of a trust created by a decedent who owned it;
- b. The transfer of a motor vehicle that was previously titled or licensed in the name of an individual or in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more joint tenants, including a transfer into a trust in which one or more of the joint tenants is beneficiary or trustee;
- c. The transfer of a motor vehicle by way of gift between a husband and wife, parent and child, grandparent and grandchild, or brothers and sisters, including a transfer into a trust in which the trustor and beneficiary occupy one of these relationships;
- d. The transfer of a motor vehicle without monetary consideration into a trust in which the beneficiary is the person in whose name the motor vehicle was previously titled or licensed;
- e. The transfer of a motor vehicle to reflect a new name of the owner caused by a business reorganization in which the ownership of the reorganized business remains in the same person or persons as before the reorganization, if the title transfer is completed within one hundred eighty days from the effective date of the reorganization;
- f. The transfer of a motor vehicle previously transferred under subdivision e which returns ownership to the previous owner; and
- g. The transfer of a motor vehicle without monetary consideration from a revocable living trust to the trustor or to the spouse, child, or sibling of the trustor.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2015.

Approved March 30, 2015
Filed March 31, 2015

²³¹ Section 57-40.3-04 was also amended by section 1 of House Bill No. 1130, chapter 460, and section 10 of House Bill No. 1133, chapter 432.

CHAPTER 462

SENATE BILL NO. 2101

(Senators Oehlke, Wanzek)
(Representatives Sukut, Porter)

AN ACT to amend and reenact section 57-40.6-01, subsection 5 of section 57-40.6-02, section 57-40.6-03.1, and subsection 4 of section 57-40.6-10 of the North Dakota Century Code, relating to emergency services communications systems.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-40.6-01 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "911 system" means a set of networks, software applications, databases, call answering components, and operations and management procedures required to provide 911 services.
2. "Assessed communications service" means a software service, communication connection, cable or broadband transport facilities, or a combination of these facilities, between a billed retail end user and a service provider's network that provides the end user, upon dialing 911, access to a public safety answering point through a permissible interconnection to the dedicated 911 network. The term includes telephone exchange access service, wireless service, and voice over internet protocol service.
- 2-3. "Automated notification system" means that portion of a telecommunications system that provides rapid notice of emergency situations to the public.
- 3-4. "Commissioner" means the state tax commissioner.
- 4-5. "Communication connection" means a telephone access line, wireless access line, unique voice over internet protocol service connection, or functional equivalent uniquely identifiable by a number, internet address, or other designation.
- 5-6. "Consumer" means a person who purchases prepaid wireless service in a retail transaction.
- 6-7. "Emergency services communication system" means a ~~comprehensive statewide, or countywide, or citywide radio system, land lines communication network, wireless service network, or enhanced 911 (E911) telephone system,~~ which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for law enforcement, fire, medical, or other emergency services public safety services. The system includes a 911 system or radio system.

- 7-8. "FCC order" means federal communications commission order 94-102 [961 Federal Register 40348] and any other FCC order that affects the provision of wireless enhanced 911 service.
- 8-9. "Prepaid wireless emergency 911 fee" means the fee that is required to be collected by a seller from a consumer in the amount established under section 57-40.6-14.
- 9-10. "Prepaid wireless service" means any telecommunications service that provides the right to use a mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which are paid for in advance and sold in predetermined units or dollars which decline with use in a known amount.
- 40-11. "Prepaid wireless service provider" means any person that provides prepaid wireless telecommunications service pursuant to a license issued by the federal communications commission.
- 44-12. "Public safety answering point" or "PSAP" means a communications facility or combination of facilities ~~operated on a twenty-four hour basis~~ which first receives 911 calls from persons in a 911 service area and which, as appropriate, may directly dispatch public safety services or extend, transfer, or relay 911 calls to appropriate public safety agencies.
- 42-13. "Public safety answering point service area" means the geographic area for which a public safety answering point has dispatch and emergency communications responsibility.
14. "Public safety services" means personnel, equipment, and facilities used by law enforcement, fire, medical, or other supporting services used in providing a public safety response to an incident.
- 43-15. "Public safety telecommunicator" means an individual whose primary full-time or part-time duties are receiving, processing, and transmitting public safety information received through an emergency services communication system.
16. "Radio system" means a set of networks, software applications, databases, radio components and infrastructure, and operations and management procedures required to provide communication services.
- 44-17. "Retail transaction" means the purchase of prepaid wireless service from a seller for any purpose other than resale.
- 45-18. "Seller" means a person who sells prepaid wireless services to a consumer.
- 46-19. "Subscriber service address" means, for purposes of wire line subscribers, the address where the telephone subscriber's wire line telephone device is used and, for purposes of wireless subscribers, the place of primary use, as that term is defined in section 57-34.1-02.
- 47-20. "Telephone access line" means the principal access to the telephone company's switched network, including an outward dialed trunk or access register.

- ~~18-21.~~ "Telephone exchange access service" means service to any wire line telephone access line identified by a unique telephone number that provides local wire line access to the telecommunications network to a service subscriber and which enables the subscriber to access the emergency services communications system by dialing the digits 9-1-1 on the subscriber's telephone device.
- ~~19-22.~~ "Unpublished" means information that is not published or available from directory assistance.
- ~~20-23.~~ "Voice over internet protocol service" means a service that enables real-time two-way voice communications; requires a broadband connection from the user's location; requires internet protocol-compatible customer premises equipment; and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.
- ~~21-24.~~ "Wireless access line" means each active wireless and prepaid wireless telephone number assigned to a commercial mobile radio service subscriber, including end users of resellers.
- ~~22-25.~~ "Wireless enhanced 911 service" means the service required to be provided by wireless service providers pursuant to the FCC order.
- ~~23-26.~~ "Wireless service" means commercial mobile radio service as defined in 47 U.S.C. 332(d)(1) and includes:
- a. Services commonly referred to as wireless; and
 - b. Services provided by any wireless real-time two-way voice communication device, including radio-telephone communications used in:
 - (1) Cellular telephone service;
 - (2) Personal communications service; or
 - (3) The functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, personal communications service, or a network radio access line.
- ~~24-27.~~ "Wireless service provider" means any entity authorized by the federal communications commission to provide wireless service within this state.

SECTION 2. AMENDMENT. Subsection 5 of section 57-40.6-02 of the North Dakota Century Code is amended and reenacted as follows:

5. In the interest of public safety, where the subscriber's telephone exchange access service boundary and the boundary of the political subdivision imposing the fee do not coincide, and where all of the political subdivisions within the subscriber's telephone exchange access service boundary have not complied with subsection 1, and where a majority of the E911 subscribers within the subscriber's telephone exchange access service boundary have voted for the fee, a telephone exchange access service subscriber whose subscriber service address is outside the political subdivision may receive ~~E911~~E911 services by signing a contract agreement with the political subdivision providing the emergency services communication system. The

telephone exchange access service provider may collect an additional fee, equal in amount to the basic fee on those subscribers within the exchange boundary. The additional fee amounts collected must be remitted as provided in this chapter.

SECTION 3. AMENDMENT. Section 57-40.6-03.1 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-03.1. Enhanced 911 database management charges.

Any telephone exchange access service provider charges for enhanced 911 database management must be on a per telephone exchange access service basis.

SECTION 4. AMENDMENT. Subsection 4 of section 57-40.6-10 of the North Dakota Century Code is amended and reenacted as follows:

4. A public safety answering point must:
 - a. Be operational twenty-four hours a day seven days a week or be capable of transferring emergency calls to another public safety answering point meeting the requirements of this section during times of nonoperation.
 - b. Be staffed continuously with at least one public safety telecommunicator who is on duty at all times of operation and who has primary responsibility for handling the communications of the public safety answering point.
 - c. Have the capability to dispatch ~~law enforcement, fire, and medical responders~~public safety services to calls for service in the public safety answering point's service area.
 - d. Have two-way communication with all ~~law enforcement, fire, and medical responder units and operational incident or unified commands~~public safety services in the public safety answering point's service area.
 - e. As authorized by the governing committee, access and dispatch poison control, suicide prevention, emergency management, and other public or private services but may not accept one-way private call-in alarms or devices as 911 calls.
 - f. Dispatch the emergency medical service that has been determined to be the quickest to arrive to the scene of medical emergencies regardless of city, county, or district boundaries. The state department of health shall provide public safety answering points with the physical locations of the emergency medical services necessary for the implementation of this subdivision.
 - g. Be capable of providing emergency medical dispatch prearrival instructions on all emergency medical calls. Prearrival instructions must be offered by a public safety telecommunicator who has completed an emergency medical dispatch course approved by the division of emergency health services. Prearrival medical instructions may be given through a mutual aid agreement.
 - h. Have security measures in place to prevent direct physical public access to on-duty public safety telecommunicators and to prevent direct physical

public access to any room or location where public safety answering point equipment and systems are located.

- i. Have an alternative source of electrical power that is sufficient to ensure at least six hours of continued operation of emergency communication equipment in the event of a commercial power failure. A public safety answering point also must have equipment to protect critical equipment and systems from irregular power conditions, such as power spikes, lightning, and brownouts. Documented testing of backup equipment must be performed each quarter under load.
- j. Maintain a written policy for computer system security and preservation of data.
- k. Have the capability of recording and immediate playback of recorded emergency calls and radio traffic.
- l. Employ a mechanism to differentiate emergency calls from other calls.
- m. Provide assistance for investigating false or prank calls.
- n. Have an alternative method of answering inbound emergency calls at the public safety answering point when its primary emergency services communication system equipment is inoperable.
- o. No later than July 1, 2015, have a written policy, appropriate agreements, and the capability to directly answer emergency calls and dispatch responders from a separate, independent location other than the main public safety answering point or another public safety answering point meeting the requirements of this section, within sixty minutes of an event that renders the main public safety answering point inoperative. This alternative location must have independent access to the public safety answering point's land line database. The capability of transferring emergency calls to this alternative location must be tested and documented annually.
- p. Remain responsible for all emergency calls received, even if a transfer of the call is made to a second public safety answering point. The initial public safety answering point may not disconnect from the three-way call unless mutually agreed by the two public safety telecommunicators. Upon this agreement, the secondary public safety answering point becomes responsible for the call.
- q. Employ the necessary telecommunications network and electronic equipment consistent with the minimum technical standards recommended by the national emergency number association to securely receive and respond to emergency communications.
- r. After July 1, 2015, maintain current, up-to-date mapping of its service area and have the ability to use longitude and latitude to direct responders.
- s. Secure two sets of fingerprints from a law enforcement agency or any other agency authorized to take fingerprints and all other information necessary to obtain state criminal history record information and a

- nationwide background check under federal law for all public safety telecommunicators.
- t. Have policies to ensure that all public safety telecommunicators:
- (1) Do not have felony convictions;
 - (2) Complete preemployment screening for illegal substance use and hearing;
 - (3) Complete training through an association of public safety communications officials course or equivalent course;
 - (4) Can prioritize appropriately all calls for service; and
 - (5) Can determine the appropriate resources to be used in response to all calls for public safety services.
- u. Have written policies establishing procedures for recording and documenting relevant information of every request for service, including:
- (1) Date and time of request for service;
 - (2) Name and address of requester, if available;
 - (3) Type of incident reported;
 - (4) Location of incident reported;
 - (5) Description of resources assigned, if any;
 - (6) Time of dispatch;
 - (7) Time of resource arrival; and
 - (8) Time of incident conclusion.
- v. Have written policies establishing dispatch procedures and provide periodic training of public safety telecommunicators on those procedures, including procedures for:
- (1) Standardized call taking and dispatch procedures;
 - (2) The prompt handling and appropriate routing of misdirected emergency calls;
 - (3) The handling of hang-up emergency calls;
 - (4) The handling of calls from non-English speaking callers; and
 - (5) The handling of calls from callers with hearing or speech impairments.

CHAPTER 463

HOUSE BILL NO. 1176

(Representatives Kempenich, Brandenburg, Dockter, Hatlestad, Owens, Streyle,
Toman, Trottier)
(Senators Bowman, O'Connell, Oehlke, Unruh)

AN ACT to amend and reenact sections 15-08.1-08, 57-51-01, and 57-51-15 of the North Dakota Century Code, relating to the unobligated balance of the strategic investment and improvements fund and oil and gas gross production tax definitions and allocations; to provide appropriations; to provide exemptions; to provide for reports to the budget section; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³² **SECTION 1. AMENDMENT.** Section 15-08.1-08 of the North Dakota Century Code is amended and reenacted as follows:

15-08.1-08. Income - Expenses - Reimbursement - Creation of strategic investment and improvements fund - Legislative intent - Contingent transfer to legacy fund.

The income derived from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the strategic investment and improvements fund. The corpus and interest of such trust may be expended as the legislative assembly may provide for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government. It is the intent of the legislative assembly that moneys in the fund may be included in draft appropriation acts under section 54-44.1-06 and may be appropriated by the legislative assembly, but only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized. ~~If the unobligated balance in the fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund. For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases.~~

SECTION 2. AMENDMENT. Section 57-51-01 of the North Dakota Century Code is amended and reenacted as follows:

²³² Section 15-08.1-08 was also amended by section 1 of House Bill No. 1377, chapter 467.

57-51-01. (Effective for taxable events occurring through June 30, 2015) Definitions.

As used in this chapter:

1. "Barrel of oil" means forty-two United States gallons of two hundred thirty-one cubic inches per gallon computed at a temperature of sixty degrees Fahrenheit [158.99 liters computed at a temperature of 15.56 degrees Celsius].
2. "Commissioner" means the state tax commissioner.
3. "Field" means the geographic area underlaid by one or more pools, as defined by the industrial commission.
4. "Gas" means natural gas and casinghead gas.
5. "Hub city" means, for the period beginning September 1, 2015, and ending August 31, 2017, a city with a population of twelve thousand five hundred or more, according to the last official decennial federal census, which has more than one percent of its private covered employment engaged in the mining industry oil and gas-related employment, according to annual data compiled by job service North Dakota. "Hub city" means, after August 31, 2017, a city with a population of twelve thousand five hundred or more, according to the last official decennial federal census, which has more than one percent of its private covered employment engaged in the mining industry, according to annual data compiled by job service North Dakota.
6. "Hub city school district" means the school district with the highest student enrollment within the city limits of a hub city.
7. "Oil" means petroleum, crude oil, mineral oil, and casinghead gasoline.
8. "Person" includes partnership, corporation, limited liability company, association, fiduciary, trustee, and any combination of individuals.
9. "Posted price" means the price specified in publicly available posted price bulletins or other public notices, net of any adjustments for quality and location.
10. "Shallow gas" means gas produced from a gas well completed in or producing from a shallow gas zone, as certified to the tax commissioner by the industrial commission.
11. "Shallow gas zone" means a strata or formation, including lignite or coal strata or seam, located above the depth of five thousand feet [1524 meters] below the surface, or located more than five thousand feet [1524 meters] below the surface but above the top of the Rierdon formation, from which gas is or may be produced.
12. "Transportation costs" means the costs incurred for transporting oil established in accordance with the first applicable of the following methods:
 - a. Actual costs incurred under the arm's-length contract between the producer and the transporter of oil.

- b. An applicable common carrier rate established and filed with the North Dakota public service commission, or the appropriate federal jurisdictional agency.
- c. When no common carrier rate would be applicable, the transportation costs are those reasonable costs associated with the actual operating and maintenance expenses, overhead costs directly attributable and allocable to the operation and maintenance, and either depreciation and a return on undepreciated capital investment, or a cost equal to a return on the investment in the transportation system, as determined by the commissioner.

~~(Effective for taxable events occurring after June 30, 2015) Definitions. As used in this chapter:~~

1. ~~"Barrel of oil" means forty-two United States gallons of two hundred thirty-one cubic inches per gallon computed at a temperature of sixty degrees Fahrenheit [158.99 liters computed at a temperature of 15.56 degrees Celsius].~~
2. ~~"Commissioner" means the state tax commissioner.~~
3. ~~"Field" means the geographic area underlaid by one or more pools, as defined by the industrial commission.~~
4. ~~"Gas" means natural gas and casinghead gas.~~
5. ~~"Oil" means petroleum, crude oil, mineral oil, and casinghead gasoline.~~
6. ~~"Person" includes partnership, corporation, limited liability company, association, fiduciary, trustee, and any combination of individuals.~~
7. ~~"Posted price" means the price specified in publicly available posted price bulletins or other public notices, net of any adjustments for quality and location.~~
8. ~~"Shallow gas" means gas produced from a gas well completed in or producing from a shallow gas zone, as certified to the tax commissioner by the industrial commission.~~
9. ~~"Shallow gas zone" means a strata or formation, including lignite or coal strata or seam, located above the depth of five thousand feet [1524 meters] below the surface, or located more than five thousand feet [1524 meters] below the surface but above the top of the Rierdon formation, from which gas is or may be produced.~~
10. ~~"Transportation costs" means the costs incurred for transporting oil established in accordance with the first applicable of the following methods:~~
 - a. ~~Actual costs incurred under the arm's-length contract between the producer and the transporter of oil.~~
 - b. ~~An applicable common carrier rate established and filed with the North Dakota public service commission, or the appropriate federal jurisdictional agency.~~

- e. ~~When no common carrier rate would be applicable, the transportation costs are those reasonable costs associated with the actual operating and maintenance expenses, overhead costs directly attributable and allocable to the operation and maintenance, and either depreciation and a return on undepreciated capital investment, or a cost equal to a return on the investment in the transportation system, as determined by the commissioner.~~

²³³ **SECTION 3. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

57-51-15. (~~Effective for taxable events occurring through June 30, 2015~~) Gross production tax allocation.

The gross production tax must be allocated monthly as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
 - a. ~~Allocate, for the period beginning September 1, 2015, and ending August 31, 2017, to each hub city, which is located in a county that received an allocation under subsection 2, a monthly amount that will provide a total allocation of three hundred seventy-five thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in the mining industry oil and gas-related employment, according to annual data compiled by job service North Dakota and after August 31, 2017, allocate to each hub city, which is located in a county that received an allocation under subsection 2, a monthly amount that will provide a total allocation of three hundred seventy-five thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in the mining industry, according to annual data compiled by job service North Dakota;~~
 - b. ~~Allocate, for the period beginning September 1, 2015, and ending August 31, 2017, to each hub city, which is located in a county that did not receive an allocation under subsection 2, a monthly amount that will provide a total allocation of two hundred fifty thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in oil and gas-related employment, according to annual data compiled by job service North Dakota and after August 31, 2017, allocate to each hub city, which is located in a county that did not receive an allocation under subsection 2, a monthly amount that will provide a total allocation of two hundred fifty thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in the mining industry, according to annual data compiled by job service North Dakota;~~
 - c. ~~Allocate, for the period beginning September 1, 2015, and ending August 31, 2017, to each hub city school district, which is located in a county that received an allocation under subsection 2, a monthly amount that will provide a total allocation of one hundred twenty-five thousand~~

²³³ Section 57-51-15 was also amended by section 1 of House Bill No. 1032, chapter 465, and section 4 of House Bill No. 1409, chapter 379.

dollars per fiscal year for each full or partial percentage point of the hub city's private covered employment engaged in the ~~mining industry~~oil and gas-related employment, according to annual data compiled by job service North Dakota ~~and after August 31, 2017,~~ allocate to each hub city school district, which is located in a county that received an allocation under subsection 2, a monthly amount that will provide a total allocation of one hundred twenty-five thousand dollars per fiscal year for each full or partial percentage point of the hub city's private covered employment engaged in the mining industry, according to annual data compiled by job service North Dakota, provided that hub city school districts, which are located in a county that did not receive an allocation under subsection 2, must be excluded from the allocations under this subdivision;

- d. Allocate to each county that received more than five million dollars but less than thirty million dollars of total allocations under subsection 2 in state fiscal year 2014 a monthly amount that will provide a total allocation of one million five hundred thousand dollars per fiscal year to be added by the state treasurer to the allocations to school districts under subdivision b of subsection 5;
 - e-e. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding ~~two~~one hundred forty million dollars per biennium ~~for the 2015-17 biennium, and not in an amount exceeding one hundred million dollars per biennium thereafter;~~
 - d-f. Credit ~~four~~eight percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding ~~fifteen~~twenty million dollars in a state fiscal year and not in an amount exceeding ~~thirty~~forty million dollars per biennium;
 - e-g. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding five million dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than seventy-five million dollars; and
 - f-h. Allocate the remaining revenues under subsection 3.
2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
 - a. The first five million dollars is allocated to the county.
 - b. Of all annual revenue exceeding five million dollars, ~~twenty-five~~thirty percent is allocated to the county.
 3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the

amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.

4. For a county that received less than five million dollars of allocations under subsection 2 in the most recently completed state fiscal year 2014, revenues allocated to that county must be distributed at least quarterly by the state treasurer as follows:
 - a. Forty-five percent must be distributed to the county treasurer and credited to the county general fund. However, the ~~allocation distribution~~ to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - b. ~~Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the state treasurer no less than quarterly distributed~~ to school districts within the county, ~~excluding consideration of and allocation to any hub city school district in the county, on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from distributions under this subdivision.~~
 - c. Twenty percent must be ~~apportioned no less than quarterly by the state treasurer distributed~~ to the incorporated cities of the county. A hub city must be omitted from ~~apportionment distributions~~ under this subdivision. ~~Apportionment Distributions~~ among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
5. For a county that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year 2014, revenues allocated to that county must be distributed at least quarterly by the state treasurer as follows:
 - a. Sixty percent must be distributed to the county treasurer and credited to the county general fund. However, the ~~allocation distribution~~ to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - b. Five percent must be ~~apportioned by the state treasurer no less than quarterly distributed~~ to school districts within the county on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from ~~consideration and apportionment distributions~~ under this subdivision.

- c. ~~Twenty percent must be apportioned no less than quarterly by the state treasurer distributed to the incorporated cities of the county. A hub city must be omitted from apportionment distributions under this subdivision. Apportionment Distributions among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.~~
 - d. ~~Three percent must be apportioned no less than quarterly by the state treasurer allocated among the organized and unorganized townships of the county. The state treasurer shall apportion allocate the funds available under this subdivision among townships in the proportion that township to each township's road miles in the township bear relative to the total township road miles in the county. The amount apportioned allocated to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.~~
 - e. ~~Three percent must be allocated by the state treasurer among the organized and unorganized townships in all the counties that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year. The amount available under this subdivision must be allocated no less than quarterly by the state treasurer in an equal amount to each eligible organized and unorganized township. The amount allocated to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.~~
 - f. ~~Nine percent must be allocated by the state treasurer distributed among hub cities. The amount available for allocation under this subdivision must be apportioned by the state treasurer no less than quarterly among hub cities. Sixty percent of funds available under this subdivision must be distributed to the hub city receiving the greatest highest percentage of allocations to hub cities under subdivision a of subsection 1 for the quarterly period, thirty percent of funds available under this subdivision must be distributed to the hub city receiving the second greatest highest percentage of such allocations, and ten percent of funds available under this subdivision must be distributed to the hub city receiving the third greatest highest percentage of such allocations.~~
6. Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:
 - a. The county's statement of revenues and expenditures; and
 - b. ~~The amount allocated to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school~~

~~district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year. The county's ending fund balances;~~

- ~~c. The amounts allocated under this section to the county's general fund, the amounts expended from these allocations, and the purposes of the expenditures; and~~
- ~~d. The amounts allocated under this section to or for the benefit of townships within the county, the amounts expended from these allocations, and the purposes of the expenditures.~~

~~Within fifteen days after the time when reports under this subsection were due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.~~

- ~~7. Within thirty days after the end of each fiscal year ended June thirtieth, each school district that has received an allocation under this section shall file a report for the fiscal year ended June thirtieth with the commissioner, in a format prescribed by the commissioner, including:~~
 - ~~a. The school district's statement of revenue and expenditures;~~
 - ~~b. The school district's ending fund balances; and~~
 - ~~c. The amounts allocated under this section to the school district, the amounts expended from these allocations, and the purposes of the expenditures.~~

~~Within fifteen days after the time when reports under this subsection are due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.~~

~~**(Effective for taxable events occurring after June 30, 2015) Gross production tax allocation.** The gross production tax must be allocated monthly as follows:~~

- ~~1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:~~
 - ~~a. Allocate five hundred thousand dollars per fiscal year to each city in an oil-producing county which has a population of seven thousand five hundred or more and more than two percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota. The allocation under this subdivision must be doubled if the city has more than seven and one-half percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;~~
 - ~~b. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding one hundred million dollars per biennium;~~

- e. ~~Credit four percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding fifteen million dollars in a state fiscal year and not in an amount exceeding thirty million dollars per biennium;~~
 - d. ~~Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding five million dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than seventy-five million dollars; and~~
 - e. ~~Allocate the remaining revenues under subsection 3.~~
2. ~~After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:~~
 - a. ~~The first two million dollars is allocated to the county.~~
 - b. ~~Of the next one million dollars, seventy-five percent is allocated to the county.~~
 - c. ~~Of the next one million dollars, fifty percent is allocated to the county.~~
 - d. ~~Of the next fourteen million dollars, twenty-five percent is allocated to the county.~~
 - e. ~~Of all annual revenue exceeding eighteen million dollars, ten percent is allocated to the county.~~
3. ~~After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.~~
 4. ~~The amount to which each county is entitled under subsection 2 must be allocated within the county so the first five million three hundred fifty thousand dollars is allocated under subsection 5 for each fiscal year and any amount received by a county exceeding five million three hundred fifty thousand dollars is credited by the county treasurer to the county infrastructure fund and allocated under subsection 6.~~
 5. a. ~~Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.~~

- b. ~~Thirty five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.~~

~~The countywide allocation to school districts under this subdivision is subject to the following:~~

- ~~(1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.~~
- ~~(2) The next three hundred fifty thousand dollars is apportioned seventy five percent among school districts in the county and twenty five percent to the county infrastructure fund.~~
- ~~(3) The next two hundred sixty two thousand five hundred dollars is apportioned two thirds among school districts in the county and one third to the county infrastructure fund.~~
- ~~(4) The next one hundred seventy five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.~~
- ~~(5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:~~
 - ~~(a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.~~
 - ~~(b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.~~

- (c) Seven hundred thirty five thousand dollars, for counties having a population of six thousand or more.
- e. Twenty percent of all revenues allocated to any county for allocation under this subsection must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.
6. a. Forty five percent of all revenues allocated to a county infrastructure fund under subsections 4 and 5 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
- b. Thirty five percent of all revenues allocated to the county infrastructure fund under subsections 4 and 5 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development impacted roads. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads or other infrastructure needs in those townships. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.
- c. Twenty percent of all revenues allocated to any county infrastructure fund under subsections 4 and 5 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

7. ~~Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:~~
 - a. ~~The county's statement of revenues and expenditures; and~~
 - b. ~~The amount available in the county infrastructure fund for allocation to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.~~

~~Within fifteen days after the time when reports under this subsection were due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.~~

SECTION 4. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - NON-OIL-PRODUCING COUNTIES - EXEMPTION - REPORT TO BUDGET SECTION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$112,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of distributions to non-oil-producing counties, for the biennium beginning July 1, 2015, and ending June 30, 2017. One-half of the distributions must be based on county major collector roadway miles as defined by the department of transportation. The distribution to each non-oil-producing county based on county major collector roadway miles must be proportional to each non-oil-producing county's total county major collector roadway miles relative to the combined total of county major collector roadway miles of all the eligible non-oil-producing counties under this section. One-half of the distributions must be based on the most recent data compiled by the upper great plains transportation institute regarding North Dakota's county, township, and tribal road and bridge infrastructure needs. The distribution to each non-oil-producing county based on total estimated road and bridge investment needs must be proportional to each non-oil-producing county's total estimated road and bridge investment needs for the years 2015 to 2034 identified by the upper great plains transportation institute relative to the combined total estimated road and bridge investment needs for the years 2015 to 2034 identified by the upper great plains transportation institute of all the eligible non-oil-producing counties under this subsection. For purposes of this section, "non-oil-producing counties" means the forty-three counties that received no allocation of funding or a total allocation under subsection 2 of section 57-51-15 of less than \$5,000,000 for the period beginning September 1, 2013, and ending August 31, 2014. The amounts available under this section must be distributed on or after February 1, 2016.

1. a. Each county requesting funding under this section for county road and bridge projects shall submit the request in accordance with criteria developed by the department of transportation. The request must include a proposed plan for funding projects that rehabilitate or reconstruct paved and unpaved roads and bridges within the county which are needed to support economic activity in the state or which improve traffic safety. The plan must meet the following criteria:

- (1) Roadways and bridges must provide at least one of the following:
 - (a) Continuity and connectivity to efficiently integrate and improve major paved and unpaved corridors within the county and across county borders;
 - (b) Connectivity to significant traffic generators; or
 - (c) Direct improvement in traffic safety.
 - (2) Projects must be consistent with the upper great plains transportation institute's estimated road and bridge investment needs for the years 2015 to 2034 and other planning studies.
 - (3) Upon completion of a major roadway construction or reconstruction project, the roadway segment must be posted at a legal load limit of 105,500 pounds [47853.995 kilograms].
 - (4) Design speed on the roadway must be at least 55 miles per hour [88.51 kilometers per hour], unless the department of transportation provides an exemption.
 - (5) Projects must comply with the American association of state highway transportation officials pavement design procedures and standards developed by the department of transportation in conjunction with the local jurisdiction.
 - (6) Bridges must be designed to meet an HL 93 loading.
- b. The department of transportation, in consultation with the county, may approve the plan or approve the plan with amendments. Upon approval of the plan, the department of transportation shall transfer to the county the approved funding for engineering and plan development costs. Upon execution of a construction contract by the county, the department of transportation shall transfer to the county the approved funding for county and township rehabilitation and reconstruction projects. Counties shall report to the department of transportation upon awarding of each contract and upon completion of each project in a manner prescribed by the department.
 - c. Funding provided under this section may be used for construction, engineering, and plan development costs, but may not be used for routine maintenance. Funding provided under this section may be applied to engineering and design costs incurred on related projects as of July 1, 2015, and may be applied to construction costs incurred on related projects as of January 1, 2016. Section 54-44.1-11 does not apply to funding under this section. Any funds not spent by June 30, 2017, must be continued into the biennium beginning July 1, 2017, and ending June 30, 2019, and may be expended only for the purposes authorized by this section. The funding provided in this section is considered a one-time funding item.
2. The department of transportation shall report to the budget section and to the appropriations committees of the sixty-fifth legislative assembly on the use of this one-time funding, including the amounts distributed to each county, the

amounts spent to date, and the amounts anticipated to be continued into the 2017-19 biennium.

SECTION 5. APPROPRIATION - OIL AND GAS IMPACT GRANT FUND - GRANT RECOMMENDATIONS - EXEMPTION - REPORT TO BUDGET SECTION.

There is appropriated out of any moneys in the oil and gas impact grant fund in the state treasury, not otherwise appropriated, the sum of \$139,300,000, or so much of the sum as may be necessary, to the board of university and school lands for the purpose of oil and gas impact grants, for the biennium beginning July 1, 2015, and ending June 30, 2017. Grants awarded under this section are not subject to section 54-44.1-11. The commissioner of the board of university and school lands shall report to the budget section and to the appropriations committees of the sixty-fifth legislative assembly on the use of the funding provided in this section, including the amounts awarded, the amounts spent to date, and the amounts anticipated to be continued into the 2017-2019 biennium. During the biennium beginning July 1, 2015, and ending June 30, 2017, the energy infrastructure and impact office director shall include in recommendations to the board of university and school lands on grants to eligible entities in oil and gas development impact areas:

1. \$48,000,000, or so much of the sum as may be necessary, for grants to airports impacted by oil and gas development. The director of the energy infrastructure and impact office, in consultation with the aeronautics commission, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection, which must include cost-share requirements. Cost-share requirements must consider the availability of local funds to support the project. Grant funds must be distributed giving priority to projects that have been awarded or are eligible to receive federal funding.
2. \$30,000,000, or so much of the sum as may be necessary, for grants to school districts impacted by oil and gas development. Grant funds may be used only for purposes relating to renovation and improvement projects and must be distributed based on oil and gas gross production tax distribution payments to school districts. The distribution to each school district must be proportional to each school district's total distribution payments under subdivision c of subsection 1, subdivision b of subsection 4, or subdivision b of subsection 5 of section 57-51-15, for the period beginning September 1, 2013, and ending August 31, 2014, relative to the combined total of all distribution payments to school districts under subdivision c of subsection 1, subdivision b of subsection 4, and subdivision b of subsection 5 of section 57-51-15, for the period beginning September 1, 2013, and ending August 31, 2014.
3. \$10,000,000, or so much of the sum as may be necessary, for grants to law enforcement agencies impacted by oil and gas development. The director of the energy infrastructure and impact office, in consultation with the drug and violent crime policy board of the attorney general's office, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection. The grants must be distributed to law enforcement agencies in oil-impacted counties where crime-related activities have increased or in other counties if the crime-related activities in oil-impacted counties originated in any of those counties.
4. Notwithstanding chapter 57-62, \$10,000,000, or so much of the sum as may be necessary, for grants to critical access hospitals in oil-producing counties and in counties contiguous to an oil-producing county to address the effects of oil and gas-related economic development activities. The director of the

energy infrastructure and impact office, in consultation with the department of human services, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection. One-half of the grant funding must be distributed in January of each year of the biennium.

5. Notwithstanding chapter 57-62, \$8,000,000, or so much of the sum as may be necessary, for grants to certain eligible counties. The grants must be distributed in equal amounts to each eligible county. For purposes of this subsection, "eligible counties" means the two counties that received the fifth and sixth highest amount of total allocations under subsection 2 of section 57-51-15, for the period beginning September 1, 2013, and ending August 31, 2014.
6. Notwithstanding chapter 57-62, \$6,000,000, or so much of the sum as may be necessary, for grants to emergency medical services providers for expenditures that would mitigate negative effects of oil and gas-related development affecting emergency medical services providers providing services in oil-producing counties, including the need for increased emergency medical services providers services, staff, equipment, coverage, and personnel training. The director of the energy infrastructure and impact office may develop grant procedures and requirements necessary for the distribution of grants under this subsection.
7. \$5,000,000, or so much of the sum as may be necessary, for grants to eligible political subdivisions. For purposes of this subsection, "eligible political subdivisions" means counties, cities, organized townships, or other taxing districts in the seven counties that individually received total allocations of less than \$5,000,000 under subsection 2 of section 57-51-15, for the period beginning September 1, 2013, and ending August 31, 2014.
8. Notwithstanding chapter 57-62, \$4,000,000, or so much of the sum as may be necessary, for grants to nursing homes, basic care facilities, and providers of home health services and hospice programs in oil-producing counties to address the effects of oil and gas and related development activities. The director of the energy infrastructure and impact office, in consultation with key stakeholders, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection. Of the \$4,000,000, up to \$500,000 must be distributed to home health services and hospice programs in the two hub cities as defined under section 57-51-01 that received the two highest total allocations under subsection 1 of section 57-51-15 for the period beginning September 1, 2013, and ending August 31, 2014. The remaining amount must be distributed to nursing homes and basic care facilities.
9. \$3,000,000, or so much of the sum as may be necessary, for grants to fire protection districts for expenditures that would mitigate negative effects of oil and gas-related development affecting fire protection districts providing services in oil-producing counties, including the need for increased fire protection district services, staff, equipment, coverage, and personnel training. The director of the energy infrastructure and impact office may develop grant procedures and requirements necessary for the distribution of grants under this subsection.
10. Notwithstanding chapter 57-62, \$2,000,000, or so much of the sum as may be necessary, for grants to providers that serve individuals with developmental disabilities located in oil-producing counties to address the effects of oil and

gas-related development activities. The director of the energy infrastructure and impact office, in consultation with the department of human services, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection. The grants must be distributed in January of each year of the biennium, based on the number of full-time equivalent positions of each provider as determined by the department of human services. When setting rates for the entities receiving grants under this section, the department of human services shall exclude grant income received under this section as an offset to costs.

11. Notwithstanding chapter 57-62, \$2,000,000, or so much of the sum as may be necessary, for grants to domestic violence sexual assault organizations as defined in section 14-07.1-01 that are located in oil-producing counties to address the effects of oil and gas-related development activities. The director of the energy infrastructure and impact office, in consultation with the department of commerce, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection. The requirements must include required local matching funds of at least two dollars of nonstate funds for each dollar of grant funds.
12. \$2,000,000, or so much of the sum as may be necessary, for grants to local district health units that are located in oil-producing counties to address the effects of oil and gas-related development activities. The director of the energy infrastructure and impact office, in consultation with the state department of health, shall adopt grant procedures and requirements necessary for the distribution of grants under this subsection.
13. \$1,700,000, or so much of the sum as may be necessary, to each eligible city. For purposes of this subsection, an "eligible city" means a city in an area impacted by oil and gas development with a population of more than 1,453, but fewer than 1,603 according to the last official decennial federal census.
14. \$500,000, or so much of the sum as may be necessary, to each eligible city. For purposes of this subsection, an "eligible city" means a city in an area impacted by oil and gas development with a population of more than 1,084, but fewer than 1,097 according to the last official decennial federal census.
15. \$200,000, or so much of the sum as may be necessary, to each eligible city. For purposes of this subsection, an "eligible city" means a city in an area impacted by oil and gas development with a population of more than 445, but fewer than 475 according to the last official decennial federal census.
16. \$100,000, or so much of the sum as may be necessary, to each eligible city. For purposes of this subsection, an "eligible city" means a city in an area impacted by oil and gas development with a population of more than 1,019, but fewer than 1,070 according to the last official decennial federal census.

SECTION 6. LEGISLATIVE MANAGEMENT STUDY - OIL AND GAS TAX REVENUE ALLOCATION FORMULAS. During the 2015-16 interim, the legislative management shall consider studying the oil and gas tax revenue allocation formulas. The study must include consideration of current and historical allocations to political subdivisions and the appropriate level of oil and gas tax revenue allocations to political subdivisions based on infrastructure and other needs. The legislative management shall report its findings and recommendations, together with any

legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 7. EFFECTIVE DATE. Section 1 of this Act is effective for tax collections received by the tax commissioner and for royalty, bonus, and other revenues received for deposit into the strategic investment and improvements fund after June 30, 2015. Sections 2 and 3 of this Act are effective for taxable events occurring after June 30, 2015.

Approved April 27, 2015
Filed April 27, 2015

CHAPTER 464

SENATE BILL NO. 2172

(Senators Bekkedahl, Dotzenrod)
(Representatives Frantsvog, Glassheim, Steiner)

AN ACT to amend and reenact sections 57-51-14 and 57-51.1-06 of the North Dakota Century Code, relating to allocation and distribution of the oil and gas gross production tax and the oil extraction tax pursuant to the distribution rules in place when revenue is received; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-51-14 of the North Dakota Century Code is amended and reenacted as follows:

57-51-14. Duties of commissioner and state treasurer.

It is the duty of the commissioner to deposit with the state treasurer all moneys collected by the commissioner under this chapter and to accompany each remittance, when possible, with a certificate showing the county where produced. The state treasurer, no less than quarterly, shall pay over to the county treasurers and city auditors of the several counties the moneys to which they are entitled hereunder. For purposes of distributions and allocations made by the state treasurer under this chapter and chapters 57-51.1 and 57-51.2, all revenue collected by the commissioner under this chapter must be considered revenue collections for the period in which the revenue was received by the commissioner.

SECTION 2. AMENDMENT. Section 57-51.1-06 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-06. Oil extraction tax development fund established.

The tax imposed by section 57-51.1-02 must be paid to the state treasurer when collected by the state tax commissioner and must be credited to a special fund in the state treasury, to be known as the oil extraction tax development fund. The moneys accumulated in such fund must be allocated as provided in this chapter and the legislative assembly shall make any appropriation of money that may be necessary to accomplish the purposes of this chapter. For purposes of distributions and allocations made by the state treasurer under this chapter and chapters 57-51 and 57-51.2, all revenue collected by the commissioner under this chapter must be considered revenue collections for the period in which the revenue was received by the commissioner.

SECTION 3. EFFECTIVE DATE. This Act is effective for revenues collected after July 31, 2015.

Approved March 27, 2015
Filed March 27, 2015

CHAPTER 465

HOUSE BILL NO. 1032

(Legislative Management)
(Energy Development and Transmission Committee)

AN ACT to amend and reenact section 57-51-15 of the North Dakota Century Code, relating to the abandoned oil and gas well plugging and site reclamation fund; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³⁴ **SECTION 1. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

57-51-15. (Effective for taxable events occurring through June 30, 2015) Gross production tax allocation.

The gross production tax must be allocated monthly as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
 - a. Allocate to each hub city a monthly amount that will provide a total allocation of three hundred seventy-five thousand dollars per fiscal year for each full or partial percentage point of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;
 - b. Allocate to each hub city school district a monthly amount that will provide a total allocation of one hundred twenty-five thousand dollars per fiscal year for each full or partial percentage point of the hub city's private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;
 - c. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding two hundred forty million dollars per biennium;
 - d. Credit four percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding fifteen million dollars in a state fiscal year and not in an amount exceeding thirty million dollars per biennium;
 - e. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding ~~five~~seven million ~~five hundred thousand~~ dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than ~~seventy-five~~one hundred million dollars; and

²³⁴ Section 57-51-15 was also amended by section 3 of House Bill No. 1176, chapter 463, and section 4 of House Bill No. 1409, chapter 379.

- f. Allocate the remaining revenues under subsection 3.
2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
 - a. The first five million dollars is allocated to the county.
 - b. Of all annual revenue exceeding five million dollars, twenty-five percent is allocated to the county.
3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.
4. For a county that received less than five million dollars of allocations under subsection 2 in the most recently completed state fiscal year, revenues allocated to that county must be distributed by the state treasurer as follows:
 - a. Forty-five percent must be distributed to the county treasurer and credited to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the state treasurer no less than quarterly to school districts within the county, excluding consideration of and allocation to any hub city school district in the county, on the average daily attendance distribution basis, as certified to the state treasurer by the county superintendent of schools.
 - c. Twenty percent must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. A hub city must be omitted from apportionment under this subdivision. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
5. For a county that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year, revenues allocated to that county must be distributed by the state treasurer as follows:
 - a. Sixty percent must be distributed to the county treasurer and credited to the county general fund. However, the allocation to a county under this

- subdivision must be credited to the state general fund if in a taxable year after 2012 the county is not levying a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
- b. Five percent must be apportioned by the state treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis for kindergarten through grade twelve students residing within the county, as certified to the state treasurer by the county superintendent of schools. However, a hub city school district must be omitted from consideration and apportionment under this subdivision.
 - c. Twenty percent must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. A hub city must be omitted from apportionment under this subdivision. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent.
 - d. Three percent must be apportioned no less than quarterly by the state treasurer among the organized and unorganized townships of the county. The state treasurer shall apportion the funds available under this subdivision among townships in the proportion that township road miles in the township bear to the total township road miles in the county. The amount apportioned to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.
 - e. Three percent must be allocated by the state treasurer among the organized and unorganized townships in all the counties that received five million dollars or more of allocations under subsection 2 in the most recently completed state fiscal year. The amount available under this subdivision must be allocated no less than quarterly by the state treasurer in an equal amount to each eligible organized and unorganized township. The amount allocated to unorganized townships under this subdivision must be distributed to the county treasurer and credited to a special fund for unorganized township roads, which the board of county commissioners shall use for the maintenance and improvement of roads in unorganized townships.
 - f. Nine percent must be allocated by the state treasurer among hub cities. The amount available for allocation under this subdivision must be apportioned by the state treasurer no less than quarterly among hub cities. Sixty percent of funds available under this subdivision must be distributed to the hub city receiving the greatest percentage of allocations to hub cities under subdivision a of subsection 1 for the quarterly period, thirty percent of funds available under this subdivision must be distributed to the hub city receiving the second greatest percentage of such allocations, and

ten percent of funds available under this subdivision must be distributed to the hub city receiving the third greatest percentage of such allocations.

6. Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:
 - a. The county's statement of revenues and expenditures; and
 - b. The amount allocated to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

Within fifteen days after the time when reports under this subsection were due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.

(Effective for taxable events occurring after June 30, 2015) Gross production tax allocation. The gross production tax must be allocated monthly as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall:
 - a. Allocate five hundred thousand dollars per fiscal year to each city in an oil-producing county which has a population of seven thousand five hundred or more and more than two percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota. The allocation under this subdivision must be doubled if the city has more than seven and one-half percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota;
 - b. Credit revenues to the oil and gas impact grant fund, but not in an amount exceeding one hundred million dollars per biennium;
 - c. Credit four percent of the amount available under this subsection to the North Dakota outdoor heritage fund, but not in an amount exceeding fifteen million dollars in a state fiscal year and not in an amount exceeding thirty million dollars per biennium;
 - d. Credit four percent of the amount available under this subsection to the abandoned oil and gas well plugging and site reclamation fund, but not in an amount exceeding ~~five~~seven million ~~five hundred thousand~~ dollars in a state fiscal year and not in an amount that would bring the balance in the fund to more than ~~seventy-five~~one hundred million dollars; and
 - e. Allocate the remaining revenues under subsection 3.

2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
 - a. The first two million dollars is allocated to the county.
 - b. Of the next one million dollars, seventy-five percent is allocated to the county.
 - c. Of the next one million dollars, fifty percent is allocated to the county.
 - d. Of the next fourteen million dollars, twenty-five percent is allocated to the county.
 - e. Of all annual revenue exceeding eighteen million dollars, ten percent is allocated to the county.
3. After the allocations under subsections 1 and 2, the amount remaining is allocated first to provide for deposit of thirty percent of all revenue collected under this chapter in the legacy fund as provided in section 26 of article X of the Constitution of North Dakota and the remainder must be allocated to the state general fund. If the amount available for a monthly allocation under this subsection is insufficient to deposit thirty percent of all revenue collected under this chapter in the legacy fund, the state treasurer shall transfer the amount of the shortfall from the state general fund share of oil extraction tax collections and deposit that amount in the legacy fund.
4. The amount to which each county is entitled under subsection 2 must be allocated within the county so the first five million three hundred fifty thousand dollars is allocated under subsection 5 for each fiscal year and any amount received by a county exceeding five million three hundred fifty thousand dollars is credited by the county treasurer to the county infrastructure fund and allocated under subsection 6.
5.
 - a. Forty-five percent of all revenues allocated to any county for allocation under this subsection must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of

students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

The countywide allocation to school districts under this subdivision is subject to the following:

- (1) The first three hundred fifty thousand dollars is apportioned entirely among school districts in the county.
 - (2) The next three hundred fifty thousand dollars is apportioned seventy-five percent among school districts in the county and twenty-five percent to the county infrastructure fund.
 - (3) The next two hundred sixty-two thousand five hundred dollars is apportioned two-thirds among school districts in the county and one-third to the county infrastructure fund.
 - (4) The next one hundred seventy-five thousand dollars is apportioned fifty percent among school districts in the county and fifty percent to the county infrastructure fund.
 - (5) Any remaining amount is apportioned to the county infrastructure fund except from that remaining amount the following amounts are apportioned among school districts in the county:
 - (a) Four hundred ninety thousand dollars, for counties having a population of three thousand or fewer.
 - (b) Five hundred sixty thousand dollars, for counties having a population of more than three thousand and fewer than six thousand.
 - (c) Seven hundred thirty-five thousand dollars, for counties having a population of six thousand or more.
- c. Twenty percent of all revenues allocated to any county for allocation under this subsection must be apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of this subdivision must be increased by eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this

subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

6.
 - a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsections 4 and 5 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
 - b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsections 4 and 5 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads or other infrastructure needs in those townships. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.
 - c. Twenty percent of all revenues allocated to any county infrastructure fund under subsections 4 and 5 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.
7. Within thirty days after the end of each calendar year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the calendar year with the commissioner, in a format prescribed by the commissioner, including:
 - a. The county's statement of revenues and expenditures; and
 - b. The amount available in the county infrastructure fund for allocation to or for the benefit of townships or school districts, the amount allocated to each organized township or school district and the amount expended from each such allocation by that township or school district, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the

amount available for allocation to or for the benefit of townships or school districts which remained unexpended at the end of the fiscal year.

Within fifteen days after the time when reports under this subsection were due, the commissioner shall provide the reports to the legislative council compiling the information from reports received under this subsection.

SECTION 2. CONTINGENT EFFECTIVE DATE. This Act is effective for taxable events after December 31, 2015, only if the exemption under subsection 3 of section 57-51.1-03 is ineffective for the completion of any new horizontal well during the period beginning July 1, 2015, and ending December 31, 2015.

Approved March 31, 2015
Filed March 31, 2015

CHAPTER 466

HOUSE BILL NO. 1476

(Representatives Carlson, Belter, Headland)
(Senators Cook, Wardner)
(Approved by the Delayed Bills Committee)

AN ACT to amend and reenact subsection 4 of section 38-08-04 and sections 57-51.1-01, and 57-51.1-02, subsection 3 of section 57-51.1-03, and section 57-51.1-03 of the North Dakota Century Code, relating to oil extraction tax rates and exemptions; to provide for an exception; to provide for a legislative management study; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³⁵ **SECTION 1. AMENDMENT.** Subsection 4 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

4. To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter, to classify and determine the status and depth of wells that are stripper well property as defined in ~~subsection 8 of section 57-51.1-01, to certify to the tax commissioner which wells are stripper wells as defined in section 57-51.1-01 and the depth of those wells, to recertify stripper wells that are reentered and recompleted as horizontal wells,~~ and to certify to the tax commissioner which wells involve secondary or tertiary recovery operations under as defined in section 57-51.1-01, and the date of qualification for the reduced rate of oil extraction tax exemption for secondary and tertiary recovery operations.

SECTION 2. AMENDMENT. Section 57-51.1-01 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-01. Definitions for oil extraction tax.

For the purposes of this chapter:

1. "Average daily production" of a well means the qualified maximum total production of oil from the well during a calendar month period divided by the number of calendar days in that period, and "qualified maximum total production" of a well means that the well must have been maintained at the maximum efficient rate of production as defined and determined by rule adopted by the industrial commission in furtherance of its authority under chapter 38-08.
2. "Average price" of a barrel of crude oil means the monthly average of the daily closing price for a barrel of west Texas intermediate cushing crude oil, as

²³⁵ Section 38-08-04 was also amended by section 1 of House Bill No. 1068, chapter 256, section 3 of House Bill No. 1358, chapter 254, section 4 of House Bill No. 1358, chapter 254, and section 5 of House Bill No. 1358, chapter 254.

~~these prices appear in the Wall Street Journal, midwest edition, minus two dollars and fifty cents. When computing the monthly average price, the most recent previous daily closing price must be considered the daily closing price for the days on which the market is closed.~~

- ~~3.~~ "Horizontal reentry well" means a well that was not initially drilled and completed as a horizontal well, including any well initially plugged and abandoned as a dry hole, which is reentered and recompleted as a horizontal well.
4. "Horizontal well" means a well with a horizontal displacement of the well bore drilled at an angle of at least eighty degrees within the productive formation of at least three hundred feet [91.44 meters].
- ~~5-3.~~ "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid hydrocarbons that are recovered from gas on the lease incidental to the production of the gas.
- ~~6-4.~~ "Property" means the right which arises from a lease or fee interest, as a whole or any designated portion thereof, to produce oil. A producer shall treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil; provided, that such reservoir is recognized by the industrial commission as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.
- ~~7-5.~~ "Qualifying secondary recovery project" means a project employing water flooding. ~~To be eligible for the tax reduction provided under section 57-51.1-02, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have achieved for six consecutive months an average production level of at least twenty-five percent above the level that would have been recovered under normal recovery operations. To be eligible for the tax exemption provided under section 57-51.1-03 and subsequent thereto the rate reduction provided under section 57-51.1-02, a secondary recovery project must be certified as qualifying by the industrial commission and the project operator must have obtained incremental production as defined in subsection 53 of section 57-51.1-03.~~
- ~~8-6.~~ "Qualifying tertiary recovery project" means a project for enhancing recovery of oil which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as amended through December 31, 1986, and includes the following methods for recovery:
 - a. Miscible fluid displacement.
 - b. Steam drive injection.
 - c. Microemulsion.
 - d. In situ combustion.
 - e. Polymer augmented water flooding.
 - f. Cyclic steam injection.

- g. Alkaline flooding.
- h. Carbonated water flooding.
- i. Immiscible carbon dioxide displacement.
- j. New tertiary recovery methods certified by the industrial commission.

It does not include water flooding, unless the water flooding is used as an element of one of the qualifying tertiary recovery techniques described in this subsection, or immiscible natural gas injection. ~~To be eligible for the tax reduction provided under section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have achieved for at least one month a production level of at least fifteen percent above the level that would have been recovered under normal recovery operations. To be eligible for the tax exemption provided under section 57-51.1-03 and subsequent thereto the rate reduction provided under section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the industrial commission, the project operator must continue to operate the unit as a qualifying tertiary recovery project, and the project operator must have obtained incremental production as defined in subsection 53 of section 57-51.1-03.~~

- 9-7. "Royalty owner" means an owner of what is commonly known as the royalty interest and shall not include the owner of any overriding royalty or other payment carved out of the working interest.
- 10-8. "Stripper well" means a well drilled and completed, or reentered and recompleted as a horizontal well, after June 30, 2013, whose average daily production of oil during any preceding consecutive twelve-month period, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] outside the Bakken and Three Forks formations, and thirty-five barrels per day for wells of a depth of more than ten thousand feet [3048 meters] in the Bakken or Three Forks formation.
- 11-9. "Stripper well property" means wells drilled and completed, or a well reentered and recompleted as a horizontal well, before July 1, 2013, on a "property" whose average daily production of oil, excluding condensate recovered in nonassociated production, per well did not exceed ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less, fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day for wells of a depth of more than ten thousand feet [3048 meters] during any preceding consecutive twelve-month period. Wells which did not actually yield or produce oil during the qualifying twelve-month period, including disposal wells, dry wells, spent wells, and shut-in wells, are not production wells for the purpose of determining whether the stripper well property exemption applies.
12. ~~"Trigger price" means thirty-five dollars and fifty cents, as indexed for inflation. By December thirty-first of each year, the tax commissioner shall compute an~~

~~indexed trigger price by applying to the current trigger price the rate of change of the producer price index for industrial commodities as calculated and published by the United States department of labor, bureau of labor statistics, for the twelve months ending June thirtieth of that year and the indexed trigger price so determined is the trigger price for the following calendar year.~~

13. ~~"Two-year inactive well" means any well certified by the industrial commission that did not produce oil in more than one month in any consecutive twenty-four month period before being recompleted or otherwise returned to production after July 31, 1995. A well that has never produced oil, a dry hole, and a plugged and abandoned well are eligible for status as a two-year inactive well.~~

SECTION 3. AMENDMENT. Section 57-51.1-02 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-02. Imposition of oil extraction tax.

There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the activity in this state of extracting oil from the earth, and every owner, including any royalty owner, of any part of the oil extracted is deemed for the purposes of this chapter to be engaged in the activity of extracting that oil.

The rate of tax is ~~six and one-half~~five percent of the gross value at the well of the oil extracted, ~~except that the rate of tax is four percent of the gross value at the well of the oil extracted in the following situations:~~

1. ~~For oil produced from wells drilled and completed after April 27, 1987, commonly referred to as new wells, and not otherwise exempt under section 57-51.1-03;~~
2. ~~For oil produced from a secondary or tertiary recovery project that was certified as qualifying by the industrial commission before July 1, 1991;~~
3. ~~For oil that does not qualify as incremental oil but is produced from a secondary or tertiary recovery project that is certified as qualifying by the industrial commission after June 30, 1991;~~
4. ~~For incremental oil produced from a secondary or tertiary recovery project that is certified as qualifying by the industrial commission after June 30, 1991, and which production is not otherwise exempt under section 57-51.1-03; or~~
5. ~~For oil produced from a well that receives an exemption pursuant to subsection 4 of section 57-51.1-03 after June 30, 1993, and which production is not otherwise exempt under section 57-51.1-03.~~

However, if the average price of a barrel of crude oil exceeds the trigger price of ninety dollars for each month in any consecutive ~~five-month~~three-month period, then the rate of tax on oil extracted from all taxable wells is six ~~and one-half~~ percent of the gross value at the well of the oil extracted until the average price of a barrel of crude oil is less than the trigger price of ninety dollars for each month in any consecutive ~~five-month~~three-month period, in which case the rate of tax reverts to ~~four~~five percent of the gross value at the well of the oil extracted for any wells subject to a reduced rate under subsections 1 through 5. By December thirty-first of each year, the tax commissioner shall determine an indexed trigger price under this section by applying to the current trigger price an adjustment equal to the percentage rate of change of

the producer price index for industrial commodities as calculated and published by the United States department of labor, bureau of labor statistics, for the twelve months ending June thirtieth of that year and the indexed trigger price so determined is the trigger price for the following calendar year.

For purposes of this section, "average price" of a barrel of crude oil means the monthly average of the daily closing price for a barrel of west Texas intermediate cushing crude oil, as those prices appear in the Wall Street Journal, midwest edition. When computing the monthly average price, the most recent previous daily closing price must be considered the daily closing price for the days on which the market is closed.

²³⁶ **SECTION 4. AMENDMENT.** Subsection 3 of section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

3. For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, ~~except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months.~~ Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. ~~However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.~~The reduced rate of tax under subsection 1 of section 57-51.1-02 does not apply after November 30, 2015, for oil produced from wells drilled and completed after April 27, 1987, commonly referred to as new wells, and not otherwise exempt under this section.

²³⁷ **SECTION 5. AMENDMENT.** Section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-03. Exemptions from oil extraction tax.

The following activities are specifically exempted from the oil extraction tax:

1. The activity of extracting from the earth any oil that is exempt from the gross production tax imposed by chapter 57-51.
2. The activity of extracting from the earth any oil from a stripper well property or individual stripper well.
3. ~~For a well drilled and completed as a vertical well, the initial production of oil from the well is exempt from any taxes imposed under this chapter for a period of fifteen months, except that oil produced from any well drilled and completed as a horizontal well is exempt from any taxes imposed under this chapter for a period of twenty-four months. Oil recovered during testing prior to well completion is exempt from the oil extraction tax. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil~~

²³⁶ Section 57-51.1-03 was also amended by section 5 of House Bill No. 1476, chapter 466.

²³⁷ Section 57-51.1-03 was also amended by section 4 of House Bill No. 1476, chapter 466.

exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.

4. ~~The production of oil from a qualifying well that was worked over is exempt from any taxes imposed under this chapter for a period of twelve months, beginning with the first day of the third calendar month after the completion of the work-over project. The exemption provided by this subsection is only effective if the well operator establishes to the satisfaction of the industrial commission upon completion of the project that the cost of the project exceeded sixty-five thousand dollars or production is increased at least fifty percent during the first two months after completion of the project. A qualifying well under this subsection is a well with an average daily production of no more than fifty barrels of oil during the latest six calendar months of continuous production. A work-over project under this subsection means the continuous employment of a work-over rig, including recompletions and reentries. The exemption provided by this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.~~
- 5-3.
- a. The incremental production from a secondary recovery project which has been certified as a qualified project by the industrial commission after July 1, 1991, is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.
 - b. The incremental production from a tertiary recovery project that does not use carbon dioxide and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of ten years from the date the incremental production begins. Incremental production from a tertiary recovery project that uses carbon dioxide in a well drilled and completed outside the Bakken and Three Forks formations, and ten miles [16.10 kilometers] or more outside an established field in which the industrial commission has defined the pool to include the Bakken or Three Forks formation and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter for a period of five years from the date the incremental production begins.
 - c. For purposes of this subsection, incremental production is defined in the following manner:
 - (1) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the secondary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the secondary recovery project had not been commenced. The industrial commission shall determine the amount of

primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.

- (2) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence prior to July 1, 1991, and where the industrial commission cannot establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during a new secondary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.
- (3) For purposes of determining the exemption provided for in subdivision a and with respect to a unit where a secondary recovery project was in existence before July 1, 1991, and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the new secondary recovery project and the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced includes both primary production and production that occurred as a result of the secondary recovery project that was in existence before July 1, 1991. The industrial commission shall determine the amount of oil that would have been produced from the unit if the new secondary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the new secondary recovery project is certified.
- (4) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there has not been a secondary recovery project, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the amount of primary production from the unit. For purposes of this paragraph, primary production means the amount of oil which would have been produced from the unit if the tertiary recovery project had not been commenced. The industrial commission shall determine the amount of primary production in a manner which conforms to the practice and procedure used by the commission at the time the project is certified.
- (5) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a

secondary recovery project, incremental production means the difference between the total amount of oil produced during the tertiary recovery project and the amount of production which would be equivalent to the average monthly production from the unit during the most recent twelve months of normal production reduced by a production decline rate of ten percent for each year. The industrial commission shall determine the average monthly production from the unit during the most recent twelve months of normal production and must upon request or upon its own motion hold a hearing to make this determination. For purposes of this paragraph, when determining the most recent twelve months of normal production the industrial commission is not required to use twelve consecutive months. In addition, the production decline rate of ten percent must be applied from the last month in the twelve-month period of time.

- (6) For purposes of determining the exemption provided for in subdivision b and with respect to a unit where there is or has been a secondary recovery project and where the industrial commission can establish an accurate production decline curve, incremental production means the difference between the total amount of oil produced from the unit during the tertiary recovery project and the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced. For purposes of this paragraph, the total amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced includes both primary production and production that occurred as a result of any secondary recovery project. The industrial commission shall determine the amount of oil that would have been produced from the unit if the tertiary recovery project had not been commenced in a manner that conforms to the practice and procedure used by the commission at the time the tertiary recovery project is certified.
- d. The industrial commission shall adopt rules relating to this exemption that must include procedures for determining incremental production as defined in subdivision c.
6. ~~The production of oil from a two-year inactive well, as determined by the industrial commission and certified to the state tax commissioner, for a period of ten years after the date of receipt of the certification. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.~~
7. ~~The production of oil from a horizontal reentry well, as determined by the industrial commission and certified to the state tax commissioner, for a period of nine months after the date the well is completed as a horizontal well. The exemption under this subsection becomes ineffective if the average price of a barrel of crude oil exceeds the trigger price for each month in any consecutive five-month period. However, the exemption is reinstated if, after the trigger provision becomes effective, the average price of a barrel of crude oil is less than the trigger price for each month in any consecutive five-month period.~~

8. ~~The initial production of oil from a well is exempt from any taxes imposed under this chapter for a period of sixty months if:~~
 - a. ~~The well is drilled and completed before July 1, 2013, on nontrust lands within the boundaries of an Indian reservation;~~
 - b. ~~The well is drilled and completed before July 1, 2013, on lands held in trust by the United States for an Indian tribe or individual Indian; or~~
 - c. ~~The well is drilled and completed before July 1, 2013, on lands held by an Indian tribe if the interest is in existence on August 1, 1997.~~
9. ~~The first seventy-five thousand barrels or the first four million five hundred thousand dollars of gross value at the well, whichever is less, of oil produced during the first eighteen months after completion, from a horizontal well drilled and completed after April 30, 2009, and before July 1, 2015, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption for horizontal wells under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty-four months after completion. The rate reduction under this subsection becomes effective on the first day of the month following a month for which the average price of a barrel of crude oil is less than fifty-five dollars. The rate reduction under this subsection becomes ineffective on the first day of the month following a month in which the average price of a barrel of crude oil exceeds seventy dollars. If the rate reduction under this subsection is effective on the date of completion of a well, the rate reduction applies to production from that well for up to eighteen months after completion, subject to the other limitations of this subsection. If the rate reduction under this subsection is ineffective on the date of completion of a well, the rate reduction under this subsection does not apply to production from that well at any time.~~
- ~~10.4.~~ The first seventy-five thousand barrels of oil produced during the first eighteen months after completion, from a well drilled and completed outside the Bakken and Three Forks formations, and ten miles [16.10 kilometers] or more outside an established field in which the industrial commission has defined the pool to include the Bakken or Three Forks formation, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter. A well eligible for a reduced tax rate under this subsection is eligible for the exemption under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty-four months after completion.

SECTION 6. TERM OF EXEMPTIONS AND RATE REDUCTIONS. The remaining term of any exemption or rate reduction eliminated in section 5 of this Act expires January 1, 2016. The remaining term of the horizontal well exemption eliminated in section 4 of this Act expires December 1, 2015.

SECTION 7. WAIVER OF LEGISLATIVE CONFIRMATION REQUIREMENT FOR CERTAIN STATE-TRIBAL TAX COLLECTION AGREEMENTS. The requirement of legislative confirmation of state-tribal tax collection agreements under section 57-51.2-01 do not apply, for adjustment of an existing agreement attributable to the changes in the oil extraction tax under this Act, and for agreements under section 54-40.2-04 do not apply, for adjustment of an existing agreement regarding application of tribal tax authority to bulk delivery of dyed or undyed special fuels within the exterior boundaries of the reservation.

SECTION 8. LEGISLATIVE MANAGEMENT STUDY - TRIBAL TAX ISSUES.

During the 2015-16 interim, the legislative management shall consider studying state-tribal tax agreements and allocation of revenues from centrally assessed property and property subject to payments in lieu of property taxes which is located on tribal trust lands. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 9. EFFECTIVE DATE - EXPIRATION DATE. Sections 1, 2, 3, and 5 of this Act are effective for taxable events occurring after December 31, 2015. Section 4 of this Act is effective for taxable events occurring after November 30, 2015. Section 7 of this Act is effective from July 1, 2015, through December 31, 2016, and is thereafter ineffective.

Approved April 29, 2015

Filed April 30, 2015

CHAPTER 467

HOUSE BILL NO. 1377

(Representatives Delzer, Carlson)
(Senators Holmberg, Wardner)

AN ACT to create the political subdivision allocation fund; to amend and reenact sections 15-08.1-08, 57-51.1-07.3, and 57-51.1-07.5 of the North Dakota Century Code, relating to the unobligated balance of the strategic investment and improvements fund and the state share of oil and gas tax allocations; to repeal sections 15.1-27-45 and 57-64-05 of the North Dakota Century Code, relating to the property tax relief sustainability fund; to provide a continuing appropriation; to provide for a legislative management study; to provide a moratorium on county road fees; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³⁸ **SECTION 1. AMENDMENT.** Section 15-08.1-08 of the North Dakota Century Code is amended and reenacted as follows:

15-08.1-08. Income - Expenses - Reimbursement - Creation of strategic investment and improvements fund - Legislative intent - ~~Contingent transfer to legacy fund.~~

The income derived from the sale, lease, and management of the mineral interests acquired by the board of university and school lands pursuant to this chapter and other funds as provided by law must, after deducting the expenses of sale, lease, and management of the property, be deposited in a fund to be known as the strategic investment and improvements fund. The corpus and interest of such trust may be expended as the legislative assembly may provide for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of state government. It is the intent of the legislative assembly that moneys in the fund may be included in draft appropriation acts under section 54-44.1-06 and may be appropriated by the legislative assembly, but only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized. ~~If the unobligated balance in the fund at the end of any month exceeds three hundred million dollars, twenty-five percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund. For purposes of this section, "unobligated balance in the fund" means the balance in the fund reduced by appropriations or transfers from the fund authorized by the legislative assembly, guarantee reserve fund requirements under section 6-09.7-05, and any fund balance designated by the board of university and school lands relating to potential title disputes related to certain riverbed leases.~~

²³⁸ Section 15-08.1-08 was also amended by section 1 of House Bill No. 1176, chapter 463.

SECTION 2.**Political subdivision allocation fund - Oil and gas tax revenue allocations to political subdivisions - State treasurer - Continuing appropriation.**

There is created in the state treasury the political subdivision allocation fund. The fund consists of oil and gas tax revenue deposited in the fund pursuant to chapter 57-51.1. All moneys in the fund are appropriated to the state treasurer on a continuing basis for the purpose of allocations to political subdivisions in oil-producing counties.

1. If the balance of the fund exceeds ten million dollars on March first of each odd-numbered year, within thirty-one days, the state treasurer shall allocate all moneys in the fund to eligible political subdivisions in oil-producing counties based on each political subdivision's oil and gas gross production tax allocations under subsection 4 or subsection 5 of section 57-51-15 in the most recently completed formula allocation year. The allocation to each eligible political subdivision must be proportional to each political subdivision's total oil and gas gross production tax allocation under subsection 4 or subsection 5 of section 57-51-15 in the most recently completed formula allocation year relative to the combined total of all oil and gas gross production tax allocations under subsection 4 and subsection 5 of section 57-51-15 in the most recently completed formula allocation year. For purposes of this subsection, "formula allocation year" means the period beginning September first of an odd-numbered year and ending August thirty-first of the following even-numbered year.
2. If the balance of the fund exceeds ten million dollars on August first of each odd-numbered year, within thirty-one days, the state treasurer shall allocate all moneys in the fund to eligible political subdivisions in oil-producing counties based on each political subdivision's oil and gas gross production tax allocations under subsection 4 or subsection 5 of section 57-51-15 in the most recently completed formula allocation year. The allocation to each eligible political subdivision must be proportional to each political subdivision's total oil and gas gross production tax allocation under subsection 4 or subsection 5 of section 57-51-15 in the most recently completed formula allocation year relative to the combined total of all oil and gas gross production tax allocations under subsection 4 and subsection 5 of section 57-51-15 in the most recently completed formula allocation year. For purposes of this subsection, "formula allocation year" means the period beginning September first of an odd-numbered year and ending August thirty-first of the following even-numbered year.

SECTION 3. AMENDMENT. Section 57-51.1-07.3 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07.3. Oil and gas research fund - Deposits - Continuing appropriation.

There is established a special fund in the state treasury to be known as the oil and gas research fund. Before depositing oil and gas gross production tax and oil extraction tax revenues in the general fund, property tax relief sustainability fund, strategic investment and improvements fund, or the state disaster relief fund, two percent of the revenues must be deposited monthly into the oil and gas research fund, up to ten million dollars per biennium. All moneys deposited in the oil and gas research fund and interest on all such moneys are appropriated as a continuing appropriation to the council to be used for purposes stated in chapter 54-17.6.

SECTION 4. AMENDMENT. Section 57-51.1-07.5 of the North Dakota Century Code is amended and reenacted as follows:

~~57-51.1-07.5. (Effective through June 30, 2015) State share of oil and gas taxes -- Deposits.~~

~~From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:~~

- ~~1. The first two hundred million dollars into the state general fund;~~
- ~~2. The next three hundred forty one million seven hundred ninety thousand dollars into the property tax relief fund;~~
- ~~3. The next one hundred million dollars into the state general fund;~~
- ~~4. The next one hundred million dollars into the strategic investment and improvements fund;~~
- ~~5. The next twenty two million dollars into the state disaster relief fund; and~~
- ~~6. Any additional revenues into the strategic investment and improvements fund.~~

(Effective after June 30, 2015)(Effective through June 30, 2017) State share of oil and gas taxes - Deposits. From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:

1. The first two hundred million dollars into the state general fund;
2. The next ~~three hundred forty one million seven hundred ninety thousand~~three hundred million dollars into the ~~property tax relief~~ property tax relief sustainability fund;
3. The next one hundred million dollars into the state general fund;
4. The next one hundred million dollars into the strategic investment and improvements fund;
5. The next twenty-two million dollars into the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than twenty-five million dollars; and
6. Any additional revenues ~~into the strategic investment and improvements fund~~:
 - a. Seventy percent into the strategic investment and improvements fund; and
 - b. Thirty percent into the political subdivision allocation fund.

(Effective after June 30, 2017) State share of oil and gas taxes - Deposits. From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium as follows:

1. The first two hundred million dollars into the state general fund;

2. The next three hundred million dollars into the tax relief fund;
3. The next one hundred million dollars into the state general fund;
4. The next one hundred million dollars into the strategic investment and improvements fund;
5. The next twenty-two million dollars into the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than twenty-five million dollars; and
6. Any additional revenues into the strategic investment and improvements fund.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY - UNIFORM TRUCK PERMITTING. During the 2015-16 interim, the legislative management shall study truck permitting systems in oil and gas producing counties. The study must review the North Dakota association of oil and gas producing counties' uniform county truck permit program, including the system's integration with the highway patrol's online electronic truck permitting and routing system and the communications between county representatives and industry representatives regarding road conditions. The study must evaluate the appropriateness of additional fees assessed by the board of county commissioners and other local authorities to the oil and gas industry related to additional road permitting fees and analyze other relevant data regarding uniform truck permitting fees and procedures. The study must include input from representatives of the North Dakota petroleum council, representatives of the North Dakota association of oil and gas producing counties, and other interested persons. The legislative management shall report its findings and recommendations, if any, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 6. MORATORIUM ON ADDITIONAL FEES FOR USE OF COUNTY ROADS. For the period beginning June 1, 2015, through June 30, 2017, notwithstanding the provisions of chapter 39-12, the board of county commissioners and other local authorities having control of roads may not impose any additional fees for the use of county roads, except the fees established in the North Dakota association of oil and gas producing counties' uniform county truck permit program, unless an operator, company, or individual requests and agrees to pay the additional fees. However, the board of county commissioners and other local authorities may issue penalties to operators, companies, or individuals who violate posted road restrictions.

²³⁹ **SECTION 7. REPEAL.** Sections 15.1-27-45 and 57-64-05 of the North Dakota Century Code are repealed.

SECTION 8. EFFECTIVE DATE. Sections 1, 2, 3, and 4 of this Act are effective for tax collections received by the tax commissioner and for royalty, bonus, and other revenues received for deposit into the strategic investment and improvements fund after June 30, 2015.

SECTION 9. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 27, 2015
Filed April 27, 2015

²³⁹ Section 15.1-27-45 was amended by section 15 of Senate Bill No. 2031, chapter 137.

TRUSTS

CHAPTER 468

HOUSE BILL NO. 1221

(Representatives Keiser, Sukut)

AN ACT to amend and reenact section 59-04.2-19 of the North Dakota Century Code, relating to a trustee's allocation of receipts from interests in minerals and other natural resources.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 59-04.2-19 of the North Dakota Century Code is amended and reenacted as follows:

59-04.2-19. (411) Minerals, water, and other natural resources.

1. To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:
 - a. If received as nominal delay rental or nominal annual rent on a lease, a receipt must be allocated to income.
 - b. If received from a production payment, a receipt must be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance must be allocated to principal.
 - c. If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, ~~ninety~~ninety-five percent must be allocated to principal and the balance to income.
 - d. If an amount is received from a working interest or any other interest not provided for in subdivision a, b, or c, ~~ninety~~ninety-five percent of the net amount received must be allocated to principal and the balance to income.
2. An amount received on account of an interest in water that is renewable must be allocated to income. If the water is not renewable, ninety percent of the amount must be allocated to principal and the balance to income.
3. This chapter applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.
4. If a trust ~~owns~~ has not received receipts from an interest in minerals, water, or other natural resources ~~on August 1, 1999, before August 1, 2015,~~ the trustee ~~may~~shall allocate receipts from ~~the interest~~interests in minerals, water, or other natural resources as provided in this chapter ~~or in the manner used by~~

~~the trustee before August 1, 1999. If the trust acquires an interest in minerals, water, or other natural resources after August 1, 1999, the trustee shall allocate receipts from the interest as provided in this chaptersection.~~

5. If a trust has received receipts from an interest in minerals, water, or other natural resources before August 1, 2015, the trustee shall allocate receipts from interests in minerals, water, or other natural resources as follows:
 - a. If the trust acquired an interest in minerals, water, or other natural resources before August 1, 1999, the trustee may allocate receipts in the manner used by the trustee before August 1, 1999, or as required by law in effect on August 1, 1999.
 - b. If the trust acquired an interest in minerals, water, or other natural resources after August 1, 1999, and before August 1, 2015, the trustee shall allocate receipts in the manner required by law in effect on August 1, 1999.
6. The trustee may petition the court to permanently modify the manner used to allocate receipts under this section. In deciding whether and to what extent to modify the manner used to allocate receipts, the court may consider any factors relevant to the trust and its beneficiaries; including the following factors to the extent they are relevant:
 - a. The nature, purpose, and expected duration of the trust;
 - b. The intent of the settlor;
 - c. The identity and circumstances of the beneficiaries;
 - d. The need for liquidity, regularity of income, and preservation and appreciation of capital;
 - e. The assets held in the trust; the extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property; the extent to which an asset is used by a beneficiary; and whether an asset was purchased by the trustee or received from the settlor;
 - f. The net amount allocated to income under the other sections of this chapter and the increase or decrease in the value of the principal assets;
 - g. Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;
 - h. The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and
 - i. The anticipated tax consequences of a modification.

WAREHOUSING AND DEPOSITS

CHAPTER 469

SENATE BILL NO. 2301

(Senators Unruh, Miller)
(Representative Seibel)

AN ACT to amend and reenact section 60-02-07 of the North Dakota Century Code, relating to public warehouse licenses; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 60-02-07 of the North Dakota Century Code is amended and reenacted as follows:

60-02-07. Public warehouse license - ~~How obtained~~ - Fee - Financial statement.

~~An annual~~ A license must be obtained from the commission for each public warehouse in operation in this state. ~~The license expires on July thirty-first of each year.~~

1. a. The commission shall stagger by lot the expiration date of all licenses issued for the period beginning August 1, 2015, so that one-half of all the licenses issued expire on July 31, 2016, and one-half of all the licenses issued expire on July 31, 2017. Thereafter, all licenses issued under this section must be for a period of two years and terminate on the thirty-first day of July in the year of expiration.
- b. (1) Notwithstanding the provisions of subdivision a, the commission shall license a warehouse annually, for the first six years of the warehouse's operation.
(2) An initial annual license application that becomes effective on or after June first does not expire until July thirty-first of the following calendar year.
2. No license may describe more than one public warehouse nor grant permission to operate any public warehouse other than the one described.
3. a. The annual license fee for a public warehouse is ~~three~~:
 - (1) Three hundred dollars for a warehouse of a bushel ~~having a maximum~~ capacity of two hundred thousand bushels [7047.8 cubic meters] ~~or less, four~~;
 - (2) Four hundred fifty dollars for a warehouse of a bushel ~~having a capacity~~ of more than two hundred thousand and bushels [7047.8 cubic meters]

~~but not more than five hundred thousand bushels [7047.8 to not more than 17619.54 cubic meters];~~ and five

(3) ~~Five hundred fifty dollars for a warehouse of a bushel having a capacity of more than five hundred thousand bushels [17619.54 cubic meters].~~

b. The biennial license fee for a public warehouse is:

(1) ~~Six hundred dollars for a warehouse having a maximum capacity of two hundred thousand bushels [7047.8 cubic meters];~~

(2) ~~Nine hundred dollars for a warehouse having a capacity of more than two hundred thousand bushels [7047.8 cubic meters] but not more than five hundred thousand bushels [17619.54 cubic meters]; and~~

(3) ~~One thousand one hundred dollars for a warehouse having a capacity of more than five hundred thousand bushels [17619.54 cubic meters].~~

c. ~~A license renewal~~An application for an annual license renewal that is received after July fifteenth must ~~be assessed~~include an additional one hundred dollar fee per warehouse. ~~An application for a biennial license renewal that is received after July fifteenth must include an additional two hundred dollar fee per warehouse.~~

4. If a public warehouseman operates two or more warehouses in the same city or siding, in conjunction with each other and with the same working force, and keeps one set of books and records for all such warehouses, and issues one series of scale tickets, warehouse receipts, checks, and credit-sale contracts for the grain stored and purchased therein, only one license is required for the operation of all such warehouses. When two or more warehouses are operated under one license, the license fee is based upon the combined bushel capacity of the warehouses.~~If the commission employs fewer than two full-time equivalent warehouse inspectors, each annual fee under this section is reduced by one hundred dollars.~~

5. If required to obtain United States department of agriculture approval of the commission's warehouse inspection program, the commission may require that the applicant submit a current financial statement prepared in accordance with generally accepted accounting principles. A financial statement furnished under this section~~subsection~~ is a confidential trade secret and is not a public record.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 13, 2015

Filed March 13, 2015

CHAPTER 470

SENATE BILL NO. 2291

(Senators Wanzek, Miller, Unruh)
(Representative D. Anderson)

AN ACT to amend and reenact sections 60-02-11 and 60-04-03.1 of the North Dakota Century Code, relating to the allowable time for grain warehouse scale ticket conversions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 60-02-11 of the North Dakota Century Code is amended and reenacted as follows:

60-02-11. Scale ticket - Contents - Conversion.

1. a. Every public warehouseman, upon receiving grain into ~~its~~the warehouse, shall issue a uniform scale ticket for each load of grain received. ~~Such~~The scale tickets must be numbered consecutively, and one copy of each ticket must be retained and remain as a permanent record. The original ticket must be delivered to the person from whom the grain is received, upon receipt of each load of grain.
 - b. All scale tickets must be converted into cash, noncredit-sale contracts, credit-sale contracts, or warehouse receipts, within forty-five days after the grain is delivered to the warehouse, unless:
 - (1) The person to whom the scale ticket is issued signs a form waiving all rights to trust benefits under section 60-04-03.1;
 - (2) The form identifies by number each scale ticket to which the waiver applies; and
 - (3) The form is signed by the warehouseman.
 - c. The commission shall prepare the waiver form required by subdivision b and make the form available to each warehouse.
 - d. The warehouseman shall keep one copy of the signed waiver form with the records of the warehouse, provide one copy to the person who was issued the scale ticket and signed the form, and file one copy with the commission.
2. Nothing in this chapter requires a warehouseman to receive grain for storage. A warehouseman shall publish and post, in a conspicuous place in ~~its~~the warehouse, a publication identifying whether storage will be available to ~~its~~ patrons or whether grain will be accepted via cash or a credit-sale contract arrangement.

SECTION 2. AMENDMENT. Section 60-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

60-04-03.1. Trust fund established.

1. Upon the insolvency of any warehouseman, a trust fund shall be established for:
 - a. For the benefit of noncredit-sale receiptholders of the insolvent warehouseman, other than those who have waived their rights as beneficiaries of the trust fund in accordance with section 60-02-11; and to
 - b. To pay the costs incurred by the commission in the administration of this chapter.
2. The trust fund ~~must consist~~consists of the following:
 1. a. The grain in the warehouse of the insolvent warehouseman or the proceeds as obtained through the sale of such grain;
 2. b. The proceeds, including accounts receivable, from any grain sold from the time of the filing of the claim that precipitated an insolvency until the commission is appointed trustee ~~must be remitted to the commission and included in the trust fund;~~
 3. c. The proceeds of insurance policies upon grain destroyed in the elevator;
 4. d. The claims for relief, and proceeds therefrom, for damages upon any bond given by the warehouseman to ensure faithful performance of the duties of a warehouseman;
 5. e. The claims for relief, and proceeds therefrom, for the conversion of any grain stored in the warehouse;
 6. f. Unencumbered accounts receivable for grain sold prior to the filing of the claim that precipitated an insolvency;
 7. g. Unencumbered equity in grain hedging accounts; and
 8. h. Unencumbered grain product assets.

Approved March 20, 2015
Filed March 20, 2015

WATERS

CHAPTER 471

HOUSE BILL NO. 1097

(Energy and Natural Resources Committee)
(At the request of the State Engineer)

AN ACT to create and enact two new sections to chapter 61-03 of the North Dakota Century code, relating to the effect of pending administrative actions on permits and emergency action plans for dams; to amend and reenact section 61-03-22 of the North Dakota Century Code, relating to appeals from an action or decision of the state engineer; and to repeal section 61-03-05 of the North Dakota Century Code, relating to fees of the state engineer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-03-22 of the North Dakota Century Code is amended and reenacted as follows:

61-03-22. Hearing - Appeals from decision of state engineer.

~~Except as more specifically provided in this title, any~~Any person aggrieved because of ~~any~~by an action or decision of the state engineer under the provisions of this title has the right to a hearing by the state engineer if ~~no~~. The state engineer must receive the request for a hearing on the matter resulting in within thirty days after the aggrieved person knew or should have reasonably known of the action or decision has been held. IfOnce a hearing has been held or if the hearing request is denied, the person aggrieved has the right to petition for reconsideration and ~~to~~ appeal, ~~all in accordance with the provisions of~~ under chapter 28-32.

SECTION 2. A new section to chapter 61-03 of the North Dakota Century Code is created and enacted as follows:

Pending administrative actions and permits.

If an applicant for any permit processed by the state engineer has an unresolved administrative order or complaint under this title, the permit will not be processed until the order is complied with or complaint is resolved. At the state engineer's discretion, the permit may be processed if issuing the permit would resolve the administrative order or complaint. If an applicant is not an individual, this section applies if the applicant is at least twenty-five percent owned by an individual with an unresolved administrative order or complaint under this title.

SECTION 3. A new section to chapter 61-03 of the North Dakota Century Code is created and enacted as follows:

Emergency action plan - High-hazard or medium-hazard dam.

The owner of a high-hazard or medium-hazard dam shall develop, periodically test, and update an emergency action plan to be implemented if there is an

emergency involving the dam. The emergency action plan and any subsequent updates must be submitted to the state engineer for approval.

SECTION 4. REPEAL. Section 61-03-05 of the North Dakota Century Code is repealed.

Approved March 23, 2015

Filed March 23, 2015

CHAPTER 472

HOUSE BILL NO. 1096

(Energy and Natural Resources Committee)
(At the request of the State Engineer)

AN ACT to amend and reenact subsection 4 of section 61-04-01.1, sections 61-04-06.2, 61-04-09, and 61-04-31, and subdivision i of subsection 2 of section 61-04.1-16 of the North Dakota Century Code, relating to the definition of domestic water use, the term and inspection of a water permit, reservation of waters, and weather modification permits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 61-04-01.1 of the North Dakota Century Code is amended and reenacted as follows:

4. "Domestic use" means the use of water by ~~an individual, or by at least one~~ family unit; or household; ~~obtaining water from the same system~~ for personal needs and for household purposes, including heating, drinking, washing, sanitary, and culinary uses; irrigation of land not exceeding five acres [2.0 hectares] in area ~~for each family unit or household for noncommercial~~ gardens, orchards, lawns, trees, or shrubbery; and for household pets and domestic animals kept for household sustenance and not for sale or commercial use, ~~when the water is supplied by the individual or family unit.~~ Also included within this use are "domestic rural uses" which must be defined by the state engineer by rule.

SECTION 2. AMENDMENT. Section 61-04-06.2 of the North Dakota Century Code is amended and reenacted as follows:

61-04-06.2. Terms of permit.

The state engineer may issue a conditional permit for less than the amount of water requested, ~~but in no case may.~~ Except for water permits for incorporated municipalities or rural water systems, the state engineer may not issue a permit for more water than can be beneficially used for the purposes stated in the application ~~except that water.~~ Water permits for incorporated municipalities or rural water systems may contain water in excess of present needs if based upon reasonable projections of what may reasonably be necessary for the future water needs requirements of the municipality or the rural water system. The state engineer may require modification of the plans and specifications for the appropriation. The state engineer may issue a permit subject to fees for water use, terms, and conditions, restrictions, limitations, and termination dates the state engineer considers necessary to protect the rights of others and the public interest. Conditions and limitations so attached must be related to matters within the state engineer's jurisdiction ~~of the state engineer; provided, however, that all.~~ All conditions attached to any permit issued ~~prior to~~ before July 1, 1975, are binding upon the permittee.

SECTION 3. AMENDMENT. Section 61-04-09 of the North Dakota Century Code is amended and reenacted as follows:

61-04-09. Application to beneficial use - Inspection - Perfected water permit.

~~On or before the date set for the application of the water to a~~After the permit's beneficial use date, or upon notice from the owner~~permitholder~~ that water has been applied to a beneficial use, the state engineer shall ~~causenotify the conditional water permitholder and inspect~~ the works to be inspected, after due notice to the holder of the conditional water permit. ~~Such. The inspection shall be thorough and complete, in order to~~must determine the safety, efficiency, and actual capacity of the works, ~~its safety, and efficiency.~~ If the works are not properly and safely constructed, the state engineer may require the necessary changes to be made within such time ~~as the state engineer deems~~a reasonable and shall not issue a perfected water permit until such changes are made~~time~~. Failure to make the changes within the time prescribed by the state engineer shall cause postponement of the ~~permit's~~ priority ~~under the water permit~~date to the date the changes are actually made to the satisfaction of the state engineer, ~~and any. Any~~ intervening application submitted prior ~~to~~before the date the changes are actually made ~~may~~will have the benefit of such~~the~~ postponement of priority. When the works are found ~~in satisfactory condition, after inspection~~properly and safely constructed and inspected, the state engineer shall issue the perfected water permit, setting forth the actual capacity of the works and ~~such~~the limitations or conditions upon the water permit as stated in the conditional water permit as authorized by section 61-04-06.2; ~~provided, however, that all. All~~ conditions attached to any permit issued prior ~~to~~before July 1, 1975, shall ~~bear~~be binding upon the permittee.

SECTION 4. AMENDMENT. Section 61-04-31 of the North Dakota Century Code is amended and reenacted as follows:

61-04-31. Reservation of waters - Public hearing - Notice.

1. Whenever it appears necessary to the state engineer, or when so directed by the commission, the state engineer may by regulation:
 - a. Reserve reserve and set aside waters for beneficial utilization~~use~~ in the future; and
 - b. ~~When sufficient information and data are lacking to allow for the making of sound decisions, withdraw various waters of the state from additional appropriations until such data and information are available.~~
2. ~~a. Prior to~~Before the adoption of a regulation under this section, the state engineer shall conduct a public hearing in each county ~~in which~~where waters relating to the regulation are located. ~~The~~At least seven days before the date set for the public hearing shall be preceded by, a notice placed in a newspaper of general circulationmust be published in the official county newspapers within each of the counties.
3. ~~b. Regulations adopted hereunder shall~~be subject to chapter 28-32.
2. When sufficient information or data is lacking to allow for sound decisionmaking on a water permit application, the state engineer may withdraw various waters of the state from additional appropriations until sufficient data or information is available. Water permit applications pending from these sources will be placed in a deferred status.

SECTION 5. AMENDMENT. Subdivision i of subsection 2 of section 61-04.1-16 of the North Dakota Century Code is amended and reenacted as follows:

- i. The applicant has registered, with the North Dakota aeronautics commission, any aircraft ~~and pilots~~ intended to be used in connection with the operation.

Approved March 31, 2015
Filed March 31, 2015

CHAPTER 473

HOUSE BILL NO. 1095

(Energy and Natural Resources Committee)
(At the request of the State Engineer)

AN ACT to amend and reenact section 61-16.1-53.1, subsection 4 of section 61-21-01, and section 61-32-08 of the North Dakota Century Code, relating to administrative hearings for noncomplying dams, dikes, and other devices, the definition of drain, and administrative hearings for drainage projects; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.1-53.1 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-53.1. Appeal of board decisions - State engineer review - Closing of noncomplying dams, dikes, or other devices for water conservation, flood control, regulation, and watershed improvement.

1. The board shall make the decision required by section 61-16.1-53 within a reasonable time, not exceeding one hundred twenty days, after receiving the complaint. The board shall notify all parties of its decision by certified mail. ~~The Any aggrieved party may appeal the board's decision may be appealed to the state engineer by any aggrieved party.~~ The appeal to the state engineer must be made within thirty days from the date notice of the board's decision has been received. The appeal must be made by submitting a written notice to the state engineer, which must specifically set forth the reason why ~~the appealing party~~ believes the board's decision is erroneous. The appealing party shall also submit copies of the written appeal notice to the board and to all nonappealing parties. Upon receipt of this notice the board, if it has ordered removal of a dam, dike, or other device, is relieved of its obligation to procure the removal of the dam, dike, or other device. The state engineer shall handle the appeal by conducting an independent investigation and making an independent determination of the matter. The state engineer may enter property affected by the complaint ~~for the purpose of investigating to investigate~~ the complaint.
2. If the board fails to investigate and make a determination concerning the complaint within a reasonable time, not exceeding one hundred twenty days, the person filing the complaint may file the complaint with the state engineer within one hundred fifty days of the submittal date of the original complaint. The state engineer shall, without reference to chapter 28-32, ~~shall~~ cause the investigation and determination to be made, either by action against the board; or by ~~personally~~ conducting the investigation and ~~personally~~ making the determination.
3. If the state engineer determines that a dam, dike, or other device has been constructed or established by a landowner or tenant contrary to title 61 or any rules adopted by the board, the state engineer shall take one of these three actions:

1. a. Notify the landowner by certified mail at the landowner's post-office address of record;
 2. b. Return the matter to the jurisdiction of the board along with the investigation report; or
 3. c. Forward the dam, dike, or other device complaint and investigation report to the state's attorney.
4. If the state engineer decides to notify the landowner, the notice must specify the nature and extent of the noncompliance and ~~must~~ state that if the dam, dike, or other device is not removed within ~~such~~ a reasonable time as determined by the state engineer ~~determines~~, but not less than thirty days, the state engineer shall procure the removal of the dam, dike, or other device and assess the cost of removal against the responsible landowner's property of ~~the responsible landowner~~. The notice from the state engineer must state that, within fifteen days of the date the notice is mailed, the affected landowner may demand, in writing, a hearing on the matter. Upon receipt of the demand, the state engineer shall set a hearing date within fifteen days from the date the demand is received. If, in the opinion of the state engineer, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Upon assessment of costs, the state engineer shall certify the assessment to the county auditor of the county where the noncomplying dam, dike, or other device is located. The county auditor shall extend the assessment against the property assessed. Each assessment must be collected and paid as other property taxes are collected and paid. Assessments collected must be deposited with the state treasurer and ~~are hereby appropriated out of the state treasury and must be~~ credited to the contract fund established by section 61-02-64.1. Any person aggrieved by action of the state engineer under this section may appeal the decision of the state engineer to the district court ~~in accordance with~~ under chapter 28-32. A hearing by the state engineer as provided for in this section is a prerequisite to ~~such~~ an appeal.
5. If the state engineer, after completing the investigation required under this section, decides to return the matter to the board, a complete copy of the investigation report must be forwarded to the board and it must include the nature and extent of the noncompliance. Upon having the matter returned to its jurisdiction, the board shall carry out the state engineer's decision ~~in accordance with~~ under the terms of this section.
6. If the state engineer, after completing the investigation required under this section, decides to forward the dam, dike, or other device complaint to the state's attorney, a complete copy of the investigation report must also be forwarded, which must include the nature and extent of the noncompliance. The state's attorney shall prosecute the complaint ~~in accordance with~~ under the statutory responsibilities prescribed in chapter 11-16.
7. In addition to the penalty imposed by the court ~~in the event of~~ on conviction under this statute, the court shall order the dam, dike, or other device removed within ~~such~~ a reasonable time period as the court determines, but not less than thirty days. If the dam, dike, or other device is not removed within the time prescribed by the court, the court shall procure the removal of the dam, dike, or other device, and assess the cost ~~thereof~~ against the property of the landowner responsible, in the same manner as other assessments under

chapter 61-16.1 are levied. If, in the opinion of the court, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners.

SECTION 2. AMENDMENT. Subsection 4 of section 61-21-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Drain" means any natural watercourse opened, or proposed to be opened, and improved for the purpose of drainage and any artificial drains of any nature or description constructed for such that purpose, including dikes and appurtenant works. This definition may include more than one watercourse or artificial channel constructed for the aforementioned purpose when the watercourses or channels drain land within a practical drainage area as determined by the written petition called for in section 61-21-10 and the survey and examination called for in section 61-21-12.

SECTION 3. AMENDMENT. Section 61-32-08 of the North Dakota Century Code is amended and reenacted as follows:

61-32-08. Appeal of board decisions - State engineer review - Closing of noncomplying drains.

1. The board shall make the decision required by section 61-32-07 within a reasonable time, but not to exceed one hundred twenty days, after receiving the complaint. The board shall notify all parties of its decision by certified mail. ~~The Any aggrieved party may appeal the~~ board's decision ~~may be appealed to the state engineer by any aggrieved party.~~ The appeal to the state engineer must be made within thirty days from the date notice of the board's decision has been received. The appeal must be made by submitting a written notice to the state engineer, which must specifically set forth the reason why the board's decision is erroneous. The appealing party shall also submit copies of the written appeal notice to the board and to ~~the all nonappealing party~~ parties. Upon receipt of this notice the board, if it has ordered closure of a drain, lateral drain, or ditch, is relieved of its obligation to procure the closing or filling of the drain, lateral drain, or ditch. The state engineer shall handle the appeal by conducting an independent investigation and making an independent determination of the matter. The state engineer may enter property affected by the complaint ~~for the purpose of investigating to investigate~~ the complaint.
2. If the board fails to investigate and make a determination concerning the complaint within a reasonable time, but not to exceed one hundred twenty days, the person filing the complaint may file ~~sue~~the complaint with the state engineer within one hundred fifty days of the submittal date of the original complaint. The state engineer shall, without reference to chapter 28-32, cause the investigation and determination to be made, either by action against the board; or by ~~personally~~ conducting the investigation and ~~personally~~ making the determination.
3. If the state engineer determines that a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to title 61 or any rules adopted by the board, the state engineer shall take one of three actions:
 4. a. Notify the landowner by certified mail at the landowner's post-office address of record;

2. ~~b.~~ Return the matter to the jurisdiction of the board along with the investigation report; or
3. ~~c.~~ Forward the drainage complaint and investigation report to the state's attorney.
4. If the state engineer decides to notify the landowner, the notice must specify the nature and extent of the noncompliance and ~~must state that if the drain, lateral drain, or ditch is not closed or filled within such a reasonable time as determined by the state engineer shall determine, but not less than thirty days, the state engineer shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost thereof, against the responsible landowner's property of the landowner responsible.~~ The notice from the state engineer must state that the affected landowner may, within fifteen days of the date the notice is mailed, demand; in writing; a hearing on the matter. Upon receipt of the demand, the state engineer shall set a hearing date within fifteen days from the date the demand is received. If, in the opinion of the state engineer, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Upon assessment of costs, the state engineer shall certify the assessment to the county auditor of the county where the noncomplying drain, lateral drain, or ditch is located. The county auditor shall extend the assessment against the property assessed. Each assessment must be collected and paid as other property taxes are collected and paid. Assessments collected must be deposited with the state treasurer and ~~are hereby appropriated out of the state treasury and must be credited to the contract fund established by section 61-02-64.1.~~ Any person aggrieved by action of the state engineer under the provisions of this section may appeal the decision of the state engineer to the district court ~~in accordance with~~ under chapter 28-32. A hearing by the state engineer as provided for in this section ~~shall be~~ a prerequisite to ~~such~~ an appeal.
5. If the state engineer, after completing the investigation required under this section, decides to return the matter to the board, a complete copy of the investigation report ~~shall~~ must be forwarded to the board and it ~~shall~~ must include the nature and extent of the noncompliance. Upon having the matter returned to its jurisdiction, the board shall carry out the state engineer's decision ~~in accordance with~~ under the terms of this section.
6. If the state engineer, after completing the investigation required under this section, decides to forward the drainage complaint to the state's attorney, a complete copy of the investigation report must also be forwarded, which must include the nature and extent of the noncompliance. The state's attorney shall prosecute the complaint ~~in accordance with~~ under the statutory responsibilities prescribed in chapter 11-16.
7. In addition to the penalty imposed by the court ~~in the event of~~ on conviction under this statute, the court shall order the drain, lateral drain, or ditch closed or filled within ~~such a~~ reasonable time period as the court determines, but not less than thirty days. If the drain, lateral drain, or ditch is not closed or filled within the time prescribed by the court, the court shall procure the closing or filling of the drain, lateral drain, or ditch, and assess the cost ~~thereof~~ against the property of the landowner responsible, in the same manner as other assessments under chapter 61-16.1 are levied. If, in the opinion of the court, more than one landowner or tenant has been responsible, the costs may be

assessed on a pro rata basis in proportion to the responsibility of the landowners.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY. During the 2015-16 interim, the legislative management shall assign to the water topics overview committee the responsibility of studying the use of quick take in eminent domain by water resource districts. The study must include input from stakeholders, including the state water commission, water resource districts, and landowners. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

Approved April 22, 2015

Filed April 22, 2015

CHAPTER 474

HOUSE BILL NO. 1352

(Representatives Hofstad, D. Johnson, Muscha)
(Senators Armstrong, Klein, Mathern)

AN ACT to repeal section 4 of chapter 496 of the 2011 Session Laws, relating to eliminating the expiration date for special assessments for irrigation by the Garrison diversion conservancy district.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 4 of chapter 496 of the 2011 Session Laws, as amended by section 6 of chapter 486 of the 2013 Session laws, is repealed.

Approved April 8, 2015

Filed April 8, 2015

WEAPONS

CHAPTER 475

HOUSE BILL NO. 1241

(Representatives Streytle, Brabandt, Karls, B. Koppelman, Toman)
(Senators Armstrong, Larsen, Unruh)

AN ACT to amend and reenact section 20.1-01-36, subsection 1 of section 62.1-01-01, sections 62.1-02-04, 62.1-02-05, 62.1-02-10, and 62.1-03-01, subsection 5 of section 62.1-04-01, section 62.1-04-02, subsections 2 and 7 of section 62.1-04-03, and section 62.1-05-01 of the North Dakota Century Code, relating to firearms and dangerous weapons; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-01-36 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-36. Suppressor and short-barreled rifle allowed for hunting.

1. An individual in lawful possession of a device that will silence or deaden the sound or natural report of a firearm when the firearm is discharged may hunt any game for which the individual is licensed and for which a firearm is allowed with that device for or attached to the firearm.
2. An individual in lawful possession of a short-barreled rifle may hunt any game for which the individual is licensed and for which a rifle is allowed.

²⁴⁰ **SECTION 2. AMENDMENT.** Subsection 1 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas, including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO2 gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance. "Dangerous weapon" does not include a spray or aerosol containing CS, also known as ortho-chlorobenzamalonitrile; CN, also known as alpha-chloroacetophenone; or other irritating agent intended for use in the defense of an individual, nor does the term include a device that uses ~~direct contact to deliver voltage for the defense of an individual, unless the device uses a projectile and voltage.~~

²⁴⁰ Section 62.1-01-01 was also amended by section 1 of House Bill No. 1450, chapter 476.

then the term includes the device for an individual who is prohibited from possessing a firearm under this title. However, the term includes a device that uses a projectile and may be used to apply multiple applications of voltage during a single incident.

SECTION 3. AMENDMENT. Section 62.1-02-04 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-04. Possession of firearm or dangerous weapon in liquor establishment prohibited - Penalty - Exceptions.

1. An individual who enters or remains in that part of the establishment that is set aside for the retail sale of alcoholic beverages and the consumption of purchased alcoholic beverages or used as a gaming site at which bingo is the primary gaming activity while ~~in the possession of that individual knowingly possesses~~ a firearm or dangerous weapon is guilty of a class A misdemeanor. In addition, an individual is guilty of an offense under this section for the knowing possession of a device that uses a projectile and voltage in the part of an establishment that is set aside for the retail sale and consumption of alcoholic beverages.
2. This section does not apply to:
 - a. A law enforcement officer.
 - b. The proprietor.
 - c. The proprietor's employee.
 - d. A designee of the proprietor when the designee is displaying an unloaded firearm or dangerous weapon as a prize or sale item in a raffle or auction.
 - e. Private security personnel while on duty for the purpose of delivering or receiving moneys used at the liquor establishment or at the gaming site at which bingo is the primary gaming activity.
 - f. The restaurant part of an establishment if an individual under twenty-one years of age is not prohibited in that part of the establishment.

SECTION 4. AMENDMENT. Section 62.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-05. Possession of a firearm or dangerous weapon at a public gathering - Penalty - Application.

1. An individual who knowingly possesses a firearm or dangerous weapon at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" ~~includes means an athletic or sporting events, schools or school functions, churches or church functions, political rallies or functions, musical concerts, and individuals in publicly owned parks where hunting is not allowed by proclamation event, a school, a church, and a publicly owned or operated buildings~~ building.
2. This section does not apply to:
 - a. A law enforcement officer;

- b. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty;
 - c. A competitor participating in an organized sport shooting event;
 - d. A gun or antique show;
 - e. A participant using a blank cartridge firearm at a sporting or theatrical event;
 - f. A firearm or dangerous weapon carried in a temporary residence or motor vehicle;
 - g. A student and an instructor at a hunter safety class;
 - h. Private security personnel while on duty;
 - i. A state or federal park;
 - j. An instructor, a test administrator, an official, or a participant in educational, training, cultural, or competitive events involving the authorized use of a dangerous weapon if the event occurs with permission of the person or entity with authority over the function or premises in question;
 - k. An individual in a publicly owned or operated rest area or restroom:
 - l. An individual possessing a valid ~~class 4~~ concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1 authorizing the individual to carry a dangerous weapon concealed if the individual is in a church building or other place of worship and has the approval to carry in the church building or other place of worship by a primary religious leader of the church or other place of worship or the governing body of the church or other place of worship. If a church or other place of worship authorizes an individual to carry a concealed weapon, local law enforcement must be informed of the name of the authorized individual; and
 - l.m. A municipal court judge, a district court judge, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer, if the individual maintains the same level of firearms proficiency as is required by the peace officer standards and training board for law enforcement officers. A local law enforcement agency shall issue a certificate of compliance under this section to an individual who is proficient.
3. This section does not prevent any political subdivision from enacting an ordinance that is less restrictive than this section relating to the possession of firearms or dangerous weapons at a public gathering. An enacted ordinance supersedes this section within the jurisdiction of the political subdivision.

SECTION 5. AMENDMENT. Section 62.1-02-10 of the North Dakota Century Code is amended and reenacted as follows:

62.1-02-10. Carrying loaded firearm in vehicle ~~certain vehicles prohibited~~ - Penalty - Exceptions.

An individual may not keep or carry a loaded firearm in or on any motor vehicle, including an off-highway vehicle or snowmobile in this state. An individual violating this section is guilty of a class B misdemeanor. This prohibition does not apply to:

1. A member of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations while possessing the firearm issued to the member by the organization and while on official duty.
2. A law enforcement officer, ~~except while the officer is engaged in hunting or trapping activities with a rifle or shotgun.~~
3. An individual possessing a valid North Dakota concealed weapons license ~~from this state or a valid license issued by another state authorizing the individual to carry a firearm or dangerous weapon concealed if that state permits a holder of a valid North Dakota concealed weapons license to carry a firearm or dangerous weapon concealed in that state without obtaining a similar license from that state, except while that individual is in the field engaged in hunting or trapping activities~~ who has reciprocity under section 62.1-04-03.1 with a handgun, or with a rifle or shotgun if not in the field hunting or trapping.
4. An individual in the field engaged in lawful hunting or trapping of nongame species or fur-bearing animals.
5. A security guard or private investigator properly licensed to carry firearms.
6. An individual possessing a valid special permit issued pursuant to section 20.1-02-05.

SECTION 6. AMENDMENT. Section 62.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~An unloaded~~A handgun may not be carried unless by an individual not otherwise prohibited and if:
 - a. Between the hours of one hour before sunrise and one hour after sunset, the handgun is unloaded and either in plain view or is secured.
 - b. Between the hours of one hour after sunset and one hour before sunrise, the handgun is unloaded and secured.
2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:
 - a. An individual possessing a valid concealed weapons license from this state or who has reciprocity under section 62.1-04-03.1.
 - b. An individual on that person's land, or in that individual's permanent or temporary residence, or fixed place of business.
 - c. An individual while lawfully engaged in target shooting.

- d. An individual while in the field engaging in the lawful pursuit of hunting or trapping. However, nothing in this exception authorizes the carrying of a loaded handgun in a motor vehicle.
- e. An individual permitted by law to possess a firearm while carrying the handgun unloaded and in a secure wrapper from the place of purchase to that person's home or place of business, or to a place of repair or back from those locations.
- f. Any North Dakota law enforcement officer.
- g. Any law enforcement officer of any other state or political subdivision of another state if on official duty within this state.
- h. Any armed security guard or investigator as authorized by law when on duty or going to or from duty.
- i. Any member of the armed forces of the United States when on duty or going to or from duty and when carrying the handgun issued to the member.
- j. Any member of the national guard, organized reserves, state defense forces, or state guard organizations, when on duty or going to or from duty and when carrying the handgun issued to the member by the organization.
- k. Any officer or employee of the United States duly authorized to carry a handgun.
- l. An individual engaged in manufacturing, repairing, or dealing in handguns or the agent or representative of that individual possessing, using, or carrying a handgun in the usual or ordinary course of the business.
- m. Any common carrier, but only when carrying the handgun as part of the cargo in the usual cargo carrying portion of the vehicle.

SECTION 7. AMENDMENT. Subsection 5 of section 62.1-04-01 of the North Dakota Century Code is amended and reenacted as follows:

5. A bow and arrow, ~~an unloaded rifle or~~ shotgun, unloaded handgun, or ~~an unloaded~~ weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon commonly referred to as a BB gun, air rifle, or CO₂ gun, while carried in a motor vehicle.

SECTION 8. AMENDMENT. Section 62.1-04-02 of the North Dakota Century Code is amended and reenacted as follows:

62.1-04-02. Carrying concealed firearms or dangerous weapons prohibited.

An individual, other than a law enforcement officer, may not carry any firearm or dangerous weapon concealed unless the individual is licensed to do so or exempted under this chapter. ~~For purposes of this chapter, the term "dangerous weapon" does not include a spray or aerosol containing CS (ortho-chlorobenzamalonitrile), CN (alpha-chloroacetophenone) or other irritating agent intended for use in the defense of an individual, nor does the term include any stun gun or device that uses direct contact to deliver voltage for the defense of an individual.~~

²⁴¹ **SECTION 9. AMENDMENT.** Subsection 2 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The attorney general shall offer class 1 firearm and class 2 firearm and dangerous weapon licenses to carry a firearm or dangerous weapon concealed under the following requirements:
 - a. An applicant for a class 1 firearm license shall successfully participate in a classroom instruction that sets forth weapon safety rules and the deadly force law of North Dakota, complete an open book test based upon a manual, demonstrate familiarity with a firearm, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm to be concealed may be satisfied by one of the following:
 - (1) Certification of familiarity with a firearm by an individual who has been certified by the attorney general, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor;
 - (2) Evidence of equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service;
 - (3) Possession of a license from another state to carry a firearm, concealed or otherwise, which is granted by that state upon completion of a course described in paragraphs 1 and 2; or
 - (4) Evidence that the applicant, during military service, was found to be qualified to operate a firearm.
 - b. An applicant for a class 2 firearm and dangerous weapon license is required to successfully complete the open book test offered for the class 1 firearm license.
 - c. A North Dakota resident who has a valid class 1 firearm license also may carry a class 2 dangerous weapon without any further testing required. Class 1 and class 2 permits are equally valid in this state.
 - d. Additional testing is not required to renew a class 2 firearm and dangerous weapon license. A class 1 firearm license may be renewed upon successful completion of the class 1 firearm requirements within thirty days before submission of the application for renewal.

²⁴² **SECTION 10. AMENDMENT.** Subsection 7 of section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

7. The director of the bureau of criminal investigation may deny an application or revoke or cancel a license after it has been granted for any material misstatement by an applicant in an application for the license or any violation of this title. The director of the bureau of criminal investigation shall disclose to the applicant the specific reason for denial or revocation of the license.

²⁴¹ Section 62.1-04-03 was also amended by section 10 of House Bill No. 1241, chapter 475.

²⁴² Section 62.1-04-03 was also amended by section 9 of House Bill No. 1241, chapter 475.

SECTION 11. AMENDMENT. Section 62.1-05-01 of the North Dakota Century Code is amended and reenacted as follows:

62.1-05-01. Possession and sale of machine guns, automatic rifles, silencers, and bombs - Penalty - Forfeiture.

1. ~~No~~A person may not purchase, sell, have, or possess a machine gun, fully automatic rifle, silencer, or bomb loaded with explosives or poisonous or dangerous gases, or any other federally licensed firearm or dangerous weapon unless that person has complied with the National Firearms Act [26 U.S.C. 5801-5872].

~~Any federal licensee who purchases, sells, has, or possesses those items for the licensee's protection or for sale must forward a copy of the licensee's federal license along with the required weapons transfer form to the licensee's local county sheriff and to the chief of the bureau of criminal investigation within five days of the receipt of these forms.~~

2. A person who violates this section is guilty of a class C felony. Upon arrest of that person, the firearm or dangerous weapon must be seized. Upon conviction of the person and motion to the court in which the conviction occurred, the firearm or dangerous weapon must be forfeited to the jurisdiction in which the arrest was made. The firearm or dangerous weapon may be sold at public auction, retained for use, or destroyed pursuant to the court's order. If a qualified local program as defined under section 12.1-32-02.2 has paid a reward for information that resulted in forfeiture of the item and the item has been sold, the jurisdiction shall, after payment of expenses for forfeiture and sale, repay the qualified local program for the reward that it has paid.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 476**HOUSE BILL NO. 1450**

(Representatives B. Koppelman, Brabandt, Karls, K. Koppelman, Laning, Porter,
Ruby, Streyle)
(Senators Larsen, Miller)

AN ACT to amend and reenact subsection 16 of section 62.1-01-01 and subdivision a of subsection 6 of section 62.1-02-13 of the North Dakota Century Code, relating to concealed weapons and firearms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁴³ **SECTION 1. AMENDMENT.** Subsection 16 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

16. "Unloaded" means the chamber of the firearm does not contain a loaded shell. If the firearm is a revolver, then none of the chambers in the cylinder may contain a loaded shell. ~~Handguns with a removable magazine or clip must have the magazine or clip removed from the firearm if the magazine or clip contains any loaded shells.~~

SECTION 2. AMENDMENT. Subdivision a of subsection 6 of section 62.1-02-13 of the North Dakota Century Code is amended and reenacted as follows:

- a. Any public or nonpublic elementary school, middle school, or high school, ~~college, or university~~ property.

Approved April 15, 2015
Filed April 15, 2015

²⁴³ Section 62.1-01-01 was also amended by section 2 of House Bill No. 1241, chapter 475.

CHAPTER 477

HOUSE BILL NO. 1457

(Representatives Karls, Brabandt, B. Koppelman, K. Koppelman, Porter)
(Senators Armstrong, Cook)

AN ACT to amend and reenact section 62.1-01-02 of the North Dakota Century Code, relating to the forfeiture and disposition of firearms; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 62.1-01-02 of the North Dakota Century Code is amended and reenacted as follows:

62.1-01-02. Forfeiture of dangerous weapon or firearm by person arrested and convicted of crime.

1. Any firearm or dangerous weapon used or possessed while in the commission of a felony or a misdemeanor involving violence or intimidation must be seized and, upon conviction and by motion, forfeited to the jurisdiction in which the arrest was made or the jurisdiction in which the charge arose. Except as provided in chapter 29-01 for stolen property, the forfeited ~~firearm or~~ dangerous weapon may be, pursuant to court order, sold at public auction, sold or traded to other law enforcement agencies or ~~authorized firearm~~ dealers, retained for use, or destroyed.
2. Notwithstanding any other provision of law; and subject to the duty to return firearms to innocent owners under this section, section 29-31.1-02, and as provided in chapter 29-01 for stolen property; all firearms, as defined in section 62.1-01-01, which are forfeited, recovered as stolen and unclaimed, or abandoned to any law enforcement agency of this state or a political subdivision of this state, including the game and fish department, or that are otherwise acquired by the state or a political subdivision of the state and are no longer needed, shall be disposed of as provided in this section. Except as provided in chapter 29-01 for stolen property, this section does not apply to firearms that are seized or confiscated and disposed of under chapter 20.1-10.
3.
 - a. Before the disposal of any firearm under this section, the agency with custody of the firearm shall use its best efforts to determine if the firearm has been lost by, or stolen or otherwise unlawfully obtained from, an innocent owner and, if so, shall provide notification to the innocent owner of its custody of the firearm. An innocent owner may also notify the agency to claim a firearm.
 - b. After notification, the agency shall return the firearm to its innocent owner provided the owner submits sufficient proof of ownership, as determined by the agency, and pays the costs, if any, of returning the firearm to the innocent owner. Costs are limited to the actual costs of shipping to the innocent owner and associated costs from any transfer and background check fees charged when delivering the firearm to the innocent owner.

- c. If six months elapse after notification to the innocent owner of the custody of the firearm by an agency and the innocent owner fails to bear the costs of return of his or her firearm or fails to respond to the agency notification, or if six months elapse after notice of a claim by an innocent owner and the innocent owner fails to bear the costs of return of the innocent owner's firearm or take away the innocent owner's firearm, then the agency shall dispose of the firearm as provided in this section.
4. a. Except as provided in subdivision b of subsection 3 or subsection 5, the agency shall dispose of the firearms that it receives under subsection 2 by sale at public auction to persons that may lawfully possess a firearm and persons licensed as firearms collectors, dealers, importers, or manufacturers under the provisions of 18 U.S.C. section 921 et seq., and authorized to receive such firearms under the terms of the licenses.
- b. The auction required by this subsection may occur online on a rolling basis or at live events, but in no event may the auction occur less frequently than once every year during any time the agency has an inventory of saleable firearms. The agency shall establish a procedure to notify persons of its auctions.
- c. The agency may not retain proceeds above that which are necessary to cover the costs of administering this subsection, with any surplus to be transferred to the general fund of the jurisdiction in which the agency is located, provided that an agency may be reimbursed for any firearms formerly in use by the agency that are sold under this section.
- d. Employees of the agency are not eligible to bid on the firearms at an auction conducted under this subsection, and except for the amounts authorized under subdivision c of this subsection, neither the agency nor its employees may retain any proceeds from any sale required by this subsection, nor may the agency or its employees retain any firearm required to be sold under this subsection.
5. a. The requirements of subsection 4 do not apply to a firearm if there are not any bids from eligible persons received within six months from when bidding opened on the firearm, or if the agency director, sheriff, chief of police, or a designee of the official certifies that the firearm is unsafe for use because of wear, damage, age, or modification or because any federal or state law prohibits the sale or distribution of the firearm. The agency director, sheriff, chief of police, or a designee of the official, may transfer any of these firearms to the attorney general's crime laboratory for training or experimental purposes, or to a museum or historical society that displays these items to the public and is lawfully eligible to receive the firearm, or the firearm may be destroyed. The requirements of subsection 4 do not apply to a firearm and an agency director, sheriff, chief of police, or a designee of the official may destroy the firearm, if :
- (1) The firearm was used in a violent crime, in an accidental shooting, or a self-inflicted shooting resulting in the death of an individual;
- (2) There is not a claim for the firearm by an innocent owner; and
- (3) A family member of the deceased individual makes a written request for the destruction of the firearm.

- b. Agencies subject to the provisions of this subsection may establish a procedure to destroy firearms and may expend necessary funds for that purpose.
- 6. All agencies subject to the provisions of this section shall keep records of the firearms acquired and disposed of as provided in this section, as well as the proceeds of the sales and the disbursement of the proceeds, and shall maintain these records for not less than ten years from the date on which a firearm is disposed of or on which a disbursement of funds is made, as the case may be.
- 7. Neither the state nor any political subdivision of the state, nor any of their officers, agents, and employees, is liable to any person, including the purchaser of a firearm, for personal injuries or damage to property arising from the sale or disposal of a firearm under subsection 4 or 5 of this section, unless an officer, agent, or employee of the state or political subdivision acted with gross negligence or recklessness.
- 8. As used in this section, the term "innocent owner" means a person who:
 - a. Did not beforehand know or in the exercise of ordinary care would not have known of the conduct which caused that person's firearm to be forfeited, seized, or abandoned to any law enforcement agency of the state or any political subdivision of the state, including the game and fish department;
 - b. Did not participate in the commission of a crime or delinquent act involving that person's firearm;
 - c. Legally owned and presently owns the firearm forfeited, seized, or abandoned; and
 - d. Is authorized by state and federal law to receive and possess his or her firearm.

SECTION 2. APPLICATION. Any firearm held by an agency on August 1, 2015, is subject to the disposal and sale provisions of this Act.

Approved April 15, 2015
Filed April 15, 2015

CHAPTER 478

SENATE BILL NO. 2274

(Senators Armstrong, Poolman, Unruh)
(Representatives Karls, Streyle, Toman)

AN ACT to create and enact a new section to chapter 62.1-05 of the North Dakota Century Code, relating to chief law enforcement officer certification for certain firearms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 62.1-05 of the North Dakota Century Code is created and enacted as follows:

Chief law enforcement officer certification - Certain firearms.

1. For purposes of this section:
 - a. "Chief law enforcement officer" means any official, or the designee of the official, the bureau of alcohol, tobacco, firearms and explosives, or any successor agency, identified by regulation as eligible to provide any required certification for the making or transfer of a firearm.
 - b. "Certification" means the participation and assent of the chief law enforcement officer necessary under federal law for the approval of the application to transfer or make a firearm. A chief law enforcement officer is not required to make any certification under this section the officer knows to be untrue, but the officer may not refuse to provide certification based on a generalized objection to private persons or entities making, possessing, or receiving firearms or any certain type of firearm the possession of which is not prohibited by law.
 - c. "Firearm" has the same meaning as provided in the National Firearms Act [26 U.S.C. § 5845(a)].
2. When a chief law enforcement officer's certification is required by federal law or regulation for the transfer or making of a firearm, the chief law enforcement officer, within thirty days of receipt of a request for certification, shall provide the certification if the applicant is not prohibited by law from receiving or possessing the firearm or is not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing the firearm. If the chief law enforcement officer is unable to make a certification as required by this section, the officer shall provide the applicant with a written notification of the denial and the reason for this determination.
3. In making the certification required by subsection 2, a chief law enforcement officer or designee may require the applicant to provide only the information as is required by federal or state law to identify the applicant and conduct a criminal background check, including a check of the national instant criminal background check system, or to determine the disposition of an arrest or proceeding relevant to the applicant's eligibility to lawfully possess or receive a

firearm. A chief law enforcement officer may not require access to or consent for an inspection of any private premises as a condition of making a certification under this section.

4. Chief law enforcement officers and their employees who act in good faith are immune from liability arising from any act or omission in making a certification as required by this section.
5. An applicant whose request for certification is denied may appeal the chief law enforcement officer's decision to the district court for the county in which the applicant resides in accordance with the procedures provided in section 28-34-01. If the court finds that the applicant is not prohibited by law from receiving or possessing the firearm, or is not the subject of a proceeding that could result in the prohibition, or that there is insufficient evidence to support the chief law enforcement officer's determination that the officer cannot truthfully make the certification, the court shall order the chief law enforcement officer to issue the certification and award court costs and reasonable attorney's fees to the applicant.

Approved April 13, 2015
Filed April 13, 2015

WEIGHTS, MEASURES, AND GRADES

CHAPTER 479

SENATE BILL NO. 2125

(Industry, Business and Labor Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact section 64-02-14 of the North Dakota Century Code, relating to public service commission action for weighing or measuring devices that do not meet design or tolerance standards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 64-02-14 of the North Dakota Century Code is amended and reenacted as follows:

64-02-14. Incorrect weighing or measuring devices —~~Power to seize, condemn, or destroy.~~

~~The commission shall condemn, seize, or destroy any incorrect weighing or measuring device which cannot be satisfactorily repaired. These~~A weighing or measuring devices which are incorrect but which are capable of being repaired~~device that does not meet applicable design or tolerance requirements must be marked as "rejected for repair" in the manner set by the commission. The owner or user of a weighing or measuring device which has been so marked shall have it repaired or corrected within thirty days, and the device may not be used or disposed of within that thirty day period~~in commerce without the consent of the commission.

Approved March 19, 2015

Filed March 19, 2015

WORKFORCE SAFETY AND INSURANCE

CHAPTER 480

HOUSE BILL NO. 1102

(Industry, Business and Labor Committee)
(At the request of Workforce Safety and Insurance)

AN ACT to create and enact subsection 9 to section 65-05-32 of the North Dakota Century Code, relating to privacy of records; to amend and reenact subsection 21 of section 65-01-02, subsection 1 of section 65-01-15.1, sections 65-05-10 and 65-05-20.1, subsection 1 of section 65-05.1-06.1, and sections 65-05.1-06.3, 65-05.1-08, and 65-06-03 of the North Dakota Century Code, relating to definition of a health care provider, presumption of compensability for full-time paid firefighters and law enforcement, payment of temporary partial disability benefits, rules for the workforce safety and insurance scholarship fund, issuance of vocational rehabilitation decisions, rehabilitation pilot programs, rules for the educational revolving loan fund, and average weekly wages for volunteer firefighters, volunteer health practitioners, and volunteer emergency responders; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁴⁴ **SECTION 1. AMENDMENT.** Subsection 21 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

21. "Health care provider" ~~means~~includes a doctor, qualified nurse, pharmacist, audiologist, speech language pathologist, or naturopath or any recognized practitioner providing skilled services pursuant to the prescription of, or under the supervision or direction of, ~~a doctor~~ any of these individuals.

SECTION 2. AMENDMENT. Subsection 1 of section 65-01-15.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Any condition or impairment of health of a full-time paid firefighter or law enforcement officer caused by lung or respiratory disease, hypertension, heart disease, or an exposure to a bloodborne pathogen as defined by section 23-07.5-01 occurring in the course of employment, or occupational cancer in a full-time paid firefighter, ~~resulting in total or partial disability or death~~ is presumed to have been suffered in the line of duty. The presumption may be rebutted by clear and convincing evidence the condition or impairment is not work-related.

SECTION 3. AMENDMENT. Section 65-05-10 of the North Dakota Century Code is amended and reenacted as follows:

²⁴⁴ Section 65-01-02 was also amended by section 11 of House Bill No. 1256, chapter 334.

65-05-10. Partial disability - Weekly benefit.

If the injury causes temporary partial disability resulting in decrease of earning capacity, the disability benefit is sixty-six and two-thirds percent of the difference between the injured employee's average weekly wages before the injury and the employee's wage-earning capacity after the injury in the same or another employment. Partial disability benefits are subject to a maximum of one hundred twenty-five percent of the average weekly wage in the state. The combined partial disability benefits, dependency allowance, and postinjury wage-earning capacity may not exceed ninety percent of the preinjury weekly wage of the employee after deductions for social security and federal income tax.

1. The benefits provided by this section are available to any otherwise eligible worker, providing the loss of earning capacity occurs after July 1, 1989. Partial loss of earning capacity occurring prior to July 1, 1989, must be paid at a rate to be fixed by the organization.
2. Benefits must be paid during the continuance of partial disability, not to exceed a period of five years. The organization may waive the five-year limit on the duration of partial disability benefits in cases of catastrophic injury as defined in section 65-05.1-06.1 or when the injured worker is working and has long-term restrictions verified by clear and convincing objective medical and vocational evidence that limits the injured worker to working less than twenty-eight hours per week because of the compensable work injury. This subsection is effective for partial loss of earnings capacity occurring after June 30, 1991.
3. The employee's earnings capacity may be established by expert vocational evidence of a capacity to earn in the statewide job pool where the worker lives. Actual postinjury earnings are presumptive evidence of earnings capacity if the job employs the employee to full work capacity in terms of hours worked per week, and if the job is in a field related to the employee's transferable skills. The presumption may be rebutted by competent evidence from a vocational expert that the employee's actual earnings do not fairly reflect the employee's earnings capacity in the statewide job pool, considering the employee's capabilities, education, experience, and skills.

SECTION 4. AMENDMENT. Section 65-05-20.1 of the North Dakota Century Code is amended and reenacted as follows:

65-05-20.1. Scholarship fund - Rules.

1. The organization may establish a scholarship fund to ~~provide scholarships for the~~ Scholarships may be awarded to:
 - a. ~~The spouse and child of a worker who dies as a result of a compensable work-related injury, if the spouse and child have received benefits under section 65-05-17. The organization may also grant scholarships for the spouse and child of an injured worker;~~
 - b. ~~The spouse and child of a worker who is~~ deemed to be catastrophically injured as defined in subdivision c of subsection 2 of section 65-05.1-06.1 ~~and the child meets the definition of child at the time of the initial scholarship application. The organization may also grant scholarships to injured; and~~

- c. Injured workers for whom the organization determines a scholarship would be beneficial and appropriate because of exceptional circumstances, or upon successful completion of a rehabilitation program contemplated under subdivision g of subsection 4 of section 65-05.1-01, as determined by the organization.
2. For purposes of this section, child includes a legitimate child, a step child, adopted child, posthumous child, foster child, and acknowledged illegitimate child between twenty-three and twenty-six years of age who is enrolled as a full-time student in any accredited educational institution and is dependent upon the employee for support.
3. Scholarships are payable to an accredited institution of higher education or an institution of technical education on behalf of a student attending that institution.
4. The total amount awarded annually in scholarships may not exceed five hundred thousand dollars. The maximum amount payable on behalf of an applicant is ten thousand dollars per year for no more than five years, except that the combined retraining and scholarship periods for applicants successfully completing a rehabilitation program under subdivision g of subsection 4 of section 65-05.1-01 may not exceed five years.
5. Scholarships must be awarded by a panel chosen by the organization. The organization shall adopt rules establishing selection criteria and obligations associated with the program and identifying information an applicant is required to submit to determine an appropriate scholarship award. Scholarships may be awarded at the sole discretion of the organization. There is no right to reconsideration, rehearing, or appeal from any decision regarding the award, denial, or amount of a scholarship.

SECTION 5. Subsection 9 to section 65-05-32 of the North Dakota Century Code is created and enacted as follows:

9. The organization may provide any state or federal agency any information obtained pursuant to the administration of this title. Any information so provided must be used for the purpose of administering the duties of that state or federal agency.

SECTION 6. AMENDMENT. Subsection 1 of section 65-05.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Within sixty days of receiving the final vocational report, the organization shall issue ~~an administrative order under chapter 28-32a~~ notice of decision under section 65-01-16 detailing the employee's entitlement to disability and vocational rehabilitation services.

SECTION 7. AMENDMENT. Section 65-05.1-06.3 of the North Dakota Century Code is amended and reenacted as follows:

65-05.1-06.3. Rehabilitation services pilot programs - Reports —Data-collection.

4. The organization ~~shall~~may implement a system of pilot programs to allow the organization to assess alternative methods of providing rehabilitation services. A pilot program may address one or more of the organization's comprehensive

rehabilitation services, including vocational, medical, psychological, economic, and social rehabilitation services. The goal of a pilot program must be to improve the outcome of the rehabilitation services offered by the organization to assist the employee in making adjustments necessitated from the employee's injury and to improve the effectiveness of vocational rehabilitation services in returning an employee to substantial gainful employment. Notwithstanding laws to the contrary, a pilot program may address a broad range of approaches, including collaborative efforts between the organization and the employee through which there are variances from the rehabilitation services hierarchy; return-to-work trial periods during which cash benefits are suspended; intensive job search assistance; recognition of and focused services for injured employees who are at risk; and coordination of services of public and private entities. If a pilot program utilizes coordination of services of other state agencies, such as job service North Dakota, department of human services, North Dakota university system, or department of public instruction, the organization shall consult with the state agency in establishing the relevant portions of the pilot program and the state agency shall cooperate with the organization in implementing the pilot program.

2. ~~Each pilot program must include a cost-benefit analysis; a strengths, weaknesses, opportunities, and threats analysis; and employer and employee satisfaction information. The organization shall include in its annual report to the workers' compensation review committee under section 54-35-22:~~
 - a. ~~Preliminary reports on future pilot programs;~~
 - b. ~~Status~~status reports on current pilot programs; and
 - c. ~~Final reports on completed pilot programs, including recommendations and proposed legislative changes necessary to implement recommendations.~~
3. ~~The organization shall collect data regarding the status of claims that receive rehabilitation services. The data must include:~~
 - a. ~~The stage of rehabilitation services at which closure occurs;~~
 - b. ~~The reason for the closure; and~~
 - c. ~~Followup data to determine the effectiveness of job searches and returns to work, including postinjury earnings.~~

SECTION 8. AMENDMENT. Section 65-05.1-08 of the North Dakota Century Code is amended and reenacted as follows:

65-05.1-08. Workforce safety and insurance educational revolving loan fund - Vocational rehabilitation grants - Continuing appropriation.

1. The organization may establish a revolving loan fund to provide a low-interest loan to an injured employee or to a surviving spouse or child of an injured employee whose death resulted from a compensable injury under section 65-05-16; or to the spouse or child of an injured employee deemed to be catastrophically injured as defined in subdivision c of subsection 2 of section 65-05.1-06.1 ~~and the child meets the definition of child at the time of the initial loan application;~~ or to the spouse or child of an injured employee deemed to be eligible for permanent total disability benefits as defined in section

~~65-01-02 and the child meets the definition of child at the time of the initial loan application.~~

2. The loan must be used to pursue an education at an accredited institution of higher education or an institution of technical education. In order to be eligible for a loan under this section, an individual must have obtained a high school diploma or its equivalent and either must be ineligible for retraining under this chapter or must have exhausted training and education benefits. A child of an injured employee must meet the definition of child at the time of the initial loan application in order to be eligible for a loan. The Bank of North Dakota and the organization shall establish loan eligibility requirements and make application determinations based on the established criteria. The loan application must require an applicant to demonstrate a viable education plan that will enable the individual to achieve gainful employment.
- 2-3. The total amount loaned annually under this section may not exceed two million five hundred thousand dollars. The maximum amount payable on behalf of a loan applicant may not exceed fifty thousand dollars and must be payable within five years. A loan must be repaid within a period not to exceed twenty years. A loan must be repaid at an interest rate established by the organization which may not exceed the rate of one percent below the Bank of North Dakota's prime interest rate. The organization shall pay the Bank of North Dakota a negotiated fee for administering and servicing loans under this section. At the organization's discretion, moneys to establish and maintain the revolving loan fund must be appropriated from the organization's workforce safety and insurance fund. The revolving loan fund is a special fund and must be invested pursuant to section 21-10-06. Investment income and collections of interest and principal on loans made from the revolving loan fund are appropriated on a continuing basis to maintain the fund and provide loans in accordance with this section. As determined necessary, the organization may transfer uncommitted moneys of the revolving loan fund to the workforce safety and insurance fund.
- 3-4. The organization may implement a grant program to promote and provide necessary educational opportunities for injured employees within the vocational rehabilitation process. The organization may award a grant to promote necessary skills upgrading and to provide for the completion of remedial educational requirements which allow for optimal transition into the labor force. The total annual amount the organization may grant under this subsection may not exceed one hundred thousand dollars. The organization shall establish grant eligibility requirements and make grant determinations based on the established criteria. Moneys are appropriated on a continuing basis from uncommitted moneys in the educational revolving loan fund for the purpose of funding the grants under this subsection.

SECTION 9. AMENDMENT. Section 65-06-03 of the North Dakota Century Code is amended and reenacted as follows:

65-06-03. Compensation benefits - How determined.

The basis of compensation and benefits to be paid to a volunteer firefighter, an emergency or disaster volunteer, volunteer health practitioner, or a community emergency response team member under the terms of this chapter shall be determined in accordance with the provisions of section 65-05-09; provided, however, that the average weekly wage of the claimant shall be determined from a computation

of income derived from the claimant's business or employment for which coverage is required or otherwise secured at the date of first disability.

SECTION 10. APPLICATION. Section 3 of this Act applies to all claims regardless of date of injury with a loss of earnings or recurrent loss of earnings commencing after July 31, 2015. Sections 6 and 9 of this Act apply to all claims regardless of date of injury.

Approved April 20, 2015

Filed April 20, 2015

CHAPTER 481

HOUSE BILL NO. 1159

(Representative Keiser)

AN ACT to amend and reenact section 65-05-30 of the North Dakota Century Code, relating to health care provider use of workers' compensation claim information; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05-30 of the North Dakota Century Code is amended and reenacted as follows:

65-05-30. Filing of claim constitutes consent to use of information received by doctor.

1. The filing of a claim with the organization constitutes a consent to the use by the organization, in any proceeding by ~~the organization~~ or to which ~~the organization~~ is a party in any court, of any information, including prior and subsequent prognosis reports, medical records, medical bills, and other information concerning any health care or health care services which was received by any ~~doctor~~ health care provider, hospital, or clinic in the course of any examination or treatment of the claimant.
2. ~~The filing of a claim with the organization authorizes a health care provider, hospital, or clinic to disclose to the organization, or authorized representative of the organization, information or render an opinion regarding the injured employee's claim with the organization. As used in this subsection, an opinion may include a statement regarding liability, causation, or a preexisting condition or other information the organization deems necessary for the administration of this title. The filing of such a claim with the organization authorizes a doctor health care provider, hospital, or clinic to disclose any such information to the organization; it is deemed necessary for the administration of this title to the organization's representative, or to the employer, except that any such information directly disclosed to the employer must be relevant to the employee's work injury or to return-to-work issues. No physician or~~
3. ~~If a health care provider furnishing such reports or records incurs~~ furnishes information or an opinion under this section:
 - a. ~~That health care provider does not incur~~ any liability as a result of furnishing that information or opinion.
 - b. ~~The act of furnishing that information or opinion may not be the sole basis for a disciplinary or other proceeding affecting professional licensure. However, the act of furnishing that information or opinion may be considered in conjunction with another action that may subject the health care provider to a disciplinary or other proceeding affecting professional licensure.~~

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 19, 2015

Filed March 19, 2015

CHAPTER 482

SENATE BILL NO. 2060

(Legislative Management)
(Workers' Compensation Review Committee)

AN ACT to create and enact a new section to chapter 65-05 of the North Dakota Century Code, relating to workers' compensation coverage of chronic opioid therapy; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 65-05 of the North Dakota Century Code is created and enacted as follows:

Chronic opioid therapy coverage and monitoring.

1. As used in this section, "chronic opioid therapy" is opioid treatment extending beyond ninety days from initiation which is for the treatment of pain resulting from a nonmalignant, compensable condition or therapies for another nonterminal compensable condition.
2. In order to qualify for payment for chronic opioid therapy:
 - a. Chronic opioid therapy must result in an increase in function, enable an injured employee to resume working, or improve pain control without debilitating side effects;
 - b. Chronic opioid therapy must treat an injured employee:
 - (1) Who has been nonresponsive to non-opioid treatment;
 - (2) Who is not using illegal substances or abusing alcohol; and
 - (3) Who is compliant with the treatment protocol; and
 - c. The prescriber of chronic opioid therapy shall provide to the organization:
 - (1) At least every ninety days, documentation of the effectiveness of the chronic opioid therapy, including documentation of improvements in function or improvements in pain control without debilitating side effects; and
 - (2) A treatment agreement between the injured employee and the prescriber which restricts treatment access and limits prescriptions to one identified single prescriber. This paragraph does not preclude temporary coverage within a single clinic by an identified prescriber when the prescriber of record is unavailable and does not preclude a referral to a pain specialist.
3. At the prescriber's or organization's request, an injured employee on chronic opioid therapy is subject to random drug testing for the presence of prescribed

and illicit substances. Failure of the test or of timely compliance with the request may result in termination of chronic opioid therapy coverage.

4. Failure to comply with any of the conditions under this section may result in the termination of coverage for chronic opioid therapy.

SECTION 2. APPLICATION. This Act applies to all claims, regardless of date of injury.

Approved March 11, 2015

Filed March 11, 2015

CHAPTER 483

HOUSE BILL NO. 1120

(Industry, Business and Labor Committee)
(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact sections 65-06.2-06 and 65-06.2-07 of the North Dakota Century Code, relating to modified workers' compensation coverage for prison industries work programs through roughrider industries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

65-06.2-06. Rulemaking - ~~Excess or reinsurance coverage~~ Participation in state entities account.

The organization, in cooperation with the department of corrections and rehabilitation and the risk management division of the office of management and budget, shall adopt administrative rules and fee schedules for a program of modified workers' compensation coverage established and provided under this section and sections 65-06.2-04, 65-06.2-05, and 65-06.2-08. The administrative rules and fee schedules must provide for the classification of inmates engaged in work in a prison industries work program through roughrider industries, the computation of premium, the payment of claims charges against the classification, the payment of medical bills, ~~excess coverage or reinsurance coverage under the workforce safety and insurance account for state entities under section 65-04-03.1,~~ and the reimbursement by roughrider industries to the organization for all claim benefit costs charged against that classification, as well as any allocated loss adjustment expense and all administrative expenses, including the expense of issuing the coverage, for the life of the claim in excess of premiums, ~~coverage under the workforce safety and insurance account for state entities,~~ and medical expenses paid by roughrider industries. Roughrider industries shall ~~secure excess coverage or shall reinsure all excess risks through the risk management division~~ contribute to the risk management workers' compensation fund and participate in the workforce safety and insurance account for state entities under section 65-04-03.1 to cover the costs in excess of premiums and medical expenses paid. The ~~organization shall determine and~~ risk management division shall assess a premium against roughrider industries for the cost of ~~excess or reinsurance coverage under the workforce safety and insurance account for state entities~~ and roughrider industries shall pay that premium.

SECTION 2. AMENDMENT. Section 65-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

65-06.2-07. State reimbursement for liability in excess of collected premiums.

Whenever total costs and expenses charged to the classification of the modified workers' compensation program established under this chapter exceeds the amount of premiums paid into the fund and any ~~policy limits of the reinsurance or excess coverage purchased under section 65-06.2-06~~ payments from the risk management

workers' compensation fund under the workforce safety and insurance state entities account under section 65-04-03.1, those excess costs and expenses are a general obligation of the state and the state shall reimburse the organization for credit to the workforce safety and insurance fund through legislative appropriation to the extent not covered by any program of excess coverage or reinsurance. Roughrider industries shall secure a means of reinsuring excess costs and expenses to minimize exposure of loss to the state general fund. The organization may not provide the additional excess coverage or reinsurance required under this section. This modified workers' compensation coverage may not be effective unless the organization has, in its sole discretion, purchased excess coverage or reinsurance required under this section is in place that does not exclude claims under this section.

Approved March 19, 2015

Filed March 19, 2015

CHAPTER 484

HOUSE BILL NO. 1103

(Industry, Business and Labor Committee)
(At the request of Workforce Safety and Insurance)

AN ACT to create and enact subdivision c of subsection 4 of section 65-08-01 of the North Dakota Century Code, relating to workers' compensation extraterritorial coverage; to amend and reenact section 65-04-22 and subsections 3 and 4 of section 65-04-33 of the North Dakota Century Code, relating to payment of workers' compensation premiums and penalties for failure to secure coverage; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-04-22 of the North Dakota Century Code is amended and reenacted as follows:

65-04-22. Organization may make premium due immediately - When premium is in default.

The organization may require payment of a premium, including an advance premium, security deposit, or any other instrument that is mutually acceptable to the organization and the employer, within any time which, in the judgment of the organization, is reasonable and necessary to secure the payment of the premium by any employer. The premium, whether paid in full or in installments, shall be in default one month from the payment due date specified in the premium billing statement.

Default of any installment payment will, at the option of the organization, make the entire remaining balance of the premium due and payable. The organization may declare an employer uninsured at any time after forty-five days have passed from the due date specified in the premium billing statement and the employer has failed to make a payment to the organization. The organization may decline coverage to any employer that has been determined to be uninsured under this section or where a premium delinquency remains unresolved.

SECTION 2. AMENDMENT. Subsections 3 and 4 of section 65-04-33 of the North Dakota Century Code are amended and reenacted as follows:

3. An employer who is uninsured is liable for any premiums plus penalties and interest due on those premiums, plus a penalty of twenty-five percent of all premiums due during the most recent year of noncompliance. An additional five percent penalty is due for each year of noncompliance before the most recent year beginning on the date the organization became aware of the employer's uninsured status, resulting in the penalty for the second most recent year being thirty percent, for the third most recent year being thirty-five percent, for the fourth most recent year being forty percent, for the fifth most recent year being forty-five percent, and for the sixth most recent year being fifty percent. In addition, the organization may assess a penalty of ~~two~~five thousand dollars for each premium period the employer was uninsured. The organization may not assess a penalty for more than six years of past noncompliance. The organization may assess additional penalties, from the

date the organization became aware of the employer's uninsured status continuing until the effective date of coverage, equal to twenty-five percent of the premium due for that period. ~~The penalties for employers are in addition to any other penalties provided by law. The organization may reduce these penalties. However, the amount due from~~ In addition, the organization may assess an employer may not be less than the actual cost and reserves of any claim attributable to the employer during the time the employer was uninsured, unless authorized by the director. The penalties for employers are in addition to any other penalties by law. The organization may reduce the penalties provided for under this section. An employer may not appeal an organization decision not to reduce a penalty under this subsection.

4. An employer who fails or refuses to furnish to the organization the annual payroll report and estimate or who fails or refuses to furnish other information required by the organization under this chapter is subject to a penalty established by the organization of two thousand dollars. Upon the request of the organization, the employer shall furnish the organization any of that employer's payroll records, annual payroll reports, and other information required by the organization under this chapter and an estimate of payroll for the advance premium year. If the employer fails or refuses to provide the records within thirty days of a written request from the organization, the employer is subject to a penalty not to exceed one hundred dollars for each day until the organization receives the records, in addition to the ~~two~~five thousand dollar penalty set forth above. The organization may not assess a penalty that exceeds one hundred fifty dollars under this subsection against an organized township. The organization may reduce penalties for employers under this subsection. However, an employer may not appeal an organization decision not to reduce a penalty. The organization shall notify an employer by regular mail of the amount of premium and penalty due the organization from the employer. If the employer fails to pay that amount within thirty days, the organization may collect the premium, penalties, and interest due by civil action. In that action, the court may not review or consider the action of the organization regarding the acceptance or payment of a claim filed when the employer was uninsured. No exemptions except absolute exemptions under section 28-22-02 are allowed against any levy under executions pursuant to a judgment recovered in the action.

SECTION 3. Subdivision c to subsection 4 of section 65-08-01 of the North Dakota Century Code is created and enacted as follows:

c. An employer hires an employee in this state for work in this state.

SECTION 4. APPLICATION. Section 2 of this Act applies to all accounts in noncompliance on or after the effective date of this Act.

Approved March 19, 2015

Filed March 19, 2015

VETOED MEASURES

CHAPTER 485

HOUSE BILL NO. 1033

(Legislative Management)
(Government Finance Committee)

AN ACT to create and enact three new sections to chapter 54-27 of the North Dakota Century Code, relating to definitions for the legacy fund, the legacy fund principal balance, and a transfer of legacy fund earnings; and to repeal section 21-10-12 of the North Dakota Century Code, relating to a definition of legacy fund earnings.

VETO

April 15, 2015

The Honorable Wesley Belter
Speaker of the House
House Chambers
State Capitol
Bismarck, ND 58505

Dear Speaker Belter:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1033 and returned it to the House of Representatives.

I have vetoed this legislation due to language found in sections 2 and 3 of the bill. Section 2 provides that Legacy Fund moneys that are available for expenditure "... may not be included in the draft appropriations acts under section 54-44.1-06." This language would infringe upon the executive authority of the Governor to submit proposed legislative initiatives to the Legislature. Article V, Section 7 of the North Dakota Constitution states: the "governor shall present information on the condition of the state, together with any recommended legislation, to every regular and special session of the legislative assembly." Section 54-44.1-06 of the North Dakota Century Code further asserts the Governor shall present, "recommendations of the Governor for appropriations for the next biennium." The primary function of the executive branch is to manage the affairs of the state, including the careful budgeting of resources. This includes making recommendations to the Legislature pursuant to Article V, Section 7 of the North Dakota Constitution that contain executive branch assessments of the amount and preferred allocation of resources needed to fulfill legislative policies. Section 2 would restrict the executive branch in carrying out its constitutional responsibilities and is therefore unconstitutional.

Section 3 of the bill would require that "any legacy fund earnings that are transferred to the general fund in accordance with section 26 of Article X of the Constitution of North Dakota must be transferred immediately by the state treasurer back to the legacy fund to become part of the principal of the fund." Requiring such a transfer

would clearly contradict the intent of the voters when they enacted section 26 of Article X of the North Dakota Constitution that was approved by voters on November 2, 2010, which provides that "The state investment board shall invest the principal of the North Dakota legacy fund. The state treasurer shall transfer earnings of the North Dakota legacy fund accruing after June 30, 2017, to the state general fund at the end of each biennium." It is the clear intent of the constitutional language that subsequent to the transfer of the earnings to the General Fund the Legislative Assembly shall determine how these general fund dollars are to be used as part of the normal appropriations process, including consideration of the Governor's recommendations. Any provision that establishes an "automatic" reversal of the earnings transfer from the Legacy Fund before it actually occurs is a clear conflict with the intent of voters when they voted to approve the procedures of the Legacy Fund. For these reasons, I have vetoed House Bill 1033.

Sincerely,

Jack Dalrymple
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

Definitions for the legacy fund.

For the purposes of section 26 of article X of the Constitution of North Dakota:

1. "At the end of each biennium" means after cancellation of unexpended appropriations pursuant to section 54-44.1-11.
2. "Earnings" means net income in accordance with generally accepted accounting principles, excluding any unrealized gains or losses.
3. "Principal" means thirty percent of total revenue derived from taxes on oil and gas production and extraction deposited in the legacy fund, earnings of the fund accruing prior to July 1, 2017, and any funds transferred by the legislative assembly into the fund from any source.
4. "Total revenue derived from taxes on oil and gas production or extraction" means taxes collected from oil and gas production or extraction pursuant to chapters 57-51.1, 57-51.2, and 57-51.3, excluding the amounts allocated to the Three Affiliated Tribes.

SECTION 2. A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

Legacy fund expenditure limit determination - Draft appropriation act restriction.

The director of the office of management and budget shall determine, by December first of each even-numbered year and at other times as requested by the legislative management, the amount equal to fifteen percent of the principal balance of the legacy fund, which may be available for expenditure during a biennium in accordance with section 26 of article X of the Constitution of North Dakota. The determined limit on available funds must be included in the budget data presented to

the legislative assembly as provided for in section 54-44.1-07. The available funds may not be included in draft appropriations acts under section 54-44.1-06.

SECTION 3. A new section to chapter 54-27 of the North Dakota Century Code is created and enacted as follows:

Transfer of legacy fund earnings - Intent.

Any legacy fund earnings that are transferred to the general fund in accordance with section 26 of article X of the Constitution of North Dakota must be transferred immediately by the state treasurer to the legacy fund to become part of the principal of the fund. It is the intent of the legislative assembly that the earnings of the legacy fund continue to accumulate as part of the principal of the fund until either oil and gas tax collections for a biennium decrease by at least twenty-five percent from the previous biennium or the earnings of the legacy fund for a biennium exceed thirty-three percent of the oil and gas tax collections for the same biennium. For purposes of this section, "oil and gas tax collections" means total revenue derived from taxes on oil and gas production or extraction pursuant to chapters 57-51, 57-51.1, and 57-51.2, excluding the amounts allocated to the Three Affiliated Tribes.

SECTION 4. REPEAL. Section 21-10-12 of the North Dakota Century Code is repealed.

Disapproved April 15, 2015
Filed April 16, 2015

CHAPTER 486**HOUSE BILL NO. 1003**

(Legislative Management)
(Government Finance Committee)

AN ACT to provide an appropriation for defraying the expenses of the North Dakota university system; to create and enact five new sections to chapter 15-10, chapters 15-62.4 and 15-62.5, and a new subsection to a new section to chapter 54-10 as created in section 5 of Senate Bill No. 2004, as approved by the sixty-fourth legislative assembly, of the North Dakota Century Code, relating to a unified workforce, vocational, and technical education program system, the workforce education advisory council, the required use of electronic mail, file server administration, database administration, application server, and hosting services, audits of higher education computer systems, annual reports regarding scholarships, the student financial assistance program, the scholars program, and higher education audits; to amend and reenact subdivision c of subsection 1 of section 15-10-17, sections 15-18.2-02, 15-18.2-03, 15-18.2-04, 15-18.2-05, 54-12-08, and 54-44.1-04, subsection 4 of section 54-44.1-06, and section 54-44.1-11 of the North Dakota Century Code, relating to university system office personnel, state aid to institutions, attorneys hired by the state board of higher education, budget requests submitted to the office of the budget, preparation of budget data, and the cancellation of unexpended appropriations; to repeal chapter 15-62.2 of the North Dakota Century Code, relating to the student financial assistance program and the scholars program; to provide for the transfer of funds; to authorize the state board of higher education to issue and sell bonds for capital projects; to limit tuition rate increases; to reauthorize projects for North Dakota state university and Minot state university; to provide for budget section reports; to provide for reports to the sixty-fifth legislative assembly; to provide for legislative management reports and studies; to provide an appropriation to the attorney general; to provide contingent appropriations to the state board of higher education; to provide exemptions; to provide legislative intent; and to declare an emergency.

VETO

May 13, 2015

The Honorable Wesley Belter
Speaker of the House
House Chambers
State Capitol
Bismarck, ND 58505

Dear Speaker Belter:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed section 7 of House Bill 1003.

The language in this section places undue restrictions on the authority of the State Board of Higher Education in fulfilling their constitutional duty to hire a new Chancellor of Higher Education, as well as other key personnel. It prohibits consideration of any negotiated severance package and deletes an existing portion of the Century Code that provides for fixing terms of officers, which strongly implies that any multi-year contract will not be allowable. This conflicts with Article VIII, Section 6(7)(a) of the North Dakota Constitution, which provides that the State Board of Education "shall... appoint for a term of not to exceed three years, a state commissioner of higher education." This is clear permissive language for multiyear contracts. The enactment of these new restrictions would likely discourage well qualified applicants from applying for key positions.

A separate issue arises with the words "at will," which would negate the employee classification system utilized by the State Board of Higher Education.

For these reasons, I have vetoed section 7 of House Bill 1003.

Sincerely,

Jack Dalrymple
Governor

Disapproved May 13, 2015
Filed May 14, 2015

NOTE: For the full text of House Bill No. 1003, including section 7, see chapter 3.

CHAPTER 487**SENATE BILL NO. 2003**

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the attorney general; to provide exemptions; to create and enact a new section to chapter 27-05 and two new sections to chapter 54-12 of the North Dakota Century Code, relating to the responsibility for expert witness expenses, attorney general opinions, and the criminal justice data information sharing system; to amend and reenact sections 53-12.1-09, 54-12-08, 54-12-11, and 54-27-25 of the North Dakota Century Code, relating to the salary of the attorney general, assistant and special assistant attorneys general, the lottery operating fund, and the tobacco settlement trust fund; to repeal section 54-59-21 of the North Dakota Century Code, relating to the criminal justice data information sharing system; to provide a report to the budget section; to provide for a legislative management study; and to declare an emergency.

VETO

May 13, 2015

The Honorable Drew Wrigley
President, ND Senate
State Capitol
Bismarck, ND 58505

RE: Senate Bill 2003

Dear President Wrigley:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Section 6 and Section 8 of Senate Bill 2003.

Section 6 requires a district court to pay the expenses incurred by an expert witness, including a witness from the state crime laboratory. The section also tends to encourage witnesses to testify via interactive video by exempting district courts from any costs associated with their testimony in this situation. Section 6 is vetoed because the district courts did not receive funding for this purpose from either the Executive Budget or through legislative appropriations. Additionally, the language was never presented to the appropriations committees in either the House or Senate when they considered the proposed budget for the judicial system.

Further, it is doubtful that witnesses would be able to take meaningful advantage of the cost-saving opportunity for interactive video testimony because North Dakota Supreme Court Administrative Rule 52(4)(B)(2) provides "A witness may not testify by reliable electronic means unless the defendant knowingly and voluntarily waives the right to have the witness testify in person."

It is also questionable whether it is appropriate for the district court to pay the costs of expert witnesses. In addition, section 6 contains an incorrect reference to North

Dakota Century Code section 44-04-04, which pertains to “Aliens convicted of felony or adjudged mentally ill.”

I have also vetoed Section 8 of this legislation. Managing the volume of work and available staff time required to respond to requests for Attorney General Opinions must remain a management decision made at the discretion of the Attorney General. The proposed timeline for producing opinions increases the likelihood that an excessive volume of requests could make it impossible to effectively prioritize the use of staff and resources.

For these reasons, I have vetoed section 6 and 8 of Senate Bill 2003.

Sincerely,

Jack Dalrymple
Governor

Disapproved May 13, 2015
Filed May 14, 2015

NOTE: For the full text of Senate Bill No. 2003, including sections 6 and 8, see chapter 37.

CHAPTER 488

SENATE BILL NO. 2015

(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the various divisions under the supervision of the director of the office of management and budget; to provide an appropriation to the department of transportation; to provide an appropriation to the state auditor; to provide an appropriation to the legislative assembly; to provide an appropriation to the legislative council; to provide an appropriation to the judicial branch; to provide contingent appropriations to the state board of higher education, department of transportation, and superintendent of public instruction; to create and enact a new section to chapter 44-04 and a new section to chapter 54-52.6 of the North Dakota Century Code, relating to open records requests submitted by members of the legislative assembly and the legislative council and the defined benefit retirement plan; to amend and reenact subdivision c of subsection 1 of section 15-10-17, section 48-08-04, subsections 3 and 4 of section 54-52-17, section 55-01-02.1, subsection 3 of section 57-38-01.7 as amended in section 1 of of House Bill No. 1462, as approved by the sixty-fourth legislative assembly, subdivision b of subsection 3 of section 57-51.1-03 as amended in section 5 of House Bill No. 1476, as approved by the sixty-fourth legislative assembly, and subsection 2 of section 61-16.1-09, of the North Dakota Century Code, and sections 1 and 2 of Senate Bill No. 2019, as approved by the sixty-fourth legislative assembly, relating to North Dakota university system personnel, the use of legislative meeting rooms, the defined benefit retirement plan, operation of the heritage center building, income tax credits for charitable contributions to private education institutions, eminent domain and water resource boards, and an appropriation to the parks and recreation department; to repeal section 54-44-06 of the North Dakota Century Code and section 5 of House Bill No. 1003, as approved by the sixty-fourth legislative assembly, relating to duties of the office of management and budget as to the school fund and contingent appropriations for higher education capital projects; to provide an exemption; to provide for various transfers and contingent transfers; to provide statements of legislative intent; to provide for legislative management studies and reports; to provide for budget section reports; to provide an effective date; and to declare an emergency.

VETO

May 13, 2015

The Honorable Drew Wrigley
President, ND Senate
State Capitol
Bismarck, ND 58505

RE: Senate Bill 2015

Dear President Wrigley:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Section 24 of Senate Bill 2015.

Section 24 is vetoed because the new language serves no constructive purpose and is an excessive requirement on the human resources management of the university system. Any new chancellor, when entering office for the first time, has the authority to remove vice-chancellors and hire replacements at their discretion, because the vice-chancellors are not "classified" employees. To require vice-chancellors to resign is likely detrimental to the effective operation of the university system during a period of transition and could have a negative effect on the education of our students. Therefore, section 24 of Senate Bill 2015 is vetoed.

I have also vetoed Section 33 which is an attempt to clarify the extent of quick take authority within the use of eminent domain by water resource districts. However, the language does just the opposite, resulting in greater confusion of this issue. There is no definition provided for the term "specific project" which leaves a wide range of possible interpretations. Quick take authority is a serious public policy decision that should be clearly and definitively prescribed by the legislative assembly. House Bill 1095, which was passed by the 64th legislative assembly, requires a study of the use of quick take authority by water resource districts. This study should provide the clear direction as to what policy changes, if any, are needed.

Sincerely,

Jack Dalrymple
Governor

Disapproved May 13, 2015
Filed May 15, 2015

NOTE: For the full text of Senate Bill No. 2015, including sections 24 and 33, see chapter 49.

CHAPTER 489**SENATE BILL NO. 2039**

(Legislative Management)
(Government Finance Committee)

AN ACT to create and enact a new section to chapter 15-10, a new section to chapter 15.1-27, and two new sections to chapter 15.1-36 of the North Dakota Century Code, relating to a scholarship endowment fund, uses of the foundation aid stabilization fund, a school construction assistance loan fund, and school construction loans; to amend and reenact section 15.1-36-01, subsection 1 of section 15.1-36-02, section 16.1-01-11, and subsection 1 of section 57-62-02 of the North Dakota Century Code, relating to school construction approval and loans, bond elections, and the coal development trust fund; to provide a continuing appropriation; to provide for transfers; to provide for a contingent effective date; and to declare an emergency.

VETO

May 13, 2015

The Honorable Drew Wrigley
President, ND Senate
State Capitol
Bismarck, ND 58505

RE: Senate Bill 2039

Dear President Wrigley:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed subsection 1(c) of Section 6 of Senate Bill 2039.

This subsection would require that the income, including interest payments on loans from the coal development trust fund, as authorized in North Dakota Century Code 57-62-02, be made part of the School Construction Assistance Loan Fund. This language conflicts with the North Dakota Constitution, Article X, Section 21, which requires that "the interest earned on the moneys in said fund shall be used first to replace uncollectable loans made from the fund, and the balance shall be credited to the general fund of the state." I have vetoed this section because the language clearly conflicts with the constitution.

Therefore, subsection 1(c) of section 6 of Senate Bill 2039 is vetoed.

Sincerely,

Jack Dalrymple
Governor

Disapproved May 13, 2015
Filed May 14, 2015

NOTE: For the full text of Senate Bill No. 2039, including section 6, see chapter 153.

INITIATED MEASURES DISAPPROVED

CHAPTER 490

CLEAN WATER, WILDLIFE, AND PARKS TRUST AND FUND

This initiated constitutional measure would add a new section to Article X of the North Dakota Constitution creating the clean water, wildlife, and parks trust and the clean water, wildlife, and parks fund to be financed by five percent of the revenues from the state's share of oil extraction taxes. Ten percent of that amount of annual revenues would be deposited in the trust with the principal invested by the state investment board; the earnings from the trust would be transferred to the fund to be spent on programs after January 1, 2019. Ninety percent of the annual revenues would be deposited into the fund to be used to make grants to public and private groups to aid water quality, natural flood control, fish and wildlife habitat, parks and outdoor recreation areas, access for hunting and fishing, the acquisition of land for parks, and outdoor education for children. The fund would be governed by a clean water, wildlife, and parks commission comprised of the governor, attorney general, and agriculture commissioner. A thirteen-member citizen accountability board would be appointed for three-year terms to review grant applications and make recommendations to the Commission. Every twenty-five years, the people would vote on the question of whether to continue the financing from the oil extraction taxes.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. A new section to article X of the Constitution of North Dakota is created and enacted as follows:

1. The people of North Dakota create the clean water, wildlife, and parks trust to protect our clean water, wildlife and parks for the benefit of people as provided herein.
2. There is created a clean water, wildlife, and parks fund that shall be used for grants to state agencies, tribal governments, local governments, political subdivisions, and nonprofit organizations for the following purposes:
 - a. Protect, improve, maintain, or restore water quality through the restoration and protection of rivers, streams, lakes or other surface waters, groundwater, wetlands, grasslands, prairies, or forests;
 - b. Improve natural flood control through the restoration or protection of natural areas along rivers, streams, lakes or other surface waters, groundwater, wetlands, grasslands, prairies, and forests;
 - c. Protect, restore, or create wildlife and fish habitat through voluntary programs on private lands, including working farms and ranches, and public lands through grassland, prairie, wetland, stream, lake, and forest restoration, creation, and protection;
 - d. Conserve or acquire natural areas, parks, and other recreation areas or provide access for hunting and fishing; or

-
- e. Create more opportunities and places for children to learn about and enjoy nature and the outdoors.
 3. There is created a clean water, wildlife and parks commission that shall be comprised of the governor, attorney general and agriculture commissioner. The commission shall govern the fund in accord with this section. Any money deposited in the clean water, wildlife, and parks fund is hereby appropriated to the commission on a continuing basis for expenditure upon those programs selected by the commission as provided in this section. The commission shall keep accurate records of all financial transactions performed under this section.
 4. The commission may employ staff and enter into public and private contracts as may be necessary to operate the fund. The salaries of employees and other expenditures for the operation of the fund must be paid out of the fund. No more than three percent of the funds available in a given year may be paid out of the fund to operate the fund.
 5. The commission must allocate no less than seventy-five percent nor more than ninety percent of the revenue deposited in the fund on an annual basis. Ten percent of earnings of the fund shall be reserved and transferred on an annual basis to the trust established in this section.
 6. The commission may not use the fund, in any manner, to finance:
 - a. Litigation;
 - b. Lobbying activities;
 - c. Activities that would unduly interfere, disrupt, or prevent the development of mineral rights;
 - d. Projects outside this state or projects that are beyond the scope of defined activities that fulfill the purposes of this section;
 - e. More than fifty percent of grant awards per biennium for any one stated purpose;
 - f. The acquisition of land through condemnation or the use of eminent domain; or
 - g. Compliance with legal mitigation requirements of any local, state, or federal permit or grant.
 7. The principal and earnings of the trust may not be expended until after January 1, 2019, and an expenditure of principal after that date requires a vote of at least two-thirds of the members elected to each house of the legislative assembly. The state investment board shall invest the principal of the trust. The state treasurer shall transfer earnings of the trust accruing after January 1, 2019, to the fund established in this section at the end of each fiscal year.
 8. Each regular legislative session, the commission must file a report to the citizens of the state at a public hearing before each house of the legislative assembly. The report must include a state auditor's report on the clean water,

- wildlife, and parks trust and clean water, wildlife, and parks fund for the previous two fiscal years.
9. There is created a citizen accountability board consisting of thirteen members. The board shall provide grant recommendations to the commission in accord with the purposes stated in this section. The board members must be qualified electors of the state and shall be appointed as follows:
 - a. Four citizen members appointed by the governor, upon the recommendation of the director of the game and fish department;
 - b. Two citizen members appointed by the governor, upon the recommendation of the director of the parks and recreation department;
 - c. One citizen member appointed by the governor, upon the recommendation of the indian affairs commission;
 - d. Two members of the state senate, appointed by the president pro tempore, with equal representation from the two largest political parties in the senate;
 - e. Two members of the house of representatives, appointed by the speaker, with equal representation from the two largest political parties in the house;
 - f. One energy industry representative to be appointed by the public service commission; and
 - g. One farmer or rancher to be appointed by the agriculture commissioner.
 10. The terms of members of the citizen accountability board will be three years, except the terms of the initial board will vary and be drawn by lot to ensure that no more than five members be subsequently appointed each year. Board members may not serve more than three terms. The board shall select a chairman from among the members. Nine voting members is a quorum at any meeting.
 11. In making appointments to the citizen accountability board, consideration shall be given to the practical experience and demonstrated knowledge in one or more of the following areas:
 - a. Science, policy, or practice of natural resources, conservation, or tribal lands;
 - b. Restoring, protecting, and enhancing groundwater or wetlands;
 - c. Conservation practices, including professional or volunteer work restoring and protecting working agricultural lands, wetlands, prairies, forests, and habitat for fish, game, and wildlife; or
 - d. The maintenance and management of public parks and recreation areas.
 12. This constitutional provision shall be self-executing and shall become effective without the necessity of legislative action.

13. The initial members of the citizen accountability board shall be appointed within ninety days after the effective date of this section. Grant applications shall be considered within three hundred sixty-five days of the effective date of this section and grant applications shall be considered at least annually thereafter.
14. The state treasurer shall reserve five percent of the state's share of total revenue derived from oil extraction taxes for the purposes described in this section. Ten percent of the funds so reserved shall be transferred by the state treasurer into the clean water, wildlife, and parks trust within thirty days after the end of each calendar quarter. Ninety percent of the funds so reserved shall be transferred by the state treasurer into the clean water, wildlife, and parks fund within thirty days after the end of each calendar quarter.
15. Upon voter approval of this measure, the provisions of subsections 13 through 15 herein shall be authorized and continue until the next general election held after twenty-five years from the effective date of this section. In that general election, the secretary of state shall place a question, for approval or rejection by the people, of whether the funds reserved as provided in subsection 14 shall continue. The question presented shall include a report from state investment board indicating the then-existing balance of the clean water, wildlife, and parks trust and the annual estimated earnings to be provided to the clean water, wildlife, and parks fund. At the next statewide general election held twenty-five years after a reauthorization under this section, the issue of whether the reservation of funds described in subsection 14 herein shall be resubmitted to the voters for approval or rejection, accompanied by the report as directed herein. If a majority of the voters fail to approve the continued reservation of funds, subsections 13, 14, and 15 herein shall terminate on the first day of the calendar quarter following the date it is rejected by the voters.

SECTION 2. EFFECTIVE DATE. If approved by the voters, this measure becomes effective for oil produced on or after January 1, 2015, or the first day of the first calendar quarter beginning after the date it is approved by the voters, whichever occurs later.

Disapproved November 4, 2014

51,775 to 199,305

NOTE: This was measure No. 5 on the general election ballot.

CHAPTER 491

PARENTAL RIGHTS AND RESPONSIBILITIES

This initiated measure would amend section 14-09-06.2 of the North Dakota Century Code to create a presumption that each parent is a fit parent and entitled to be awarded equal parental rights and responsibilities by a court unless there is clear and convincing evidence to the contrary; the measure would also provide a definition of equal parenting time.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-06.2 of the North Dakota Century Code is amended and reenacted as follows:

1. It is the policy of the state of North Dakota that no requesting biological or adoptive parent shall be denied equal parental rights and responsibilities, equal parenting time, equal primary residential responsibility, and equal decision making responsibility of a child in a custody case. It is the policy of the state of North Dakota to presume that parents are fit and an award to both parents of equal parental rights and responsibilities, equal parenting time, equal primary residential responsibility, and equal decision making responsibility of a child is in the best interest of the child. The presumption of fitness as a parent shall only be rebutted upon a showing by clear and convincing evidence. The court shall support departures from equal parenting time with written findings of fact and conclusions of law. Fit parents may petition the court for a hearing which the court shall grant to support this statute. The provisions of this section control other provisions of state law that conflict with or are contrary to its provisions. For the purpose of parental rights and responsibilities, the best interests and welfare of the child is determined by the court's consideration and evaluation of all factors affecting the best interests and welfare of the child. These factors include all of the following when applicable:
 - a. The love, affection, and other emotional ties existing between the parents and child and the ability of each parent to provide the child with nurture, love, affection, and guidance.
 - b. The ability of each parent to assure that the child receives adequate food, clothing, shelter, medical care, and a safe environment.
 - c. The child's developmental needs and the ability of each parent to meet those needs, both in the present and in the future.
 - d. The sufficiency and stability of each parent's home environment, the impact of extended family, the length of time the child has lived in each parent's home, and the desirability of maintaining continuity in the child's home and community.
 - e. The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child.
 - f. The moral fitness of the parents, as that fitness impacts the child.

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- g. The mental and physical health of the parents, as that health impacts the child.
 - h. The home, school, and community records of the child and the potential effect of any change.
 - i. If the court finds by clear and convincing evidence that a child is of sufficient maturity to make a sound judgment, the court may give substantial weight to the preference of the mature child. The court also shall give due consideration to other factors that may have affected the child's preference, including whether the child's preference was based on undesirable or improper influences.
 - j. Evidence of domestic violence. In determining parental rights and responsibilities, the court shall consider evidence of domestic violence. If the court finds credible evidence that domestic violence has occurred, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, this combination creates a rebuttable presumption that a parent who has perpetrated domestic violence may not be awarded residential responsibility for the child. This presumption may be overcome only by clear and convincing evidence that the best interests of the child require that parent have residential responsibility. The court shall cite specific findings of fact to show that the residential responsibility best protects the child and the parent or other family or household member who is the victim of domestic violence. If necessary to protect the welfare of the child, residential responsibility for a child may be awarded to a suitable third person, provided that the person would not allow access to a violent parent except as ordered by the court. If the court awards residential responsibility to a third person, the court shall give priority to the child's nearest suitable adult relative. The fact that the abused parent suffers from the effects of the abuse may not be grounds for denying that parent residential responsibility. As used in this subdivision, "domestic violence" means domestic violence as defined in section 14-07.1-01. A court may consider, but is not bound by, a finding of domestic violence in another proceeding under chapter 14-07.1.
 - k. The interaction and interrelationship, or the potential for interaction and interrelationship, of the child with any person who resides in, is present, or frequents the household of a parent and who may significantly affect the child's best interests. The court shall consider that person's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault, on other persons.
 - l. The making of false allegations not made in good faith, by one parent against the other, of harm to a child as defined in section 50-25.1-02.
 - m. Any other factors considered by the court to be relevant to a particular parental rights and responsibilities dispute.
2. ~~In a proceeding for parental rights and responsibilities of a child of a servicemember, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interests of the~~

~~child but may consider any significant impact on the best interests of the child of the parent's past or possible future deployment.~~

- ~~3-~~ In a proceeding for parental rights and responsibilities of a child of a servicemember, a court may not consider a parent's past deployment or possible future deployment in itself in determining the best interests of the child but may consider any significant impact on the best interests of the child of the parent's past or possible future deployment.
3. "Equal parenting time" is defined as a rebuttable presumption of approximate and reasonable equal time-sharing of a child with both of the child's parents or a mutually agreed and signed parenting plan between the parents.

Disapproved November 4, 2014

92,807 to 152,004

NOTE: This was measure No. 6 on the general election ballot.

CHAPTER 492

OPERATION OF A PHARMACY

This initiated measure would amend section 43-15-35 of the North Dakota Century Code. It would repeal the requirement that an applicant for a permit to operate a pharmacy must be a licensed pharmacist, a business entity controlled by licensed pharmacists, a hospital pharmacy, or a postgraduate medical residency program.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-15-35 of the North Dakota Century Code is amended and reenacted as follows:

43-15-35. Requirements for permit to operate pharmacy—Exceptions.

1. The board shall issue a permit to operate a pharmacy, or a renewal permit, upon satisfactory proof of all of the following:
 - ~~a-1.~~ The pharmacy will be conducted in full compliance with existing laws and with the rules and regulations established by the board.
 - ~~b-2.~~ The equipment and facilities of the pharmacy are such that prescriptions can be filled accurately and properly, and United States pharmacopeia and national formulary preparations properly compounded and so that it may be operated and maintained in a manner that will not endanger public health and safety.
 - ~~c-3.~~ The pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary, and orderly manner.
 - ~~d-4.~~ The management of the pharmacy is under the personal charge of a pharmacist duly licensed under the laws of this state.
 - ~~e-5.~~ The applicant for such permit is qualified to conduct the pharmacy, ~~and is a licensed pharmacist in good standing or is a partnership, each active member of which is a licensed pharmacist in good standing; a corporation or an association, the majority stock in which is owned by licensed pharmacists in good standing; or a limited liability company, the majority membership interests in which is owned by licensed pharmacists in good standing, actively and regularly employed in and responsible for the management, supervision, and operation of such pharmacy.~~
 - ~~f-6.~~ Suitable reference sources either in book or electronic data form, are available in the pharmacy or online, which might include the United States pharmacopeia and national formulary, the United States pharmacopeia dispensing information, facts and comparisons, micro medex, the American society of health-system pharmacists formulary, or other suitable references pertinent to the practice carried on in the licensed pharmacy.
2. ~~The provisions of subdivision e of subsection 1 do not apply to:~~
 - ~~a. The holder of a permit on July 1, 1963, if otherwise qualified to conduct the pharmacy, provided that any such permitholder that discontinues~~

~~operations under such permit or fails to renew such permit upon expiration is not exempt from the provisions of subdivision e of subsection 1 as to the discontinued or lapsed permit.~~

- ~~b. A hospital pharmacy furnishing service only to patients in that hospital.~~
- ~~e. The applicant for a permit to operate a pharmacy which is a hospital, if the pharmacy for which the hospital seeks a permit to operate is a retail pharmacy that is the sole provider of pharmacy services in the community and is a retail pharmacy that was in existence before the hospital took over operations. A hospital operating a pharmacy under this subdivision may operate the pharmacy at any location in the community.~~
- ~~d. The applicant for a permit to operate a pharmacy which is the owner of a postgraduate medical residency training program if the pharmacy is collocated with and is run in direct conjunction with the postgraduate medical residency training program. For purposes of this subdivision, the postgraduate medical residency training program must be accredited by the accreditation council on graduate medical education or other national accrediting organization.~~

Disapproved November 4, 2014

102,731 to 147,644

NOTE: This was measure No. 7 on the general election ballot.

CHAPTER 493

SCHOOL CLASSES BEGINNING AFTER LABOR DAY

This initiated measure would amend section 15.1-06-03 of the North Dakota Century Code to require school classes to begin after labor day.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-06-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-03. School year - Definition.

The school year begins on July first and ends on June thirtieth the following year.
School classes shall begin after labor day.

Disapproved November 4, 2014

109,489 to 136,963

NOTE: This was measure No. 8 on the general election ballot.

CONSTITUTIONAL AMENDMENTS APPROVED

CHAPTER 494

HOUSE CONCURRENT RESOLUTION NO. 3034

(Representatives Kretschmar, Brabandt, Delmore, Maragos, Paur)
(Senators Erbele, Lyson)

INITIATED MEASURE PETITION SUBMISSION DEADLINE

A concurrent resolution to amend and reenact sections 5, 6, and 7 of article III of the Constitution of North Dakota, relating to petition requirements for initiated measures; and to provide an effective date.

STATEMENT OF INTENT

This measure would change the filing deadlines for the submission of initiated measure petitions from ninety days to one hundred twenty days before a statewide election and provide that challenges to decisions of the secretary of state regarding measure petitions must be filed with the supreme court no later than seventy-five days before the election.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed amendment of sections 5, 6, and 7 of article III of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the primary election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 5 of article III of the Constitution of North Dakota is amended and reenacted as follows:

Section 5. An initiative petition shall be submitted not less than ninetyone hundred twenty days before the statewide election at which the measure is to be voted upon. A referendum petition may be submitted only within ninety days after the filing of the measure with the secretary of state. The submission of a petition shall suspend the operation of any measure enacted by the legislative assembly except emergency measures and appropriation measures for the support and maintenance of state departments and institutions. The submission of a petition against one or more items or parts of any measure shall not prevent the remainder from going into effect. A referred measure may be voted upon at a statewide election or at a special election called by the governor.

SECTION 2. AMENDMENT. Section 6 of article III of the Constitution of North Dakota is amended and reenacted as follows:

Section 6. The secretary of state shall pass upon each petition, and if ~~he~~the secretary of state finds it insufficient, ~~he~~the secretary of state shall notify the "committee for the petitioners" and allow twenty days for correction ~~or amendment~~. All decisions of the secretary of state in regard to any ~~such~~ petition ~~shall be~~are subject to review by the supreme court. But if the sufficiency of ~~such~~the petition is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no subsequent decision shall invalidate ~~such~~the measure if it is at ~~such~~the election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof ~~shall be~~is upon the party attacking it ~~and the proceedings must be filed with the supreme court no later than seventy-five days before the date of the statewide election at which the measure is to be voted upon.~~

SECTION 3. AMENDMENT. Section 7 of article III of the Constitution of North Dakota is amended and reenacted as follows:

Section 7. All decisions of the secretary of state in the petition process are subject to review by the supreme court in the exercise of original jurisdiction. A proceeding to review a decision of the secretary of state must be filed with the supreme court no later than seventy-five days before the date of the statewide election at which the measure is to be voted upon. If ~~his~~the decision of the secretary of state is being reviewed at the time the ballot is prepared, ~~he~~the secretary of state shall place the measure on the ballot and no court action shall invalidate the measure if it is approved at the election by a majority of the votes cast thereon.

SECTION 4. EFFECTIVE DATE. If approved by the electors, this measure becomes effective on January 1, 2015.

Approved June 10, 2014

43,868 to 38,051

NOTE: This was measure No. 1 on the 2014 primary election ballot.

CHAPTER 495**HOUSE CONCURRENT RESOLUTION NO. 3006**

(Representatives Louser, Beadle, Dosch, Headland, K. Koppelman, Larson, Nathe,
Schatz)
(Senators Cook, Hogue, Miller)

MORTGAGE TAXES PROHIBITED

A concurrent resolution to create and enact a new section to article X of the Constitution of North Dakota, relating to prohibition of the imposition of mortgage taxes or any sales or transfer taxes on the mortgage or transfer of real property.

STATEMENT OF INTENT

This measure would prohibit the state and any county, township, city, or any other political subdivision of the state from imposing mortgage taxes or any sales or transfer tax on the mortgage or transfer of real property.

**BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA,
THE SENATE CONCURRING THEREIN:**

That the following proposed new section to article X of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. A new section to article X of the Constitution of North Dakota is created and enacted as follows:

The state and any county, township, city, or any other political subdivision of the state may not impose any mortgage taxes or any sales or transfer taxes on the mortgage or transfer of real property.

Approved November 4, 2014 188,283 to 60,478

NOTE: This was measure No. 2 on the 2014 general election ballot.

CONSTITUTIONAL AMENDMENTS DISAPPROVED

CHAPTER 496

SENATE CONCURRENT RESOLUTION NO. 4009

(Senators Sitte, Luick, Unruh)
(Representatives Damschen, Heller, Rohr)

RECOGNITION AND PROTECTION OF RIGHT TO LIFE

A concurrent resolution to create and enact a new section to article I of the Constitution of North Dakota, relating to the inalienable right to life of every human being at every stage of development.

STATEMENT OF INTENT

This measure would provide that the inalienable right to life of every human being at any stage of development must be recognized and protected.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed new section to article 1 of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. A new section to article I of the Constitution of North Dakota is created and enacted as follows:

The inalienable right to life of every human being at any stage of development must be recognized and protected.

Disapproved November 4, 2014

90,224 to 161,303

NOTE: This was measure No. 1 on the 2014 general election ballot.

CHAPTER 497

HOUSE CONCURRENT RESOLUTION NO. 3047

(Representatives Carlson, Martinson, Nathe, Vigesaa)
(Senators Grindberg, Hogue, Schaible)

STATE BOARD OF HIGHER EDUCATION REPEAL

A concurrent resolution to create and enact a new section to article VIII of the Constitution of North Dakota, relating to the creation of a commission of higher education; to repeal section 6 of article VIII of the Constitution of North Dakota, relating to the state board of higher education; and to provide an effective date.

STATEMENT OF INTENT

This measure would create a three-member commission of higher education beginning on July 1, 2015, to oversee and administer the provision of all public higher education in this state.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed new section to article VIII of the Constitution of North Dakota and the repeal of section 6 of article VIII of the Constitution of North Dakota are agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. A new section to article VIII of the Constitution of North Dakota is created and enacted as follows:

1. A three-member commission of higher education is created for the purpose of overseeing and administering the provision of public higher education at sites that include Bismarck, Bottineau, Devils Lake, Dickinson, Fargo, Grand Forks, Mayville, Minot, Valley City, Wahpeton, and Williston.
2. The governor shall appoint each member of the commission from a list of at least three nominees agreed to by a majority of the following:
 - a. The speaker of the house of representatives;
 - b. The president pro tempore of the senate;
 - c. The chief justice of the North Dakota supreme court;
 - d. The superintendent of public instruction; and

- e. A representative of an educational interest group selected by three of the four aforementioned individuals.
- 3. The governor shall ensure that one member of the commission has leadership experience in a private sector business, industry, or service, and that one member, at the time of appointment, holds a professional position within the higher education sector. Each member of the commission must be confirmed by the senate.
- 4. The term of office for each commission member is four years, except that the initial terms must be staggered by lot so that no more than one member's term expires each year. Each term begins on July first and members may be reappointed to three consecutive terms.
- 5. A member of the commission is subject to removal by impeachment in the same manner as that established for the removal of the governor.
- 6. a. The commission has full executive responsibility for the management and operation of the North Dakota university system, within constitutional and statutory requirements and limitations.
b. The commission shall hire a president for each institution within the system and each president shall report to the commission.
- 7. The legislative assembly may provide for the appointment of an advisory board that includes a faculty and a student representative.

SECTION 2. REPEAL. Section 6 of article VIII of the Constitution of North Dakota is repealed.

SECTION 3. EFFECTIVE DATE. If approved by the electors, this measure becomes effective on July 1, 2015.

Disapproved November 4, 2014

61,007 to 182,492

NOTE: This was measure No. 3 on the 2014 general election ballot.

CHAPTER 498

HOUSE CONCURRENT RESOLUTION NO. 3011

(Representatives Carlson, Delzer, Devlin, Monson)
(Senators Grindberg, Hogue)

FISCAL IMPACT AND PLACEMENT OF INITIATED MEASURES

A concurrent resolution to amend and reenact section 2 of article III of the Constitution of North Dakota, relating to the fiscal impact of measures to initiate constitutional amendments and to the placing of initiated measures on the ballot.

STATEMENT OF INTENT

The measure would require that initiated measures that are estimated to have a significant fiscal impact must be placed on the general election ballot. The measure also would prohibit the approval for circulation of any petition to initiate a constitutional amendment that would make a direct appropriation of public funds for a specific purpose or require the legislative assembly to appropriate funds for a specific purpose.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed amendment to section 2 of article III of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2014, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 2 of article III of the Constitution of North Dakota is amended and reenacted as follows:

Section 2. A petition to initiate or to refer a measure must be presented to the secretary of state for approval as to form. A request for approval must be presented over the names and signatures of twenty-five or more electors as sponsors, one of whom must be designated as chairman of the sponsoring committee. The secretary of state shall approve the petition for circulation if it is in proper form and contains the names and addresses of the sponsors and the full text of the measure.

The legislative assembly may provide by law for a procedure through which the legislative council may establish an appropriate method for determining the extent of the fiscal impact of an initiative measure and for making the information regarding the fiscal impact of the measure available to the public. A measure determined to have a significant fiscal impact must be voted on at a general election.

If a petition to initiate a constitutional amendment would make a direct appropriation of public funds for a specific purpose or would require the legislative

assembly to appropriate funds for a specific purpose, the petition may not be approved for circulation.

Disapproved November 4, 2014

104,245 to 135,899

NOTE: This was measure No. 4 on the 2014 general election ballot.

CONSTITUTIONAL AMENDMENTS PROPOSED

CHAPTER 499

SENATE CONCURRENT RESOLUTION NO. 4003

(Legislative Management)
(Government Finance Committee)

FOUNDATION AID STABILIZATION FUND EXPANDED USES

A concurrent resolution to amend and reenact section 24 of article X of the Constitution of North Dakota, relating to the foundation aid stabilization fund.

STATEMENT OF INTENT

This measure expands the educational purposes for which the foundation aid stabilization fund may be used.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed amendment to section 24 of article X of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in November 2016, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 24 of article X of the Constitution of North Dakota is amended and reenacted as follows:

Section 24.

1. ~~TwentyTen~~ percent of the revenue from oil extraction taxes from taxable oil produced in this state must be ~~allocated as follows:~~
1. ~~Fifty percent must be deposited in the common schools trust fund.~~
2. FiftyTen percent of the revenue from oil extraction taxes from taxable oil produced in this state must be deposited in the foundation aid stabilization fund in the state treasury, the interest ~~income~~ of which must be transferred to the state general fund on July first of each year. ~~The~~
 - a. Except as otherwise provided, the principal of the foundation aid stabilization fund may be expended only upon order of the governor, who may direct such a transfer only to offset foundation-aid reductions that in state aid to school districts, which were made by executive action, pursuant to law, due to a revenue shortage.

- b. Whenever the principal balance of the foundation aid stabilization fund exceeds fifteen percent of the general fund appropriation for state aid to school districts, for the most recently completed biennium, as determined by the office of management and budget, the legislative assembly may appropriate or transfer any excess principal balance. Such amount may be used for education-related purposes, as provided by law.

Filed June 16, 2015

NOTE: This will be measure No. 1 on the 2016 general election ballot.

CHAPTER 500

SENATE CONCURRENT RESOLUTION NO. 4010

(Senators Wardner, Schneider)
(Representatives Carlson, Onstad)

RESIDENCY REQUIREMENTS OF LEGISLATORS

A concurrent resolution to amend and reenact section 5 of article IV of the Constitution of North Dakota, relating to residency requirements of members of the legislative assembly.

STATEMENT OF INTENT

This measure would require a member of the legislative assembly to be a resident of the district from which selected and would prohibit an individual from being seated in the legislative assembly if the individual does not live in the district from which selected.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed amendment to section 5 of article IV of the Constitution of North Dakota is agreed to and must be submitted to the qualified electors of North Dakota at the general election to be held in 2016, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 5 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

Section 5. Each ~~person~~individual elected or appointed to the legislative assembly must be, on the day of the election or appointment, a qualified elector in the district from which the member was ~~chosen~~selected and must have been a resident of the state for one year immediately prior to that election. An individual may not serve in the legislative assembly unless the individual lives in the district from which selected.

Filed April 23, 2015

NOTE: This will be measure No. 2 on the 2016 general election ballot.

HOUSE CONCURRENT RESOLUTIONS

CHAPTER 501

HOUSE CONCURRENT RESOLUTION NO. 3001

(Legislative Management)
(Budget Section)

A concurrent resolution authorizing the Budget Section of the Legislative Management to hold the required legislative hearings on state plans for the receipt and expenditure of new or revised block grants passed by Congress.

WHEREAS, the Congress of the United States enacted the Omnibus Budget Reconciliation Act of 1981 creating the community services block grant program; and

WHEREAS, the Legislative Assembly is required to conduct public hearings; and

WHEREAS, the Appropriations Committees have met the public hearing requirement for community services block grant program moneys expected for the next biennium by the Department of Commerce; and

WHEREAS, the Sixty-fourth Legislative Assembly cannot hold public hearings on revisions to current block grants or additional block grants that may be approved by Congress after recess or adjournment of the Legislative Assembly; and

WHEREAS, the Legislative Assembly will not meet in regular session during 2016, and thus its public hearing responsibility for grants not approved by the Sixty-fourth Legislative Assembly must be delegated to a legislative entity.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Department of Commerce appropriation bill enacted by the Legislative Assembly is the Legislative Assembly's approval of and contains directions regarding the use of community services block grant program moneys for the period ending September 30, 2017; and

BE IT FURTHER RESOLVED, that the Budget Section of the Legislative Management may hold the public legislative hearings required for the receipt of additional block grants or other federal moneys under the Omnibus Budget Reconciliation Act of 1981 or other relevant federal statutes; and

BE IT FURTHER RESOLVED, that the authority granted by this resolution is in effect during the period from the recess or adjournment of the Sixty-fourth Legislative Assembly through September 30, 2017, and the Budget Section may provide public notice and hold the hearings authorized by this resolution using the methods and procedures it deems appropriate.

Filed March 30, 2015

CHAPTER 502

HOUSE CONCURRENT RESOLUTION NO. 3002

(Legislative Management)
(Commission on Alternatives to Incarceration)

A concurrent resolution directing the Legislative Management to study issues related to restitution for criminal acts.

WHEREAS, courts frequently order restitution for damages resulting from the commission of a criminal act and condition an offender's probation upon the payment of the restitution; and

WHEREAS, because of an offender's unwillingness or inability to comply with the conditions of probation relating to payment of restitution, a court may terminate the offender's probation or extend the term of probation for up to five additional years; and

WHEREAS, the number of offenders on probation in the state exceeds 5,000, which represents an increase of approximately 160 percent over the last two decades; and

WHEREAS, supervision of offenders on probation is resource-intensive and supervision of nonviolent offenders on probation for failure to fulfill conditions of restitution orders diverts correctional resources from more intensive supervision of more dangerous offenders;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study issues related to restitution for criminal acts; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed March 24, 2015

CHAPTER 503**HOUSE CONCURRENT RESOLUTION NO. 3003**

(Legislative Management)
(Government Finance Committee)

A concurrent resolution directing the Legislative Management to study state contributions to state employee health insurance premiums, including the effect of the federal Affordable Care Act on the state uniform group insurance program.

WHEREAS, the state of North Dakota pays one hundred percent of the premium for either a single or family health insurance plan for eligible state employees; and

WHEREAS, the monthly combined health insurance premium rate for state employees has increased from \$554 dollars per month during the 2005-07 biennium to \$982 dollars per month during the 2013-15 biennium; and

WHEREAS, in 2012, only thirteen states paid the entire premium for a state employee single health insurance plan and only four states paid the entire premium for a state employee family health insurance plan; and

WHEREAS, the state currently has a grandfathered status under the federal Affordable Care Act which exempts the state from certain requirements under the Act; and

WHEREAS, the state employee health insurance plan may lose its grandfathered status under the federal Affordable Care Act if employees are required to contribute more than five percent towards the cost of state employee health insurance premiums;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study state contributions for state employee health insurance premiums, including the feasibility and desirability of establishing a maximum state contribution for state employee health insurance premiums and the effect of losing the state's grandfathered status under the federal Affordable Care Act; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 6, 2015

CHAPTER 504**HOUSE CONCURRENT RESOLUTION NO. 3004**

(Legislative Management)
(Health Services Committee)

A concurrent resolution directing the Legislative Management to continue to study medicolegal death investigation in the state and how current best practices, including authorization, reporting, training, certification, and the use of information technology and toxicology, can improve death investigation systems in the state.

WHEREAS, the 2013-14 interim Health Services Committee studied funding provided by the state for autopsies and state and county responsibility for the cost of autopsies, including the feasibility and desirability of counties sharing in the cost of autopsies; and

WHEREAS, the number of forensic autopsies performed in North Dakota has been steadily increasing; and

WHEREAS, in addition to criminal justice, death investigation plays a role in public and population health; and

WHEREAS, medicolegal death investigation is complicated by distance and an inadequate supply of medical professionals in rural areas of the state; and

WHEREAS, the National Association of Medical Examiners provides consultation services to states developing systems for death investigation; and

WHEREAS, the 2013-14 interim Health Services Committee determined additional information was needed regarding recommended improvements to the medicolegal death investigation system in the state;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management continue to study medicolegal death investigation in the state and how current best practices, including authorization, reporting, training, certification, and the use of information technology and toxicology, can improve death investigation systems in the state; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 6, 2015

CHAPTER 505**HOUSE CONCURRENT RESOLUTION NO. 3005**

(Legislative Management)
(Human Services Committee)

A concurrent resolution directing the Legislative Management to study the system of care for individuals with brain injury.

WHEREAS, the Legislative Management's 2013-14 interim Human Services Committee studied the need for a comprehensive system of care for individuals with brain injury; and

WHEREAS, the committee received testimony indicating that the state does not have a comprehensive system of care for traumatic brain injury survivors and traumatic brain injury survivors do not qualify for a number of state programs; and

WHEREAS, the committee learned other states with effective systems for serving individuals with brain injury have a centralized service for obtaining information, provide supportive housing services, and provide day support services; and

WHEREAS, the provision of supportive housing, day support services, and employment-related services assist individuals to reside independently in community settings and obtain and maintain employment; and

WHEREAS, the committee recommended legislation to improve the level of services available to individuals with brain injury;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management, utilizing an independent consultant if necessary, study the system of care for individuals with brain injury, including services available and the implementation of new services and programs, the effectiveness of those services, and any gaps in services; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 6, 2015

CHAPTER 506**HOUSE CONCURRENT RESOLUTION NO. 3006**

(Legislative Management)
(Tribal and State Relations Committee)

A concurrent resolution directing the Legislative Management to study the feasibility and desirability of state, federal, and tribal collaboration in providing services for tribal youth in the state who are adjudicated in tribal courts.

WHEREAS, there is a disparity in the level of services provided to youth who are adjudicated of delinquent acts in tribal courts and for those who are adjudicated in state courts in the state; and

WHEREAS, within the state system, a two-tiered system involving the juvenile court and the Division of Juvenile Services within the Department of Corrections and Rehabilitation provides individual case management services to delinquent youth in the form of assessments, evaluations, counseling, educational services, treatment, and rehabilitation; and

WHEREAS, in most instances, delinquent youth in the tribal system are placed in detention without any of the benefit of services provided to youth in the state system; and

WHEREAS, during the 2013-14 interim, testimony presented to the Tribal and State Relations Committee urged collaboration between tribal and state courts in formal and informal juvenile dispositions to ensure that assessments are completed and services are provided;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the feasibility and desirability of state, federal, and tribal collaboration in providing services for tribal youth in the state who are adjudicated in tribal courts; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 6, 2015

CHAPTER 507

HOUSE CONCURRENT RESOLUTION NO. 3008

(Representatives Streyle, Headland, Louser, Maragos, Schatz, Skarphol, Thoreson)
(Senators Armstrong, Casper, Cook, Larsen, Unruh)

A concurrent resolution urging Congress to lift the prohibition on the export of crude oil from the United States.

WHEREAS, beginning with the Energy Policy and Conservation Act of 1975, the United States Congress has prohibited the export of crude oil from the United States; and

WHEREAS, the 1970s saw high oil prices as a result of OPEC nations withholding production and a need to increase domestic energy production and supply to provide for energy independence; and

WHEREAS, the reasons for the prohibition were to preserve domestic price ceilings by preventing domestic producers from receiving higher world oil prices and to preserve a depleting domestic reserve; and

WHEREAS, directional drilling and hydraulic fracturing technologies in the Bakken Formation and other shale plays in the United States have made the United States more crude oil independent; and

WHEREAS, the United States is currently exporting over four million barrels of refined products, such as gasoline, out of the United States each day; and

WHEREAS, the continued oil production in this region and across the United States has provided the opportunity for economic growth and stability through the export of crude oil and the prohibition on exports of crude oil is no longer necessary;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges the Congress of the United States to lift the prohibition on the export of crude oil from the United States; and

BE IT FURTHER RESOLVED, that the Secretary of State forward a copy of this resolution to each member of Congress.

Filed April 8, 2015

CHAPTER 508

HOUSE CONCURRENT RESOLUTION NO. 3009

(Representatives D. Anderson, Hofstad, Hunskor, D. Johnson, Kempenich)
(Senators Carlisle, Miller, O'Connell, Sinner)

A concurrent resolution urging Congress to pass H.R. 5078 or otherwise address the concerns of the agriculture industry, water development industry, and water management industry, in defining the "waters of the United States" in the Clean Water Act.

WHEREAS, the Clean Water Act compels the Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (Corps) to protect the integrity of the "waters of the United States"; and

WHEREAS, the term "waters of the United States" was not defined in statute so it has been argued that the term means many things from the spectrum of navigable waters to anything that affects navigable waters; and

WHEREAS, H.R. 5078 of the 113th Congress prohibits the EPA and the Corps from developing, finalizing, adopting, implementing, applying, administering, or enforcing the proposed rule entitled, "Definition of 'Waters of the United States' Under the Clean Water Act," issued on April 21, 2014, or the proposed guidance entitled, "Guidance on Identifying Waters Protected By the Clean Water Act," dated February 17, 2012; and

WHEREAS, H.R. 5078 also prohibits using the proposed rule or proposed guidance, any successor document, or any substantially similar proposed rule or guidance as the basis for any rulemaking or decision regarding the scope or enforcement of the Clean Water Act; and

WHEREAS, H.R. 5078 requires the Corps and the EPA to withdraw the interpretive rule entitled, "Notice of Availability Regarding the Exemption from Permitting Under Section 404(f)(1)(A) of the Clean Water Act to Certain Agricultural Conservation Practices," issued on April 21, 2014; and

WHEREAS, H.R. 5078 requires the Corps and the EPA to consult with relevant state and local officials to develop recommendations for a regulatory proposal that would identify the scope of waters covered under the Clean Water Act and the scope of waters not covered; provide for the public review and comment of a draft report that includes a recommendation only if consensus has been reached with regard to the recommendation among the Corps, the EPA, and state and local officials; publish a final report; and report to Congress on the recommendations;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges the Congress of the United States to pass H.R. 5078 or otherwise address the concerns of the agriculture

industry, water development industry, and water management industry, in defining the "waters of the United States" in the Clean Water Act; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Commanding General of the United States Army Corps of Engineers, the Administrator of the Environmental Protection Agency, and to each member of the North Dakota Congressional Delegation.

Filed January 12, 2015

CHAPTER 509**HOUSE CONCURRENT RESOLUTION NO. 3011**

(Representative Maragos)
(Senator Dever)

A concurrent resolution designating House and Senate employment positions and fixing compensation.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That for the Sixty-fourth Legislative Assembly, the following positions are designated as employee positions of the House and Senate and are to be paid the daily wages indicated:

	HOUSE	
Chief clerk		\$190
Assistant chief clerk		172
Journal reporter		185
Calendar clerk		172
Bill clerk		160
Video recording clerk		155
Sergeant-at-arms		155
Administrative assistant to majority leader		169
Staff assistant to majority leader		169
Administrative assistant to minority leader		169
Staff assistant to minority leader		169
Administrative assistant to Speaker		169
Deputy chief clerk		179
Appropriations committee clerk		169
Assistant appropriations committee clerk		162
Committee clerk for three-day committee		162
Committee clerk for two-day committee		157
Assistant committee clerk		157
Deputy sergeant-at-arms		118
Chief legislative assistant		131
Legislative assistant		112
	SENATE	
Secretary of the Senate		190
Assistant secretary of the Senate		172
Journal reporter		185
Calendar clerk		172
Bill clerk		160
Video recording clerk		155
Sergeant-at-arms		155
Administrative assistant to majority leader		169
Staff assistant to majority leader		169
Administrative assistant to minority leader		169

Staff assistant to minority leader	169
Chief committee clerk	179
Appropriations committee clerk	169
Assistant appropriations committee clerk	162
Committee clerk for three-day committee	162
Committee clerk for two-day committee	157
Assistant committee clerk	157
Deputy sergeant-at-arms	118
Chief page and bill book clerk	131
Legislative assistant	112

BE IT FURTHER RESOLVED, that each employee of the Sixty-fourth Legislative Assembly is entitled to an additional \$1 per day for each previous regular session of the Legislative Assembly during which that employee was paid for at least 45 days, as either an employee of the House or the Senate, and to receive this additional compensation, which may not exceed \$10 per day, that employee must certify to the Legislative Council the year of each regular session during which that employee was employed as required by this resolution; and

BE IT FURTHER RESOLVED, that each majority and each minority leader is entitled to one administrative assistant and two staff assistants, but each majority or minority leader may hire fewer or more assistants so long as the total daily compensation for the assistants hired does not exceed the total daily amount authorized for those positions by this resolution; and

BE IT FURTHER RESOLVED, that the report of the Employment Committee of the respective house identify the number of employees in each position by listing every employee and the position for which employed; and

BE IT FURTHER RESOLVED, that with the approval of the Employment Committee of the respective house, a position may be converted to a part-time position, with the daily compensation converted to a per hour rate of pay, and a part-time employee may hold more than one part-time position so long as the positions held do not exceed a full-time equivalent position; and

BE IT FURTHER RESOLVED, that if any employee resigns, is discharged, or for other reasons terminates employment, the compensation provided by this resolution for that employee ceases effective the last day of employment.

Filed January 21, 2015

CHAPTER 510**HOUSE CONCURRENT RESOLUTION NO. 3012**

(Representatives Klemin, B. Koppelman, Olson, Oversen)
(Senators Carlisle, Casper)

A concurrent resolution directing the Legislative Management to study the registration requirements for offenders against children and sexual offenders under North Dakota Century Code Section 12.1-32-15.

WHEREAS, the offenders against children and sexual offenders statute encompasses seventeen subsections and numerous subdivisions; and

WHEREAS, the statute contains differing time frames for an offender to register certain information to local law enforcement; and

WHEREAS, technological changes require a periodic review of language for relevancy;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the registration requirements for offenders against children and sexual offenders under North Dakota Century Code Section 12.1-32-15; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 1, 2015

CHAPTER 511

HOUSE CONCURRENT RESOLUTION NO. 3015

(Representatives Dosch, Rick C. Becker, Bellew, Fehr, Kading, Kasper, Schatz,
Streyle, Thoreson)
(Senators Casper, Dever, Larsen)

A concurrent resolution making a formal application to Congress to call a convention for the sole purpose of proposing an amendment to the Constitution of the United States which requires a balanced federal budget.

WHEREAS, Article V of the Constitution of the United States mandates that upon the application of the legislatures of two-thirds of the states, Congress shall call a convention for proposing amendments; and

WHEREAS, this application is to be considered as covering the balanced budget amendment language of the presently outstanding balanced budget applications from other states; and

WHEREAS, this application shall be aggregated for the purpose of attaining the two-thirds necessary to require the calling of a convention for proposing a balanced budget amendment, but shall not be aggregated with any applications on any other subject; and

WHEREAS, this application is a continuing application until the legislatures of at least two-thirds of the states have made applications on the same subject; and

WHEREAS, the North Dakota Legislative Assembly deems an amendment to the Constitution of the United States requiring a balanced federal budget to be necessary for the good of the American people;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges the Congress of the United States to call a convention of the states limited to proposing an amendment to the Constitution of the United States requiring that in the absence of a national emergency the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President and Secretary of the Senate and the Speaker and Clerk of the House of Representatives of the Congress, to each member of the United States Congressional Delegation, and also to transmit copies to the presiding officers of each of the legislative houses in the United States, requesting their cooperation.

Filed January 12, 2015

CHAPTER 512

HOUSE CONCURRENT RESOLUTION NO. 3018

(Representatives Headland, Delzer, Louser, Thoreson)
(Senators Casper, G. Lee, Miller)

A concurrent resolution urging Congress to pursue enactment of the Regulations from the Executive in Need of Scrutiny Act introduced by Senator Paul in February 2013 requiring Congress to approve every major rule proposed by the Executive Branch which has an annual economic impact of one hundred million dollars or more, before it can be enforced on the American people.

WHEREAS, Section 1 of article I of the United States Constitution grants all legislative powers to Congress; and

WHEREAS, Congress has excessively delegated its constitutional responsibilities while failing to conduct appropriate oversight and retain accountability for the content of the laws it passes; and

WHEREAS, federal agencies promulgating rules through the regulatory process are over reaching their authority without transparency or accountability to the people of the United States;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges Congress to pursue enactment of the Regulations from the Executive in Need of Scrutiny Act introduced by Senator Paul in February 2013 requiring Congress to approve every major rule proposed by the Executive Branch which has an annual economic impact of one hundred million dollars or more, before it can be enforced on the American people; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the North Dakota Congressional Delegation, to the Majority Leader and Minority Leader of the United States Senate, and to the Majority Leader and Minority Leader of the United States House of Representatives.

Filed April 6, 2015

CHAPTER 513**HOUSE CONCURRENT RESOLUTION NO. 3020**

(Representatives Devlin, Hofstad, D. Johnson, Vigesaa)
(Senators Heckaman, Oehlke)

A concurrent resolution directing the Legislative Management to study the impact on owners of land that has been inundated by rising waters in Devils Lake and Stump Lake.

WHEREAS, Devils Lake and Stump Lake have inundated land once owned by landowners surrounding the lakes; and

WHEREAS, as the navigable waters increased the inundated land became sovereign land of the state, which deprives the previous owner of the ownership and use of the land; and

WHEREAS, landowners with land taken by the rising lakes want to ensure that when the lakes recede the land returns to the landowners; and

WHEREAS, some landowners have paid property taxes on inundated land for many years in the hope of regaining ownership when the water recedes and some have been required to do so because the surface area of land used for the assessment determination for property tax application does not take into account the current and exact boundary of the lake; and

WHEREAS, the surrounding landowners have suffered extreme hardship from loss of use and ownership of their land and the added burden of paying property taxes on it, but have not received any compensation from the state or federal government;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the impact on owners of land that has been inundated by rising waters in Devils Lake and Stump Lake; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 6, 2015

CHAPTER 514

HOUSE CONCURRENT RESOLUTION NO. 3023

(Representatives Monson, D. Anderson, Damschen, Delmore, Hofstad, D. Johnson)
(Senators Flakoll, O'Connell, Oehlke, Wardner)

A concurrent resolution declaring March 5, 2015, as "Canada Day in North Dakota".

WHEREAS, Canada and the United States share a rich and vibrant history of democratic governance, security and economic partnerships, and tourism and cultural ties; and

WHEREAS, Canada is the largest trade partner of the United States, and the number of Canadian tourists visiting this country, and North Dakota, exceeds the number from any other country; and

WHEREAS, North Dakota sells more goods to Canada than all other countries combined; and

WHEREAS, over one million Canadian visitors to North Dakota annually contribute \$280 million dollars to the North Dakota economy; and

WHEREAS, North Dakota and its neighboring Canadian provinces share common leading industries which are vital to the economies and people of our respective nations, including agriculture and energy development; and

WHEREAS, since 1932, the International Peace Garden has been a symbol of the friendship between two neighbors that share the world's longest unfortified border; and

WHEREAS, this July, Bismarck will host the Council of State Governments - Midwest Legislative Conference, which provides a forum for state and provincial legislators to work together on shared opportunities;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly declares March 5, 2015, as "Canada Day in North Dakota"; and

BE IT FURTHER RESOLVED, that the Secretary of State forward a copy of this resolution to the Consulate General of Canada.

Filed February 25, 2015

CHAPTER 515

HOUSE CONCURRENT RESOLUTION NO. 3024

(Representatives Laning, Boe, Delmore, Delzer, Headland, Kreidt, Seibel)
(Senators Carlisle, Dotzenrod, Unruh, Wardner)

A concurrent resolution urging the federal government to refrain from enacting regulations that threaten the reliability and affordability of electric power in the Northern Great Plains.

WHEREAS, over the course of the 2013-15 biennium, the United States Environmental Protection Agency has proposed two regulations that would enact a de facto ban on the construction of new, efficient, and cost-effective coal-fired power plants, and threaten the continued operation of existing coal-fired power plants; and

WHEREAS, in November 2014, the United States Environmental Protection Agency proposed to further reduce the standard for ambient ozone to levels that could restrict North Dakota's energy industry and impede economic growth; and

WHEREAS, the United States Office of Surface Mining, Reclamation, and Enforcement continues to explore a new regulation that could significantly restrict access to North Dakota's coal resources; and

WHEREAS, in December 2014, the White House Council on Environmental Quality issued draft guidance for assessing climate impacts under the National Environmental Policy Act that will further delay the permitting of coal leases on federal land; and

WHEREAS, in September 2013, the Eighth Circuit Court of Appeals released an opinion upholding the authority of the United States Environmental Protection Agency to reject the State of North Dakota's plan to reduce regional haze; and

WHEREAS, in November 2014, the White House announced an agreement with China by which the United States would significantly reduce its carbon dioxide emissions by 2025 at unknown cost to our economy and China is allowed to continue increasing emissions through 2030; and

WHEREAS, the United States Environmental Protection Agency's Clean Power Plan is estimated to increase North Dakota resident's average electricity and gas bills \$700 by 2020; and

WHEREAS, the United States Environmental Protection Agency's Clean Power Plan is estimated to cost the American economy over \$300 billion, with no measurable reduction in global carbon dioxide levels; and

WHEREAS, the United States Environmental Protection Agency's proposed regulations for carbon dioxide emissions from new and existing coal-fired power plants go beyond the authority provided by existing federal statutes; and

WHEREAS, the North Dakota lignite industry employs over 17,000 individuals in the state, and contributes over \$3 billion in economic activity in North Dakota each year; and

WHEREAS, the North Dakota lignite industry generates enough electricity to power over 2 million homes in the Northern Great Plains, supplies synthetic natural gas to 400,000 homes and businesses, and produces numerous beneficial byproducts; and

WHEREAS, if the federal government continues to issue regulations and administrative actions that are not based on sound science, economic, and technological reality, it will have significant impact on consumer electricity costs, and the North Dakota lignite industry will struggle to provide low-cost, reliable electricity; and

WHEREAS, the cumulative effects of proposed federal regulations present a significant threat to the viability and dependability of the Northern Great Plains' electric grid; and

WHEREAS, under the present federal regulatory agenda, North Dakota is in danger of losing thousands of high-paying jobs as well as hundreds of millions in revenue generated through taxes and business activity;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges the federal government to refrain from continuing to impose regulations and other administrative actions that prohibit or restrict the ability of utilities to continue providing low-cost and reliable power from North Dakota's vast lignite reserves; and

BE IT FURTHER RESOLVED, that the United States Environmental Protection Agency refrain from finalizing regulations for carbon dioxide emission standards which requires new coal-fired power plants to meet an emission standard that is not achievable with current commercial technology, and which prematurely requires retirement or curtailment of existing coal-fired power plants; and

BE IT FURTHER RESOLVED, that the Sixty-fourth Legislative Assembly urges the federal government to work with the state, the North Dakota Congressional Delegation, and the North Dakota lignite industry to design and implement regulatory programs that are based on sound science, recognize the status of existing technology and development timelines, and that make economic sense for the producers and consumers of North Dakota lignite; and

BE IT FURTHER RESOLVED, that the members of the Sixty-fourth Legislative Assembly support the efforts of the lignite industry to develop technological solutions that will enable the continuation of lignite-based electric generation; and

BE IT FURTHER RESOLVED, that the members of the Sixty-fourth Legislative Assembly support the efforts of the lignite industry to challenge regulations and other actions that will impact the ability of the industry to continue utilizing North Dakota's strategic lignite resource; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution by certified mail, return receipt requested, to the President of the United States, the Director of the United States Environmental Protection Agency, each member of the North Dakota Congressional Delegation, the State Department of Health, and the Public Service Commission.

Filed April 23, 2015

CHAPTER 516

HOUSE CONCURRENT RESOLUTION NO. 3025

(Representatives Thoreson, Dockter, M. Johnson, Kading, Kasper, Looyen)
(Senators Campbell, Flakoll, Laffen, Nelson, Schaible, Sorvaag)

A concurrent resolution of commendation to the North Dakota State University Bison football team and Coach Chris Klieman for achieving an unprecedented level of dominance in NCAA Division I football.

WHEREAS, the North Dakota State University Bison football team triumphed despite the loss of twenty-three seniors from their 2013 championship team to capture a record fourth consecutive NCAA Division I Football Championship Subdivision football championship; and

WHEREAS, postseason players Chris Board, Colter Pritchard, Shea DeJong, Trevor Gebhart, Tyler Wrice, Jordan Champion, CJ Smith, Zach Colvin, Darius Anderson, Esley Thorton, Derek McGinnis, Carson Wentz, Eric Perkins, Bo Liekhus, Daniel Polansky, RJ Urzendowski, Adam Keller, Cole Davis, Ben LeCompte, Colten Heagle, Demetrius Gray, King Frazier, John Crockett, Tre Dempsey, Chase Morlock, Keenan Hodenfield, Andrew Smith, Jedre Cyr, Tom Barneson, Christian Dudzik, Bennie Wilson, Carlton Littlejohn, Dan Sargeant, MJ Stumpf, Justin Axelsson, Kurt Mattox, Matt Plank, Andrew Bonnet, Pierre Gee-Tucker, Nick DeLuca, James Fisher, Travis Beck, Kyle Emanuel, Jeremy Kelly, Alex Hahn, James Gates, Joe Haeg, Max Polson, Brian Schaetz, Bryce Messner, Adam Schueller, Brock Russell, Zac Johnson, Jack Plankers, Erik Olson, Zack Ziemer, Austin Kuhnert, Jesse Hinz, Landon Lechler, Nate Moody, Isaiah Frandsen, Zach Vraa, Carey Woods, DeSean Warren, Kevin Vaadeland, Jeff Illies, Connor Wentz, Luke Albers, Grant Morgan, Mike Hardie, Jarrod Tuszka, D'Andre Gillins, Greg Menard, Brad Ambrosius, Austin Farnlof, and Nate Tanguay; and coaches Chris Klieman, Matt Entz, Tim Polasek, Atif Austin, Jamar Cain, Nick Goeser, Randy Hedberg, Joe Klanderma, Conor Riley, Tyler Roehl, Joey Blackmore, and Hank Jacobs led the Bison to four playoff victories to capture the team's fourth straight title; and

WHEREAS, the seniors on the "Thundering Herd's" 2014 championship team accumulated a record of 58-3 over the course of their four years with the program, giving them more championship wins than total losses during their tenure; and

WHEREAS, Kyle Emanuel was voted the Buck Buchanan Award recipient as the top defensive player in the Football Championship Subdivision; and

WHEREAS, Carson Wentz was named the Most Outstanding Player of the championship game and received his second straight NCAA Elite 89 Award for the student-athlete with the highest cumulative GPA at the national championship; and

WHEREAS, the North Dakota State University Bison football team had nine players earn All-American recognition for their athletic performances;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

The Sixty-fourth Legislative Assembly takes great pride in expressing its commendation to the North Dakota State University Bison football team and Coach Chris Klieman for achieving an unprecedented level of dominance in NCAA Division I football; and

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to Bison Head Coach Chris Klieman, North Dakota State University Director of Athletics Matt Larsen, North Dakota State University President Dean L. Bresciani, and to each coach and player of the 2014 championship team.

CHAPTER 517**HOUSE CONCURRENT RESOLUTION NO. 3026**

(Representatives Kasper, Beadle, Boschee, Guggisberg, Hanson, Hawken, Hogan,
M. Johnson, Thoreson)
(Senators Davison, Sinner, Sorvaag)

A concurrent resolution recognizing February 14, 2015, as "National Socks for the Homeless Day" in North Dakota.

WHEREAS, according to data released by the Department of Housing and Urban Development, in 2013, there were 2,069 homeless individuals in this state and more than 600,000 across the nation; and

WHEREAS, clean, dry socks are a basic need and a lack of socks can result in frostbite, blisters, ulcer formations, and even amputation; and

WHEREAS, clean, dry socks serve to decrease the likelihood of fungal and bacterial infections that can be harbored in a shoe liner and lead to cellulitis; and

WHEREAS, clean, dry socks protect feet from the internal structures of shoes and help to insulate feet from cold surfaces; and

WHEREAS, new socks for children can mean not having splinters, and not having fungal toenail infections, which can result from borrowing other children's shoes or wearing donated hand-me-downs without socks; and

WHEREAS, socks can make so much difference for a homeless individual; and

WHEREAS, single mothers and children who have one pair of socks, which can last only so long, are given dignity when they own new, nontattered socks; and

WHEREAS, clothing donations for the homeless and the needy rarely include socks; and

WHEREAS, it is important to raise awareness regarding the plight of homeless individuals and the medical problems associated with being homeless and sockless;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly recognizes February 14, 2015, as "National Socks for the Homeless Day" in North Dakota; and

BE IT FURTHER RESOLVED, that the Secretary of State forward a copy of this resolution to the North Dakota Coalition for Homeless People.

Filed April 6, 2015

CHAPTER 518**HOUSE CONCURRENT RESOLUTION NO. 3028**

(Representatives Mooney, D. Anderson, Boe, J. Nelson, Strinden)
(Senators Dotzenrod, Heckaman, O'Connell)

A concurrent resolution directing the Legislative Management to study the feasibility and desirability of the establishment of county or multi-county emergency response centers outside of urban centers that already maintain emergency response agencies with around-the-clock staffing.

WHEREAS, most smaller cities and much of the rural area of North Dakota is served by fire departments and emergency medical response agencies that are staffed largely or completely by volunteers; and

WHEREAS, increased training requirements, more frequent working hour conflicts, as well as the rapidly rising number of incidents for which emergency response is needed have reduced the number of volunteers willing or able to serve and has deterred new people from volunteering; and

WHEREAS, although a few rural response agencies have been able to retain several full-time response professionals, this is not economically feasible for the vast majority of our state's volunteer entities; and

WHEREAS, some response agencies have been forced to discontinue service due to the lack of staff, further burdening the neighboring agencies;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the feasibility and desirability of the establishment of county or multi-county emergency response centers staffed around-the-clock by a core of emergency response professionals; and

BE IT FURTHER RESOLVED, that the Legislative Management explore funding options to support the establishment of such response centers; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 10, 2015

CHAPTER 519**HOUSE CONCURRENT RESOLUTION NO. 3031**

(Representatives Mooney, Devlin, Hawken)
(Senators Heckaman, Oehlke)

A concurrent resolution designating the third week in June as "North Dakota Share the Road Safety Week".

WHEREAS, walking, running, and bicycling provide an economical form of transportation, recreation, and physical exercise; and

WHEREAS, increasing numbers of residents in the state enjoy walking, running, and bicycling as a pleasant pastime while gaining the health benefits of an active lifestyle; and

WHEREAS, local and tribal communities enjoy the economic benefits of walking, running, and bicycling events; and

WHEREAS, knowledge and understanding of road safety issues, including injury prevention, the importance of laws and ordinances, and sharing the road with motorists, are necessary for pedestrians and bike riders of all ages and levels of experience; and

WHEREAS, the biking, walking, and running communities of North Dakota are eager to engage in recreational and educational activities and to partner in generating public awareness of the need to engage in safe practices for all types of traffic on our roads; and

WHEREAS, to mark the observance of "North Dakota Share the Road Safety Week", an effort to recognize those who have been killed or injured in collisions involving motor vehicles, bicycles, or pedestrians; promote the ideals of sharing our roads; and to develop and promote collaborative measures focused on safety, saving lives, and preventing injury on North Dakota road systems;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly designates the third week of June as "North Dakota Share the Road Safety Week"; and

BE IT FURTHER RESOLVED, that this resolution be entered in the journal.

Filed March 31, 2015

CHAPTER 520**HOUSE CONCURRENT RESOLUTION NO. 3032**

(Representatives Headland, Belter, Brandenburg, Haak, Thoreson)
(Senators Armstrong, Klein, Wanzek)

A concurrent resolution urging Congress and the Internal Revenue Service to end the requirement of capitalization of business and farm machinery repair costs and allow business owners to deduct those costs as a business expense.

WHEREAS, businesses have been subjected to extremely complex treatment under the Internal Revenue Code, most of which adds greatly to the cost of recordkeeping and the cost of doing business; and

WHEREAS, the decision of the Internal Revenue Service through rules in 26 CFR 1.162-3, 1.162-4, and 1.263(a)-3 to require businesses to capitalize business and farm machinery repairs shows little regard for imposing additional cost and regulatory burdens on the business owners forced to comply; and

WHEREAS, business and farm machinery and equipment is put to rigorous use to produce a vital United States economy and that machinery and equipment is subject to frequent and costly repairs, which is a business reality but is largely an unplanned business expense; and

WHEREAS, requiring businesses to capitalize repair expenses and deduct them over a period of years, when businesses must repair equipment and pay for those repairs immediately when the necessity arises, unfairly and pointlessly increases the cost of doing business while an ordinary business expense deduction would recognize the expenditure in the year the expenses are incurred;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges Congress and the Internal Revenue Service to end the requirement of capitalization of business and farm machinery repair costs and allow business owners to deduct those costs as a business expense; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the North Dakota Congressional Delegation, the majority and minority leaders of the United States Senate and House of Representatives, the Secretary of the Treasury, and the Director of the Internal Revenue Service.

Filed January 12, 2015

CHAPTER 521

HOUSE CONCURRENT RESOLUTION NO. 3033

(Representatives K. Koppelman, Boehning, Devlin, Kasper, Olson, Schatz, Thoreson,
Toman)
(Senators Klein, G. Lee, Wardner)

A concurrent resolution urging Congress to propose the Regulation Freedom amendment to the United States Constitution.

WHEREAS, the growth and abuse of federal regulatory authority threaten our Constitutional liberties, including those guaranteed by the Bill of Rights in the First, Second, Fourth, and Fifth Amendments of our Constitution;

WHEREAS, federal regulators must be more accountable to elected representatives of the people and not immune from such accountability;

WHEREAS, the Declaration of Independence decried the imposition by the central government of "an absolute tyranny over these states" and a central government that "erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance";

WHEREAS, states too often find themselves in a similar position today;

WHEREAS, the United States House of Representatives has passed with bipartisan support the REINS Act to require that Congress approve major new federal regulations before they can take effect;

WHEREAS, even if enacted, a law may be repealed or waived by a future Congress and President; and

WHEREAS, an amendment to the United States Constitution does not require the President's approval and cannot be waived by a future Congress and President;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges Congress to propose the Regulation Freedom amendment to the United States Constitution as follows:

"Whenever one quarter of the members of the United States House of Representatives or the United States Senate transmits to the President their written declaration of opposition to a proposed federal regulation, it shall require a majority vote of the House of Representatives and the Senate to adopt that regulation."

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of Congress and to the principal leaders in all state legislative chambers.

Filed April 7, 2015

CHAPTER 522**HOUSE CONCURRENT RESOLUTION NO. 3034**

(Representatives Weisz, Owens, Ruby)
(Senator Oehlke)

A concurrent resolution urging Congress to authorize a compact agreement between member states and contiguous states of the Western States Transportation Alliance to lift the federal freeze on commercial vehicle weight and size limitations.

WHEREAS, the Western States Transportation Alliance member states and contiguous states consist of Colorado, Idaho, Kansas, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, South Dakota, Texas, Utah, Washington, and Wyoming; and

WHEREAS, federal legislation placed a freeze on commercial vehicle weight and size limitations in those 14 states in 1991; and

WHEREAS, the Western States Transportation Alliance approved a resolution to create a compact agreement between the states on November 17, 2014; and

WHEREAS, the compact agreement would give the states voluntarily participating in the agreement the authority to adopt routes and set restrictions on operations; and

WHEREAS, the compact agreement would set limits on the weight and size of commercial vehicles in the participating states to not exceed 129,000 pounds gross vehicle combination weight or 100 foot cargo carrying length;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges Congress to authorize a compact agreement between member states and contiguous states of the Western States Transportation Alliance to lift the federal freeze on commercial vehicle weight and size limitations; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the North Dakota Congressional Delegation.

Filed January 12, 2015

CHAPTER 523**HOUSE CONCURRENT RESOLUTION NO. 3036**

(Representatives Hanson, Rick C. Becker, Mock, Olson)
(Senators Rust, Sinner)

A concurrent resolution directing the Legislative Management to study issues related to authorizing and issuing digital driver's licenses.

WHEREAS, individuals in this state are increasingly using new technologies, including smartphones, in their daily lives; and

WHEREAS, the use and convenience of technological devices has become increasingly more common for day-to-day functions, such as working, banking, and shopping; and

WHEREAS, there are financial and environmental costs associated with the production of plastic driver's licenses; and

WHEREAS, technological advances allow for secure digital driver's licenses; and

WHEREAS, the option of issuance of digital driver's licenses has been authorized in other states and should be considered for this state;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study issues related to authorizing and issuing digital driver's licenses; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed March 13, 2015

CHAPTER 524**HOUSE CONCURRENT RESOLUTION NO. 3037**

(Representatives Boschee, Haak, D. Johnson, Kiefert, Larson, Schmidt)
(Senators Anderson, Laffen, Luick, Mathern, Miller, Oban)

A concurrent resolution directing the Legislative Management to study the current laws and rules relating to the sale of homemade food and homegrown produce and the policies and practices of local public health units and the State Department of Health regarding these sales and whether steps can be taken to make these policies more uniform throughout the state.

WHEREAS, North Dakota's public health system is decentralized, with 28 independent local public health units; and

WHEREAS, each of the local public health units in the state and the State Department of Health are responsible for implementing policies and administering rules related to the sale of homemade food and homegrown produce; and

WHEREAS, the current system requires that local producers and small business owners navigate as many as 28 different sets of public health policies related to the sale of homemade foods and homegrown produce; and

WHEREAS, North Dakota has a growing market and demand for homemade foods and homegrown produce; and

WHEREAS, statewide best practices for the sale of homemade foods and homegrown produce will allow for growth and innovation for producers and small business owners;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the current laws and rules relating to the sale of homemade food and homegrown produce and the policies and practices of local public health units and the State Department of Health regarding these sales and whether steps can be taken to make these policies more uniform throughout the state.

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 1, 2015

CHAPTER 525**HOUSE CONCURRENT RESOLUTION NO. 3039**

(Representatives Hanson, Beadle, Dockter, Haak, Headland)
(Senators Cook, Dotzenrod)

A concurrent resolution directing the Legislative Management to study the software needs for all political subdivisions in the state to make specified tax, budgetary, and other public information available online.

WHEREAS, it is the legislative responsibility to review existing laws to ensure that they address the problems they are intended to rectify; and

WHEREAS, currently there is a variety of information available online in different formats and different locations, which makes it difficult for residents to locate and compare information;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the software needs for all political subdivisions in the state to make specified tax, budgetary, and other public information available online and to determine the specific information that each city and county must provide; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 10, 2015

CHAPTER 526**HOUSE CONCURRENT RESOLUTION NO. 3040**

(Representative Schreiber Beck)

A concurrent resolution directing the Legislative Management to study the Airport Authorities Act, with particular attention to airport finances.

WHEREAS, the Airport Authorities Act was first enacted in North Dakota in 1959, and most of the provisions within the chapter have not been amended for at least several decades; and

WHEREAS, the capital costs associated with the operation of airports has increased significantly since the enactment of the Airport Authorities Act, and the Act may no longer adequately reflect the current financing and revenue needs of airports; and

WHEREAS, airports are increasingly vital to the ongoing diversifying economic growth of North Dakota and its communities; and

WHEREAS, adequate airport access is critical to addressing the workforce development and quality of life issues currently faced by North Dakota's businesses and industries; and

WHEREAS, the total passengers on flights at regional North Dakota airports has increased from 46,620 in 2008 to 198,770 in 2013, an increase of 326 percent in a five-year span;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the Airport Authorities Act, with particular attention to airport finances; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 6, 2015

CHAPTER 527**HOUSE CONCURRENT RESOLUTION NO. 3045**

(Representatives Hanson, Hunskor)
(Senator Robinson)

A concurrent resolution directing the Legislative Management to study the automation of State Library data to track items owned, orders made, bills paid, patrons who have borrowed, and options for transferring materials between libraries.

WHEREAS, the efficiency and preservation of library data, specifically amongst rural communities, delivery options for transferring materials between libraries, and opportunities for library automation are current logistical challenges; and

WHEREAS, the State Library, On-line Dakota Information Network, the Superintendent of Public Instruction, the State Board of Higher Education, the North Dakota Library Association, and the Central Dakota Library Network understand the need for an updated automation of State Library data to track items owned, orders made, bills paid, and patrons who have borrowed;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the automation of State Library data as used to track items owned, orders made, bills paid, patrons who have borrowed, and options for transferring materials between libraries; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed January 12, 2015

CHAPTER 528

HOUSE CONCURRENT RESOLUTION NO. 3046

(Representatives Carlson, Belter, Delzer, Vigesaa)

A concurrent resolution directing the Legislative Management to study public higher education in North Dakota for the purpose of developing and implementing a governance model that articulates the roles and functions of the State Board of Higher Education, the commissioner of higher education, and the presidents of each institution of higher education under the control of the board.

WHEREAS, subsection 1 of Section 6 of Article VIII of the Constitution of North Dakota provides that the State Board of Higher Education is created for the "control and administration" of the state's educational institutions; and

WHEREAS, subsection 6 of Section 6 of Article VIII of the Constitution of North Dakota provides that the State Board of Higher Education shall have "full authority over the institutions under its control"; and

WHEREAS, subsection 7 of Section 6 of Article VIII of the Constitution of North Dakota provides that the State Board of Higher Education shall appoint a commissioner of higher education who "shall be responsible to the State Board of Higher Education" and who "shall be the chief executive officer of said State Board of Higher Education, and shall perform such duties as shall be prescribed by the board"; and

WHEREAS, the North Dakota University System includes \$1.2 billion in annual revenues, \$1.5 billion in assets, and an immeasurable obligation to be accountable to the people of this state; and

WHEREAS, accountability is achievable only if there is a clear delineation between governance and management responsibilities;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study public higher education in North Dakota for the purpose of developing and implementing a governance model that articulates:

- The role and function of the State Board of Higher Education, and that of its chairman and other members, including the board's objectives and the monitoring responsibilities necessary to ensure that its objectives are achieved;
- The role and function of the commissioner of higher education, including the commissioner's relationship with the board, the commissioner's responsibility for implementing the board's objectives, and for meeting the board's expectations regarding organizational performance; and

- The role and function of each institution's president, including the authority and responsibility to supervise and direct the efficient operation of the institution, to execute all directives from the commissioner of higher education, and to report directly to the commissioner regarding the operation and management of the institution, and the execution of the directives; and

BE IT FURTHER RESOLVED, that higher education professionals designated by the state board of higher education be involved in the study; and

BE IT FURTHER RESOLVED, that the Legislative Management may contract with a consultant for assistance in meeting the directives of this study; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 6, 2015

CHAPTER 529**HOUSE CONCURRENT RESOLUTION NO. 3048**

(Representatives Beadle, Dockter, Hanson, Looysen)
(Senator Davison)

A concurrent resolution directing the Legislative Management to study potential opportunities for the creation and utilization of public-private partnerships at institutions of higher education within the North Dakota University System, for the purpose of creating software engineering and development programs.

WHEREAS, a public-private partnership is a powerful example of a triangulation between industry, government, and academia that can support and elevate a state as a leader in economic development; and

WHEREAS, a public-private partnership can stimulate economic growth and help to meet the workforce development needs of a state; and

WHEREAS, the diesel technology program at North Dakota State College of Science is an example of a public-private partnership that has provided students with marketable skills and provided employers with an educated and trained workforce; and

WHEREAS, institutions of higher education within the North Dakota University System have a strong tradition of offering excellent educational programs and involving students and faculty in cutting edge research and technology development, and are thereby uniquely positioned to successfully participate in public-private partnerships that promote software engineering and development programs;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study potential opportunities for the creation and utilization of public-private partnerships at institutions of higher education within the North Dakota University System, for the purpose of creating software engineering and development programs; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 1, 2015

CHAPTER 530**HOUSE CONCURRENT RESOLUTION NO. 3049**

(Representatives Beadle, Dockter, Steiner, Vigesaa)
(Senators Miller, Poolman)

A concurrent resolution directing the Legislative Management to study issues related to employment restrictions in public assistance programs.

WHEREAS, workforce shortage issues have been identified as a major challenge for business development in the state of North Dakota; and

WHEREAS, businesses are seeking incentives for workers to fill shortfalls in the labor market; and

WHEREAS, some workforce issues could be resolved by allowing current employees to work additional hours when available; and

WHEREAS, some public assistance programs restrict eligibility based on total number of hours worked by employees; and

WHEREAS, total hours worked is not always an indicator of the needs an individual may have for receiving public assistance; and

WHEREAS, finding means to allow employees to work additional hours without automatically losing public assistance benefits may be a way of addressing some labor shortage issues;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management shall study issues relating to employment restrictions in public assistance programs; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty - fifth Legislative Assembly.

Filed April 1, 2015

CHAPTER 531**HOUSE CONCURRENT RESOLUTION NO. 3051**

(Representatives Steiner, Kasper, Larson, Lefor, Ruby, Schatz)
(Senator Miller)

A concurrent resolution directing the Legislative Management to study all aspects of the development and implementation of the Common Core state standards, examine the strengths and weaknesses of the standards compared to those of other viable options, and clarify and define the role and function of this state in relation to the federal government with respect to the delivery of elementary and secondary education.

WHEREAS, in 2009, governors and state commissioners of education from forty-eight states, two territories, and the District of Columbia, through their membership in the National Governors Association Center for Best Practices and the Council of Chief State School Officers, led an effort to develop Common Core state standards; and

WHEREAS, Common Core state standards have been at the root of public concern and controversy with respect to their development, implementation, and effect on elementary and secondary education; and

WHEREAS, the reauthorization of the Elementary and Secondary Education Act is expected to contain significant changes to federal requirements regarding standards, student assessments, and overall accountability;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study all aspects of the development and implementation of the Common Core state standards, examine the strengths and weaknesses of the standards compared to those of other viable options, and clarify and define the role and function of this state in relation to the federal government with respect to the delivery of elementary and secondary education; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 10, 2015

CHAPTER 532

HOUSE CONCURRENT RESOLUTION NO. 3052

(Representatives Oversen, Amerman, P. Anderson, Boschee, Delmore, Haak,
Hanson, Mitskog)
(Senators Heckaman, Holmberg, Nelson, Sinner)

A concurrent resolution urging the North Dakota University System and State Board of Higher Education to study all policies, procedures, supports, and services available at all public institutions of higher education in the state regarding sexual assault and related incidents.

WHEREAS, there have been a number of significant incidents garnering negative media attention regarding sexual assault on campuses across the country; and

WHEREAS, the reporting procedures for students who have experienced a sexual assault vary on each campus; and

WHEREAS, the services and supports available to victims of sexual assault vary greatly on each campus; and

WHEREAS, recent reports have indicated that our universities and colleges may have deficiencies in the policies regarding sexual assault reporting and services available for students;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the North Dakota Legislative Assembly recognizes the need to address policies regarding sexual assault reporting and services available to students and urges the North Dakota University System and the State Board of Higher Education to study the issue, with input from legislators, law enforcement officials, health professionals, and others to craft uniform policies for North Dakota college and university campuses. The North Dakota Legislative Assembly requests the State Board of Higher Education provide a report to the legislative management before July 1, 2016, regarding the policies, procedures, supports, and services available to all public institutions of higher education in the state regarding sexual assault and related incidents.

Filed April 20, 2015

CHAPTER 533

HOUSE CONCURRENT RESOLUTION NO. 3055

(Representatives Oversen, Boschee, Glassheim, Guggisberg, Keiser, Mock,
Schreiber Beck)
(Senators Laffen, Mathern)

A concurrent resolution directing the Legislative Management to study the feasibility and possible benefits of allowing members of the Legislative Assembly and other state employees to receive by electronic means all information regarding pay and benefits and other information shared by the employer and to study the availability of recycling options in all state buildings.

WHEREAS, state employees and members of the Legislative Assembly receive and utilize a significant amount of paper and recycling options are not always available in state buildings; and

WHEREAS, most large institutions utilize electronic communication programs, including electronic mail and data sharing; and

WHEREAS, all state employees and members of the Legislative Assembly already have access to the PeopleSoft portal for human resource management, personal information collection, and information on pay and benefits;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the feasibility and possible benefits of allowing members of the Legislative Assembly and other state employees to receive by electronic means all information regarding pay and benefits and other information shared by the employer and study the availability of recycling options in all state buildings; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 10, 2015

CHAPTER 534**HOUSE CONCURRENT RESOLUTION NO. 3056**

(Representatives Boschee, Guggisberg, Haak, M. Johnson, Kasper, Seibel)
(Senators Oban, Wanzek)

A concurrent resolution directing the Legislative Management to study projections on the number of low-income individuals in the state over the next 10 years and the desirability and feasibility of developing and expanding asset-building opportunities for those individuals.

WHEREAS, North Dakota ranks first in job creation and has the lowest unemployment rate in the nation for the sixth consecutive year while also having a 12 percent average annual economic growth rate; and

WHEREAS, the average adjusted gross income for individuals for 2013 rose to \$71,538, but poverty rates were 11.6 percent for individuals and 7 percent for families; and

WHEREAS, nearly 9 percent of North Dakota households were food insecure at some time during 2013, with 3.1 percent of households having very low food security; and

WHEREAS, North Dakota's population has grown to an all time high of 739,482 residents over the past decade, and although the average age has declined, the over age 65 population is estimated to grow an additional 18 percent in the next decade; and

WHEREAS, 10.6 percent of North Dakotans have a disability, which may impact their level of employment, and Social Security comprises the sole source or majority of income for 61 percent of individuals over the age of 65;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study projections on the number of low-income individuals in the state over the next 10 years, the desirability and feasibility of developing and expanding asset-building opportunities for those individuals, ways to encourage and improve financial literacy among the people of this state, and ways in which the private sector can assist people in improving their financial stability; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 10, 2015

HOUSE MEMORIAL RESOLUTIONS

CHAPTER 550

HOUSE MEMORIAL RESOLUTION NO. 7001

(Memorial Resolutions Committee)

A memorial resolution for deceased members of the House of Representatives of North Dakota.

WHEREAS, God has welcomed to their eternal home our former colleagues:

Gordon Berg, who served in the 45th through the 47th Legislative Assemblies and in the 49th through the 52nd Legislative Assemblies, from District 15, died May 25, 2013;

Donald L. Clark, who served in the 59th through the 62nd Legislative Assemblies, from District 44, died January 22, 2015;

Patricia DeMers, who served in the 50th and 51st Legislative Assemblies, from District 9, died July 27, 2014;

Dayle Dietz, who served in the 46th and 47th Legislative Assemblies, from District 25, died November 25, 2013;

Larry Erickson, who served in the 39th Legislative Assembly, from District 29, died July 10, 2014;

James O. Fine, who served in the 34th Legislative Assembly, from District 20, died March 7, 2012;

Howard Grumbo, who served in the 52nd through the 57th Legislative Assemblies, from District 27, died February 6, 2015;

William L. Guy, who served in the 36th Legislative Assembly, from District 11, died April 26, 2013;

Virgil Haman, who served in the 42nd Legislative Assembly, from District 7, died July 7, 2013;

Clarence Jaeger, who served in the 43rd and 44th Legislative Assemblies, from District 33, died October 29, 2013;

Joe Keller, who served in the 48th and 49th Legislative Assemblies, from District 33, died October 23, 2013;

Ray Meyer, who served in the 48th through the 50th Legislative Assemblies and in the 52nd Legislative Assembly, from District 35, died July 29, 2013;

Mike Olienyk, who served in the 38th and 39th Legislative Assemblies, from District 31, and in the 40th through the 42nd Legislative Assemblies, from District 37, died November 23, 2012;

Joe Peltier, who served in the 46th through the 48th Legislative Assemblies, from District 22, died January 12, 2014;

Elmer Retzer, who served in the 46th through the 49th Legislative Assemblies and in the 54th Legislative Assembly, from District 29, died September 1, 2013;

Claire A. Sandness, who served in the 40th through the 42nd Legislative Assemblies, from District 27, died August 3, 2014;

Archie Shaw, who served in the 49th and 50th Legislative Assemblies, from District 34, died March 9, 2013;

Al Soukup, who served in the 51st through the 55th Legislative Assemblies, from District 44, died October 30, 2013;

Lynn J. (Jim) Thompson, who served in the 54th and 55th Legislative Assemblies, from District 16, died October 7, 2013;

Dick Tokach, who served in the 50th and 51st Legislative Assemblies, from District 53, died November 9, 2014;

Malcolm S. Tweten, who served in the 43rd through the 46th Legislative Assemblies, from District 20, died September 14, 2013;

John Wall, who served in the 59th through the 63rd Legislative Assemblies, from District 25, died July 18, 2014;

WHEREAS, we now pause to mourn the passing of our former House of Representatives colleagues and to honor their memories; and

WHEREAS, these legislators rendered outstanding service to the people of the state by their contributions to public service;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA:

That we express our sorrow on their passing and our appreciation, on behalf of the people of North Dakota, for the loyal and devoted service of our former colleagues; and

BE IT FURTHER RESOLVED, that for the perpetuation of their memory this token of respect and sympathy by their successors in trust be printed in the Journal of the House of Representatives and that the Secretary of State present enrolled copies of this resolution to the surviving families of these deceased Representatives.

Filed March 20, 2015

HOUSE RESOLUTIONS

CHAPTER 549

HOUSE RESOLUTION NO. 5001

(Representatives Headland, D. Anderson, Belter, Boe, Brandenburg, Delzer, Kempenich, Porter, Schmidt, Schreiber Beck, Streyle, Weisz)

A resolution urging Congress to invalidate the rules adopted by the Environmental Protection Agency and the United States Army Corps of Engineers defining the "waters of the United States" under the Clean Water Act.

WHEREAS, in early 2014, the Environmental Protection Agency and the United States Army Corps of Engineers released a proposed rule that would define "waters of the United States" to grant the federal government unprecedented regulatory authority over nearly all bodies of water including prairie potholes, small ponds, creeks, ditches, and other occasionally wet areas, which have historically been under state stewardship; and

WHEREAS, the rule was introduced even after similar proposals before the 110th and 111th Congress failed and after two United States Supreme Court decisions limiting federal jurisdiction under the Clean Water Act and was adopted after a process that included an inadequate, virtually nonexistent, consultation process with state and local government and private landowners' groups; and

WHEREAS, the rule was subject to massive opposition from Congress, states, groups, and individuals, all of which was given little or no serious consideration as the agencies proceeded to final adoption of an unprecedented usurpation of state authority by unelected federal officials; and

WHEREAS, the agencies that adopted the rule lack the capability to properly administer the vast authority they have seized without enormous increases in staff and spending; and

WHEREAS, the state of North Dakota contains many water resources, the use of which for agriculture, municipal water supply, and economic health is needed and the rules will needlessly complicate and may prohibit the safe and intelligent development and management of this state's water resources; and

WHEREAS, the North Dakota House of Representatives will not stand idly by as this state's major industries and the provision of potable water to the people of this state are threatened by these rules that usurp North Dakota's traditional and proper role in the regulation of this state's waters and the North Dakota House of Representatives supports and has authorized funding for use of the court system to challenge these rules, if Congress does not act;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA:

That the North Dakota House of Representatives urges the Congress of the United States to invalidate the rules adopted by the Environmental Protection Agency and the United States Army Corps of Engineers defining the "waters of the United States" in the Clean Water Act; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Administrator of the Environmental Protection Agency, the Commanding General of the United States Army Corps of Engineers, and to each member of the North Dakota Congressional Delegation.

Filed June 16, 2015

SENATE CONCURRENT RESOLUTIONS

CHAPTER 535

SENATE CONCURRENT RESOLUTION NO. 4001

(Legislative Management)
(Advisory Commission on Intergovernmental Relations)

A concurrent resolution directing the Legislative Management to study the financial reports required by law to be compiled and filed by political subdivisions to determine whether they are being used to full advantage and whether they should be improved, consolidated, or eliminated.

WHEREAS, political subdivisions are required by law to compile and file with state agencies a substantial array of financial reports and to commit a significant amount of staff time to fulfilling this responsibility; and

WHEREAS, the legislative intent in requiring financial reports is to provide transparency in local government taxation and budget matters to inform the public and serve as a basis for state policy decisions but questions exist about whether the currently required financial reports are serving the intended purposes and whether duplication of information reporting imposes an unnecessary burden on local government staff; and

WHEREAS, one of the difficulties of comparing financial reports is that there is no uniform accounting method among political subdivisions and a method of making financial information available at a central source has not been fully implemented;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study the financial reports required by law to be compiled and filed by political subdivisions to determine whether they are being used to full advantage and whether they should be improved, consolidated, or eliminated; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed March 19, 2015

CHAPTER 536

SENATE CONCURRENT RESOLUTION NO. 4004

(Legislative Management)
(Health Services Committee)

A concurrent resolution directing the Legislative Management to continue to study dental services in the state, including the effectiveness of case management services and the state infrastructure necessary to cost effectively use mid-level providers to improve access to services and address dental service provider shortages in underserved areas of the state.

WHEREAS, the 2013-14 interim Health Services Committee studied how to improve access to dental services and ways to address dental service provider shortages; and

WHEREAS, oral health professionals are located mostly in urban areas of the state, resulting in a shortage of providers in rural areas of the state; and

WHEREAS, access to dental care is limited for Medicaid-eligible children, rural residents, low-income adults, the elderly, especially those in nursing homes, and Native Americans; and

WHEREAS, emergency room visits for preventable dental conditions result in unnecessary costs to the state and hospitals; and

WHEREAS, the 2013-14 interim Health Services Committee learned case management services may have the potential to reduce dental costs and improve access to services; and

WHEREAS, the 2013-14 interim Health Services Committee received a report on the early impacts of dental therapists in Minnesota prepared by the Minnesota Department of Health and Minnesota Board of Dentistry for the Minnesota Legislature in 2014 indicating mid-level providers serve more patients enrolled in public health insurance programs and some patients served in clinics employing dental therapists experienced reduced wait times and travel times with no quality or safety concerns; and

WHEREAS, the North Dakota Oral Health Coalition recommends the following oral health initiatives:

- Expansion of the Seal! ND Program through the State Department of Health oral health programs to target low income children at public schools;
- Additional funding for dental safety-net clinics to include mobile, nonprofit and federally qualified health centers;
- Funding for a case management outreach model supported through the State Department of Health and the North Dakota Dental Association;

- Expansion of duties for dental assistants and hygienists through innovative, non-traditional, outreach education programs to minimize geographic and employment barriers for the current workforce; and

WHEREAS, a report by the North Dakota Center for Rural Health regarding an assessment of the oral health needs in the state and proposed interventions to reduce need identified the following priorities models:

- Increase funding and reach of safety-net clinics to include services provided in western North Dakota using selected models;
- Increased funding and reach of the Seal! North Dakota Program--to include using dental hygienists to provide care and incorporating case management and identification of a dental home;
- Expand scope of dental hygienists and utilize dental hygienists at the top of their current scope of work to provide community based preventive and restorative services and education among populations of high need;
- Create a system to promote dentistry professions among state residents and encourage practice in North Dakota through a consolidated loan repayment program and access to schools of dentistry;
- Increase Medicaid reimbursement; and

WHEREAS, the 2013-14 interim Health Services Committee determined additional information was needed regarding the effectiveness of case management services and the state infrastructure necessary to cost effectively utilize mid-level providers to improve access to services and address dental service provider shortages in underserved areas of the state;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management continue to study dental services in the state, including the effectiveness of case management services and the state infrastructure necessary to cost effectively utilize mid-level providers to improve access to services and address dental service provider shortages in underserved areas of the state; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed March 19, 2015

CHAPTER 537**SENATE CONCURRENT RESOLUTION NO. 4005**

(Legislative Management)
(Human Services Committee)

A concurrent resolution directing the Legislative Management to study judicial issues related to behavioral health, including 24-hour hold, termination of parental rights, and court committals.

WHEREAS, the 2013-14 interim Legislative Management's Human Services Committee conducted a study of behavioral health needs of youth and adults in North Dakota; and

WHEREAS, the interim Human Services Committee hired a consultant to assist in the study of behavioral health needs of youth and adults in North Dakota; and

WHEREAS, the consultant's findings indicated concerns regarding judicial issues relating to behavioral health, including 24-hour hold, termination of parental rights, and court committals in the state; and

WHEREAS, the consultant recommended the Legislative Management conduct for their study specifically judicial issues relating to behavioral health, including 24-hour hold, termination of parental rights, and court committals in the state;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study judicial issues related to behavioral health, including 24-hour hold, termination of parental rights, and court committals; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed March 31, 2015

CHAPTER 538

SENATE CONCURRENT RESOLUTION NO. 4006

(Senators Mathern, Dever, Armstrong)
(Representatives Steiner, Mooney, J. Nelson)

A concurrent resolution directing the Legislative Management to study the impact of the marriage penalty within the supplemental security income program and the impact of the marriage penalty on retirement benefits under the Social Security Act and encouraging the North Dakota Congressional Delegation to address the impact within the Social Security laws.

WHEREAS, supplemental security income rescues from poverty over 7,650 low-income individuals with disabilities in this state; and

WHEREAS, many older residents depend on social security benefits for retirement income; and

WHEREAS, the income of a recipient's spouse is considered in calculating the benefits for a recipient; and

WHEREAS, benefits for a married couple, both of whom receive supplemental security income and have no other income, are 25 percent less than the total they would receive if they were living together but not as husband and wife; and

WHEREAS, social security benefits may be reduced for married couples; and

WHEREAS, such circumstances provide a financial incentive for some retired individuals and individuals with disabilities to forgo marriage; and

WHEREAS, this state supports family values and the sanctity of marriage; and

WHEREAS, an examination should be made of the impact that the marriage penalty has within the supplemental security income program and the social security program; the number of residents affected by the marriage penalty; the impact of the marriage penalty on housing affordability; the ability of married recipients in this state to meet their basic needs; whether the marriage penalty holds married recipients below the poverty level in this state; and the manner in which other states address the impact of the marriage penalty;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study the impact of the marriage penalty within the supplemental security income program and the impact of the marriage penalty on retirement benefits under the Social Security Act; and

BE IT FURTHER RESOLVED, that Legislative Management report its findings and recommendations, together with any legislation to implement the recommendations, to the Sixty-fifth Legislative Assembly; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the North Dakota Congressional Delegation and that the Sixty-fourth Legislative Assembly encourages members of the Congressional Delegation to address this issue within the Social Security laws.

Filed April 7, 2015

CHAPTER 539**SENATE CONCURRENT RESOLUTION NO. 4007**

(Senator Holmberg)
(Representative Delzer)

A concurrent resolution directing the Legislative Management to study the feasibility and desirability of implementing a Results First Initiative program evaluation process in North Dakota.

WHEREAS, the Results First Initiative program works with states to implement a cost-benefit analysis approach to identify the most cost-effective policies and programs; and

WHEREAS, the Results First Initiative program is designed to reduce wasteful spending, to help expand innovative programs, and to strengthen accountability of agencies, managers, and providers; and

WHEREAS, a number of states have implemented the Results First Initiative program, at various levels, to assist managers and policymakers in the decisionmaking process; and

WHEREAS, states have utilized the Results First Initiative program in the areas of criminal justice, corrections, behavioral health, and other areas; and

WHEREAS, the Legislative Assembly is responsible for monitoring state spending and considering options to improve the decisionmaking process; and

WHEREAS, additional information and analysis would be useful to the Legislative Assembly to assist it in identifying the most cost-effective polices and programs;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study the feasibility and desirability of implementing a Results First Initiative program evaluation process in North Dakota; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed March 26, 2015

CHAPTER 540**SENATE CONCURRENT RESOLUTION NO. 4012**

(Senators J. Lee, Anderson, Mathern)
(Representatives Holman, Silbernagel, Weisz)

A concurrent resolution directing the Legislative Management to study the privacy, security, and data sharing laws in North Dakota, the effectiveness of federal privacy, security, and data sharing laws and the laws of other states, the interaction of federal and state laws, and whether current privacy, security, and data sharing protections meet the reasonable expectations of the citizens of North Dakota.

WHEREAS, the advancement of technology over the past decade has greatly increased the use and flow of electronic information; and

WHEREAS, the quantity of personal information compiled and maintained by federal, state, private, and commercial sources continues to increase; and

WHEREAS, every individual in North Dakota has a reasonable expectation of privacy for certain information; and

WHEREAS, data security breaches along with cases of identity theft continue to pose a substantial risk to North Dakota consumers and businesses; and

WHEREAS, current privacy, security, and data sharing protections may not meet the reasonable expectations of the citizens of North Dakota; and

WHEREAS, the continued transfer of personal data across state lines requires coordination of federal and state privacy, security, and data sharing protections;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study the privacy, security, and data sharing laws in North Dakota, the effectiveness of federal privacy, security, and data sharing laws and the laws of other states, the interaction of federal and state laws, and whether current privacy, security, and data sharing protections meet the reasonable expectations of the citizens of North Dakota; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed March 26, 2015

CHAPTER 541

SENATE CONCURRENT RESOLUTION NO. 4013

(Senators Miller, Flakoll, Wardner)
(Representatives D. Johnson, K. Koppelman)

A concurrent resolution urging North Dakota to continue its endorsement and support of the relationship and shared interests between the people of the Republic of China (Taiwan) and the State of North Dakota.

WHEREAS, in the first 10 months of 2014, bilateral trade reached \$56.4 billion, which makes Taiwan the 10th largest trading partner of the United States, while the United States is Taiwan's second largest trading partner and largest single source of foreign direct investment; and

WHEREAS, the United States was the largest source of foreign direct investment in Taiwan, cumulatively investing \$23 billion as of January 2014; and

WHEREAS, North Dakota maintains and values its relationship with Taiwan; and

WHEREAS, Taiwan was the 14th largest import partner of North Dakota in 2013; and

WHEREAS, the Agricultural Trade Goodwill Mission from Taiwan visited North Dakota on September 11, 2013, and signed a letter of intent with the North Dakota Wheat Commission, expressing its intent to purchase a total of 1.7 million megatons of wheat in 2014 and 2015, the value of this purchase is estimated to be \$484.5 million; and

WHEREAS, Governor Jack Dalrymple remarked that Taiwan has been one of North Dakota's most dependable markets for hard spring wheat; and

WHEREAS, Taiwan and the United States resumed negotiations under the Trade and Investment Framework Agreement in March 2013, after a five-year hiatus, and held the eighth round of negotiations in April 2014; and

WHEREAS, a Bilateral Investment Agreement would give investors in both economies greater assurance that the capital they are putting at risk in each others market will be adequately protected; and

WHEREAS, the United States has already concluded, or is seeking to negotiate, Bilateral Investment Agreements with 9 of its top 10 trading partners, and Taiwan is the sole exception; and

WHEREAS, opening negotiations for a Bilateral Investment Agreement between the United States and Taiwan will provide more stability for strong two-way investment ties; and

WHEREAS, Taiwan hopes to work, via regional economic bodies, to further develop bilateral and multilateral trade with the United States and other nations in the Asia-Pacific region, seeking to join the United States led Trans-Pacific Partnership; and

WHEREAS, in early October 2013, the former Vice President of Taiwan, Vincent C. Siew, engaged in bilateral discussions with the United States Secretary of State, John F. Kerry, regarding in-depth exchange of opinions on economic and trade cooperation between Taiwan and the United States, as well as Taiwan's future participation in the Trans-Pacific Partnership; and

WHEREAS, civil aviation plays a pivotal role in promoting cultural exchange, business, trade, and tourism; and

WHEREAS, the development of international civil aviation in a safe and orderly manner is the ultimate objective of the International Civil Aviation Organization; and

WHEREAS, without Taiwan's participation, international flight plans, regulations and procedures that the International Civil Aviation Organization formulates will be incomplete and unsafe; and

WHEREAS, Taiwan's airspace accommodates 14 international flight routes, and Taiwan's air traffic controllers help direct 1.3 million international flights through Taiwan's airspace per year; and

WHEREAS, Mr. Roberto Kobeh Gonzalez, President of the International Civil Aviation Organization, sent a letter to Ms. Shen Chi, Director General of the Civil Aeronautics Administration, inviting her to lead a delegation to the 38th Session of the Assembly of the International Civil Aviation Organization to be convened September 24 to October 4, 2013, in Montreal, Canada, as his guests under the name "Chinese Taipei"; and

WHEREAS, the United States Department of State spokesperson, Jen Psaki, and the United States Secretary of Transportation, Anthony Foxx, have both expressed their support for this development;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges North Dakota to continue its endorsement and support of the relationship and shared interests between the people of the Republic of China (Taiwan) and the State of North Dakota; that the Sixty-fourth Legislative Assembly welcomes the resumption of Trade and Investment Framework Agreement talks between the United States and Taiwan and expresses support for Taiwan's effort to secure entry into the Trans-Pacific Partnership along with the United States and other friendly Asia-Pacific Rim countries, as well as expressing support of the signing of the Bilateral Investment Agreement with the United States; that the Sixty-fourth Legislative Assembly endorses Taiwan's meaningful participation in the International Civil Aviation Organization as an observer.

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to United States Secretary of State, John F. Kerry; Secretary General of the International Civil Aviation Organization, Mr. Raymond Benjamin; United States Secretary of Transportation, Mr. Anthony Foxx; Governor of the Taiwan Provincial Government, Mr. Junq-Tzer Lin; and Director General of the Taipei Economic and Cultural Office in Kansas City, Mr. JiuH-Chung Yang.

Filed March 26, 2015

CHAPTER 542

SENATE CONCURRENT RESOLUTION NO. 4014

(Senators Armstrong, Schneider)

A concurrent resolution directing the Legislative Management to study reinvestment scenarios and potential priorities for legacy fund earnings.

WHEREAS, the legacy fund should remain a permanent, sustainable resource for future generations that fosters self-sufficiency, creates opportunity, and enhances quality of life for all citizens; and

WHEREAS, the state should implement the highest standards and practices of governance, accountability, and transparency to guide legacy fund policies, procedures, decisions, and actions; and

WHEREAS, the legislature should make long-term, sustainable investments in North Dakota's future through the responsible stewardship of revenue generated from a finite natural resource; and

WHEREAS, North Dakota is a place where we foster and reinforce core values of hard work, self-sufficiency, innovation, equity, and stewardship; and

WHEREAS, the principal of the legacy fund should be used only as a resource of last resort in times of exceptional need; and

WHEREAS, the legacy fund earnings can provide for a significant portion of the state's future needs by compensating for the reduction in revenues once oil and gas production begins to decline; and

WHEREAS, if legacy fund earnings are reinvested into the fund, the fund would substantially grow to benefit future generations of North Dakotans; and

WHEREAS, existing state resources can be used to address critical needs and priorities of citizens and communities today, rather than drawing on the legacy fund; and

WHEREAS, North Dakota can invest a portion of future legacy fund earnings in bold, visionary, and transformative actions that build assets and enhance quality of life for North Dakota citizens today and in the future;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study reinvestment scenarios and potential priorities for legacy fund earnings; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed March 26, 2015

CHAPTER 543

SENATE CONCURRENT RESOLUTION NO. 4016

(Senators Heckaman, Wanzek)
(Representatives Devlin, Headland, Pollert, Vigesaa)

A concurrent resolution urging Congress and the President of the United States to direct the federal Food and Drug Administration to allow the use of experimental medications to treat Pantothenate kinase-associated neurodegeneration (PKAN) for the benefit of the three children of the Kulsrud family living in Grace City, North Dakota.

WHEREAS, the three children of the Kulsrud family have been diagnosed with PKAN and are unlikely to enjoy a full life as adults; and

WHEREAS, the oldest of the Kulsrud children has reached the average age of expected survival; and

WHEREAS, the other two Kulsrud children are rapidly progressing into the later stages of the disease; and

WHEREAS, experimental treatments are available that could prolong the lives of the Kulsrud children; and

WHEREAS, these experimental treatments may also provide significant improvements in the Kulsrud children's overall quality of life; and

WHEREAS, the federal Food and Drug Administration has the authority to allow the use of experimental drugs for the treatment of rare diseases and disorders, such as PKAN; and

WHEREAS, there are experimental medical options available that the federal Food and Drug Administration have not allowed the Kulsrud family to access;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges Congress and the President of the United States to direct the federal Food and Drug Administration to allow the use of experimental medications to treat Pantothenate kinase-associated neurodegeneration (PKAN) for the benefit of the three children of the Kulsrud family living in Grace City, North Dakota; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution, via certified mail return receipt requested, to the Surgeon General of the United States, the Commissioner of the federal Food and Drug Administration, and each member of the North Dakota Congressional Delegation; and

BE IT FURTHER RESOLVED, that the Sixty-fourth Legislative Assembly urges Congress and the President of the United States to direct the federal Food and Drug

Administration to review and update the Compassionate Care application process so a greater number of terminally ill patients may benefit.

Filed April 7, 2015

CHAPTER 544

SENATE CONCURRENT RESOLUTION NO. 4017

(Senators Wardner, Hogue, Schneider)
(Representatives Delmore, Klemm, K. Koppelman)

A concurrent resolution urging the United States Senate Committee on the Judiciary to support S. 2536, the Stop Advertising Victims of Exploitation (SAVE) Act, to provide for more stringent inquiry into the age and circumstances of those whose availability is being advertised on websites that facilitate human trafficking.

WHEREAS, according to the Federal Bureau of Investigation (FBI), human trafficking is the fastest-growing business of organized crime in the world; and

WHEREAS, it is estimated human trafficking generates nearly \$150 billion each year in illegal profits; and

WHEREAS, according to the FBI, nearly 300,000 American youths are at risk of becoming victims of commercial sexual exploitation; and

WHEREAS, in just one week in June 2014, law enforcement arrested 281 alleged sex traffickers and took 168 children out of prostitution in a nationwide FBI crackdown; and

WHEREAS, the use of adult services sections on websites has created virtual brothels where children are bought and sold; and

WHEREAS, current federal law makes it difficult, if not impossible, for state and local law enforcement authorities to hold accountable those who use Internet websites to promote illegal trade in the sex trade, in particular those trafficking in minor children;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges the United States Senate Committee on the Judiciary to support S. 2536, the Stop Advertising Victims of Exploitation (SAVE) Act, to provide for more stringent inquiry into the age and circumstances of those whose availability is being advertised on websites that facilitate human trafficking; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Chairman of the United States Senate Committee on the Judiciary and to each member of the North Dakota Congressional Delegation.

Filed April 8, 2015

CHAPTER 545**SENATE CONCURRENT RESOLUTION NO. 4018**

(Senator Dever)

A concurrent resolution directing the Legislative Management to study the use of seclusion and restraint procedures in schools.

WHEREAS, seclusion and restraint procedures are safety procedures designed to isolate a student from others or to hold a student in response to behavior that places the student or other students at risk of injury; and

WHEREAS, states have reported adverse consequences from the use of seclusion and restraint procedures in schools; and

WHEREAS, research indicates that seclusion and restraint procedures are prone to misapplication and abuse, potentially placing students in more danger than the initial behavior; and

WHEREAS, this state does not track the frequency with which seclusion and restraint procedures are used in schools; and

WHEREAS, this state is one of eighteen that does not have laws directly addressing the use of seclusion and restraint procedures in schools;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study the use of seclusion and restraint procedures in schools; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed March 26, 2015

CHAPTER 546**SENATE CONCURRENT RESOLUTION NO. 4019**

(Senators Heckaman, Murphy)
(Representatives Kelsh, Mooney, J. Nelson)

A concurrent resolution directing the Legislative Management to study the feasibility and desirability of procuring health insurance, workers' compensation insurance, or other benefits for volunteer firefighters, volunteer emergency medical service personnel, and volunteer ambulance workers across the state, including determining whether the community volunteers would be covered in the case of an accident or injury, the scope and conditions of coverage, and the overall cost to insure community volunteers.

WHEREAS, volunteer firefighters, volunteer emergency medical service personnel, and volunteer ambulance workers are a vital resource regarding the administration of aid to others in times of crisis; and

WHEREAS, it is important to offer protection and peace of mind to volunteers, and their families, who willingly place themselves in harm's way for the benefit of those in need; and

WHEREAS, a failure to look out for the health and well-being of volunteers may have a negative impact on those individuals' willingness to continue to fill vital volunteer roles in the future to the detriment of the entire state;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study the feasibility and desirability of procuring health insurance, workers' compensation insurance, or other benefits for volunteer firefighters, volunteer emergency medical service personnel, and volunteer ambulance workers across the state, including determining whether the community volunteers would be covered in the case of an accident or injury, the scope and conditions of coverage, and the overall cost to insure community volunteers; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 9, 2015

CHAPTER 547

SENATE CONCURRENT RESOLUTION NO. 4020

(Senators Miller, Klein, Wanzek)
(Representatives Headland, D. Johnson, M. Nelson)

A concurrent resolution urging Congress to establish food labeling standards, direct the clarification of voluntary food labeling standards, and provide for a review of foods derived through the use of biotechnology.

WHEREAS, the United States Food and Drug Administration, the American Medical Association, the World Health Organization, Health Canada, the United States Department of Agriculture, the National Academy of Sciences, the United Nations Food and Agriculture Organization, and the European Food Safety Authority, among others, have determined that genetically modified crops grow in the same fashion as those that are not genetically modified and that foods produced with genetically modified ingredients are safe for human consumption; and

WHEREAS, genetically modified technology adds desirable traits from nature, without introducing anything unnatural and without using chemicals to increase food production; and

WHEREAS, genetically modified technology has been used to produce food products for more than twenty-five years; and

WHEREAS, seventy to eighty percent of the foods consumed in this country, both at home and away from home, contain genetically modified ingredients or are genetically modified whole products; and

WHEREAS, genetically modified crops are produced on a sustainable basis; and

WHEREAS, genetically modified technology is essential for rapid crop adaptation to climatic changes and prevalent diseases and ultimately essential to ensure the long-term sustainable production of an adequate, wholesome, and economical food supply; and

WHEREAS, a patchwork of local and state mandatory labeling laws and regulations will force costly changes to manufacturing, labeling, warehousing, inventory, and distribution channels; and

WHEREAS, a patchwork of local and state mandatory labeling laws and regulations will require manufacturers and retailers to make immediate and consequential changes to their businesses in order to comply with such requirements, and will thereby result in higher food prices; and

WHEREAS, testing to determine if products are exempt will result in higher food prices; and

WHEREAS, relabeling or reformulating products with specially handled, higher-priced ingredients will result in higher food prices; and

WHEREAS, requiring separate production runs, state-specific tracking units, segregated warehousing, trucking, and other logistical complexities, will all result in higher food prices;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-fourth Legislative Assembly urges the Congress of the United States to establish food labeling standards, direct the clarification of voluntary food labeling standards, and provide for a review of foods derived through the use of biotechnology; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Commissioner of the United States Food and Drug Administration, the Secretary of the United States Department of Agriculture, and to each member of the North Dakota Congressional Delegation.

Filed March 24, 2015

CHAPTER 548

SENATE CONCURRENT RESOLUTION NO. 4021

(Senators Mathern, J. Lee)
(Representatives Silbernagel, Hogan, Hofstad)

A concurrent resolution directing the Legislative Management to study how the institution for mental disease Medicaid reimbursement exclusion impacts this state, including the impact on Medicaid enrollees and on private and public sector providers.

WHEREAS, Medicaid's institution for mental disease exclusion provides Medicaid does not reimburse psychiatric institutions, referred to in Medicaid as "institutions for mental disease", for services provided to Medicaid enrollees aged 21 to 64; and

WHEREAS, the services institutions for mental disease provide have evolved significantly since the 1960s when the institution for mental disease exclusion was created; and

WHEREAS, due to the institution for mental disease exclusion, many Medicaid enrollees with acute psychiatric needs, such as those expressing suicidal or homicidal thoughts, are diverted to general hospital emergency departments, which often lack the resources or expertise to care for these patients; and

WHEREAS, the institution for mental disease exemption not only negatively impacts the three freestanding psychiatric hospitals in the state, but there are multiple other mental health service providers that are negatively impacted; and

WHEREAS, the state hospital and private providers are accredited by The Joint Commission on Accreditation on Health Care Facilities providing evidence-based clinical measures that are shown to improve patient care for hospital-based inpatient psychiatric services; and

WHEREAS, the 2015-17 executive budget includes funding of \$76.2 million, of which \$62.5 million is from the general fund for operations of the state hospital; and

WHEREAS, the federal Affordable Care Act provided for an emergency psychiatric demonstration program, which provided selected states with federal Medicaid matching funds to reimburse private psychiatric hospitals for emergency inpatient psychiatric care provided to Medicaid recipients aged 21 to 64 who are experiencing a psychiatric emergency; and

WHEREAS, the federal Department of Health and Human Services is evaluating the demonstration program and has released preliminary data, and in 2016 will be issuing a complete report of the results of the evaluation;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study how the institution for mental disease Medicaid reimbursement exclusion impacts this state, including the impact on Medicaid enrollees and on private and public sector providers; and

BE IT FURTHER RESOLVED, that the Legislative Management report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-fifth Legislative Assembly.

Filed April 8, 2015

SENATE MEMORIAL RESOLUTIONS

CHAPTER 551

SENATE MEMORIAL RESOLUTION NO. 8001

(Memorial Resolutions Committee)

A memorial resolution for deceased members of the Senate of North Dakota.

WHEREAS, God has welcomed to their eternal home our former colleagues:

Ray David, who served in the 48th through the 52nd Legislative Assemblies, from District 38, died September 30, 2014;

Joe Keller, who served in the 50th through the 53rd Legislative Assemblies, from District 33, died October 23, 2013;

Ed Kringstad, who served in the 54th through the 57th Legislative Assemblies, from District 49, and in the 58th and 59th Legislative Assemblies, from District 35, died May 4, 2013;

Emil T. Nelson, who served in the 34th and 35th Legislative Assemblies and in the 38th and 39th Legislative Assemblies, from District 24, died January 13, 2014;

Michael Polovitz, who served in the 57th and 58th Legislative Assemblies, from District 42, died December 14, 2013;

Claire A. Sandness, who served in the 43rd through the 46th Legislative Assemblies, from District 28, died August 3, 2014;

Jay Schultz, who served in the 43rd and 44th Legislative Assemblies, from District 32, died January 17, 2015;

John O. Syverson, who served in the 58th and 59th Legislative Assemblies, from District 45, died August 20, 2013;

Malcolm S. Tweten, who served in the 47th through the 50th Legislative Assemblies, from District 20, died September 14, 2013;

WHEREAS, we now pause to mourn the passing of our former Senate colleagues and to honor their memories; and

WHEREAS, these legislators rendered outstanding service to the people of the state by their contributions to public service;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA:

That we express our sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of our former colleagues; and

BE IT FURTHER RESOLVED, that for the perpetuation of their memory this token of respect and sympathy by their successors in trust be printed in the Journal of the Senate and that the Secretary of State present enrolled copies of this resolution to the surviving families of these deceased Senators.

Filed March 18, 2015