

APPROPRIATIONS

CHAPTER 1

HOUSE BILL NO. 1001

(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 report to the legislative management.

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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$3,278,486	\$262,499	\$3,540,985
Accrued leave payments	0	67,722	67,722
Operating expenses	409,656	(5,290)	404,366
Contingencies	10,000	0	10,000
Roughrider awards	10,800	0	10,800
Total general fund	\$3,708,942	\$324,931	\$4,033,873
Full-time equivalent positions	18.00	0.00	18.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Governor's transition lines	\$65,000	\$0
Education jobs fund	21,517,716	0
Total all funds	\$21,582,716	\$0
Total estimated income	21,517,716	0
Total general fund	\$65,000	\$0

SECTION 3. APPROPRIATION - GOVERNOR'S OFFICE. In addition to the amounts appropriated to the governor's office in section 1 of this Act, there is appropriated any additional income from federal or other funds which may become available to the agency for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 4. APPOINTMENTS - LEGISLATIVE MANAGEMENT REPORT. The governor or the governor's designee shall report to the legislative management annually regarding the status of gender balance on appointive boards, commissions, committees, and councils as provided in section 54-06-19 and within the governor's appointive cabinet for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 5. 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 thirteen~~twenty-one thousand ~~five~~six hundred ~~ninety-four~~eighty-one dollars through June 30, ~~2012~~2014, and one hundred ~~seventeen~~twenty-five thousand ~~one~~three hundred ~~thirty-one dollars thereafter.~~

SECTION 6. 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 ~~eighty-eight~~ninety-four thousand ~~one~~four hundred ~~eighty-three~~sixty-two dollars through June 30, ~~2012~~2014, and ~~ninety~~ninety-seven thousand ~~eight~~two hundred ~~twenty-nine~~ninety-six dollars thereafter.

Approved May 1, 2013

Filed May 1, 2013

CHAPTER 2

HOUSE BILL NO. 1002

(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; and to provide for reports to the budget section.

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, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

SECRETARY OF STATE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$3,423,343	\$839,880	\$4,263,223
Accrued leave payments	0	82,831	82,831
Operating expenses	2,621,950	41,647	2,663,597
Capital assets	0	10,000	10,000
Petition review	8,000	0	8,000
Election reform	<u>6,206,812</u>	<u>(1,063,697)</u>	<u>5,143,115</u>
Total all funds	\$12,260,105	(\$89,339)	\$12,170,766
Less estimated income	<u>6,786,984</u>	<u>(942,567)</u>	<u>5,844,417</u>
Total general fund	\$5,473,121	\$853,228	\$6,326,349
Full-time equivalent positions	28.00	3.00	31.00

Subdivision 2.

SECRETARY OF STATE - PUBLIC PRINTING

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Public printing	<u>\$310,000</u>	<u>\$10,500</u>	<u>\$320,500</u>
Total general fund	\$310,000	\$10,500	\$320,500

Subdivision 3.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$5,783,121	\$863,728	\$6,646,849

Grand total special funds	<u>6,786,984</u>	<u>(942,567)</u>	<u>5,844,417</u>
Grand total all funds	\$12,570,105	(\$78,839)	\$12,491,266

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation of section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Mainframe migration computer project	\$3,500,000	\$0
Online public meeting system	43,039	0
Funding for three new full-time equivalent positions	0	283,754
Overtime funding	0	225,600
Multipurpose copier	0	10,000
Information technology hosting charges	0	<u>84,000</u>
Total general fund	\$3,543,039	\$603,354

The 2013-15 one-time funding amounts are not part of the entity's base budget for the 2015-17 biennium. The secretary of state shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

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, 2013, 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, 2013, and ending June 30, 2015, for the database and processing platform migration project.

SECTION 4. 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-ninety-six~~ thousand ~~threeseven~~ hundred ~~sixtyninety-four~~ dollars through June 30, ~~2012~~2014, and ~~ninety-threenninety-nine~~ thousand ~~seventy-onesix~~ hundred ~~ninety-eight~~ dollars thereafter.

SECTION 5. EXEMPTION - MAINFRAME MIGRATION COMPUTER PROJECT. Unexpended funding of \$1,750,000 provided in the operating expenses line item of subdivision 1 of section 1 of chapter 28 of the 2011 Session Laws is not subject to the provisions of section 54-44.1-11 at the end of the 2011-13 biennium and may be continued into the 2013-15 biennium for the completion of the mainframe migration computer project.

SECTION 6. NEW FULL-TIME EQUIVALENT POSITIONS - LIMITED AUTHORIZATION. The two new full-time equivalent business registration unit positions and the one new full-time equivalent business information unit position included in subdivision 1 of section 1 of this Act are authorized only for the biennium beginning July 1, 2013, and ending June 30, 2015. The secretary of state shall reevaluate these positions after the completion of the mainframe migration computer project to determine if the positions will be requested as part of the agency's 2015-17 biennium budget request as optional items.

SECTION 7. CREDIT CARD FEES - BUDGET SECTION REPORTS. The secretary of state shall report semiannually to the budget section during the 2013-14 interim regarding credit card usage rates and credit card fees paid by the secretary of state.

Approved April 29, 2013

Filed April 29, 2013

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 attorney general; to amend and reenact section 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general; 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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$29,506,046	\$5,478,516	\$34,984,562
Accrued leave payments	0	1,057,247	1,057,247
Operating expenses	16,418,016	10,576,040	26,994,056
Capital assets	1,943,783	419,294	2,363,077
Grants	3,420,000	(1,046,053)	2,373,947
Litigation fees	50,000	0	50,000
Abortion litigation fees	0	400,000	400,000
Medical examinations	660,000	0	660,000
North Dakota lottery	3,700,242	433,579	4,133,821
Arrest and return of fugitives	10,000	0	10,000
Gaming commission	7,368	0	7,368
Total all funds	\$55,715,455	\$17,318,623	\$73,034,078
Less estimated income	24,485,610	10,896,840	35,382,450
Total general fund	\$31,229,845	\$6,421,783	\$37,651,628
Full-time equivalent positions	204.00	9.50	213.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Federal stimulus funds	\$2,355,708	\$0
Crime lab equipment and BCI vehicles	312,400	0
NICS Improvement Act - 2007	585,859	0
BCI vehicles	0	198,000
Total all funds	\$3,253,967	\$198,000
Total special funds	2,941,567	0
Total general fund	\$312,400	\$198,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The attorney general shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. ATTORNEY GENERAL REFUND FUND 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, 2013.

SECTION 4. 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 ~~thirty-four~~thirty-four thousand ~~onesix~~thirty-five hundred ~~thirty-five~~eighty-five dollars through June 30, ~~2012~~2014, and one hundred ~~thirty-eight~~thirty-eight thousand ~~onenine~~hundred fifty-nine hundred ~~fifty-nine~~ninety-six dollars thereafter.

SECTION 5. FULL-TIME EQUIVALENT POSITION - LIMITED AUTHORIZATION. The full-time equivalent line item in section 1 of this Act includes one full-time equivalent position for computerized business projects. This position is authorized only for the biennium beginning July 1, 2013, and ending June 30, 2015. The attorney general shall reevaluate the position and determine if the position will be requested as part of the agency's 2015-17 biennium budget request as an optional item.

SECTION 6. EMERGENCY. Section 3 of this Act is declared to be an emergency measure.

Approved May 6, 2013
Filed May 7, 2013

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 auditor; and to amend and reenact section 54-10-10 of the North Dakota Century Code, relating to 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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$8,626,758	\$1,486,379	\$10,113,137
Accrued leave payments	0	201,157	201,157
Operating expenses	794,572	111,541	906,113
Capital assets	0	40,000	40,000
Information technology consultants	150,000	100,000	250,000
Total all funds	\$9,571,330	\$1,939,077	\$11,510,407
Less estimated income	<u>2,427,522</u>	<u>609,396</u>	<u>3,036,918</u>
Total general fund	\$7,143,808	\$1,329,681	\$8,473,489
Full-time equivalent positions	50.80	3.00	53.80

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation of section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Vault renovation	\$0	\$45,000
Total general fund	\$0	\$45,000

The 2013-15 one-time funding amounts are not part of the entity's base budget for the 2015-17 biennium. The state auditor shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. 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~~ninety-six thousand ~~three~~seven hundred ~~sixty~~ninety-four dollars through June 30, ~~2012~~2014, and ~~ninety-three~~ninety-nine thousand ~~seventy-one~~six hundred ~~ninety-eight dollars thereafter.~~

Approved April 29, 2013

Filed April 29, 2013

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 state treasurer; to amend and reenact subsection 18 of section 54-11-01, section 54-11-13, and subsection 5 of section 57-51.2-02 of the North Dakota Century Code, relating to the duties and salary of the state treasurer and a tribal oil and gas agreement; 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, to the state treasurer for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,054,524	\$341,913	\$1,396,437
Accrued leave payments	0	13,038	13,038
Operating expenses	163,066	349,881	512,947
Coal severance payments	<u>252,800</u>	<u>0</u>	<u>252,800</u>
Total general fund	\$1,470,390	\$704,832	\$2,175,222
Full-time equivalent positions	7.00	1.00	8.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
IT development costs	\$266,588	\$377,591
Transportation funding distributions	25,000,000	0
Transportation funding - special session	<u>23,000,000</u>	<u>0</u>
Total general fund	\$48,266,588	\$377,591

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The state treasurer shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. AMENDMENT. Subsection 18 of section 54-11-01 of the North Dakota Century Code is amended and reenacted as follows:

18. Shall correct any underpayment, overpayment, or erroneous payment of tax distribution funds, resulting from an error made by the state treasurer in a timely manner. Unless otherwise provided by law, adjustments may

be made from the general fund. This authority is limited to one hundred dollars per biennium, unless approved by the emergency commission. An adjustment of an insignificant amount need not be made at the discretion of the state treasurer. The state treasurer shall adopt a written policy identifying what is considered insignificant.

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 ~~eighty-five~~ninety-one thousand ~~three~~four hundred ~~thirty~~six dollars through June 30, ~~2012~~2014, and ~~eighty-seven~~ninety-four thousand ~~eight~~hundred ~~ninety~~one hundred ~~forty~~eight dollars thereafter.

¹ **SECTION 5. AMENDMENT.** Subsection 5 of section 57-51.2-02 of the North Dakota Century Code is amended and reenacted as follows:

5. The allocation of revenue from oil and gas gross production and oil extraction taxes on the Fort Berthold 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 must be evenly divided between the tribe and the state.
 - b. All other production. The tribe must receive twenty percent of the total oil and gas gross production taxes collected from all production attributable to nontrust lands on the Fort Berthold Reservation in lieu of the application of the Three Affiliated Tribes' 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 ~~chapters~~chapter 57-51 and ~~57-51.1~~.

SECTION 6. LEGISLATIVE INTENT - STATE TREASURER'S SALARY. It is the intent of the sixty-third legislative assembly that the salary of the state treasurer be increased to the salary of the next lowest-paid elected official effective July 1, 2017.

SECTION 7. EMERGENCY. The sum of \$195,223 and one full-time equivalent position included in section 1 of this Act are declared to be an emergency measure.

Approved April 30, 2013

Filed April 30, 2013

¹ Section 57-51.2-02 was also amended by section 7 of House Bill No. 1198, chapter 473.

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 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 an exemption; and to provide for a transfer.

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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$18,797,710	\$1,340,778	\$20,138,488
Accrued leave payments	0	624,818	624,818
Operating expenses	6,398,031	2,323,803	8,721,834
Capital assets	16,000	0	16,000
Homestead tax credit	8,792,788	11,207,212	20,000,000
Disabled veterans credit	<u>4,243,920</u>	<u>3,434,080</u>	<u>7,678,000</u>
Total all funds	\$38,248,449	\$18,930,691	\$57,179,140
Less estimated income	<u>10,000</u>	<u>115,000</u>	<u>125,000</u>
Total general fund	\$38,238,449	\$18,815,691	\$57,054,140
Full-time equivalent positions	134.00	0.00	134.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
TAP project	\$0	\$1,000,000
GenTax upgrade	<u>1,000,000</u>	<u>0</u>
Total general fund	\$1,000,000	\$1,000,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The tax commissioner shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. EXEMPTION. Up to \$50,000 of the general fund appropriation to the tax commissioner in section 1 of chapter 6 of the 2009 Session Laws continued into the 2011-13 biennium is not subject to provisions of section 54-44.1-11, and may be distributed by the tax commissioner as a grant to the North Dakota state university department of agribusiness and applied economics, for the purpose of converting the software of the core model used for the preparation of agricultural land valuations as required under section 57-02-27.2, during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 4. 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 \$1,777,360 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.

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 ~~ninety-eight thousand five hundred fifty~~ ninety-eight thousand five hundred dollars through June 30, ~~2012~~ 2014, and one hundred ~~one hundred~~ two hundred dollars thereafter.

Approved May 3, 2013
Filed May 7, 2013

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 labor commissioner.

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 labor commissioner for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,648,342	\$273,706	\$1,922,048
Accrued leave payments	0	39,609	39,609
Operating expenses	<u>316,294</u>	<u>7,400</u>	<u>323,694</u>
Total all funds	\$1,964,636	\$320,715	\$2,285,351
Less estimated income	<u>424,511</u>	<u>13,415</u>	<u>437,926</u>
Total general fund	\$1,540,125	\$307,300	\$1,847,425
Full-time equivalent positions	12.00	1.00	13.00

Approved May 1, 2013

Filed May 1, 2013

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 public service commission; to amend and reenact sections 49-01-05 and 64-02-10 of the North Dakota Century Code, relating to the salary of public service commissioners and fees to test or calibrate weighing and measuring devices; to provide for legislative management studies; to authorize a transfer; 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 public service commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$7,482,074	\$1,024,630	\$8,506,704
Accrued leave payments	0	168,278	168,278
Operating expenses	1,972,572	(77,010)	1,895,562
Capital assets	53,000	35,665	88,665
Grants	16,000	4,000	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	0	900,000	900,000
Total all funds	\$18,423,646	\$2,055,563	\$20,479,209
Less estimated income	12,403,431	984,038	13,387,469
Total general fund	\$6,020,215	\$1,071,525	\$7,091,740
Full-time equivalent positions	43.00	1.00	44.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Federal stimulus funds	\$658,217	\$0
Reclamation and grain licensing litigation	0	750,000
Hydraulic soil probe	0	28,000
Total all funds	\$658,217	\$778,000
Total special funds	658,217	353,920
Total general fund	\$0	\$424,080

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The public service commission shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. 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-two~~ninety-nine thousand ~~eight~~four hundred ~~twenty-six~~thirty-five dollars through June 30, ~~2012~~2014, and ~~ninety-five~~one hundred ~~two~~ thousand ~~six~~four hundred ~~eleven~~eighteen 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 4. LEGISLATIVE MANAGEMENT STUDY - CIVIL PENALTIES. The legislative management shall consider studying, during the 2013-14 interim, civil penalties assessed and collected by state agencies, including a review of the funds into which the collections are deposited and the appropriateness of the use of funds collected. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY - METROLOGY LABORATORY. The legislative management shall consider studying, during the 2013-14 interim, the feasibility and desirability of constructing a new metrology laboratory. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 6. AMENDMENT. Section 64-02-10 of the North Dakota Century Code is amended and reenacted as follows:

64-02-10. Fees to test or calibrate weighing and measuring devices.

The commission shall collect the following fees to:

1.	Test railroad track or truck scale	\$171.00
2.	Test livestock and vehicle scale	171.00
3.	Test livestock scale if the sales ring or buying station scale owner transports to the scale and furnishes all test weights and manpower needed to properly test the scale	96.00
4.	Test auxiliary beam on livestock, motor truck, and motor truck dump scale	24.00
5.	Test overhead monorail, track, hopper, dormant, deck, and hanging scale of <u>one thousand pounds [453 kilograms] or less capacity</u>	<u>53.00</u>
6-2.	Test movable platform scale	11.00

7-3.	Test counter or computing scale	11.00
8-4.	Test hanging scale of fifty pound [22.68 kilogram] capacity or less	11.00
9-5.	Test a retail motor fuel device	11.00
10-6.	Test or calibrate weighing and measuring standards, per metrologist, per quarter hour or fraction thereof	17.00
11-7.	Test mobile delivery gasoline and fuel oil meter	24.00
12-8.	Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any other meter used in loading railway cars, transports, or other conveyances	53.00
13-9.	Test propane, ag chemical, or liquid fertilizer meter	39.00
14.	Test crane scale	-107.00
15-10.	Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof	11.00
16-11.	Witnessing any of the above tests	Fifty percent of the applicable fee

When a rejected weighing or measuring device has been reconditioned or replaced by new equipment, it must be retested and certified before being put into use except as otherwise provided by rule. The fee for retest and certification is the same as for the first test and certification.

When a test of a weighing or measuring device is required in addition to the regularly scheduled test, the commission shall charge a fee equal to the cost of operating the motor vehicle used in conducting the test. The mileage charges, as determined by the commission, must be in addition to the regular test fee and calculated to cover the costs of the additional travel. If a test has been requested and the person requesting it fails to appear or to have the weighing or measuring device ready for testing at the arranged time, there is a charge of ten dollars a quarter hour for the time between the arranged time and the time at which the test can begin.

SECTION 7. TRANSFER AND REPAYMENT - BEGINNING FARMER REVOLVING LOAN FUND. 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, shall be transferred by the Bank of North Dakota from the beginning farmer revolving loan fund to the public service commission to pay for costs associated with a rail rate complaint case. Transfers shall be made during the biennium beginning July 1, 2013, and ending June 30, 2015, 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 8. LEGISLATIVE INTENT - GAS PIPELINE SAFETY INSPECTOR AND PUBLIC UTILITY ANALYST. It is the intent of the legislative assembly that the public service commission proceed in the hiring process of the gas pipeline safety inspector and public utility analyst positions that have been repurposed in the commission's 2013-15 biennium budget from the weights and measures program prior to June 30, 2013.

SECTION 9. EMERGENCY. Section 8 of this Act is declared to be an emergency measure.

Approved May 2, 2013
Filed May 2, 2013

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 agriculture commissioner; to create and enact a new section to chapter 19-13.1 of the North Dakota Century Code, relating to license, inspection, and registration fees; 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; to provide for a legislative management study of the milk marketing board; to provide for a report to the sixty-fourth legislative assembly; 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 agriculture commissioner for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,712,364	\$1,148,831	\$10,861,195
Operating expenses	6,451,453	(566,191)	5,885,262
Capital assets	17,000	(5,000)	12,000
Grants	3,170,828	1,425,000	4,595,828
State board of animal health	2,153,952	(44,124)	2,109,828
Wildlife services	1,417,400	0	1,417,400
Crop harmonization board	75,000	0	75,000
Accrued leave payments	0	237,295	237,295
Total all funds	\$22,997,997	\$2,195,811	\$25,193,808
Less estimated income	<u>14,801,251</u>	<u>953,340</u>	<u>15,754,591</u>
Total general fund	\$8,196,746	\$1,242,471	\$9,439,217
Full-time equivalent positions	77.00	0.00	77.00

SECTION 2. 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, 2013, and ending June 30, 2015.

SECTION 3. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION FUND. The estimated income line item in section 1 of this Act includes the sum of \$6,064,403, 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, 2013, and ending June-30, 2015.

SECTION 4. ESTIMATED INCOME - GAME AND FISH FUND. The estimated income line item in section 1 of this Act includes the sum of \$484,398, 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, 2013, and ending June 30, 2015.

SECTION 5. 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, 2013, and ending June 30, 2015.

SECTION 6. EXEMPTION - JOHNE'S DISEASE CONTROL. The amount appropriated for Johnes disease control in section 1 of chapter 35 of the 2011 Session Laws is not subject to section 54-44.1-11 and any unexpended appropriations may be continued into the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 7. NORTH DAKOTA MEDIATION SERVICE - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The agriculture commissioner shall provide a report to the appropriations committees of the sixty-fourth legislative assembly regarding the activities of the North Dakota mediation service. The report must include information regarding the amount of funding used for the program, the use of contracted services for the program, the success of resolving disputes, and the amount of services provided for agriculture mediation, energy development mediation, and other mediation areas.

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-two thousand eight hundred twenty-six~~~~ninety-nine thousand four hundred thirty-five~~ dollars through June 30, 2012~~2014~~, and ~~ninety-five thousand six hundred ten~~~~one hundred two thousand four hundred eighteen~~ dollars thereafter.

SECTION 9. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Deposit of fees.

The commissioner shall forward all inspection fees, license fees, and registration fees received under this chapter to the state treasurer. The state treasurer shall deposit the first \$727,500 of fees received under this chapter each biennium in the environment and rangeland protection fund and any remaining fees in the general fund.

SECTION 10. LEGISLATIVE MANAGEMENT STUDY - MILK MARKETING BOARD. During the 2013-14 interim, the legislative management shall consider studying the structure of the milk marketing board; its statutory duties; the manner in which it prescribes and regulates producer, distributor, and retail prices throughout the state; and the manner in which it investigates and resolves concerns regarding the price and availability of milk throughout the state. If conducted, the study must review any policy or regulatory changes that the board has implemented in order to address pricing issues and availability of milk in the western portion of this state. The study must examine whether the continued regulation of the grade A dairy industry is best accomplished by the milk marketing board in its current form and operating under its current statutory directives, whether changes are needed to the board or its statutory

directives, and whether there are other methods by which the desired results could be effectively and efficiently achieved. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved May 1, 2013

Filed May 1, 2013

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 insurance commissioner; and to amend and reenact section 26.1-01-09 of the North Dakota Century Code, relating to the commissioner's salary.

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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,859,830	\$1,159,684	\$8,019,514
Accrued leave payments	0	163,182	163,182
Operating expenses	3,431,900	(573,892)	2,858,008
Capital assets	70,000	(70,000)	0
American health benefit	1,000,000	(1,000,000)	0
Federal Affordable Care Act	<u>642,350</u>	<u>(642,350)</u>	<u>0</u>
Total special funds	\$12,004,080	(\$963,376)	\$11,040,704
Full-time equivalent positions	49.50	0.00	49.50

SECTION 2. BONDING FUND. Section 1 of this Act includes \$45,199 from the state bonding fund to pay bonding fund administrative expenses for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. FIRE AND TORNADO FUND. Section 1 of this Act includes \$1,552,929 from the state fire and tornado fund to pay fire and tornado fund administrative expenses, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 4. UNSATISFIED JUDGMENT FUND. Section 1 of this Act includes \$28,690 from the state unsatisfied judgment fund to pay unsatisfied judgment fund administrative expenses for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 5. PETROLEUM RELEASE COMPENSATION FUND. Section 1 of this Act includes \$107,598 from the petroleum release compensation fund to pay petroleum release compensation fund administrative expenses for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 6. 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-ninety-six~~ thousand ~~threeseven~~ hundred ~~sixty-ninety-four~~ dollars through June 30, ~~2012~~2014, and ~~ninety-three~~ninety-nine thousand ~~seventy-onesix~~ hundred ~~ninety-eight~~ dollars thereafter.

Approved May 1, 2013

Filed May 1, 2013

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 securities commissioner.

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 commissioner of the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,519,978	\$153,785	\$1,673,763
Operating expenses	706,441	(121,349)	585,092
Accrued leave payments	<u>0</u>	<u>38,927</u>	<u>38,927</u>
Total all funds	\$2,226,419	\$71,363	\$2,297,782
Less estimated income	<u>317,199</u>	<u>(147,199)</u>	<u>170,000</u>
Total general fund	\$1,909,220	\$218,562	\$2,127,782
Full-time equivalent positions	9.00	0.00	9.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Information technology equipment upgrades	<u>\$0</u>	<u>\$25,850</u>
Total general fund	\$0	\$25,850

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The securities commissioner shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved May 1, 2013

Filed May 1, 2013

CHAPTER 12

HOUSE BILL NO. 1012

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

AN ACT providing an appropriation for defraying the expenses of the department of human services; to provide for intermediate care facility construction review; to amend and reenact subdivision f of subsection 2 of section 12-60-24, subsection 3 of section 14-09-09.10, and subsection 6 of section 50-24.7-01 of the North Dakota Century Code, relating to criminal background checks for foster care providers, child support payments, and definitions for expanded service payments for elderly and disabled; to provide an exemption; to provide for a report to the legislative management; to provide for legislative management studies; and to provide a statement of 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 human services for the purpose of defraying the expenses of its various divisions, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

MANAGEMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$15,382,133	\$25,247,062	\$40,629,195
Operating expenses	62,229,003	8,668,982	70,897,985
Capital assets	<u>138,400</u>	<u>(126,400)</u>	<u>12,000</u>
Total all funds	\$77,749,536	\$33,789,644	\$111,539,180
Less estimated income	<u>46,573,712</u>	<u>13,024,040</u>	<u>59,597,752</u>
Total general fund	\$31,175,824	\$20,765,604	\$51,941,428

Subdivision 2.

PROGRAM AND POLICY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$50,207,605	(\$1,365,487)	\$48,842,118
Operating expenses	91,973,280	14,740,749	106,714,029
Grants	490,196,862	(36,122,732)	454,074,130
Grants - medical assistance	<u>1,601,650,984</u>	<u>148,872,688</u>	<u>1,750,523,672</u>
Total all funds	\$2,234,028,731	\$126,125,218	\$2,360,153,949
Less estimated income	<u>1,497,456,325</u>	<u>(70,714,334)</u>	<u>1,426,741,991</u>
Total general fund	\$736,572,406	\$196,839,552	\$933,411,958

Subdivision 3.

FIELD SERVICES

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Human service centers	\$163,188,026	\$11,469,662	\$174,657,688
Institutions	123,232,447	2,667,659	125,900,106
Total all funds	\$286,420,473	\$14,137,321	\$300,557,794
Less estimated income	126,939,489	(4,554,629)	122,384,860
Total general fund	\$159,480,984	\$18,691,950	\$178,172,934

Subdivision 4.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$927,229,214	\$237,540,188	\$1,164,769,402
Grand total special funds	1,670,969,526	97,104,398	1,768,073,924
Grand total all funds	\$2,598,198,740	\$334,644,586	\$2,932,843,326
Full-time equivalent positions	2,197.35	2.73	2,200.08

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Mainframe migration	\$0	\$810,000
Demolish refectory and pleasant view building - developmental center	0	220,000
State hospital capital projects	1,800,000	864,714
Grants	0	925,000
Federal stimulus funds	519,175	0
Supplemental payments	400,000	0
Eligibility system	42,416,499	0
Critical access payments	3,454,061	0
Guardianship enhancements	64,000	0
Replacement of MMIS general fund	1,474,362	0
System changes for processing jail claims	221,418	0
Total all funds	\$50,349,515	\$2,819,714
Less estimated income	36,602,712	1,086,093
Total general fund	\$13,746,803	\$1,733,621

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The department of human services shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. FUNDING TRANSFERS - EXCEPTIONS - 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, 2013, and ending June 30, 2015. The department shall notify the office of management and budget of any transfer made pursuant to this section. The

department shall report to the budget section after June 30, 2014, any transfers made in excess of \$50,000 and to the appropriations committees of the sixty-fourth 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 in chapter 50 of the 2007 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 2009-11 biennium and then the 2011-13 biennium are available for the completion of the medicaid management information system project during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 5. MEDICAID UPPER PAYMENT LIMITS. Any appropriated increase for department providers paid with medicaid funding, may only be provided to the extent the increase will not exceed the upper payment limit for that specific medicaid service.

SECTION 6. LEGISLATIVE INTENT - REBASE RURAL HEALTH CLINICS. It is the intent of the legislative assembly that the department of human services rebase rural health clinics to the medicare rates. Future increases will be authorized based on approved inflationary increases.

² **SECTION 7. AMENDMENT.** Subdivision f of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- 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.

SECTION 8. AMENDMENT. Subsection 3 of section 14-09-09.10 of the North Dakota Century Code is amended and reenacted as follows:

3. "Child support" means payments for the support of ~~children~~ a child, including payments for health insurance coverage or other medical support, and ~~combined~~ payments for the support of ~~children~~ and spouses or former spouses with whom the child is living as long as the spousal support payment is owed to the spouse or former spouse under the same order as the payments for the child, however denominated; if the payment is required by the order of a court or other governmental agency having authority to issue such orders, and includes past-due support.

SECTION 9. AMENDMENT. Subsection 6 of section 50-24.7-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Eligible beneficiary" means a resident of this state who:

- a. (1) Is aged; or

² Section 12-60-24 was also amended by section 1 of House Bill No. 1327, chapter 491, section 1 of House Bill No. 1389, chapter 325, section 1 of Senate Bill No. 2110, chapter 324, and section 1 of Senate Bill No. 2304, chapter 232.

- (2) Is at least eighteen years of age and is disabled or blind;
- b. Has applied for and is eligible to receive 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.];
 - c. 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; ~~and~~
 - (2) Is impaired in three of the four instrumental activities of daily living of preparing meals, doing homework, taking medicine, and doing laundry;
 - d. Has 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 personal needs allowance;
 - e. Has impairments that are not the result of an intellectual disability; and
 - f. Is determined to be eligible pursuant to rules adopted by the department.

SECTION 10.

Review and limitation.

Intermediate care facility providers shall submit all facility construction or remodeling proposals to the department of human services prior to enactment of a contract for the completion of the project. The department of human services shall review all intermediate care facility construction or remodeling proposals and may limit allowable construction and remodeling costs to ensure the costs are reasonable and appropriate.

SECTION 11. GRANT TO ASSISTED LIVING CENTER - LIMITATION. The sum of \$425,000, or so much of the sum as may be necessary, included in the grants - medical assistance line item in subdivision 2 of section 1 of this Act, is to provide a grant to an assisted living center that accepts low-income tenants for an expansion project. This funding may not be spent for any other purpose if the expansion project has not begun by July 1, 2015.

SECTION 12. GRANTS. The grants line item in subdivision 2 of section 1 of this Act includes \$300,000, or so much of the sum as may be necessary, from the general fund for grants to a jurisdiction that is adjacent to an Indian reservation but does not receive reimbursement payments under section 50-01.2-03.2 and is determined by the department of human services to be the most significantly impacted based on calendar year 2012 data considering the provisions of subsection 2 of section 50-01.2-03.2, for the biennium beginning July 1, 2013, and ending June 30, 2015. No more than fifty percent of this appropriation may be distributed in each fiscal year of the biennium.

SECTION 13. AUTHORIZATION - GRANT FOR ADAPTIVE SKIING. The grants - medical assistance line item in subdivision 2 of section 1 of this Act includes \$200,000 from the general fund for a grant for an adaptive skiing program affiliated with a winter park that is located in a county of less than 10,000 individuals, for the biennium beginning July 1, 2013, and ending June 30, 2015. Of the funding provided, \$120,000 of the amount may be used for a project coordinator and the remaining amount may be used for any equipment necessary for the adaptive skiing program. 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 14. LEGISLATIVE MANAGEMENT STUDY - DEVELOPMENTAL CENTER. The legislative management shall consider studying, during the 2013-14 interim, the developmental center in Grafton. If conducted, the study must determine future use, reduction in size, and any change of scope for the developmental center. The study must consider information from local community groups that have concerns or ideas for the future use of the developmental center. The legislative management shall report its findings and recommendations, along with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 15. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA HEALTH CARE. During the 2013-14 interim, the legislative management shall consider studying the immediate needs and challenges of the North Dakota health care delivery system, implementing the healthy North Dakota initiative, examining Medicaid reform, and the feasibility of developing a plan for a private health care model that will comply with federal health care reform in a manner that will provide high-quality, accessible, and affordable care for North Dakota citizens. In performing the study, the legislative management may consider population shifts, facility needs, personnel needs, rural access, regulatory public health functions, and vulnerable populations; determine the scope of the weakness in the current health care system; take into account the ongoing impact that federal health care reform under the federal Affordable Care Act is having on state delivery of health care and on state delivery of Medicaid; and consider how to forge partnerships with federal payers and regulators in order to work toward addressing medical reimbursement system reform. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 16. LEGISLATIVE MANAGEMENT STUDY OF THE NEED FOR A COMPREHENSIVE SYSTEM OF CARE FOR INDIVIDUALS WITH BRAIN INJURY. During the 2013-14 interim, the legislative management shall consider studying the need for a comprehensive system of care for individuals with brain injury, including services available to veterans who are returning from wars, the impact of the inclusion of all acquired brain injury on traumatic brain injury programs, the need for a statewide registry for brain injury, the need for increased awareness of the impact of brain injury, the need for screening for brain injury in the education system, the availability of community support systems, the availability of specialized substance abuse services, the examination of the long-term care needs, the availability of home and community-based services, services available from independent living centers, the need for transitional supportive housing, and the suitability of the current level of care determination for brain injury. Consideration should be given to input from the department of human services traumatic brain injury advisory committee and stakeholders from the private and public sectors, including individuals with brain injury, families impacted by brain injury, educators, treatment providers, and service providers. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 17. REPORT TO LEGISLATIVE MANAGEMENT - TRANSITIONAL LIVING FACILITY. Subdivision 3 of section 1 of this Act includes funding of \$547,000 from the general fund and \$182,000 from other funds for an eight-unit transitional living facility in the southeast human service center region. The department of human services shall provide a report to the budget section in December 2014 on the status of the facility.

SECTION 18. LEGISLATIVE INTENT - DEMOLITION OF DEVELOPMENTAL CENTER BUILDINGS. It is the intent of the sixty-third legislative assembly that the department of human services demolish the refectory and pleasant view buildings at the developmental center at westwood park, Grafton. If the amount of \$220,000 included in the developmental center line item in subdivision 3 of section 1 of this Act is insufficient to provide for the demolition of both buildings, the department of human services may request emergency commission approval for additional funding from the state contingencies appropriation.

SECTION 19. LEGISLATIVE INTENT - DEPUTY DIRECTOR POSITION. The removal of the full-time equivalent position in the administration and support division does not preclude the department of human services from employing a deputy director. The department may use an existing full-time equivalent position for the purpose of a deputy director position.

SECTION 20. LEGISLATIVE INTENT - ELECTRONIC HEALTH RECORDS. Because the electronic health records system is needed for the state hospital to maintain accreditation, the reduction of the funding in the information technology division does not preclude the department of human services from procuring an electronic health records system if the department can initiate the project within its 2013-15 biennium appropriation for the information technology division or field services division.

SECTION 21. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,243,082, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$159,349,321, or so much of the sum as may be necessary, to the department of human services for the purpose of funding the following initiatives, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of human services is authorized four full-time equivalent positions.

Expedited ratesetting process	\$1,661,844
Recipient liability first claim	100,000
Supplemental nutrition assistance and temporary assistance for needy families program changes	500,304
Electronic prescriptions	299,324
Medical assistance program expansion	157,991,337
Committee on employment of people with disabilities	<u>39,594</u>
Total all funds	\$160,592,403
Less estimated income	<u>159,349,321</u>
Total general fund appropriation	\$1,243,082

Approved May 2, 2013

Filed May 2, 2013

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 department of public instruction, the state library, the school for the deaf, North Dakota vision services - school for the blind, and the legislative council; to create and enact sections 15.1-27-04.1, 15.1-27-04.2, and 15.1-27-45 and a new section to chapter 15.1-35 of the North Dakota Century Code, relating to the determination of state aid payable to school districts; to amend and reenact sections 15-39.1-28, 15.1-02-02, 15.1-07-32, 15.1-09-33, 15.1-09-39, 15.1-09-40, 15.1-09-47, 15.1-09-48, 15.1-09-49, 15.1-18.1-02, 15.1-22-01, 15.1-27-03.1, 15.1-27-03.2, 15.1-27-17, 15.1-27-35, 15.1-27-35.3, 15.1-27-39, 15.1-29-15, 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, 57-15-14.5, 57-15-17, 57-15-17.1, 57-15-31, 57-19-01, 57-19-02, and 57-19-09 of the North Dakota Century Code, relating to the salary of the superintendent of public instruction, the national board certification program, and the determination of state aid payable to school districts; to repeal sections 15.1-27-07.1 and 57-19-10 of the North Dakota Century Code, relating to kindergarten payments and special reserve funds; to provide an appropriation; to provide supplemental assistance payments; to provide for a transfer; to provide exemptions; to provide legislative intent; to provide for a legislative management study; to provide for a suspension; 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. 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, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

DEPARTMENT OF PUBLIC INSTRUCTION

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$14,409,300	\$1,531,653	\$15,940,953
Accrued leave payments	0	322,068	322,068
Operating expenses	29,099,187	631,615	29,730,802
Funding pool for initiatives	0	2,750,000	2,750,000
Grants - state school aid	918,459,478	(918,459,478)	0
Integrated formula payments	0	1,752,100,000	1,752,100,000
Grants - special education contracts	16,000,000	500,000	16,500,000
Grants - transportation	48,500,000	5,000,000	53,500,000
Grants - other grants	304,609,393	(32,043,132)	272,566,261

Grants - mill levy reduction	341,790,000	(341,790,000)	0
Rapid enrollment grants	5,000,000	(5,000,000)	0
Transportation efficiency	30,000	0	30,000
National board certification	<u>185,000</u>	<u>(65,000)</u>	<u>120,000</u>
Total all funds	\$1,678,082,358	\$465,477,726	\$2,143,560,084
Less estimated income	<u>434,485,707</u>	<u>2,511,052</u>	<u>436,996,759</u>
Total general fund	\$1,243,596,651	\$462,966,674	\$1,706,563,325
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	\$3,450,359	\$329,694	\$3,780,053
Accrued leave payments	0	75,354	75,354
Operating expenses	1,695,726	200,000	1,895,726
Grants	<u>2,252,500</u>	<u>266,500</u>	<u>2,519,000</u>
Total all funds	\$7,398,585	\$871,548	\$8,270,133
Less estimated income	<u>2,134,610</u>	<u>259,535</u>	<u>2,394,145</u>
Total general fund	\$5,263,975	\$612,013	\$5,875,988
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	\$5,932,638	\$1,000,267	\$6,932,905
Accrued leave payments	0	134,846	134,846
Operating expenses	1,633,911	274,883	1,908,794
Capital assets	41,700	1,152,321	1,194,021
Grants	<u>200,000</u>	<u>0</u>	<u>200,000</u>
Total all funds	\$7,808,249	\$2,562,317	\$10,370,566
Less estimated income	<u>1,193,277</u>	<u>1,377,910</u>	<u>2,571,187</u>
Total general fund	\$6,614,972	\$1,184,407	\$7,799,379
Full-time equivalent positions	43.94	0.67	44.61

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	\$3,815,825	\$599,355	\$4,415,180
Accrued leave payments	0	87,463	87,463
Operating expenses	707,006	13,800	720,806
Capital assets	<u>39,500</u>	<u>3,284,900</u>	<u>3,324,400</u>
Total all funds	\$4,562,331	\$3,985,518	\$8,547,849
Less estimated income	<u>835,091</u>	<u>18,665</u>	<u>853,756</u>
Total general fund	\$3,727,240	\$3,966,853	\$7,694,093
Full-time equivalent positions	29.50	0.50	30.00

Subdivision 5.

BILL TOTAL

	Base Level	Adjustments or Enhancements	Appropriation
Grand total general fund	\$1,259,202,838	\$468,829,947	\$1,728,032,785
Grand total special funds	<u>438,648,685</u>	<u>4,167,162</u>	<u>442,815,847</u>
Grand total all funds	\$1,697,851,523	\$472,997,109	\$2,170,848,632

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

One-Time Funding Description	2011-13	2013-15
Department of public instruction		
IT application rewrite and maintenance	\$384,000	\$0
Education standards and practices board database	200,000	0
Funding pool for initiatives	0	2,750,000
Information technology staffing analysis	0	100,000
Early childhood care and education study	0	200,000
Governing North Dakota textbook	0	20,000
Education jobs fund	<u>21,517,716</u>	<u>0</u>
Total department of public instruction - all funds	\$22,101,716	\$3,070,000
Total department of public instruction - estimated income	<u>21,717,716</u>	<u>0</u>
Total department of public instruction - general fund	\$384,000	\$3,070,000
School for the deaf		
Extraordinary repairs	<u>\$998,530</u>	<u>\$1,002,259</u>
Total school for the deaf - all funds	\$998,530	\$1,002,259
Total school for the deaf - estimated income	<u>894,730</u>	<u>1,002,259</u>
Total school for the deaf - general fund	\$103,800	\$0
North Dakota vision services - school for the blind		
Equipment	\$25,500	\$20,200
Elevator installation	0	241,500
Window replacements	0	189,000
Extraordinary repairs	0	90,129
Remodel of west wing	0	2,762,000
Facility master plan	20,000	0
Instructional equipment	<u>24,500</u>	<u>0</u>
Total school for the blind - all funds	\$70,000	\$3,302,829
Total school for the blind - estimated income	0	<u>110,329</u>
Total school for the blind - general fund	\$70,000	\$3,192,500
Grand total - all funds	\$23,170,246	\$7,375,088
Grand total - estimated income	<u>22,612,446</u>	<u>1,112,588</u>
Grand total - general fund	\$557,800	\$6,262,500

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 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-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. APPROPRIATION. There is appropriated from special funds derived from federal funds the sum of \$25,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for grants for the period beginning with the effective date of this Act and ending June 30, 2013.

SECTION 4. APPROPRIATION - TUITION APPORTIONMENT. The sum of \$140,326,000, 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, 2013, and ending June 30, 2015.

SECTION 5. TRANSFER - PROPERTY TAX RELIEF SUSTAINABILITY FUND TO THE GENERAL FUND. The office of management and budget shall transfer the sum of \$341,790,000 from the property tax relief sustainability fund to the general fund, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 6. 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 2011-13 biennium but which were not filed, claimed, or properly supported by the education provider until after June 30, 2013.

SECTION 7. 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 8. REGIONAL EDUCATION ASSOCIATIONS - GRANTS. During the 2013-15 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 9. TRANSPORTATION GRANTS - DISTRIBUTION.

1. During each year of the 2013-15 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 thirteen cents per mile for schoolbuses having a capacity of ten or more passengers;
 - b. Fifty-two cents per mile for vehicles having a capacity of nine or fewer passengers;
 - c. Fifty 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 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; and
 - e. Thirty 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 10. 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, 2013, and ending June 30, 2015.

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 11. SUPERINTENDENT - SCHOOL FOR THE DEAF - AUTHORIZATION - CONTINGENT FUNDING. The salaries and wages line item in subdivision 3 of section 1 of this Act includes \$142,242 from the general fund to provide funding for a full-time superintendent at the school for the deaf. The school for the deaf may use the funding to fill a full-time superintendent position as directed by the superintendent of public instruction. This funding is contingent on the superintendent of public instruction certifying to the director of the office of management and budget that the position has been filled by a full-time superintendent. The office of management and budget shall prorate the amount of funding available to the school for the deaf based on the retirement date of the current superintendent of the school for the deaf.

SECTION 12. SUPERINTENDENT - SCHOOL FOR THE BLIND - AUTHORIZATION - CONTINGENT FUNDING. The salaries and wages line item in subdivision 4 of section 1 of this Act includes \$144,670 from the general fund to

provide funding for a full-time superintendent at the school for the blind. In addition, a .5 full-time equivalent position is added, which is contingent on a determination made by the superintendent of public instruction that the position should be filled by a full-time superintendent. The school for the blind may use the funding to fill a full-time superintendent position as directed by the superintendent of public instruction. This funding is contingent on the superintendent of public instruction certifying to the director of the office of management and budget that the position has been filled by a full-time superintendent. The office of management and budget shall prorate the amount of funding available to the school for the blind based on the retirement date of the current superintendent of the school for the blind.

SECTION 13. INDIRECT COST ALLOCATION. Notwithstanding section 54-44.1-15, the department of public instruction may deposit indirect cost recoveries in its operating account.

SECTION 14. EXEMPTION - FUNDING POOL FOR INITIATIVES - LINE ITEM TRANSFER. Notwithstanding the provisions of section 54-16-04, the superintendent of public instruction shall transfer funding from the funding pool for initiatives line item in subdivision 1 of section 1 of this Act, to the extent necessary, to the appropriate line item for expending the funds for each initiative. The superintendent of public instruction shall report to the office of management and budget regarding all transfers from the funding pool for initiatives line item.

SECTION 15. INFORMATION TECHNOLOGY STAFFING ANALYSIS. Subdivision 1 of section 1 of this Act includes \$100,000 from the general fund for the superintendent of public instruction to contract with the information technology department and a private consultant to conduct an information technology staffing analysis for the biennium beginning July 1, 2013, and ending June 30, 2015. The analysis must include a review of the department of public instruction information technology staffing duties, responsibilities, and staffing levels and must consider the feasibility and desirability of transferring additional information technology positions to the information technology department and must provide recommendations regarding the appropriate level of information technology staff for the department of public instruction.

SECTION 16. OTHER GRANTS - REPORTING. The superintendent of public instruction shall develop a format for reporting on the cost per participant and the outcomes of other grants and report to the sixty-fourth legislative assembly regarding participation, cost, and outcomes of these grants.

SECTION 17. LEGISLATIVE INTENT - REIMBURSEMENT OF TITLE FUNDING DUE TO FEDERAL SEQUESTRATION. If, as a result of the federal sequestration order for fiscal year 2013, issued pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended [2 U.S.C. 901A], school districts experience a reduction in funds provided under title I, part A of the Elementary and Secondary Education Act of 1965, as amended [20 U.S.C. 6301, et seq.], it is the intent of the legislative assembly that the superintendent of public instruction introduce legislation to the sixty-fourth legislative assembly seeking state funding for school districts to offset these federal funding reductions.

SECTION 18. STATE AID TO PUBLIC LIBRARIES. The line item entitled grants in subdivision 2 of section 1 of this Act includes \$1,766,500 for aid to public libraries, of which no more than one-half is to be expended during the fiscal year ending June 30, 2014.

SECTION 19. 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 20. 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, 2013, and ending June 30, 2015. 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 21. AMENDMENT. Section 15-39.1-28 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-28. 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 use the proceeds of levies, as permitted by 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 22. 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 ~~twoten~~ thousand ~~eightone~~ hundred ~~sixty-eight~~~~ninety-two~~ dollars through June 30, ~~2012~~~~2014~~, and one hundred ~~fivethirteen~~ thousand ~~ninefour~~ hundred ~~fifty-four~~~~ninety-eight~~ dollars thereafter.

SECTION 23. AMENDMENT. Section 15.1-07-32 of the North Dakota Century Code is amended and reenacted as follows:

15.1-07-32. Student performance strategist - Verification - Qualifications.

~~Beginning with the 2010-11 school year, each~~Each school district must have available one full-time equivalent student performance strategist for every four hundred students in average daily membership in kindergarten through grade three. Each school district shall submit documentation to the superintendent of public instruction, at the time and in the manner directed by the superintendent, verifying the amount of time that each student performance strategist expended in tutoring students on a one-to-one basis or in groups ranging from two to five, or in providing instructional coaching to teachers. For purposes of this section, a "student performance strategist" must ~~meet~~;

1. a. Meet the qualifications of an elementary school teacher as set forth in section 15.1-18-07; or
 - b. Be licensed to teach or approved to teach by the education standards and practices board and hold a special education endorsement or credential; and serve
2. Serve as a tutor or an instructional coach.

SECTION 24. 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. Suspend school district personnel.
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 a school district business manager for cause without prior notice.
29. Suspend or 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 25. AMENDMENT. Section 15.1-09-39 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-39. Districts in bordering states - Contract.

1. Notwithstanding any other provision of law, the board of a school district in this state may contract with the board of a school district in another state for the joint operation and maintenance of school facilities and for joint activities, if the districts are contiguous. To be valid, the contract must be approved by the superintendent of public instruction and by a majority of the qualified electors residing in the district.
2. In assessing the contract, the superintendent shall consider the district's enrollment, its valuation, and its longevity.
3. If the superintendent approves the contract, the board shall submit the contract to the electorate of the district, for approval, at an annual or a special election.
4. The board shall publish notice of the election in the official newspaper of the district at least fourteen days before the election. The notice must include a statement regarding the purpose of the election and the terms of the contract.
5. On the ballot, the board shall seek the voters' permission to execute the proposed contract, as approved by the superintendent of public instruction.
6. If the voters approve the execution of the contract, the board may levy and collect taxes, as permitted in accordance with chapter 57-15, to carry out the contract pursuant to law.

7. If a district that is a party to a contract under this section dissolves, any district to which the land of the dissolved district is attached shall assume the contractual responsibilities.

SECTION 26. AMENDMENT. Section 15.1-09-40 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-40. Sharing of levied taxes - Contract.

The boards of two or more school districts may contract to share levied taxes in all or a portion of their respective districts. The rate of taxes to be levied on any property in the joint taxing area or district is the rate of tax provided for in the contract, not exceeding any levy limitations applicable to the property under chapter 57-15. The auditor of each county in which all or a portion of a contracting district is located shall fix and levy taxes on that portion of the property which is described in the contract and is located in the county at the rate set by the contract.

SECTION 27. AMENDMENT. Section 15.1-09-47 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-47. Board of education of city of Fargo - Taxing authority.

4. 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 within the requirements or limitations of this title and title 57.~~

SECTION 28. AMENDMENT. Section 15.1-09-48 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-48. Board of education of city of Fargo - Tax collection.

The board of education of the city of Fargo ~~has the power to~~ may levy taxes within the boundaries of the Fargo public school district and ~~to cause such~~ 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 cause~~ certify 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~~ The city auditor ~~to~~ 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 ~~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~~ make 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 29. AMENDMENT. Section 15.1-09-49 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-49. Board of education of city of Fargo - Taxes for buildings.

The amount to be raised for teacher salaries and contingent expenses must be such only as together with the public money coming to the city from any source is sufficient to establish and maintain efficient and proper schools for students in the city. The tax for purchasing, leasing, or improving sites and the building, purchasing, leasing, enlarging, altering, and repairing of schools may not exceed in any one year fifteen mills on the ~~dollar valuation of the taxable~~ valuation of property of the city in the school district. The board of education may borrow, and when necessary shall borrow, in anticipation of the ~~amount of the taxes to be raised, levied, and collected.~~

SECTION 30. AMENDMENT. Section 15.1-18.1-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18.1-02. National board certification program - Recertification - Board duties.

1. The board shall:
 - a. Inform teachers of the national board certification program and the scholarships and services the national board provides to teachers seeking certification.
 - b. Collect and review in the order received scholarship applications from individuals who are licensed to teach by the board or approved to teach by the board.
 - c. (1) Approve no more than seventeen applications per year under this subsection;

- (2) During each year of the biennium, reserve three of the available scholarships under this subsection until October first for individuals teaching at low-performing schools. At that time, the three slots, if not filled, become available to all other applicants;
 - (3) Require the recipient for a scholarship under this subsection to serve during the school year as a full-time classroom teacher in a public or nonpublic school in this state; and
 - (4) If available, require the recipient for a scholarship under this subsection to participate in mentoring programs developed and implemented in the employing school or school district.
- d. Ensure that all scholarship recipients under this subsection receive adequate information regarding the level of commitment required to acquire certification.
2. The board shall collect and review in the order received scholarship applications for national board recertification from individuals who are licensed to teach by the board or approved to teach by the board and:
 - a. Approve no more than three scholarship applications per year under this subsection;
 - b. Require each recipient for a scholarship under this subsection to serve during the school year as a full-time classroom teacher in a public or nonpublic school in this state; and
 - c. If available, require each recipient for a scholarship under this subsection to participate in mentoring programs developed and implemented in the employing school or school district.
 3. If any individual who receives a scholarship under this section does not complete the certification process within the time allotted by the board, the individual must reimburse the state an amount equal to one-half of the amount awarded to the individual as a scholarship.
 4. ~~The board shall pay to any individual who received national board certification before July 1, 2007, one thousand dollars for each year the individual has maintained and continues to maintain national board certification, provided the individual continues to be employed by a school district in this state. An individual may not receive more than four thousand dollars under this subsection.~~
 5. a. At the conclusion of each school year after an individual receives national board certification, the board shall pay to an individual an additional one thousand five hundred dollars for the life of the national board certificate if:
 - (1)a. The individual was employed during the school year as a full-time classroom teacher by a school district in this state; and
 - (2)b. The individual participated in any efforts of the employing school district to develop and implement teacher mentoring programs.

b. ~~The payment provided for in this subsection is available beginning with the 2007-08 school year.~~

~~6-5.~~ A contract negotiated under chapter 15.1-16 may not preclude or limit the ability of a school district or any other entity, public or private, from providing any remuneration to a teacher who has obtained national board certification. Any remuneration received by a teacher as a consequence of having obtained national board certification is in addition to any other compensation otherwise payable as a result of any contract negotiated under chapter 15.1-16.

SECTION 31. AMENDMENT. Section 15.1-22-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-22-01. Kindergarten - Establishment by board - Request by parent - Levy.

1. The board of a school district shall either provide at least a half-day kindergarten program for any student enrolled in the district or pay the tuition required for the student to attend a kindergarten program in another school district.

~~2. The board of a school district that establishes a kindergarten under this section may levy a tax pursuant to subdivision p of subsection 1 of section 57-15-14.2.~~

SECTION 32. 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 through June 30, 2013, and 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;

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- 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. ~~0.0790~~.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
- o. 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.

(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. 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. ~~0.500.20~~ 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. 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

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- (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. 0.15 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. 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. ~~0-0790.082~~ the number of students enrolled in average daily membership, in order to support the provision of special education services;
 - m. 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. 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. ~~0-0060.003~~ 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. ~~0.0040.002~~ 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.

SECTION 33. AMENDMENT. Section 15.1-27-03.2 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-03.2. 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~~1.35 if the students in average daily membership number fewer than ~~125~~125;
 - b. 1.34 if the students in average daily membership number at least 125 but fewer than 130;
 - c. 1.33 if the students in average daily membership number at least 130 but fewer than 135;
 - d. 1.32 if the students in average daily membership number at least 135 but fewer than 140;
 - e. 1.31 if the students in average daily membership number at least 140 but fewer than 145;
 - f. 1.30 if the students in average daily membership number at least 145 but fewer than 150;
 - g. 1.29 if the students in average daily membership number at least 150 but fewer than 155;
 - h. 1.28 if the students in average daily membership number at least 155 but fewer than 160;
 - i. 1.27 if the students in average daily membership number at least 160 but fewer than 165;
 - j. 1.26 if the students in average daily membership number at least 165 but fewer than 175;
 - k. 1.25 if the students in average daily membership number at least 175 but fewer than 185;
 - ~~h-l~~ 1.24 if the students in average daily membership number at least 185 but fewer than 200;
 - e-m. 1.23 if the students in average daily membership number at least 200 but fewer than 215;

- d-n. 1.22 if the students in average daily membership number at least 215 but fewer than 230;
- e-o. 1.21 if the students in average daily membership number at least 230 but fewer than 245;
- f-p. 1.20 if the students in average daily membership number at least 245 but fewer than 260;
- g-q. 1.19 if the students in average daily membership number at least 260 but fewer than 270;
- h-r. 1.18 if the students in average daily membership number at least 270 but fewer than 275;
- i-s. 1.17 if the students in average daily membership number at least 275 but fewer than 280;
- j-t. 1.16 if the students in average daily membership number at least 280 but fewer than 285;
- k-u. 1.15 if the students in average daily membership number at least 285 but fewer than 290;
- l-v. 1.14 if the students in average daily membership number at least 290 but fewer than 295;
- m-w. 1.13 if the students in average daily membership number at least 295 but fewer than 300;
- n-x. 1.12 if the students in average daily membership number at least 300 but fewer than 305;
- o-y. 1.11 if the students in average daily membership number at least 305 but fewer than 310;
- p-z. 1.10 if the students in average daily membership number at least 310 but fewer than 320;
- q-aa. 1.09 if the students in average daily membership number at least 320 but fewer than 335;
- r-bb. 1.08 if the students in average daily membership number at least 335 but fewer than 350;
- s-cc. 1.07 if the students in average daily membership number at least 350 but fewer than 360;
- t-dd. 1.06 if the students in average daily membership number at least 360 but fewer than 370;
- u-ee. 1.05 if the students in average daily membership number at least 370 but fewer than 380;
- v-ff. 1.04 if the students in average daily membership number at least 380 but fewer than 390;

- w-gg. 1.03 if the students in average daily membership number at least 390 but fewer than 400;
- x-hh. 1.02 if the students in average daily membership number at least 400 but fewer than 600;
- y-ii. 1.01 if the students in average daily membership number at least 600 but fewer than 900; and
- z-jj. 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:
- 1.25 if the students in average daily membership number fewer than 125;
 - 1.17 if the students in average daily membership number at least 125 but fewer than 200; and
 - 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 34. Section 15.1-27-04.1 of the North Dakota Century Code is created and enacted as follows:

15.1-27-04.1. Baseline funding - Establishment - Determination of state aid.

- 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:
 - All state aid received by the district in accordance with chapter 15.1-27 during the 2012-13 school year;
 - The district's 2012-13 mill levy reduction grant, as determined in accordance with chapter 57-64, as it existed on June 30, 2013;
 - 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;
 - An amount equal to that raised by the district's 2012 long-distance learning and educational technology levy;
 - 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.
- 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 35. Section 15.1-27-04.2 of the North Dakota Century Code is created and enacted as follows:

15.1-27-04.2. 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 36. AMENDMENT. Section 15.1-27-17 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-17. Per student payments - Reorganization of school districts - Separate weighting factor.

1. Notwithstanding the provisions of section 15.1-27-03.2, the superintendent of public instruction shall create and assign a separate weighting factor to:
 - a. ~~Any school district that reorganized on or before June 30, 2007, and which was receiving per student payments in accordance with section 15.1-27-17, as that section existed on June 30, 2007; and~~
 - b. Any any school district that reorganizes on or after July 1, 2007.
2.
 - a. The separate weighting factor must allow the reorganized school district to receive a payment rate equivalent to that which each separate school district would have received had the reorganization not taken place.
 - b. The separate weighting factor must be computed to four decimal places.
 - c. The provisions of this subsection are effective for a period of four years from the date of the reorganization.
3. At the beginning of the fifth and at the beginning of the sixth years after the date of the reorganization, the superintendent of public instruction shall make proportionate adjustments in the assigned weighting factor so that beginning with the seventh year after the date of the reorganization, the weighting factor that will be applied to the reorganized district is that provided in section 15.1-27-03.2.

SECTION 37. AMENDMENT. Section 15.1-27-35 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-35. Average daily membership - Calculation.

1. a. ~~During the 2009-10 school year, average daily membership is calculated at the conclusion of the school year by adding the total number of days that each student in a given grade, school, or school district is in attendance during a school calendar and the total number of days that each student in a given grade, school, or school district is absent during a school calendar, and then dividing the sum by the greater of:~~
 - (1) The school district's calendar; or
 - (2) One hundred eighty.
- b. ~~During the 2010-11 school year, average daily membership is calculated at the conclusion of the school year by adding the total number of days that each student in a given grade, school, or school district is in attendance during a school calendar and the total number of days that each student in a given grade, school, or school district is absent during a school calendar, and then dividing the sum by the greater of:~~
 - (1) The school district's calendar; or

~~(2) One hundred eighty-one.~~

- e. ~~Beginning with the 2011-12 school year, average~~Average daily membership is calculated at the conclusion of the school year by adding the total number of days that each student in a given grade, school, or school district is in attendance during a school calendar and the total number of days that each student in a given grade, school, or school district is absent during a school calendar, and then dividing the sum by the greater of:

~~(1)~~a. The school district's calendar; or

~~(2)~~b. One hundred eighty-two.

2. For purposes of calculating average daily membership, all students are deemed to be in attendance on:
 - a. The three holidays listed in subdivisions b through j of subsection 1 of section 15.1-06-02 and selected by the school board in consultation with district teachers;
 - b. The two days set aside for professional development activities under section 15.1-06-04; and
 - c. The two full days, or portions thereof, during which parent-teacher conferences are held or which are deemed by the board of the district to be compensatory time for parent-teacher conferences held outside regular school hours.
3. For purposes of calculating average daily membership:
 - a. A student enrolled full time in any grade from one through twelve may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
 - b. A student enrolled full time in an approved regular education kindergarten program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.
 - c. A student enrolled full time, as defined by the superintendent of public instruction, in an approved early childhood special education program may not exceed an average daily membership of 1.00. The membership may be prorated for a student who is enrolled less than full time.

SECTION 38. AMENDMENT. Section 15.1-27-35.3 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-35.3. 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.
 - c. 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. 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.

SECTION 39. AMENDMENT. Section 15.1-27-39 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-39. Annual salary - Minimum amount.

1. ~~Beginning with the 2005-06 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a minimum salary level for the contract period equal to at least twenty-two thousand dollars.~~
2. Beginning with the ~~2006-07~~2014-15 school year, the board of each school district shall provide to each full-time teacher, under contract for a period of nine months, a minimum salary level for the contract period equal to at least ~~twenty-two~~twenty-seven thousand five hundred dollars.

SECTION 40. Section 15.1-27-45 of the North Dakota Century Code is created and enacted as follows:

15.1-27-45. 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 41. AMENDMENT. Section 15.1-29-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-15. Levy for tuition payments.

If the board of a school district approves tuition payments for students in grades seven through twelve or if the board is required to make tuition or tutoring payments under this chapter, the board may levy an amount sufficient to meet such payments, pursuant to ~~subdivision e of subsection 4 of section 57-15-14.2.~~

SECTION 42. AMENDMENT. Section 15.1-30-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-30-04. Provision of meals and lodging for high school students - Payment permitted -Levy.

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. ~~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.~~

SECTION 43. A new section to chapter 15.1-35 of the North Dakota Century Code is created and enacted as follows:

Beverages - Snack breaks.

During the 2013-15 biennium, a school district may utilize resources provided in accordance with subdivision n of subsection 1 of section 15.1-27-03.1 to ensure that students who are eligible for free or reduced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] receive one serving of milk or juice if a mid-morning snack break is provided.

SECTION 44. AMENDMENT. Section 15.1-36-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-36-02. School construction projects - Loans.

1. ~~The~~In order to provide school construction loans, the board of university and school lands may authorize the use of moneys in:
 - 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 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; and~~

- b. One hundred fifty million dollars from the strategic investment and improvements fund, established pursuant to section 15-08.1-08.
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~~ taxable valuation per student, the district is entitled to receive:
 - a. A school construction loan equal to the lesser of ~~twelve~~twenty million dollars or ~~eighty~~ninety percent of the actual project cost;
 - b. An interest rate discount equal to at least one hundred but not more than ~~two~~four hundred ~~fifty~~ basis points below the prevailing tax-free bond rates; and
 - c. A term of repayment that may extend up to twenty years.
 - ~~5-4.~~ 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~~fifteen million dollars or ~~seventy~~eighty percent of the actual project cost;
 - b. An interest rate buydown equal to at least one hundred but not more than ~~two~~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.
 - ~~6-5.~~ 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~~ten million dollars or ~~thirty~~seventy percent of the actual project cost;

- b. An interest rate discount equal to at least one hundred but not more than ~~two~~three hundred ~~ffty~~ basis points below the prevailing tax-free bond rates; and
 - c. A term of repayment that may extend up to twenty years.
- ~~7-6.~~ 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.
- ~~8-7.~~ The superintendent of public instruction shall consider each loan application in the order it received approval under section 15.1-36-01.
- ~~9-8.~~ 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.
- ~~10.~~ ~~The superintendent of public instruction may adopt rules governing school construction loans.~~
- ~~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.
- ~~11-10.~~ 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.

SECTION 45. AMENDMENT. Section 40-55-08 of the North Dakota Century Code is amended and reenacted as follows:

40-55-08. 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~~ provide for the establishment, maintenance, and conduct of a public recreation system pursuant to subdivision q of subsection 1 of section ~~40-55-08~~ 57-15-14.2.

SECTION 46. AMENDMENT. Section 40-55-09 of the North Dakota Century Code is amended and reenacted as follows:

40-55-09. 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 40-55-08.~~ 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 47. AMENDMENT. Section 57-15-01.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-01.1. 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.~~
 - 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.

SECTION 48. AMENDMENT. Section 57-15-14 of the North Dakota Century Code is amended and reenacted as follows:

57-15-14. ~~General fund levy limitations~~Voter approval of excess levies 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. 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.
 2. 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.
 3. 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.
 4. 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.

5. 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. ~~However, not~~No fewer than twenty-five signatures are required. ~~However, the~~
- 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.

SECTION 49. AMENDMENT. Section 57-15-14.2 of the North Dakota Century Code is amended and reenacted as follows:

~~57-15-14.2. Mill levies requiring board action -- Proceeds to general fund account~~School district levies.

- ~~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.
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.

SECTION 50. AMENDMENT. Section 57-15-14.5 of the North Dakota Century Code is amended and reenacted as follows:

57-15-14.5. Long-distance learning and educational technology levy –~~Voter approval.~~

- ~~1. The school board of a public school district may, upon approval by a majority vote of the qualified electors of the school district voting on the question at any regular or special election, dedicate a tax levy for purposes of this section not to exceed five mills on the dollar of taxable valuation of property within the district.~~
- ~~2. All revenue accruing from the levy under this section must be used only for purposes of establishing and maintaining long-distance learning and purchasing and maintaining educational technology. For purposes of this section, educational technology includes computer software, computers and computer networks, other computerized equipment, which must be used for student instruction, and the salary of a staff person to supervise the use and maintenance of educational technology.~~
- ~~3. If the need for the fund terminates, the governing board of the public school district shall order the termination of the levy and On July 1, 2013, each school district shall transfer the remaining any balance remaining in its long-distance learning and educational technology fund to the general fund of the school district.~~

SECTION 51. AMENDMENT. Section 57-15-17 of the North Dakota Century Code is amended and reenacted as follows:

57-15-17. 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 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~~construction of new school district buildings ~~or and facilities, or additions to old;~~
 - (2) ~~The renovation, repair, or expansion of~~ school district buildings ~~or and 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.~~

- ~~(3) The improvement of school district buildings, facilities, and real property;~~
- ~~(4) The leasing of buildings and facilities;~~
- ~~(2)(5) The payment of rentals upon contracts with the state board of public school education;~~
- ~~(3)(6) 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; and~~
- ~~(5)(7) The payment of principal, premium, if any premiums, and interest on bonds issued pursuant to in accordance with 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 if 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 52. AMENDMENT. Section 57-15-17.1 of the North Dakota Century Code is amended and reenacted as follows:

~~57-15-17.1. School board levies - Multiyear mercury and hazardous substance abatement or removal - Required remodeling - Alternative education programs - Heating, ventilation, and air-conditioning systems - Discontinuation of special funds - Required transfers.~~

~~1. The governing body of any public school district may by resolution adopted by a two-thirds vote of the school board dedicate a tax levy for purposes of this section of not exceeding fifteen mills on the dollar of taxable valuation of property within the district for a period not longer than fifteen years. The school board may authorize and issue general obligation bonds to be paid from the proceeds of this dedicated levy for the purpose of:~~

- ~~a. Providing funds for the abatement or removal of mercury and other hazardous substances from school buildings in accordance with any method approved by the United States environmental protection agency and for any repair, replacement, or remodeling that results from the abatement or removal of such substances;~~
 - ~~b. 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;~~
 - ~~c. Any remodeling required to meet requirements set by the state fire marshal during the inspection of a public school;~~
 - ~~d. Providing alternative education programs; and~~
 - ~~e. Providing funds for the repair, replacement, or modification of any heating, ventilation, or air-conditioning systems and required ancillary systems to provide proper indoor air quality that meets American society of heating, refrigerating and air-conditioning engineers, incorporated standards.~~
- ~~2. All revenue accruing from the levy under this section, except revenue deposited as allowed by subsections 3, 4, and 5 must be placed in a separate fund known as the mercury and hazardous substance abatement or removal fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of mercury and hazardous substance abatement or removal.~~
 - ~~3. All revenue accruing from up to five mills of the fifteen-mill levy under this section must be placed in a separate fund known as the required remodeling fund and must be accounted for within the capital projects fund group and disbursements must be made from such funds within this fund group for the purpose of required remodeling, as set forth in subsection 1.~~
 - ~~4. All revenue accruing from up to ten mills of the fifteen-mill levy under this section may be placed in a separate fund known as the alternative education program fund. Disbursement may be made from the fund for the purpose of providing an alternative education program but may not be used to construct or remodel facilities used to accommodate an alternative education program.~~
 - ~~5. All revenue accruing from the levy under this section, except revenue deposited as allowed by subsections 2, 3, and 4, must be placed in a separate fund known as the heating, ventilation, and air conditioning upgrade fund and must be accounted for within the capital projects fund group and~~

~~disbursements must be made from such funds within this fund group for the purpose of improving indoor air quality.~~

- 6- ~~Any~~ On July 1, 2013, each school district shall transfer to its building fund or its general fund any moneys remaining in the mercury and hazardous substance abatement or removal fund after completion of the principal and interest payments for any bonds issued for any school mercury and hazardous substance abatement or removal project, ~~any funds, any moneys~~ remaining in the required remodeling fund after completion of the remodeling projects, ~~any funds, any moneys~~ remaining in the alternative education program fund at the termination of the program, and any ~~funds~~ moneys remaining in the heating, ventilation, and air-conditioning upgrade fund after completion of the principal and interest payments for any bonds issued for any indoor air quality project must be transferred to the general fund of the school district upon the order of the school board.

SECTION 53. AMENDMENT. Section 57-15-31 of the North Dakota Century Code is amended and reenacted as follows:

57-15-31. 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 54. AMENDMENT. Section 57-19-01 of the North Dakota Century Code is amended and reenacted as follows:

57-19-01. 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. The balance of~~

~~moneys in the fund may not exceed that which could be produced by a levy of the maximum mill levy allowed by law fifteen mills in that district for that year.~~

SECTION 55. AMENDMENT. Section 57-19-02 of the North Dakota Century Code is amended and reenacted as follows:

57-19-02. 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.~~

- ~~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. 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.~~
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.

SECTION 56. AMENDMENT. Section 57-19-09 of the North Dakota Century Code is amended and reenacted as follows:

57-19-09. 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 57. SCHOOL DISTRICT SUPPLEMENTAL ASSISTANCE PAYMENT.

1. A school district is entitled to a one-time supplemental assistance payment if:
 - a. During the 2012-13 school year, the school district participated with one other school district in a cooperative agreement approved by the superintendent of public instruction;
 - b. At the conclusion of the 2012-13 school year, the school district with which it cooperated became part of a reorganized district; and

- c. Students who resided in the school district and who attended school in one of the reorganizing districts during the 2012-13 school year enroll in their district of residence for the 2013-14 school year.
2. The supplemental assistance payment to which a school district is entitled under this section must be based on the number of its resident students in average daily membership that had attended school under the referenced cooperating agreement in a district other than their school district of residence during the 2012-13 school year and that enrolled in their school district of residence for the 2013-14 school year. That number, as determined by the superintendent of public instruction, must be multiplied by \$8,810.
3. The superintendent of public instruction shall base the supplemental assistance payment on the school district's September tenth enrollment report.
4. Notwithstanding section 15.1-27-22.1, if any moneys remain in the grants - state school aid line item after the superintendent of public instruction complies with all statutory payment obligations imposed for the 2011-13 biennium, the superintendent shall reserve the first \$158,150, or so much of that amount as may be necessary, to provide the supplemental assistance payment required by this section.
5. The supplemental assistance payment is not available to any school district that is entitled to a rapid enrollment grant, as a result of legislation enacted by the sixty-third legislative assembly.

SECTION 58. LEGISLATIVE MANAGEMENT STUDY - FUNDING OF EDUCATION - ACCOUNTABILITY - COMMITTEE ESTABLISHMENT.

1. The legislative management shall appoint a committee to examine and clarify state-level and local-level responsibility for the equitable and adequate funding of elementary and secondary education in this state.
2. The committee shall:
 - a. Define what constitutes "education" for purposes of meeting the state's constitutional requirements;
 - b. Examine the distribution of financial and managerial responsibility for transportation, athletics and activities, course offerings beyond those that are statutorily required, and other nonmandatory offerings and services;
 - c. Examine the distribution of financial and managerial responsibility for school construction;
 - d. Examine the organizational structure for educational delivery in this state, in light of demographic changes, to ensure effectiveness and efficiency;
 - e. Examine the benefits and detriments of statutorily limiting school districts in their ability to generate and expend property tax dollars; and
 - f. Define what constitutes "adequacy" for purposes of funding education.

3. The committee shall:
 - a. Examine concepts of accountability in elementary and secondary education;
 - b. Examine the performance of North Dakota students in state and national assessments to determine whether recent legislative efforts have effected measurable improvements in student achievement; and
 - c. Examine high school curricular requirements, content standards, and teacher training and qualifications to determine whether North Dakota students are being adequately prepared for the various assessments and for their first year of enrollment in institutions of higher education.
4. The committee shall examine the effectiveness of teacher, principal, and superintendent evaluation systems.
5. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 59. 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 legislative council for the purpose of contracting with consultants and other personnel necessary to complete the study of education funding and accountability, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 60. SCHOOL CONSTRUCTION LOANS - UNCOMMITTED MONEYS - ADDITIONAL PURPOSES. Notwithstanding section 15.1-36-02, if as of December 31, 2014, any portion of the \$150,000,000 referenced in subdivision b of subsection 1 of section 15.1-36-02 remains uncommitted for the purpose of providing school construction loans, the state board of university and school lands may authorize up to \$50,000,000 of the uncommitted amount for the purpose of providing medical facility infrastructure loans in accordance with Senate Bill No. 2187, as enacted by the sixty-third legislative assembly.

SECTION 61. AUTISM SPECTRUM DISORDER - TECHNOLOGY GRANT - TRANSFER.

1. During the 2014-15 school year, the department of career and technical education shall provide a grant to an institution implementing a certificate program that prepares individuals with autism spectrum disorder for employment in the technology sector.
2. The amount of the grant must be determined by multiplying the per student payment rate established in subdivision b of subsection 3 of section 15.1-27-04.1 by the number of students that completed the program, up to a maximum of thirty students.
3. The grant recipient shall provide a report to the legislative management regarding program graduates who found employment in the technology sector, their starting salaries, and their total compensation.
4. Notwithstanding section 15.1-27-22.1, if any moneys remain in the grants - state school aid line item after the superintendent of public instruction

complies with all statutory payment obligations imposed for the 2011-13 biennium, the superintendent may transfer \$250,000, or so much of that amount as may be necessary, to the department of career and technical education, to provide the autism spectrum disorder grant required by this section.

SECTION 62. SUSPENSION. Sections 15.1-27-04, 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, and 57-19-04 of the North Dakota Century Code are suspended through June 30, 2015.

³ **SECTION 63. SUSPENSION.** Chapter 57-64 of the North Dakota Century Code is suspended for the first two taxable years beginning after December 31, 2012.

SECTION 64. REPEAL. Sections 15.1-27-07.1 and 57-19-10 of the North Dakota Century Code are repealed.

SECTION 65. EFFECTIVE DATE. Section 30 of this Act becomes effective July 1, 2015.

SECTION 66. EXPIRATION DATE. Sections 33 through 35, 38, 40, 44, 51, and 54 through 56 of this Act are effective through June 30, 2015, and after that date are ineffective.

SECTION 67. EFFECTIVE DATE - EXPIRATION DATE.

1. Sections 21, 27, 28, 42, 45 through 50, 52, and 53 of this Act are effective for the first two taxable years beginning after December 31, 2012, and are thereafter ineffective.
2. Section 57-15-17.1 remains effective through June 30, 2013, for the purpose of any levy and bond issuance authorized by the board of a school district from January 1, 2013, through June 30, 2013. The amendment to section 57-15-17.1, as set forth in section 52 of this Act, is effective beginning July 1, 2013, for the duration of the 2013 taxable year, and for the taxable year beginning after December 31, 2013.

SECTION 68. EMERGENCY. Sections 3, 44, 57, and 61 of this Act are declared to be an emergency measure.

Approved May 14, 2013
Filed May 15, 2013

³ Section 57-64-02 was also amended by section 13 of House Bill No. 1043, chapter 63.

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 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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Protection and advocacy operations	\$5,104,253	\$567,331	\$5,671,584
Accrued leave payments	0	93,590	93,590
Total all funds	\$5,104,253	\$660,921	\$5,765,174
Less estimated income	<u>3,118,888</u>	<u>114,724</u>	<u>3,233,612</u>
Total general fund	\$1,985,365	\$546,197	\$2,531,562
Full-time equivalent positions	28.50	(1.00)	27.50

Approved April 29, 2013
 Filed April 29, 2013

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 various divisions under the supervision of the director of the office of management and budget; to create and enact a new subsection to section 54-44.1-18 of the North Dakota Century Code, relating to political subdivisions submitting budget information to the state budget database website; to amend and reenact section 14-03.2-05 as created by section 1 of House Bill No. 1128, as approved by the sixty-third legislative assembly, section 15.1-27-25, subsection 1 of section 23-35-07, subsection 4 of section 23-35-08, subsection 2 of section 41-09-87, sections 48-10-02 and 54-44.1-04, and subsection 1 of section 57-02-08.1 as amended by Senate Bill No. 2171, and subdivision e of subsection 1 of section 62.1-04-03 as amended by House Bill No. 1327, as approved by the sixty-third legislative assembly, of the North Dakota Century Code and section 12 of House Bill No. 1012, section 1 of House Bill No. 1019, section 5 of House Bill No. 1020, sections 5, 6, and 7 of House Bill No. 1358, and section 15 of Senate Bill No. 2018, as approved by the sixty-third legislative assembly, relating to marital agreement requirements, distributions of royalties, health district budgets, the capitol building fund, Uniform Commercial Code filings, agency budget requests, homestead tax credit, concealed weapons permits, grants to a jurisdiction adjacent to an Indian reservation, appropriations for defraying the expenses of the parks and recreation department, loans to the western area water supply authority, transportation funding distributions, and research North Dakota grants; to provide exemptions; to provide an exception to general fund transfers to the budget stabilization fund; to provide for the use of funds by the department of human services; to provide for various transfers; to provide legislative intent; to provide for a budget section report; to provide for legislative management studies; to provide an effective date; to provide a contingent 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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$18,477,763	\$1,475,552	\$19,953,315
Operating expenses	13,755,254	641,534	14,396,788
Emergency commission contingency fund	700,000	0	700,000
Capital assets	5,190,143	4,760,922	9,951,065
Grants	430,000	0	430,000

Prairie public broadcasting	1,000,000	937,138	1,937,138
State student internship program	200,000	0	200,000
Health insurance pool - temporary employees	0	2,000,000	2,000,000
Accrued leave payments	0	570,412	570,412
Total all funds	\$39,753,160	\$10,385,558	\$50,138,718
Less estimated income	10,514,461	(783,831)	9,730,630
Total general fund	\$29,238,699	\$11,169,389	\$40,408,088
Full-time equivalent positions	131.50	(1.00)	130.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Capitol envelope	\$2,800,000	\$0
Capitol complex parking lot repairs	800,000	4,000,000
North Dakota 125 th anniversary coordinator	50,000	190,000
Board of integrative health	4,000	0
State transfers	474,700,000	0
Capitol south entrance	0	1,000,000
Exterior restoration of legislative and j-wing	0	1,500,000
Prairie public broadcasting	0	600,000
Health insurance pool	0	2,000,000
Repair and cleaning capitol and j-wing	0	1,200,000
Total all funds	\$478,354,000	\$10,490,000
Less estimated income	0	1,000,000
Total general fund	\$478,354,000	\$9,490,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The office of management and budget shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. APPROPRIATION - TRANSFER GENERAL FUND TO PROPERTY TAX RELIEF SUSTAINABILITY FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$315,210,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the property tax relief sustainability fund during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 4. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - GENERAL FUND. During the biennium beginning July 1, 2013, and ending June 30, 2015, the director of the office of management and budget shall transfer the sum of \$520,000,000 from the strategic investment and improvements fund to the general fund.

SECTION 5. GENERAL FUND TRANSFERS TO BUDGET STABILIZATION FUND - EXCEPTION. Notwithstanding section 54-27.2-02, the state treasurer and the office of management and budget may not include any general fund appropriations provided in Senate Bill No. 2176, as approved by the sixty-third legislative assembly, in the amount used to determine general fund transfers to the budget stabilization fund at the end of the 2011-13 biennium under chapter 54-27.2.

SECTION 6. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - STATE AGENCY ENERGY DEVELOPMENT IMPACT FUNDING POOL - TRANSFER AUTHORITY - EMERGENCY COMMISSION APPROVAL. There is appropriated out of any moneys in the general 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 special funds derived from federal funds and other income, the sum of \$4,500,000, 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, 2013, and ending June 30, 2015. The funds provided under this section are considered a one-time funding item.

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. 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.

1. A state agency may submit an application to the office of management and budget to address rental assistance needs for employees in affected areas of the state. Spending authority is limited to six months or until the need for the assistance has ended, whichever occurs first. An agency may submit a renewal application for continued spending authority to address any continued need to provide assistance.
 - a. As part of the application for rental assistance, the agency must identify each position within the agency that requires rental assistance. The agency shall provide a housing survey conducted by the agency or an approved statewide housing survey for the immediate geographical location appropriate to each position for which approval is being requested. The survey must include an identified difference between the state rental rate average and the rental rates for housing in the location where the employee will reside. The survey must describe the methodology used in determining rental differential for that immediate geographical location. For an existing employee or applicant already with housing, the agency must attach the employee's rental agreement from the rental property company. For a newly hired employee, the agency shall forward a copy of the rental agreement after the applicant has been hired and secured housing. The rental agreement must include the following information:
 - (1) Rental company name.
 - (2) Rental company address.
 - (3) Amount of rent.
 - (4) Effective date of lease.
 - b. The office of management and budget shall review the application for rental assistance and make a recommendation to the emergency commission to approve or reject the request. The emergency commission shall make the final determination on the application. The applications must be reviewed on an individual position or positions basis based on documented need and affordability.

- c. Rental assistance payments must be based on a housing survey conducted by the agency or a statewide survey subject to review and recommendation by the office of management and budget and approval by the emergency commission. Employees eligible to receive rental assistance include employees currently renting in designated areas of the state and new employees or existing employees transferring into affected areas of the state. The rental assistance payment must be a flat dollar amount based on the difference between the state rental rate average and the rental rates for housing in the location where the employee resides.
 - d. A state agency that has an employee receiving rental assistance must submit documentation to the office of management and budget upon request that verifies the employee's proof of payment.
 - e. A state agency must report any changes to the office of management and budget of the housing status of employees relating to a position that has been approved.
2. A state agency may submit an application for up to six months of salary differential payments for employees living in assigned or in temporarily assigned areas of the state affected by energy development. The application must document the salary level of each affected employee or position compared to statewide and local averages for similar types of employee positions. The office of management and budget shall review the application for salary differential payments and make a recommendation to the emergency commission to approve or reject the request. The emergency commission shall make the final determination on the application. Any salary differential payment provided to an employee does not become part of the employee's permanent base salary.

SECTION 7. COMMUNITY SERVICE SUPERVISION GRANTS - FUNDING ALLOCATIONS - ADDITIONAL INCOME APPROPRIATION. The grants line item in section 1 of this Act includes the sum of \$375,000 from the general fund for the purpose of providing community service supervision grants. 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, 2013, and ending June 30, 2015, to North Dakota community corrections association regions as follows:

Barnes County	\$9,091
Bismarck (urban)	20,293
Bismarck (rural)	10,667
Devils Lake	10,747
Dickinson	12,683
Fargo	24,127
Grand Forks	19,803
Jamestown	13,883
Minot	16,194
Richland County	9,931
Rugby	11,657
Sargent County	8,086
Wells County	8,189
Williston	<u>12,149</u>
Total	\$187,500

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, 2013, and ending June 30, 2015.

SECTION 8. OFFICE OF MANAGEMENT AND BUDGET - TEMPORARY EMPLOYEE HEALTH INSURANCE POOL - TRANSFER AUTHORITY. 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, 2013, and ending June 30, 2015.

SECTION 9. EXEMPTION. The amount appropriated for the fiscal management division, as contained in section 1 of chapter 15 of the 2009 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, 2013, and ending June 30, 2015.

SECTION 10. 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 11. 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 12. 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 13 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015. However, agencies may not transfer appropriation authority from the accrued leave payments line item under authority granted in this section. The agencies shall notify the office of management and budget of any transfer made pursuant to this section.

SECTION 13. STATE EMPLOYEE COMPENSATION ADJUSTMENTS - GUIDELINES - BUDGET SECTION APPROVAL. It is the intent of the sixty-third legislative assembly that 2013-15 biennium compensation adjustments for classified state employees are to be in a range of 3 to 5 percent for the first year of the biennium and in a range of 2 to 4 percent for the second year of the biennium based on documented performance. Increases for classified state employees are not to be the same percentage increase for each employee. The performance increases for the first year of the biennium are to be given beginning with the month of July 2013, to be paid in August 2013, and for the second year of the biennium are to be given beginning with the month of July 2014, to be paid in August 2014. An additional compensation adjustment for each year of the biennium of up to 2 percent for a classified state employee whose salary is in the first quartile of the employee's assigned salary range and up to 1 percent for a classified state employee whose

salary is in the second quartile of the employee's assigned salary range may be provided to address market equity.

It is the intent of the sixty-third legislative assembly that the goal of the classified state employee compensation program be a compensation ratio of 95 percent of the market policy point used by the office of management and budget for establishing the grade and salary range structure for fiscal year 2013. The office of management and budget, subject to budget section approval, may adjust the market policy point based on an estimated inflationary factor during the 2013-15 biennium. The office of management and budget shall develop guidelines for use by state agencies for providing compensation adjustments for regular classified employees in accordance with provisions of this section and section 54-44.3-01.2.

Compensation adjustments for regular nonclassified state employees are to be in a range of 3 to 5 percent for the first year of the biennium and in a range of 2 to 4 percent for the second year of the biennium based on market and documented performance and are not to be the same percentage increase for each employee. The market and performance increases are to be given beginning with the month of July 2013 for the first year of the biennium, to be paid in August 2013, and beginning with the month of July 2014 for the second year of the biennium, to be paid in August 2014.

Probationary employees are not entitled to the market and performance increases. However, probationary employees may be given all or a portion of the increases upon completion of probation, at the discretion of the appointing authority. Employees whose overall documented performance level does not meet standards are not eligible for any salary increase.

Each agency appropriation is increased to provide additional funding of \$95 per month for each eligible employee to maintain existing health insurance benefits. As a percentage of the average state employee monthly salary, this amount represents a 2.35 percent increase.

SECTION 14. ACCRUED LEAVE PAYMENTS LINE ITEM - PILOT PROJECT - LINE ITEM TRANSFERS - EMERGENCY COMMISSION APPROVAL. The accrued leave payments line item included in agency appropriation bills, as approved by the sixty-third legislative assembly, includes funding for a pilot project for the biennium beginning July 1, 2013, and ending June 30, 2015, for paying accrued annual leave and sick leave for eligible employees resigning, retiring, or otherwise discontinuing employment with the agency. The emergency commission may approve agency requests for line item transfers from the accrued leave payments line item to the salaries and wages line item or other line item that includes salaries and wages funding subject to the agency providing documentation justifying the need for the funding transfer for the biennium beginning July 1, 2013, and ending June 30, 2015. For the purpose of determining salaries and wages amounts under section 54-27-10, the office of management and budget shall consider the amounts included in the accrued leave payments line item as part of the appropriation for salaries and wages.

SECTION 15. TRANSFERS - RACING COMMISSION FUNDS. Upon the request of the North Dakota racing commission, the office of management and budget shall transfer up to \$50,000 from the breeders' fund to the purse fund and up to \$50,000 from the breeders' fund to the racing promotion fund during the biennium beginning July 1, 2013, and ending June 30, 2015. Any funds transferred under this section must be used to promote additional horse races in the state during the biennium beginning July 1, 2013, and ending June 30, 2015. Notwithstanding any other provision of law, the office of management and budget shall deposit any funds

designated for the purse fund and racing promotion fund under section 53-06.2-11 in the breeders' fund until the deposits equal the transfers made to the purse fund and racing promotion fund as provided under this section.

SECTION 16. PROCUREMENT REQUIREMENTS - DEPARTMENT OF TRANSPORTATION AIRPLANE REPLACEMENT. The purchase of airplanes by the department of transportation under the authorization granted in section 5 of House Bill No. 1033, as approved by the sixty-third legislative assembly, is exempt from the procurement provisions of chapter 54-44.4 and any rules or policies adopted pursuant to that chapter.

SECTION 17. USE OF FUNDS - DEPARTMENT OF HUMAN SERVICES. The department of human services may use a portion of the funds appropriated for grants to critical access hospitals in section 10 of House Bill No. 1358, as approved by the sixty-third legislative assembly, for the purpose of providing a grant to an organization to assist hospitals in developing a system to verify patient personal and health insurance information. 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 organization that receives the grant shall provide reports on the development and impact of the system to the department of human services in December and June of each year of the biennium.

SECTION 18. DEPARTMENT OF HUMAN SERVICES - BUDGET SAVINGS - CONTINGENT GRANT. If the department of human services has not projected a 2013-15 biennium appropriation deficiency on or after July 1, 2014, the department of human services may award a grant from its general fund appropriation to an entity eligible under subsection 2 of section 50-01.2-03.2 as defined in section 12 of House Bill No. 1012, as approved by the sixty-third legislative assembly, for the period beginning July 1, 2014, and ending June 30, 2015. The amount provided under this section is in addition to, and may not exceed, the total amount provided under section 12 of House Bill No. 1012, as approved by the sixty-third legislative assembly.

SECTION 19. AMENDMENT. Section 14-03.2-05 of the North Dakota Century Code as created by section 1 of House Bill No. 1128, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

14-03.2-05. Formation requirements.

A premarital agreement or marital agreement must be in a record and signed by both parties. The agreement is enforceable without consideration. ~~A marital agreement created pursuant to this chapter must be signed within the first one hundred twenty days of the marriage.~~

SECTION 20. AMENDMENT. Section 15.1-27-25 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-25. Royalties available under federal law - Distribution to counties and school districts - Continuing appropriation.

1. Any money paid to the state by the secretary of the treasury of the United States under the provisions of an Act of Congress entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain" [Pub. L. 66-146; 41 Stat. 437; 30 U.S.C. 181 et seq.] must be credited to the state general fund and the federal mineral royalties distribution fund and must be distributed only pursuant to the terms of this section.

⁴ Section 14-03.2-05 was created by section 1 of House Bill No. 1128, chapter 121.

2. Within three months following the calendar quarters ending in March, June, September, and December, the state auditor shall certify to the state treasurer the amount of money the state received during the preceding calendar quarter for royalties under the Act of Congress cited in subsection 1.
3. The state treasurer shall allocate the percentage of the total moneys received as required by this section among the counties in which the minerals were produced based on the proportion each county's mineral royalty revenue bears to the total mineral royalty revenue received by the state for that calendar quarter. The state treasurer shall pay the amount calculated to each county.
4. The counties may use any money received under this section only for the planning, construction, and maintenance of public facilities and the provision of public services. As used in this section, public facilities include any facility used primarily for public use as determined by the board of county commissioners whether located on public or private property.
5. The percentage of money received by the state under the Act of Congress cited in subsection 1 which must be allocated and paid to the counties under this section is ~~ten percent for collections in 2000, twenty percent for collections in 2001, thirty percent for collections in 2002, forty percent for collections in 2003, and fifty percent for collections in 2004 and thereafter.~~
6. Any remaining money received by the state under the Act of Congress cited in subsection 1 must be distributed to school districts as provided for in this chapter. Any moneys distributed under this subsection are deemed the first moneys withdrawn or expended from the general fund for the purpose of state aid to school districts.
7. A reserve for distributions to counties pursuant to this section is created as a special fund in the state treasury known as the federal mineral royalties distribution fund. The state treasurer shall deposit in the fund fifty percent of amounts received pursuant to this section.
8. The funds needed to make the distribution to counties, as provided for in this section, are hereby appropriated on a continuing basis.

⁵ **SECTION 21. AMENDMENT.** Subsection 1 of section 23-35-07 of the North Dakota Century Code is amended and reenacted as follows:

1. 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. 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

⁵ Section 23-35-07 was also amended by section 6 of Senate Bill No. 2030, chapter 217.

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.

⁶ **SECTION 22. AMENDMENT.** Subsection 4 of section 23-35-08 of the North Dakota Century Code is amended and reenacted as follows:

4. May accept and receive expend any gift, grant, donation, or other contribution offered to aid in the work of the board of health or public health unit.

⁷ **SECTION 23. AMENDMENT.** Subsection 2 of section 41-09-87 of the North Dakota Century Code, as effective after June 30, 2013, is amended and reenacted as follows:

2. Filing does not occur with respect to a record that a filing office refuses to accept because:
 - a. The record is not communicated by a method or medium of communication authorized by the filing office;
 - b. An amount equal to or greater than the applicable filing fee is not tendered;
 - c. The filing office is unable to index the record because:
 - (1) In the case of an initial financing statement, the record does not provide a name for the debtor;
 - (2) In the case of an amendment or information statement, the record:
 - (a) Does not identify the initial financing statement as required by section 41-09-83 or 41-09-89, as applicable; or
 - (b) Identifies an initial financing statement whose effectiveness has lapsed under section 41-09-86;
 - (3) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously

⁶ Section 23-35-08 was also amended by section 7 of Senate Bill No. 2030, chapter 217.

⁷ Section 41-09-87 was also amended by section 25 of House Bill No. 1136, chapter 257.

provided in the financing statement to which the record relates, the record does not identify the debtor's surname; or

- (4) In the case of a record filed or recorded in the filing office described in subdivision a of subsection 1 of section 41-09-72, the record does not provide a sufficient description of the real property to which it relates;
- d. In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- e. In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
 - (1) Provide a mailing address for the debtor; or
 - (2) Indicate whether the name provided as the name of the debtor is the name of an individual or an organization;
- f. In the case of an assignment reflected in an initial financing statement under subsection 1 of section 41-09-85 or an amendment filed under subsection 2 of section 41-09-85, the record does not provide a name and mailing address for the assignee; or
- g. In the case of a continuation statement, the record is not filed within the six-month period prescribed by subsection 4 of section 41-09-86; or
- h. The record does not contain the social security number or the internal revenue service taxpayer identification number of the debtor.

SECTION 24. AMENDMENT. Section 48-10-02 of the North Dakota Century Code is amended and reenacted as follows:

48-10-02. Capitol building fund to be administered by the capitol grounds planning commission - Continuing appropriation - Procedure for expenditure of certain funds.

The capitol grounds planning commission shall have general powers to superintend the administration of the capitol building fund, its interest and income fund, and its investments and properties. It may cause any lands now held in such funds to be sold at market value, direct the conversion of any securities now held by such funds to cash, approve expenditures from such funds subject to law and legislative appropriations, and to do all other things necessary to carry out the intent and purposes of this section. The board of university and school lands or its designee, on the commission's behalf, shall see to the investment and management of the capitol building fund and its interest and income fund and shall account to the commission concerning these funds at the commission's request.

Provided further, all moneys and other property in the capitol building fund, except as otherwise appropriated, are hereby dedicated and reserved to the exclusive purpose of the construction of an addition to the legislative wing of the state capitol building, and the capitol grounds planning commission shall take necessary steps to accumulate and conserve the money and property in the capitol building fund for such purpose.

The commission may, during any biennium, expend from the interest and income fund of the capitol building fund a sum not to exceed fifty percent of the unencumbered balance on the first day of any biennium, and such amount is hereby appropriated to the capitol grounds planning commission. The expenditure may be made, after consideration of the capitol grounds master plan, for projects or planning but shall not exceed one hundred seventy-five thousand dollars per biennium. The expenditure may only be made upon approval by two-thirds of the total membership of the commission. The expenditure must be made upon a voucher, or vouchers, prepared by the office of management and budget at the direction of the commission.

SECTION 25. AMENDMENT. Section 54-44.1-04 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-04. (Effective through July 31, 2013) 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 budget estimates for the North Dakota university system must include block grants for the university system for a base funding component and for an initiative funding component for specific strategies or initiatives and a budget estimate for an asset funding component for renewal and replacement of physical plant assets at the institutions of higher education. 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 in the director's discretion 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 designates 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.

(Effective after July 31, 2013) 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 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 by up to sixty days 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 of up to sixty days 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 26. A new subsection to section 54-44.1-18 of the North Dakota Century Code is created and enacted as follows:

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.

⁸ **SECTION 27. AMENDMENT.** Subsection 1 of section 57-02-08.1 of the North Dakota Century Code as amended by Senate Bill No. 2171, as approved by the sixty-third legislative assembly, 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 thousand five hundred 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 thousand six hundred dollars of taxable valuation.

⁸ Section 57-02-08.1 was also amended by section 4 of House Bill No. 1106, chapter 443, and section 1 of Senate Bill No. 2171, chapter 442.

- (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 thousand seven hundred 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 thousand eight hundred 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 hundred 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 hundred fifty 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 coowners 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.

⁹ **SECTION 28. AMENDMENT.** Subdivision e of subsection 1 of section 62.1-04-03 of the North Dakota Century Code as amended by House Bill No. 1327, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

- e. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed the criminal history records check conducted by the bureau of criminal investigation and the federal bureau of investigation. The applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or

⁹ Section 62.1-04-03 was also amended by section 9 of House Bill No. 1327, chapter 491.

alcohol or substance abuse. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records. The bureau may deny approval for a ~~class 1 firearm~~ license if the bureau has reasonable cause to believe that the applicant or licenseholder has been or is a danger to self or others as demonstrated by evidence, including past pattern of behavior involving unlawful violence or threats of unlawful violence; past participation in incidents involving unlawful violence or threats of unlawful violence; or conviction of a weapons offense. In determining whether the applicant or licenseholder has been or is a danger to self or others, the bureau may inspect expunged records of arrests and convictions of adults and juvenile court records; and

SECTION 29. AMENDMENT. Section 12 of House Bill No. 1012, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

SECTION 12. GRANTS. The grants line item in subdivision 2 of section 1 of this Act includes \$300,000, or so much of the sum as may be necessary, from the general fund for grants to a jurisdiction that is adjacent to an Indian reservation but does not receive reimbursement payments under section 50-01.2-03.2 and is determined by the department of human services to be the most significantly impacted based on calendar year 2012 data for the first year of the biennium and calendar year 2013 data for the second year of the biennium considering the provisions of subsection 2 of section 50-01.2-03.2, for the biennium beginning July 1, 2013, and ending June 30, 2015. ~~No more than fifty percent of this appropriation may be distributed in each fiscal year of the biennium.~~

SECTION 30. AMENDMENT. Section 1 of House Bill No. 1019, as approved by the sixty-third 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 and for providing a grant to the International Peace Garden, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

PARKS AND RECREATION DEPARTMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Administration	\$2,484,885	\$188,708	\$2,673,593
Accrued leave payments	0	181,577	181,577
Natural resources	12,768,203	8,325,122	21,093,325
Recreation	7,489,091	(1,403,216)	6,085,875
Total all funds	\$22,742,179	\$7,292,191	\$30,034,370
Less estimated income	11,641,632	359,199	12,000,731
Total general fund	\$11,100,647	\$6,932,992	\$18,033,639
Full-time equivalent positions	54.00	1.00	55.00
Administration	\$2,484,885	\$188,708	\$2,673,593

Accrued leave payments	0	181,577	181,577
Natural resources	12,768,203	7,875,122	20,643,325
Recreation	7,489,091	(1,403,216)	6,085,875
Total all funds	\$22,742,179	\$6,842,191	\$29,584,370
Less estimated income	11,641,532	134,199	11,775,731
Total general fund	\$11,100,647	\$6,707,992	\$17,808,639
Full-time equivalent positions	54.00	1.00	55.00

Subdivision 2.

INTERNATIONAL PEACE GARDEN

	Base Level	Adjustments or Enhancements	Appropriation
International Peace Garden	\$773,699	\$1,450,000	\$2,223,699
Total general fund	\$773,699	\$1,450,000	\$2,223,699

Subdivision 3.

BILL TOTAL

	Base Level	Adjustments or Enhancements	Appropriation
Grand total general fund	\$11,874,346	\$8,382,992	\$20,257,338
Grand total special funds	11,641,632	359,199	12,000,731
Grand total all funds	\$23,515,878	\$8,742,191	\$32,258,069
Grand total general fund	\$11,874,346	\$8,157,992	\$20,032,338
Grand total special funds	11,641,532	134,199	11,775,731
Grand total all funds	\$23,515,878	\$8,292,191	\$31,808,069

SECTION 31. AMENDMENT. Section 5 of House Bill No. 1020, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY AUTHORITY. The Bank of North Dakota shall provide a loan of \$40,000,000 to the western area water supply authority for construction of the project. ~~The terms and conditions of the loan must be negotiated by the western area water supply authority and the Bank of North Dakota and any previous loans may be added to and merged into this loan.~~ ~~previous loans~~ as agreed by the ~~authority~~ industrial commission and the Bank of North Dakota. The authority may repay the loan from income from specific project features. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for the loan, the authority is subject to the default provisions under section 61-40-09.

SECTION 32. AMENDMENT. Section 5 of House Bill No. 1358, as approved by the sixty-third legislative assembly, is amended and enacted as follows:

SECTION 5. APPROPRIATION - DEPARTMENT OF TRANSPORTATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$160,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of allocation as provided in this section among oil-producing counties that received \$5,000,000 or more of allocations under subsection 2 of section 57-51-15 in the state fiscal year ending June 30, ~~2012~~ 2013, for the biennium beginning July 1, 2013, and ending June 30, 2015.

1. The sum appropriated in this section must be used to rehabilitate or reconstruct county paved and unpaved roads and bridges needed to support oil and gas production and distribution in North Dakota.
 - a. Funding allocations to counties are to be made by the department of transportation based on data supplied by the upper great plains transportation institute.
 - b. Counties identified in the data supplied by the upper great plains transportation institute which received \$5,000,000 or more of allocations under subsection 2 of section 57-51-15 for the state fiscal year ending June 30, ~~2012~~2013, are eligible for this funding.
2. 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.
 - a. The request must include a proposed plan for funding projects that rehabilitate or reconstruct paved and unpaved roads and bridges within the county.
 - b. The plan must be based on data supplied by the upper great plains transportation institute, actual road and bridge conditions, and integration with state highway and other county projects.
 - c. Projects funded under this section must comply with the American association of state highway transportation officials (AASHTO) pavement design procedures and the department of transportation local government requirements. Upon completion of major reconstruction projects, the roadway segment must be posted at a legal load limit of 105,500 pounds [47853.993 kilograms].
 - d. Funds may not be used for routine maintenance.
3. The department of transportation, in consultation with the county, may approve the plan or approve the plan with amendments.
4. The funding appropriated in this section may be used for:
 - a. Ninety percent of the cost of the approved projects not to exceed the funding available for that county.
 - b. Funding may be used for construction, engineering, and plan development costs.
5. Upon approval of the plan, the department of transportation shall transfer to the county the approved funding for engineering and plan development costs.
6. Upon execution of a construction contract by the county, the department of transportation shall transfer to the county the approved funding to be distributed for county and township rehabilitation and reconstruction projects.
7. The recipient 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.

8. The funding under this section may be applied to engineering, design, and construction costs incurred on related projects as of January 1, 2013.
9. For purposes of this section, a "bridge" is a structure that has an opening of more than 20 feet [6.096 meters] as measured along the centerline of the roadway. It may also be the clear openings of more than 20 feet [6.096 meters] of a group of pipes as long as the pipes are spaced less than half the distance apart of the smallest diameter pipe.
10. Section 54-44.1-11 does not apply to funding under this section. Any funds not spent by June 30, 2015, must be continued into the biennium beginning July 1, 2015, and ending June 30, 2017, and may be expended only for purposes authorized by this section.

SECTION 33. AMENDMENT. Section 6 of House Bill No. 1358, as approved by the sixty-third legislative assembly, is amended and enacted as follows:

SECTION 6. APPROPRIATION - DEPARTMENT OF TRANSPORTATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$120,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of allocation among counties that did not receive \$5,000,000 or more of allocations under subsection 2 of section 57-51-15 in the state fiscal year ending June 30, ~~2012~~2013, for the biennium beginning July 1, 2013, and ending June 30, 2015. The amounts available for allocation under this section must be distributed on or after February 1, 2014.

1. The sum appropriated in this section must be used to rehabilitate or reconstruct county paved and unpaved roads and bridges needed to support economic activity in North Dakota.
 - a. To be eligible to receive an allocation under this section, a county may not have received \$5,000,000 or more of allocations under subsection 2 of section 57-51-15 during the state fiscal year ending June 30, ~~2012~~2013.
 - b. Allocations among eligible counties under this section must be based on the miles of roads defined by the department of transportation as county major collector roadways in each county.
 - c. The department of transportation may use data supplied by the upper great plains transportation institute in determining the projects to receive funding under this section.
2. Each county requesting funding under this section shall submit the request in accordance with criteria developed by the department of transportation.
 - a. The request must include a proposed plan for funding projects that rehabilitate or reconstruct paved and unpaved roads and bridges within the county.
 - b. The plan must be based on actual road and bridge conditions and the integration of projects with state highway and other county projects.
 - c. Projects funded under this section must comply with the American association of state highway transportation officials (AASHTO)

pavement design procedures and the department of transportation local government requirements. Upon completion of major reconstruction projects, the roadway segment must be posted at a legal load limit of 105,500 pounds [47853.993 kilograms].

- d. Funds may not be used for routine maintenance.
3. The department of transportation, in consultation with the county, may approve the plan or approve the plan with amendments.
4. The funding appropriated in this section may be used for:
 - a. Ninety percent of the cost of the approved projects not to exceed the funding available for that county.
 - b. Funding may be used for construction, engineering, and plan development costs.
5. Upon approval of the plan, the department of transportation shall transfer to the county the approved funding for engineering and plan development costs.
6. Upon execution of a construction contract by the county, the department of transportation shall transfer to the county the approved funding to be distributed for county and township rehabilitation and reconstruction projects.
7. The recipient 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.
8. The funding under this section may be applied to engineering, design, and construction costs incurred on related projects as of January 1, 2013.
9. For purposes of this section, a "bridge" is a structure that has an opening of more than 20 feet [6.096 meters] as measured along the centerline of the roadway. It may also be the clear openings of more than 20 feet [6.096 meters] of a group of pipes as long as the pipes are spaced less than half the distance apart of the smallest diameter pipe.
10. Section 54-44.1-11 does not apply to funding under this section. Any funds not spent by June 30, 2015, must be continued into the biennium beginning July 1, 2015, and ending June 30, 2017, and may be expended only for purposes authorized by this section.

SECTION 34. AMENDMENT. Section 7 of House Bill No. 1358, as approved by the sixty-third legislative assembly, is amended and enacted as follows:

SECTION 7. APPROPRIATION - STATE TREASURER. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$8,760,000, 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 townships in oil-producing counties, for the biennium beginning July 1, 2013, and ending June 30, 2015. The funding provided in this section must be distributed in equal amounts in July 2013 and May 2014. The state

treasurer shall distribute the funds provided under this section as soon as possible to counties and the county treasurer shall allocate the funds to or for the benefit of townships in oil-producing counties through a distribution of \$15,000 each year to each organized township and a distribution of \$15,000 each year 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 subdivision 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, an "oil-producing county" means a county that received an allocation of funding under section 57-51-15 of more than \$500,000 but less than \$5,000,000 in the state fiscal year ending June 30, 20122013.

SECTION 35. AMENDMENT. Section 15 of Senate Bill No. 2018, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

Research North Dakota grants.

The department shall establish and administer a research North Dakota grant program to provide grants to a research university for research, development, and commercialization activities related to a private sector partner. The centers of excellence commission, established under chapter 15-69, shall make grant award determinations under this section. The department shall work with the centers of excellence commission in establishing guidelines to qualify for a grant under this section, including the requirement that an application must be accompanied by a partnership agreement between the private sector partner and a research university. The agreement must include details regarding the scope of the work, the budget, the location of the work to be completed, the intellectual property ownership rights, and the intellectual property income distribution. The commission may approve changes to the scope of the work or the budget only to the extent that the changes are agreed upon by the private sector partner and the research university. Before the commission directs the department to distribute funds awarded under this section, the research university shall provide the commission with detailed documentation of private sector participation and the availability of one dollar of matching funds for each dollar of state funds to be distributed. Matching funds must be in the form of cash given to the research university and may not include in-kind assets.

SECTION 36. LEGISLATIVE INTENT - CAPITOL GROUNDS PARKING LOT PROJECT. It is the intent of the sixty-third legislative assembly that the office of management and budget, in improving the parking lots on the capitol grounds during the biennium beginning July 1, 2013, and ending June 30, 2015, not reduce the number of parking spaces or the size of the legislative parking lot west of the capitol building.

SECTION 37. LEGISLATIVE MANAGEMENT STUDY - STATE AGENCY FACILITY NEEDS. During the 2013-14 interim, the legislative management shall consider studying the facility needs of state agencies located in the Bismarck area, including an evaluation of current and projected facility needs of state agencies, facilities on the capitol grounds currently being used by state agencies, and facilities owned or leased by state agencies that are not located on the capitol grounds. The study, if conducted, must determine if additional facilities are needed for the

operations of state agencies. If it is determined that additional space is needed, the legislative management shall review the most economical options for increasing the amount of facilities space available, including options for renovating or expanding existing buildings on the capitol grounds, options for constructing new buildings on the capitol grounds, and options for building or leasing facilities that are not located on the capitol grounds. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 38. LEGISLATIVE MANAGEMENT STUDY - SALARIES AND WAGES APPROPRIATIONS - CLASSIFICATION SYSTEM. The legislative management shall consider studying, during the 2013-14 interim, the process of appropriating funds for salaries and wages and the state's classification system. The study, if conducted, must consider the feasibility and desirability of appropriating a lump sum amount to each agency for salaries and wages, without identifying specific purposes for the funding and allowing the agency head the flexibility to use the funding as necessary to accomplish the duties and responsibilities of the agency. The study must also include the effect of this change on the state's classification and benefits system and on the process of reporting by the agency on its use of the funds to the legislative assembly. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 39. LEGISLATIVE MANAGEMENT STUDY - STATE EMPLOYEE HEALTH INSURANCE PREMIUMS. The legislative management shall consider studying, during the 2013-14 interim, the feasibility and desirability of establishing a maximum state contribution to the cost of state employee health insurance premiums. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 40. LEGISLATIVE MANAGEMENT STUDY - FOUNDATION AID STABILIZATION FUND. The legislative management shall consider studying during the 2013-14 interim the foundation aid stabilization fund, including anticipated growth in the fund, appropriate funding levels, options for the disposition of excess funding if appropriate funding levels are exceeded, the reallocation of oil extraction taxes currently being deposited in the fund, and the feasibility and desirability of proposing changes to the constitution relating to the foundation aid stabilization fund. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 41. EFFECTIVE DATE. Section 26 of this Act becomes effective on January 1, 2014, and section 27 of this Act is effective for taxable years after December 31, 2012.

SECTION 42. CONTINGENT EFFECTIVE DATE. Section 23 of this Act becomes effective August 1, 2015, 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 section 23 of this Act, in which case section 23 of this Act becomes effective ninety days following the completion of the certificate requirement.

SECTION 43. EMERGENCY. Sections 21, 23, 27, 28, 29, 30, and 37, \$200,000 included in the operations line item in subdivision 8 of section 1 for the Theodore Roosevelt center, \$5,000,000 included in the operations line item in subdivision 10 of

section 1 for flood recovery funding, and the capital assets, master plan and space utilization study, and deferred maintenance pool line items in section 1 of Senate Bill No. 2003, as approved by the sixty-third legislative assembly, are declared to be an emergency measure.

Approved May 23, 2013

Filed May 23, 2013

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 the office of adjutant general; to provide for a contingent appropriation; to provide an appropriation to the housing finance agency; to provide for transfers; to provide exemptions; to provide for a budget section report; 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, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

NATIONAL GUARD

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$5,153,886	\$2,179,283	\$7,333,169
Operating expenses	4,062,891	50,000	4,112,891
Capital assets	229,371	1,141,261	1,370,632
Grants	449,514	660,000	1,109,514
Civil air patrol	243,353	44,098	287,451
Tuition, recruiting, and retention	2,407,500	110,000	2,517,500
Air guard contract	10,989,323	493,835	11,483,158
Army guard contract	56,110,755	2,071,916	58,182,671
Veterans' cemetery	576,916	70,089	647,005
Reintegration program	1,477,449	9,531	1,486,980
Accrued leave payments	<u>0</u>	<u>812,098</u>	<u>812,098</u>
Total all funds	\$81,700,958	\$7,642,111	\$89,343,069
Less estimated income	<u>65,721,902</u>	<u>4,596,841</u>	<u>70,318,743</u>
Total general fund	\$15,979,056	\$3,045,270	\$19,024,326

Subdivision 2.

DEPARTMENT OF EMERGENCY SERVICES

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$11,363,744	(\$1,064,824)	\$10,298,920
Operating expenses	9,930,022	(10,534)	9,919,488
Capital assets	802,000	121,240	923,240
Grants	71,419,771	(52,046,524)	19,373,247
Disaster costs	109,923,008	37,795,559	147,718,567

Radio communications	0	2,735,000	2,735,000
Accrued leave payments	0	<u>283,895</u>	<u>283,895</u>
Total all funds	\$203,438,545	(\$12,186,188)	\$191,252,357
Less estimated income	<u>195,382,476</u>	<u>(15,856,622)</u>	<u>179,525,854</u>
Total general fund	\$8,056,069	\$3,670,434	\$11,726,503

Subdivision 3.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$24,035,125	\$7,090,704	\$31,125,829
Grand total special funds	<u>261,104,378</u>	<u>(9,759,781)</u>	<u>251,344,597</u>
Grand total all funds	\$285,139,503	(\$2,669,077)	\$282,470,426
Full-time equivalent positions	242.00	4.00	246.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Motorola lease purchase payment	\$1,525,347	\$0
Message switch upgrades	235,000	0
Central electronics bank dispatch system	1,100,000	0
Technology projects	100,000	0
State radio tower package	1,500,000	1,175,000
Statewide seamless base map	900,000	1,150,000
Military service center east	72,700	0
Extraordinary repairs	385,381	0
State radio communications center	0	1,201,240
Computer-aided dispatch upgrade	0	340,000
Voice incident recorder	0	150,000
State radio suppression project	0	210,000
Disaster coordination contract	0	1,500,000
Veterans' bonus program	0	600,000
Flood disaster expenditures (special session)	39,500,000	0
Flood-damaged school grant	<u>500,000</u>	<u>0</u>
Total all funds	\$45,818,428	\$6,326,240
Less estimated income	<u>40,000,000</u>	<u>2,000,000</u>
Total general fund	\$5,818,428	\$4,326,240

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The adjutant general shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. CONTINGENT APPROPRIATION - NATIONAL GUARD TUITION ASSISTANCE. 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 adjutant general for the purpose of providing tuition assistance to eligible members of the North Dakota national guard, for the biennium beginning July 1, 2013, and ending June 30, 2015. The funding appropriated under this section is 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 4. APPROPRIATION - HOUSING FINANCE AGENCY - FLOOD-IMPACTED HOUSING ASSISTANCE - BUDGET SECTION REPORT. There is appropriated out of any moneys in the state disaster relief 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 housing finance agency for the purpose of providing grants for flood-impacted housing assistance, for the period beginning with the effective date of this Act and ending June 30, 2015. The funds appropriated under this section must be used to provide grants to counties, cities, local housing authorities, and other nonprofit entities to assist homeowners and residents in the rehabilitation or replacement of flood-damaged homes, to retain homeowners and other residents in the community, and for transitional expenses to facilitate housing availability for flood-impacted residents. An entity requesting a grant for temporary housing for flood-impacted residents must certify to the housing finance agency that housing occupants are eligible to receive housing assistance under federal housing and urban development agency guidelines, that a land use agreement is in place for temporary housing units, and that a plan has been developed for the disposal of temporary housing units. The housing finance agency shall develop guidelines for the distribution of funds including the frequency of the distribution of grant funds. During the 2013-14 interim the housing finance agency shall provide a report to the budget section regarding the use of funds under this section.

SECTION 5. 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, 2013, and ending June 30, 2015.

SECTION 6. 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, 2013, and ending June 30, 2015. Any amounts transferred pursuant to this section must be reported to the director of the office of management and budget.

SECTION 7. 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-third legislative assembly, for the biennium beginning July 1, 2013, and ending June 30, 2015. The adjutant general shall notify the office of management and budget of any transfer made under this section.

SECTION 8. EXEMPTION. The sum of \$1,000,000 from the general fund appropriated for the computer-aided dispatch phase 2 project, as contained in section 1 of chapter 16 of the 2009 Session Laws, is not subject to section 54-44.1-11 and any unexpended funds are available for project costs during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 9. EXEMPTION. Any amounts carried over pursuant to section 7 of chapter 42 of the 2011 Session Laws that is unexpended as of June 30, 2013, 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 10. EXEMPTION. The amount appropriated in the capital assets line for the state radio tower package and statewide seamless base map in section 1, subdivision 2, of chapter 42 of the 2011 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this line item are available for completing these projects during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 11. EXEMPTION. The amount appropriated 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 in section 4, subdivisions 2, 3, and 4, of chapter 261 of the 2011 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this appropriation are available for these purposes during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 12. EXEMPTION. The amount appropriated for grants to cities and counties for flood-impacted housing rehabilitation in section 9 of chapter 579 of the 2011 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this appropriation are available for these purposes during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 13. EXEMPTION. The amount appropriated in the tuition, recruiting, and retention line item in subdivision 1 of section 1 of chapter 42 of the 2011 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, 2013, and ending June 30, 2015.

SECTION 14. EMERGENCY. Section 4 of this Act and funding of \$600,000 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 \$241,240 from the general fund in the capital assets line item in subdivision 2 of section 1 of this Act, relating to the state radio communications center project, and funding of \$960,000 from the general fund in the capital assets line item in subdivision 1 of section 1 of this Act, relating to the state radio communications center project, are declared to be an emergency measure.

Approved May 3, 2013

Filed May 3, 2013

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 game and fish department; and to amend and reenact subsection 1 of section 54-17.8-06 of the North Dakota Century Code as created by House Bill No. 1278, as approved by the sixty-third legislative assembly, relating to the membership of the outdoor heritage advisory board.

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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$24,019,028	\$1,880,578	\$25,899,606
Operating expenses	12,524,493	432,235	12,956,728
Capital assets	4,183,170	(298,109)	3,885,061
Grants	7,718,500	(596,000)	7,122,500
Land habitat and deer depredation	12,904,686	(197,283)	12,707,403
Noxious weed control	600,000	50,000	650,000
Missouri River enforcement	200,000	75,939	275,939
Grants, gifts, and donations	800,000	0	800,000
Nongame wildlife conservation	120,000	0	120,000
Lonetree reservoir	1,749,065	186,571	1,935,636
Wildlife services	868,800	(484,400)	384,400
Accrued leave payments	<u>0</u>	<u>816,366</u>	<u>816,366</u>
Total special funds	\$65,687,742	\$1,865,897	\$67,553,639
Full-time equivalent positions	157.00	1.00	158.00

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.

¹⁰ **SECTION 3. AMENDMENT.** Subsection 1 of section 54-17.8-06 of the North Dakota Century Code as created by House Bill No. 1278, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

1. There is created a North Dakota outdoor heritage advisory board consisting of twelve members. The governor shall appoint representatives from each of the

¹⁰ Section 54-17.8-06 was created by section 1 of House Bill No. 1278, chapter 408.

groups listed in this section based upon recommendations made by the appropriate group. The advisory board consists of:

- a. Four members from the agriculture community. The governor shall appoint one member from the North Dakota farm bureau, North Dakota farmers union, the North Dakota stockmen's association, and the North Dakota grain growers association.
- b. Two members from the energy industry. The governor shall appoint one member from the North Dakota petroleum council and one member from the lignite energy council.
- c. Four members from the conservation community. The governor shall appoint from a list of nominations one member from ducks unlimited of North Dakota, ~~the North Dakota natural resources trust fund~~, one member from the North Dakota chapter of pheasants forever, and two members from the conservation community at large of statewide conservation groups.
- d. One member from the business community from the greater North Dakota chamber.
- e. One member from the North Dakota recreation and park association.

Approved May 1, 2013

Filed May 1, 2013

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 state historical society; and to provide for a report to the budget section.

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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,477,860	\$2,039,850	\$11,517,710
Accrued leave payments	0	211,332	211,332
Operating expenses	2,387,016	379,000	2,766,016
Capital assets	1,620,736	128,989	1,749,725
Project pool	0	950,000	950,000
Grants	1,000,000	0	1,000,000
Cultural heritage grants	504,500	0	504,500
Yellowstone-Missouri-Fort Union	<u>4,492</u>	<u>0</u>	<u>4,492</u>
Total all funds	\$14,994,604	\$3,709,171	\$18,703,775
Less estimated income	<u>2,900,413</u>	<u>321,551</u>	<u>3,221,964</u>
Total general fund	\$12,094,191	\$3,387,620	\$15,481,811
Full-time equivalent positions	63.00	6.00	69.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Marketing \$75,000	\$0	
New exhibit development	90,000	0
Lawrence Welk homestead grant	25,000	0
Repairs and small capital projects	1,125,000	0
North Dakota studies eighth grade curriculum	125,000	150,000
Historic sites exhibits	0	50,000
Project pool	0	950,000
Database migration	30,900	0
Temporary staff	59,800	0
Business analysis	10,000	0
State's 125th celebration planning	<u>50,000</u>	<u>100,000</u>
Total all funds	\$1,590,700	\$1,250,000

Less estimated income	650,000	0
Total general fund	\$940,700	\$1,250,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The state historical society shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

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, 2013, and ending June 30, 2015.

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, 2013, and ending June 30, 2015.

SECTION 5. LAWRENCE WELK HOMESTEAD HISTORIC SITE PURCHASE - REPAIRS. The project pool line item in section 1 of this Act includes funding that may be used to purchase the Lawrence Welk homestead. If the homestead is purchased, the state historical society shall determine repairs that must be completed by the property owners and negotiate with the property owners to have those repairs made prior to the state's purchase of the Lawrence Welk homestead, during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 6. PROJECT POOL - REPORT TO BUDGET SECTION. The state historical society shall report to the budget section on or before July 1, 2014, regarding the use of funds in the project pool line item in section 1 of this Act.

SECTION 7. CONTINGENT FULL-TIME EQUIVALENT POSITION - LIMITED AUTHORIZATION. The full-time equivalent positions line item in section 1 of this Act includes one full-time equivalent position that is contingent on the state historical society using funding included in the project pool line item in section 1 of this Act for a technology coordinator position. The position is authorized only for the biennium beginning July 1, 2013, and ending June 30, 2015. The state historical society shall reevaluate the position and determine if the position will be requested as part of the agency's 2015-17 biennium budget request as an optional item.

Approved May 2, 2013

Filed May 2, 2013

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 parks and recreation department and for providing a grant to the International Peace Garden; to provide for matching funds; 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 and for providing a grant to the International Peace Garden, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

PARKS AND RECREATION DEPARTMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Administration	\$2,484,885	\$188,708	\$2,673,593
Accrued leave payments	0	181,577	181,577
Natural resources	12,768,203	8,325,122	21,093,325
Recreation	<u>7,489,091</u>	<u>(1,403,216)</u>	<u>6,085,875</u>
Total all funds	\$22,742,179	\$7,292,191	\$30,034,370
Less estimated income	<u>11,641,532</u>	359,199	<u>12,000,731</u>
Total general fund	\$11,100,647	\$6,932,992	\$18,033,639
Full-time equivalent positions	54.00	1.00	55.00

Subdivision 2.

INTERNATIONAL PEACE GARDEN

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
International Peace Garden	\$773,699	\$1,450,000	\$2,223,699
Total general fund	\$773,699	\$1,450,000	\$2,223,699

Subdivision 3.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$11,874,346	\$8,382,992	\$20,257,338

Grand total special funds	<u>11,641,532</u>	<u>359,199</u>	<u>12,000,731</u>
Grand total all funds	\$23,515,878	\$8,742,191	\$32,258,069

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Parks capital projects and deferred maintenance	\$5,269,210	\$3,897,800
Parks equipment	116,000	350,000
Lewis and Clark interpretive center grant	0	1,350,000
Little Missouri state park trail leases	85,000	0
Parks SCORP plan	40,000	0
Parks strategic plans	0	100,000
Community grant program	0	500,000
International Peace Garden capital projects	<u>267,000</u>	<u>1,250,000</u>
Total all funds	\$5,777,210	\$7,447,800
Less estimated income	<u>1,028,000</u>	<u>1,270,300</u>
Total general fund	\$4,749,210	\$6,177,500

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The parks and recreation department shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

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 natural resources 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, 2013, and ending June 30, 2015.

SECTION 4. MATCHING REQUIREMENT - INTERPRETIVE EXHIBITS. The natural resources line item in subdivision 1 of section 1 of this Act includes the sum of \$200,000 for completion of interpretive exhibits at the Icelandic state park visitor center. This amount consists of \$150,000 from the parks and recreation fund, derived from park fees and other income, and \$50,000 from the state parks gift fund. The \$50,000 appropriated from the state parks gift fund must be provided to the department as matching funds from nonstate sources for the completion of the interpretive exhibits.

SECTION 5. EXEMPTION. Up to \$500,000 of community grants funding from the general fund included in the recreation line item contained in subdivision 1 of section 1 of this Act 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 6. OIL-RELATED REVENUE - NEW WELLS. Fifteen percent of any revenue received by the department from oil wells completed after July 1, 2013, must be used for the community grants program for the biennium beginning July 1, 2013,

and ending June 30, 2015. Any remaining revenue received from these oil wells may only be used for one-time funding items.

SECTION 7. MARINA PURCHASE - APPRAISAL - EMERGENCY COMMISSION APPROVAL. The natural resources line item in subdivision 1 of section 1 of this Act includes \$387,500 from the general fund and \$387,500 from other funds for the purchase of a marina. The parks and recreation department must obtain an appraisal from a certified appraiser prior to the purchase of the marina. If the appraisal value exceeds \$775,000, the department may request emergency commission approval to spend an additional \$25,000 of other funds for the marina.

SECTION 8. PEMBINA GORGE AREA PROJECT. The natural resources line item in subdivision 1 of section 1 of this Act includes \$300,000 from the general fund which the parks and recreation department may use to rent 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 9. CONTINGENT FUNDING - INTERNATIONAL PEACE GARDEN CAPITAL PROJECTS. The sum of \$1,250,000 from the general fund included in subdivision 2 of section 1 of this Act is for an engineering study and repair of the peace tower at the International Peace Garden and to the extent funds remain, other infrastructure improvements. The funding is contingent upon the International Peace Garden raising matching funds on a dollar-for-dollar basis from nonstate sources. Up to ten percent of the funds provided from the general fund are for the engineering study and emergency repairs and are not subject to the match requirement. The parks and recreation department shall accept and review engineering proposals and recommendations of the study before committing additional funds to the project and shall assist with bidding and construction oversight of any repair work.

SECTION 10. EMERGENCY. The natural resources line item in subdivision 1 of section 1 of this Act includes \$3,730,000, of which \$2,930,000 is from the general fund and \$800,000 is from special funds derived from federal funds and other income for various capital projects, and subdivision 2 of section 1 of this Act includes \$125,000 from the general fund for an engineering study of the peace tower and emergency repairs at the International Peace Garden, which are declared to be an emergency measure.

Approved May 3, 2013
Filed May 3, 2013

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 state water commission; to provide exemptions; to provide legislative intent; to amend and reenact section 6-09.5-03 of the North Dakota Century Code and section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly, relating to the community water facility loan fund and the water-related topics overview committee; to provide for legislative management reports; to provide for a loan from the Bank of North Dakota; 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 biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Administrative and support services	\$3,229,873	\$1,531,792	\$4,761,665
Accrued leave payments	0	325,774	325,774
Water and atmospheric resources	<u>498,413,774</u>	<u>324,194,592</u>	<u>822,608,366</u>
Total all funds	\$501,643,647	\$326,052,158	\$827,695,805
Less estimated income	<u>486,648,448</u>	<u>341,047,357</u>	<u>827,695,805</u>
Total general fund	\$14,995,199	(\$14,995,199)	\$0
Full-time equivalent positions	87.00	3.00	90.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Federal stimulus funds	\$7,271,773	\$0
Ray/Tioga, Burke/Divide/Williams, Wildrose and Stanley water projects	500,000	0
Excavator	0	243,200
Office space renovation	0	45,000
Total all funds	\$7,771,773	\$288,200
Total special funds	<u>7,771,773</u>	<u>288,200</u>
Total general fund	\$0	\$0

The 2013-15 one-time funding amounts are not part of the entity's base budget for the 2015-17 biennium. The state water commission shall report to the appropriations

committees of the sixty-fourth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

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 that 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, 2013, and ending June 30, 2015.

SECTION 4. ADDITIONAL INCOME - APPROPRIATION. 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 that 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, 2013, and ending June 30, 2015.

SECTION 5. BANK OF NORTH DAKOTA LOAN - WESTERN AREA WATER SUPPLY AUTHORITY. The Bank of North Dakota shall provide a loan of \$40,000,000 to the western area water supply authority for construction of the project. The terms and conditions of the loan must be negotiated by the western area water supply authority and the Bank of North Dakota and any previous loans may be added to and merged into this loan as agreed by the authority and the Bank of North Dakota. The authority may repay the loan from income from specific project features. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for the loan, the authority is subject to the default provisions under section 61-40-09.

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, 2015. 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. FARGO FLOOD CONTROL PROJECT CONSTRUCTION - LIMITATION. Except for the construction of ring dikes and levees, construction relating to Fargo flood control project components located south of the city of Fargo's extraterritorial zoning jurisdiction may not begin until after July 1, 2014.

SECTION 8. FARGO FLOOD CONTROL PROJECT FUNDING. Funds designated by the sixty-first legislative assembly, the sixty-second legislative assembly, and the sixty-third legislative assembly for Fargo flood control are available only for levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project construction, and the budget for the Fargo flood control project is approved by the state water commission.

SECTION 9. FARGO FLOOD CONTROL PROJECT FUNDING AGREEMENT. Prior to the state water commission expending any state cost-sharing funds, the local Fargo flood control sponsor and state water commission shall enter a cost-sharing agreement. The agreement must provide for the exclusion of state cost-sharing for components of the project identified as recreational by the United States army corps of engineers. The agreement must also provide for the exclusion of state cost-sharing relating to funds expected to be provided for the project by nonfederal entities outside

the state of North Dakota. An advance funding agreement between the United States army corps of engineers and the local Fargo flood control sponsor must precede any state funding used to advance construction work considered to be a federal responsibility.

SECTION 10. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-third legislative assembly that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$450,000,000. It is further the intent of the sixty-third legislative assembly that the \$275,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next four bienniums.

SECTION 11. FARGO FLOOD CONTROL PROJECT FUNDING - EXEMPTION. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$100,000,000 is for Fargo flood control projects, for the biennium beginning July 1, 2013, and ending June 30, 2015. Any funds not spent by June 30, 2015, 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 12. LEGISLATIVE INTENT - RED RIVER VALLEY WATER SUPPLY. Of the funds appropriated in the water and atmospheric resources line item in section 1 of this Act, \$11,000,000 is for the Red River valley water supply project, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 13. LEGISLATIVE INTENT - BOND PAYMENTS. Of the funds appropriated in section 1 of this Act, \$60,000,000 in the water and atmospheric resources line item is from the resources trust fund for the purposes of paying off or defeasing outstanding bond issues. The state water commission may expend funds for this purpose only if available funding from the resources trust fund for water projects for the biennium beginning July 1, 2013, and ending June 30, 2015, has exceeded \$287,000,000.

SECTION 14. STATE WATER COMMISSION PRIORITY PROJECTS LIST - REPORTS TO THE BUDGET SECTION. The state water commission shall report to the budget section every six months during the 2013-14 interim regarding any changes made to the state water commission priority projects list presented to the sixty-third legislative assembly for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 15. FARGO FLOOD CONTROL - REPORTS TO THE BUDGET SECTION. During the 2013-14 interim, the Fargo-Moorhead area diversion authority board shall report to the budget section 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 budget section biannually regarding an update on the impacts of the Fargo flood control project and mitigation efforts, alternatives, and costs.

SECTION 16. AMENDMENT. Section 6-09.5-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.5-03. Transfer of funds - Revolving fund.

A community water facility loan fund with an authorized ceiling of ~~tentwenty-five~~ twenty-five million dollars is hereby established from the future undivided profits of the Bank of North Dakota or other state funds. This is a revolving fund, and all moneys transferred into the fund, interest upon fund moneys, and collections of interest and principal on fund loans must be used for the purposes of this chapter.

¹¹ **SECTION 17. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code as amended by Senate Bill No. 2233, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

54-35-02.7. Water-related topics overview committee - Duties.

The legislative management, during each interim, shall appoint a water-related 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-related topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water-related 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 ~~and the prioritization of water 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. The committee consists of thirteen members, and 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 18. EMERGENCY. The water and atmospheric resources line item in section 1 of this Act and section 5 of this Act are declared to be an emergency measure.

Approved May 2, 2013
Filed May 2, 2013

¹¹ Section 54-35-02.7 was also amended by section 1 of Senate Bill No. 2049, chapter 486, and section 3 of Senate Bill No. 2233, chapter 490.

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 workforce safety and insurance; to provide for litigation contingency and settlement funds; and to provide for information technology projects and business process analysis.

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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Workforce safety and insurance operations	\$58,413,293	\$2,496,164	\$60,909,457
Accrued leave payments	0	1,662,965	1,662,965
Litigation contingency	0	750,000	750,000
Total special funds	\$58,413,293	\$4,909,129	\$63,322,422
Full-time equivalent positions	247.14	3.00	250.14

SECTION 2. LITIGATION CONTINGENCY - SETTLEMENT FUNDS - USE OF FUNDS. Funding included in the litigation contingency line item in section 1 of this Act may be spent by workforce safety and insurance only for fees and other costs associated with workforce safety and insurance pursuing a civil action for damages relating to the unsuccessful advanced information management computer system project. Any remaining unused litigation funds may be used by workforce safety and insurance for the development or operation of information technology projects. Any moneys received by workforce safety and insurance resulting from a settlement or court awards relating to this project must be retained in the workforce safety and insurance fund and reported to the sixty-fourth legislative assembly.

SECTION 3. INFORMATION TECHNOLOGY PROJECTS FUNDING - BUSINESS PROCESS ANALYSIS. The workforce safety and insurance operations line item in section 1 of this Act includes the sum of \$4,725,000, which may only be spent for costs of conducting a business process analysis of up to \$500,000, as provided in section 4 of this Act and for appropriate information technology equipment, development, and operational costs of information technology projects as approved by workforce safety and insurance's executive steering board and the state information technology advisory committee.

SECTION 4. BUSINESS PROCESS ANALYSIS. During the 2013-14 interim, workforce safety and insurance shall contract with the information technology department and a private consultant to conduct a business process analysis of workforce safety and insurance. The analysis must include a review of the workforce

safety and insurance business process and its use of information technology to support the business process and related information technology services.

Approved April 29, 2013

Filed April 29, 2013

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 various state retirement and investment agencies; and to provide various transfers.

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, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

RETIREMENT AND INVESTMENT OFFICE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$3,203,114	\$569,390	\$3,772,504
Accrued leave payments	0	71,541	71,541
Operating expenses	947,840	25,484	973,324
Contingencies	<u>82,000</u>	<u>0</u>	<u>82,000</u>
Total special funds	\$4,232,954	\$666,415	\$4,899,369
Full-time equivalent positions	18.00	1.00	19.00

Subdivision 2.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,563,507	\$452,832	\$5,016,339
Accrued leave payments	0	103,217	103,217
Operating expenses	2,054,383	204,511	2,258,894
Contingencies	<u>250,000</u>	<u>0</u>	<u>250,000</u>
Total special funds	\$6,867,890	\$760,560	\$7,628,450
Full-time equivalent positions	33.00	0.00	33.00

Subdivision 3.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total special funds	\$11,100,844	\$1,426,975	\$12,527,819
Full-time equivalent positions	51.00	1.00	52.00

SECTION 2. 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.

Approved April 30, 2013

Filed April 30, 2013

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 various state departments and institutions; 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. These sums increase the general fund authority enacted by the sixty-second 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, 2011, and ending June 30, 2013, as follows:

Subdivision 1.

ATTORNEY GENERAL

Operating expenses	<u>\$70,000</u>
Total general fund	\$70,000

Subdivision 2.

OFFICE OF THE TAX COMMISSIONER

Disabled veteran credit	<u>\$981,855</u>
Total general fund	\$981,855

Subdivision 3.

DEPARTMENT OF PUBLIC INSTRUCTION

Grants	<u>\$45,000</u>
Total general fund	\$45,000

Subdivision 4.

MINOT STATE UNIVERSITY

2010 and 2011 flood expenditures	<u>\$52,745</u>
Total general fund	\$52,745

Subdivision 5.

STATE DEPARTMENT OF HEALTH

Salaries and wages	<u>\$126,000</u>
Litigation contingency	<u>300,000</u>
Total general fund	<u>\$426,000</u>

Subdivision 6.

DEPARTMENT OF HUMAN SERVICES

Grants - medical assistance	<u>\$20,900,000</u>
Total general fund	<u>\$20,900,000</u>

Subdivision 7.

JOB SERVICE NORTH DAKOTA

Operating expenses	<u>\$5,847</u>
Total general fund	<u>\$5,847</u>

Subdivision 8.

HIGHWAY PATROL

Field operations	<u>\$300,000</u>
Total general fund	<u>\$300,000</u>

Subdivision 9.

STATE FAIR ASSOCIATION

2011 flood expenditures	<u>\$674,361</u>
Total general fund	<u>\$674,361</u>

Subdivision 10.

DEPARTMENT OF TRANSPORTATION

Capital assets	<u>\$36,138,893</u>
Total general fund	<u>\$36,138,893</u>

Subdivision 11.

BILL TOTAL

Grand total general fund	<u>\$59,594,701</u>
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SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 29, 2013
 Filed April 29, 2013

CHAPTER 24

HOUSE BILL NO. 1041

(Legislative Management)
(Human Services Committee)

AN ACT to provide appropriations to the office of management and budget and the supreme court for guardianship and public administrator services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - GUARDIANSHIPS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$828,600, or so much of the sum as may be necessary, to the office of management and budget for the purpose of providing grants to counties for public or private guardianship services, for the biennium beginning July 1, 2013, and ending June 30, 2015. To be eligible for funding under this section, a ward must be found to be an incapacitated adult as defined by section 30.1-26-01 and have income at or below one hundred percent of the federal poverty level or be medicaid-eligible. A ward with developmental disabilities who is receiving case management services through the department of human services is not eligible for funding under this section. A grant to a county for a ward under a guardianship before July 1, 2013, must be based on fifty percent of the established monthly rate for that guardianship. The county receiving a grant for a ward under a guardianship before July 1, 2013, shall pay fifty percent of the monthly rate for the guardianship out of grant funds, but also shall pay the other fifty percent of the monthly rate for the guardianship, limited to a maximum of one-tenth of one mill of that county's property tax, through June 30, 2015.

SECTION 2. APPROPRIATION - SUPREME COURT - GUARDIANSHIP TRAINING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$70,000, or so much of the sum as may be necessary, to the supreme court for the purpose of developing and delivering guardianship training for guardians and public administrators, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved May 1, 2013
Filed May 1, 2013

CHAPTER 25

HOUSE BILL NO. 1135

(Representatives Keiser, Larson, Weisz)
(Senators J. Lee, Marcellais)

AN ACT to provide an appropriation to the state department of health for a mobile dental care services grant.

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 state department of health for the purpose of providing a grant to an organization to provide mobile dental care services, including dental treatment, prevention, and education services to low-income and underserved children in areas of the state with limited or unavailable dental services, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 8, 2013

Filed April 8, 2013

CHAPTER 26

HOUSE BILL NO. 1211

(Representatives Kempenich, Fehr, Heller, J. Nelson, Holman)
(Senators Armstrong, J. Lee, Mathern)

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 \$400,000, 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, 2013, and ending June 30, 2015. 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 18, 2013
Filed April 18, 2013

CHAPTER 27

HOUSE BILL NO. 1261

(Representatives Monson, Hatlestad, Mock, Nathe, Rust,
Sanford, Schatz, Skarphol, Wieland)
(Senators Holmberg, O'Connell)

AN ACT to provide an appropriation for school district rapid enrollment growth grants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - SCHOOL DISTRICT RAPID ENROLLMENT GROWTH - GRANTS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$13,600,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing a grant to any school district that can demonstrate rapid enrollment growth, for the biennium beginning July 1, 2013, and ending June 30, 2015.

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:
 - a. Exceeds the number of students in average daily membership by at least twenty; and
 - b. Represents an increase in students equal to at least four percent.
2. In order to calculate the amount to which an eligible district is entitled, the superintendent of public instruction shall:
 - a. Determine the actual percentage increase in the number of students;
 - b. Subtract 2.0 from the percentage established under subdivision a;
 - c. Determine the number of students represented by the difference determined under subdivision b; and
 - d. Multiply the number of students determined under subdivision c by \$3,900.
3. If the amount of the appropriation provided for in this section 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 \$6,800,000 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.

Approved May 2, 2013
Filed May 2, 2013

CHAPTER 28

HOUSE BILL NO. 1269

(Representatives J. Nelson, Hunskor, Larson, Pollert)
(Senators Klein, O'Connell)

AN ACT to provide an appropriation to the state water commission for water projects; 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 resources trust fund in the state treasury, not otherwise appropriated, the sum of \$10,350,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing grants to advance the following projects, for the period beginning with the effective date of this Act and ending June 30, 2015:

Stutsman County rural water
North central rural water consortium
McLean-Sheridan rural water

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the resources trust fund in the state treasury, not otherwise appropriated, the sum of \$21,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of advancing additional construction on the southwest pipeline project, for the period beginning with the effective date of this Act, and ending June 30, 2015.

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

Approved February 19, 2013
Filed February 19, 2013

CHAPTER 29

HOUSE BILL NO. 1289

(Representatives Thoreson, Boehning, Grande, Heilman, Kasper, Sanford, Boschee)
(Senators Flakoll, Sorvaag)

AN ACT to provide an appropriation for veterans' higher education assistance 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 \$325,000, or so much of the sum as may be necessary, to the North Dakota university system for the purpose of providing assistance to eligible veterans, for the biennium beginning July 1, 2013, and ending June 30, 2015.

1. An eligible veteran must be:
 - a. Enrolled at or in the process of enrolling at an institution of higher education located in this state; or
 - b. Enrolled at or in the process of enrolling at an institution of higher education located in an adjacent state, provided the institution participates in a course exchange agreement with an institution of higher education located in this state.
2. The department of veterans' affairs may accept and expend gifts, grants, and donations, for the purpose of providing additional assistance to eligible veterans.

Approved April 30, 2013
Filed April 30, 2013

CHAPTER 30

HOUSE BILL NO. 1405

(Representatives Trottier, Froseth, Maragos, Zaiser)
(Senators Campbell, Flakoll, Marcellais)

AN ACT to provide an appropriation for the identification of and provision of services to veterans exposed to agent orange; and to provide for a report to the budget section.

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, 2013, and ending June 30, 2015.

SECTION 2. SERVICES TO VETERANS EXPOSED TO AGENT ORANGE - BUDGET SECTION REPORT. The department of veterans' affairs shall provide a report to the budget section during the 2013-14 interim regarding any funds received to provide services to veterans exposed to agent orange; the status of the grant program, including information on the use of the grants awarded; and outcomes of the services provided.

Approved April 30, 2013
Filed April 30, 2013

CHAPTER 31**HOUSE BILL NO. 1439**

(Representatives Thoreson, Amerman, Owens, Ruby)
(Senators G. Lee, Marcellais, Wardner)

AN ACT to provide an appropriation for a transfer from the general fund to the veterans' postwar trust fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - TRANSFER - VETERANS' POSTWAR TRUST FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$250,000, which the office of management and budget shall transfer to the veterans' postwar trust fund to increase the principal balance of the fund to generate additional income for programs authorized by law to benefit and serve veterans or their dependents, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 18, 2013

Filed April 18, 2013

CHAPTER 32**SENATE BILL NO. 2001**

(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 create and enact a new section to chapter 54-35 of the North Dakota Century Code, relating to promotional expenses; to amend and reenact sections 54-03-20 and 54-35-10 of the North Dakota Century Code, relating to legislative compensation and expense reimbursement; to provide legislative intent; and to provide an effective 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 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, 2015, as follows:

Subdivision 1.

SIXTY-THIRD AND SIXTY-FOURTH LEGISLATIVE ASSEMBLIES AND BIENNIUM

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$8,524,133	\$681,626	\$9,205,759
Operating expenses	3,268,968	683,958	3,952,926
Capital assets	0	530,000	530,000
National conference of state legislatures	<u>232,110</u>	<u>1,176</u>	<u>233,286</u>
Total general fund	\$12,025,211	\$1,896,760	\$13,921,971

Subdivision 2.

LEGISLATIVE MANAGEMENT AND LEGISLATIVE COUNCIL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$7,574,331	\$1,086,529	\$8,660,860
Accrued leave payments	0	143,087	143,087
Operating expenses	3,305,520	548,007	3,853,527
Capital assets	<u>16,500</u>	<u>8,500</u>	<u>25,000</u>
Total all funds	\$10,896,351	\$1,786,123	\$12,682,474
Less estimated income	<u>70,000</u>	<u>(1)</u>	<u>69,999</u>
Total general fund	\$10,826,351	\$1,786,124	\$12,612,475
Full-time equivalent positions	34.00	3.00	37.00

Subdivision 3.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$22,851,562	\$3,682,884	\$26,534,446
Grand total special funds	<u>70,000</u>	(1)	<u>69,999</u>
Grand total all funds	\$22,921,562	\$3,682,883	\$26,604,445

SECTION 2. LEGISLATIVE ASSEMBLY ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 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>2011-13</u>	<u>2013-15</u>
Computer equipment replacement	\$510,750	\$0
Legislative wing equipment and improvements	1,300,000	500,000
Redistricting special session	272,018	0
Information technology projects	<u>159,938</u>	<u>42,000</u>
Total general fund	\$2,242,706	\$542,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The legislative assembly shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. LEGISLATIVE MANAGEMENT AND LEGISLATIVE COUNCIL ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 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>2011-13</u>	<u>2013-15</u>
Computer equipment replacement	\$76,000	\$0
Information technology projects	483,807	50,000
Office equipment replacement	25,000	25,000
Office improvements	50,000	50,000
Performance review of the state auditor's office	<u>100,000</u>	<u>0</u>
Total general fund	\$734,807	\$125,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The legislative council shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 4. TRANSFERS. Notwithstanding section 54-16-04, 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 chairman's designee upon the finding by the chairman or designee 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-third and sixty-fourth legislative assemblies, upon request by the chairman of the legislative management or the chairman's designee upon the finding by the chairman or designee 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 1 of the 2011 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 chairman's designee. The office of management and budget shall cancel unexpended appropriations for the legislative assembly and legislative council enacted prior to the 2011-13 biennium as directed by the chairman of the legislative management or the chairman's designee.

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 ~~fifty-seven~~sixty-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 ~~sixty-five~~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 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 ~~forty~~fifty-three 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 ~~sixteen~~twenty-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 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 ~~sixty-two~~sixty-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 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 ~~threesixty-seven~~ sixty-seven 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 ~~twenty-five~~ thirty-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 54-35-10 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 ~~fifty-seven~~sixty-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.

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-two~~sixty-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 10. A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

Legislative promotional expenses.

The legislative management shall establish a policy regarding promotional expenses made on behalf of the legislative assembly. Any expenditure made pursuant to this section must be reported to the legislative management. An expenditure under this section may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

SECTION 11. LEGISLATIVE INTENT. It is the intent of the sixty-third legislative assembly that the legislative management consider implementing during the

sixty-fourth legislative assembly a limited bill analysis report pilot project to provide bill analysis reports similar to analysis reports prepared in other states.

SECTION 12. EFFECTIVE DATE. Sections 6 and 8 of this Act become effective on July 1, 2013, and sections 7 and 9 become effective on July 1, 2014.

Approved May 2, 2013
Filed May 2, 2013

CHAPTER 33**SENATE BILL NO. 2002**

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

AN ACT to provide an appropriation for defraying the expenses of the judicial branch; and to amend and reenact section 27-02-02, subsection 1 of section 27-05-02.1, and section 27-05-03 of the North Dakota Century Code, relating to salaries of supreme and district court judges and disposition of vacant judgeships.

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, 2013, and ending June 30, 2015.

Subdivision 1.

SUPREME COURT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,116,651	\$2,642,404	\$11,759,055
Accrued leave payments	0	531,696	531,696
Operating expenses	2,315,118	439,136	2,754,254
Capital assets	0	15,000	15,000
Judges' retirement	138,105	(63,088)	75,017
Total general fund	\$11,569,874	\$3,565,148	\$15,135,022

Subdivision 2.

DISTRICT COURTS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$54,216,144	\$4,891,521	\$59,107,665
Accrued leave payments	0	2,399,277	2,399,277
Operating expenses	16,658,522	3,619,319	20,277,841
Capital assets	0	833,026	833,026
Judges' retirement	478,997	21,939	500,936
UND central legal research	80,000	0	80,000
Mediation	869,664	219,564	1,089,228
Total all funds	\$72,303,327	\$11,984,646	\$84,287,973
Less estimated income	1,856,775	(48,685)	1,808,090
Total general fund	\$70,446,552	\$12,033,331	\$82,479,883

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	\$889,955	\$98,632	\$988,587
Total all funds	<u>\$889,955</u>	<u>\$98,632</u>	<u>\$988,587</u>
Less estimated income	<u>325,499</u>	<u>42,000</u>	<u>367,499</u>
Total general fund	\$564,456	\$56,632	\$621,088

Subdivision 4.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total general fund	\$82,580,882	\$15,655,111	\$98,235,993
Grand total special funds	<u>2,182,274</u>	<u>(6,685)</u>	<u>2,175,589</u>
Grand total all funds	\$84,763,156	\$15,648,426	\$100,411,582
Full-time equivalent positions	344.00	19.00	363.00

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 biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Studies on work assessment and racial and ethnic bias in the courts	\$200,000	\$0
Office equipment and furniture	185,000	331,470
Information technology equipment	516,480	516,556
Juvenile case management system replacement study	0	90,000
Disaster recovery planning	0	95,000
Criminal justice information sharing publisher project	0	139,850
Total general fund	<u>\$901,480</u>	<u>\$1,172,876</u>

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The supreme court shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

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 two additional district court judges in the northwest judicial district and one additional district court judge in the east central judicial district to be assigned pursuant to section 10 of article VI of the Constitution of North Dakota, 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 sections 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 the 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 ~~thirty-four~~thirty-three thousand one hundred ~~thirty-five~~thirty-four hundred ~~eighty-five~~eighty-four dollars through June 30, ~~2012~~2014, and one hundred ~~thirty-eight~~thirty-seven thousand ~~one~~one hundred ~~fifty-nine~~fifty-nine ~~ninety-six~~ninety-six dollars thereafter. The chief justice of the supreme court is entitled to receive an additional ~~three~~four thousand ~~eight~~one hundred ~~fifty-two~~twenty-seven dollars per annum through June 30, ~~2012~~2014, and ~~three~~four thousand ~~ninety~~two hundred ~~sixty-eight~~sixty-eight ~~fifty~~fifty dollars per annum thereafter.

SECTION 7. AMENDMENT. Subsection 1 of section 27-05-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding section 44-02-03, when a vacancy occurs in the office of district court judge, the supreme court shall determine, within ninety days of receiving notice of the vacancy from the governor and in consultation with the judges and attorneys in the affected judicial district, whether that office is necessary for effective judicial administration or whether the district judgeship may be transferred to another location to fulfill a need for judicial services. The supreme court may, consistent with that determination, order that:
 - a. The vacancy be filled in the manner provided pursuant to chapter 27-25; ~~or~~
 - b. The vacant office be transferred to a judicial district in which an additional judge is necessary for effective judicial administration, and that the vacancy be filled in the manner provided pursuant to chapter 27-25 with respect to that judicial district; or
 - c. The vacant office be abolished with or without transfer of a district judgeship as provided in subsection 3.

SECTION 8. 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 ~~twenty-two~~thirty-one thousand ~~nine~~six hundred ~~ten~~sixty-one dollars through June 30, ~~2012~~2014, and one hundred ~~twenty-six~~thirty-five thousand ~~five~~six hundred ~~ninety-seven~~eleven 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 thousand ~~five~~eight hundred ~~fifty~~three dollars per annum through June 30, ~~2012~~2014, and three thousand ~~six~~hundred ~~fifty-seven~~nine hundred ~~seventeen~~ dollars thereafter.

Approved April 30, 2013

Filed April 30, 2013

CHAPTER 34

SENATE BILL NO. 2003

(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 provide contingent appropriations; to create and enact six new sections to chapter 15-10 of the North Dakota Century Code, relating to provisions of matching grants for the advancement of postsecondary academics; to amend and reenact sections 15-10-47, 15-52-01, 15-52-03, 15-52-04, 15-52-05, 15-52-09, 15-52-31, and 15-62.2-02, subsection 2 of section 15-70-04, and section 54-44.1-11 of the North Dakota Century Code, relating to construction project variance reports, the state medical center, student financial assistance grants, tribally controlled community college grants, and the cancellation of unexpended appropriations; to repeal section section 5 of Senate Bill No. 2018, as approved by the sixty-third legislative assembly, relating to a contingent appropriation; to provide an exemption; to provide for transfer of funds; to authorize the state board of higher education to issue and sell bonds for capital projects; to provide for budget section reports; to provide loan authorization for the university of North Dakota school of medicine and health sciences facility project; to provide for legislative management reports; 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income to the North Dakota university system office and to the various entities and institutions under the supervision of the state board of higher education for the purpose of defraying the expenses of the North Dakota university system office and to the various entities for the biennium beginning July 1, 2013, and ending June 30, 2015, 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	\$12,204,769	(\$1,768,724)	\$10,436,045
Competitive research program	7,050,000	0	7,050,000
System governance	7,349,806	5,316,696	12,666,502
Title II	1,006,472	0	1,006,472
System information technology services	36,006,667	2,655,884	38,662,551
Professional liability insurance	800,000	(800,000)	0
Student financial assistance grants	19,025,594	2,220,085	21,245,679
Professional student exchange program	3,321,438	953,577	4,275,015

Academic and technical education scholarships	10,000,000	0	10,000,000
Two-year campus marketing	800,000	0	800,000
Scholars program	2,113,584	0	2,113,584
Native American scholarships	574,267	75,000	649,267
Tribally controlled community college grants	1,000,000	0	1,000,000
Education incentive programs	3,176,344	172,656	3,349,000
Deferred maintenance pool	0	10,000,000	10,000,000
Master plan and space utilization study	0	1,000,000	1,000,000
Student mental health	0	282,520	282,520
Education challenge fund	0	29,000,000	29,000,000
Performance funding pool	0	5,000,000	5,000,000
Capital projects contingency pool	0	5,483,413	5,483,413
Total all funds	\$104,428,941	\$59,591,107	\$164,020,048
Less estimated income	3,056,229	(756,317)	2,299,912
Total general fund	\$101,372,712	\$60,347,424	\$161,720,136
Full-time equivalent positions	100.31	12.60	112.91

Subdivision 2.

BISMARCK STATE COLLEGE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$27,628,314	\$5,025,340	\$32,653,654
Capital assets	417,673	19,300,000	19,717,673
Total all funds	\$28,045,987	\$24,325,340	\$52,371,327
Less estimated income	0	6,665,000	6,665,000
Total general fund	\$28,045,987	\$17,660,340	\$45,706,327
Full-time equivalent positions	126.96	0.00	126.96

Subdivision 3.

LAKE REGION STATE COLLEGE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$9,003,614	\$3,425,483	\$12,429,097
Capital assets	155,367	5,650,184	5,805,551
Total all funds	\$9,158,981	\$9,075,667	\$18,234,648
Less estimated income	0	0	0
Total general fund	\$9,158,981	\$9,075,667	\$18,234,648
Full-time equivalent positions	40.22	0.00	40.22

Subdivision 4.

WILLISTON STATE COLLEGE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$8,849,685	\$3,933,821	\$12,783,506
Capital assets	197,801	13,340,354	13,538,155
Total all funds	\$9,047,486	\$17,274,175	\$26,321,661
Less estimated income	0	0	0

Total general fund	\$9,047,486	\$17,274,175	\$26,321,661
Full-time equivalent positions	44.15	0.00	44.15

Subdivision 5.

UNIVERSITY OF NORTH DAKOTA

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$140,457,484	\$12,897,283	\$153,354,767
Capital assets	4,411,566	169,277,262	173,688,828
Total all funds	\$144,869,050	\$182,174,545	\$327,043,595
Less estimated income	0	96,487,262	96,487,262
Total general fund	\$144,869,050	\$85,687,283	\$230,556,333
Full-time equivalent positions	642.20	(8.60)	633.60

Subdivision 6.

NORTH DAKOTA STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$125,015,305	\$15,326,235	\$140,341,540
Capital assets	2,732,244	67,939,356	70,671,600
Total all funds	\$127,747,549	\$83,265,591	\$211,013,140
Less estimated income	0	39,819,356	39,819,356
Total general fund	\$127,747,549	\$43,446,235	\$171,193,784
Full-time equivalent positions	495.21	(4.00)	491.21

Subdivision 7.

NORTH DAKOTA STATE COLLEGE OF SCIENCE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$34,186,542	\$3,994,914	\$38,181,456
Capital assets	1,012,379	9,435,879	10,448,258
Total all funds	\$35,198,921	\$13,430,793	\$48,629,714
Less estimated income	0	1,350,000	1,350,000
Total general fund	\$35,198,921	\$12,080,793	\$47,279,714
Full-time equivalent positions	171.87	0.00	171.87

Subdivision 8.

DICKINSON STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$22,383,539	\$4,715,688	\$27,099,227
Capital assets	409,078	0	409,078
Total all funds	\$22,792,617	\$4,715,688	\$27,508,305
Less estimated income	0	0	0
Total general fund	\$22,792,617	\$4,715,688	\$27,508,305
Full-time equivalent positions	100.32	0.00	100.32

Subdivision 9.

MAYVILLE STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$12,775,788	\$1,588,636	\$14,364,424
Capital assets	<u>358,992</u>	<u>7,663,650</u>	<u>8,022,642</u>
Total all funds	\$13,134,780	\$9,252,286	\$22,387,066
Less estimated income	<u>0</u>	<u>0</u>	<u>0</u>
Total general fund	\$13,134,780	\$9,252,286	\$22,387,066
Full-time equivalent positions	62.78	0.00	62.78

Subdivision 10.

MINOT STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$37,838,974	\$8,471,237	\$46,310,211
Capital assets	<u>899,620</u>	<u>13,532,595</u>	<u>14,432,215</u>
Total all funds	\$38,738,594	\$22,003,832	\$60,742,426
Less estimated income	<u>0</u>	<u>11,801,785</u>	<u>11,801,785</u>
Total general fund	\$38,738,594	\$10,202,047	\$48,940,641
Full-time equivalent positions	201.76	0.00	201.76

Subdivision 11.

VALLEY CITY STATE UNIVERSITY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$17,694,741	\$2,996,394	\$20,691,135
Capital assets	<u>408,319</u>	<u>8,991,990</u>	<u>9,400,309</u>
Total all funds	\$18,103,060	\$11,988,384	\$30,091,444
Less estimated income	<u>0</u>	<u>4,806,837</u>	<u>4,806,837</u>
Total general fund	\$18,103,060	\$7,181,547	\$25,284,607
Full-time equivalent positions	97.29	0.00	97.29

Subdivision 12.

DAKOTA COLLEGE AT BOTTINEAU

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$6,489,750	\$1,430,793	\$7,920,543
Capital assets	<u>115,507</u>	<u>8,744,609</u>	<u>8,860,116</u>
Total all funds	\$6,605,257	\$10,175,402	\$16,780,659
Less estimated income	<u>0</u>	<u>7,600,789</u>	<u>7,600,789</u>
Total general fund	\$6,605,257	\$2,574,613	\$9,179,870
Full-time equivalent positions	36.12	0.00	36.12

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	\$47,747,971	\$8,757,663	\$56,505,634
Total all funds	\$47,747,971	\$8,757,663	\$56,505,634
Less estimated income	0	0	0
Total general fund	\$47,747,971	\$8,757,663	\$56,505,634
Full-time equivalent positions	156.55	0.00	156.55

Subdivision 14.

NORTH DAKOTA FOREST SERVICE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Operations	\$5,514,681	\$735,298	\$6,249,979
Capital assets	97,791	788,419	886,210
Total all funds	\$5,612,472	\$1,523,717	\$7,136,189
Less estimated income	1,650,000	0	1,650,000
Total general fund	\$3,962,472	\$1,523,717	\$5,486,189
Full-time equivalent positions	28.00	1.00	29.00

Subdivision 15.

BILL TOTAL

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Grand total all funds	\$611,231,666	\$457,554,190	\$1,068,785,856
Grand total special funds	4,706,229	167,774,712	172,480,941
Grand total general fund	\$606,525,437	\$289,779,478	\$896,304,915

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Capital projects - general fund	\$47,136,000	\$155,691,350
Capital projects - other funds	105,065,555	168,531,029
Capital projects contingency pool	0	5,483,413
Campus deferred maintenance projects	0	440,000
Performance funding pool	0	5,000,000
Dickinson state university operating funds	900,000	800,000
Minot state university flood recovery funds	0	2,500,000
Dakota college at Bottineau - campus software updates	0	28,500
Special assessments payments	819,357	0
Mayville state university drainage study	55,000	0
UND school of medicine space utilization study	100,000	0
Williston state college operating funds	2,000,000	0
Emerald ash borer program	250,000	0
Deferred maintenance pool	0	10,000,000

Education challenge fund	0	29,000,000
Health care workforce initiative	0	7,414,806
Master plan and space utilization study	0	1,000,000
Total all funds	\$156,325,912	\$385,889,098
Total other funds	<u>105,065,555</u>	<u>168,531,029</u>
Total general fund	\$51,260,357	\$217,358,069

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The North Dakota university system shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. CONTINGENT APPROPRIATIONS - DICKINSON STATE UNIVERSITY - DEPARTMENT OF PUBLIC INSTRUCTION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$6,000,000, or so much of the sum as may be necessary, to Dickinson state university for the purpose of awarding a grant as provided under this section, and out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, to the department of public instruction for the purpose of awarding a grant as provided under this section, for the biennium beginning July 1, 2013, and ending June 30, 2015.

The funding appropriated to Dickinson state university under this section is for the purpose of awarding a grant to the Theodore Roosevelt center or the Theodore Roosevelt presidential library for the construction of a Theodore Roosevelt presidential library, for the biennium beginning July 1, 2013, and ending June 30, 2015. Dickinson state university may not use any of the funds appropriated in this section for administrative costs and may not award any of the funds until the grant recipient has raised at least \$3,000,000 from nonstate sources for the project. A grant awarded under this section may be used only for construction costs of the Theodore Roosevelt presidential library. The facility constructed may be used only to house the Theodore Roosevelt presidential library.

The funding appropriated to the department of public instruction under this section is for the purpose of awarding a grant to a state agency or nonprofit organization to construct a children's science center in the city where the state capitol is located for providing informal science education to children and others.

The funding provided under this section is available only if the sum of actual general fund revenues and the amount by which the July 1, 2013, unobligated general fund balance is more than the legislative estimate made at the close of the 2013 regular legislative session exceeds three and one-half percent of the estimated general fund revenues for the period from July 1, 2013, through June 30, 2014, as determined by the office of management and budget. For purposes of this section, "actual general fund revenues" and "estimated general fund revenues" exclude the estimated July 1, 2013, unobligated general fund balance and transfers into the general fund from the strategic investment and improvements fund, the mill and elevator, the lottery, and the gas tax administration. The funding provided in this section is considered a one-time funding item.

SECTION 4. AMENDMENT. Section 15-10-47 of the North Dakota Century Code is amended and reenacted as follows:

15-10-47. Construction projects at institutions of higher education - Variance reports.

1. Whenever any new construction, renovation, or repair, valued at more than two hundred fifty thousand dollars is underway on the campus of an institution of higher education under the control of the state board of higher education, the board shall provide ~~monthly~~semiannual project variance reports to the director of the office of management and budget. Each report must include:
 - a. The name or a description of the project;
 - b. The expenditure authorized by the legislative assembly;
 - c. The amount of the original contract;
 - d. The amount of any change orders;
 - e. The amount of any potential or anticipated change orders;
 - f. The sum of subdivisions c through e and the amount by which that sum varies from the expenditure authorized by the legislative assembly;
 - g. The total expended for the project to date; and
 - h. The scheduled date of completion as noted in the original contract and the latest available scheduled date of completion.
2. The state board of higher education also shall provide to the director of the office of management and budget, at the same time as the project variance report required by subsection 1:
 - a. A brief description of each change order included in subdivision d of subsection 1; and
 - b. A list of each public and nonpublic entity that has a contractually reflected financial obligation with respect to the project.
3. The office of management and budget shall review the information received under this section and provide reports to the budget section of the legislative management upon request.

SECTION 5. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Advancement of academics - Matching grants - University of North Dakota and North Dakota state university.

1. a. During the period beginning July 1, 2013, and ending December 31, 2014, 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 8 of this Act.
 - c. The board may award up to ten 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, 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.

SECTION 6. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Advancement of academics - Matching grants - Two-year and four-year institutions of higher education.

1. a. During the period beginning July 1, 2013, and ending December 31, 2014, 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 8 of this Act.
 - 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, 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.

SECTION 7. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

Liability for pledged amount.

If the state board of higher education provides grant funds under this Act 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 8. A new section to chapter 15-10 of the North Dakota Century Code is created and enacted as follows:

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 request for a matching grant must be presented to the committee by the president of the institution. The president may be accompanied by other individuals having an expertise with respect to the project.

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

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

Definition.

For purposes of this Act, projects dedicated to the advancement of enhanced academics include investments in research, scholarships, technology, endowed chairs, and investments in educational infrastructure, including new capital construction projects that conform with the university system campus master plan and space utilization study.

SECTION 11. AMENDMENT. Section 15-52-01 of the North Dakota Century Code is amended and reenacted as follows:

15-52-01. School of medicine and health sciences.

The primary purpose of the university of North Dakota school of medicine and health sciences is to educate physicians and other health professionals for subsequent service in North Dakota and to enhance the quality of life in North Dakota of its people. Other purposes include the discovery of knowledge that benefits the people of this state and enhances the quality of their lives.

SECTION 12. AMENDMENT. Section 15-52-03 of the North Dakota Century Code is amended and reenacted as follows:

15-52-03. School of medicine and health sciences advisory council - Members, terms, meetings.

1. To assure the proper coordination of the university of North Dakota school of medicine and health sciences with all other health activities of the state, a permanent school of medicine and health sciences advisory council is established to perform the duties in section 15-52-04.
2. The council consists of fifteen members:
 - a. (1) Two members of the senate, one of whom must be from the majority party and one of whom must be from the minority party, selected by the chairman of the legislative management; and
 - (2) Two members of the house of representatives, one of whom must be from the majority party and one of whom must be from the minority party, to be selected by the chairman of the legislative management;
 - b. One member selected by each of the following:
 - (1) The department of human services;

- (2) The state board of higher education;
 - (3) The state department of health;
 - (4) The North Dakota medical association;
 - (5) The North Dakota hospital association;
 - (6) The veterans administration hospital in Fargo; and
 - (7) The university of North Dakota center for rural health; and
- c. Four members selected by the dean of the university of North Dakota school of medicine and health sciences, one from each of the four campuses of the school of medicine and health sciences with headquarters in Bismarck, Fargo, Grand Forks, and Minot.
3. The representatives named by the state agencies and boards must be selected to serve as members of the advisory council for periods of at least one year, but may not serve longer than their term of office on the public agency. The representatives from the North Dakota state medical association and the North Dakota hospital association shall serve a term of three years or until their successors are named and qualified.
 4. The council shall name its own chairman and the dean of the university of North Dakota school of medicine and health sciences shall serve as executive secretary of the council. The executive secretary does not have voting privileges. The council shall meet not less than twice each year, and, from time to time, on its own motion or upon request of the university administration.

SECTION 13. AMENDMENT. Section 15-52-04 of the North Dakota Century Code is amended and reenacted as follows:

15-52-04. Duties of council.

1. The advisory council, in consultation with the school of medicine and health sciences and the other agencies, associations, and institutions represented on the advisory council, shall study and make recommendations regarding the strategic plan, programs, and facilities of the school of medicine and health sciences in support of its purpose as defined in section 15-52-01.
2. Biennially, the advisory council shall submit a report, together with its recommendations, to the agencies, associations, and institutions represented on the advisory council, to the university of North Dakota, and to the legislative council.
3. a. The report must describe the advisory council's recommendations regarding the strategic plan, programs, and facilities of the school of medicine and health sciences as developed under subsection 1. The recommendations for implementing strategies through the school of medicine and health sciences or other agencies and institutions must:
 - (1) Address the health care needs of the people of the state; and

- (2) Provide information regarding the state's health care workforce needs; and
 - (3) Provide information that specifies the contributions that the university of North Dakota school of medicine and health sciences and the residency training programs in the state are making to meet the health care provider workforce needs of the state. Such information must include data regarding:
 - (a) The effectiveness of activities conducted throughout the state relating to the recruitment and progression of students into medical school and into the health care provider workforce;
 - (b) Class characteristics of the medical school matriculants, specifically to include a description of their geographic background;
 - (c) Residency choices of medical school graduates;
 - (d) Practice location choices of graduates of North Dakota residencies; and
 - (e) Any other relevant information that the university of North Dakota school of medicine and health sciences advisory council determines to be important and useful in assessing the degree of success of the university of North Dakota school of medicine and health sciences in meeting the health care workforce needs of the state as specified in section 15-52-01.
- b. The recommendations required under subdivision a may address:
- (1) Medical education and training;
 - (2) The recruitment and retention of physicians and other health care professionals;
 - (3) Factors influencing the practice environment for physicians and other health care professionals;
 - (4) Access to health care;
 - (5) Patient safety;
 - (6) The quality of health care and the efficiency of its delivery; and
 - (7) Financial challenges in the delivery of health care.
4. The council may consult with any individual or entity in performing its duties under this section.

SECTION 14. AMENDMENT. Section 15-52-05 of the North Dakota Century Code is amended and reenacted as follows:

15-52-05. Facilities.

The university authorities shall make the facilities of the university of North Dakota school of medicine and health sciences available to all agencies of the state, federal,

and local governments engaged in health and welfare activities to the fullest extent possible within the limits of a complete and coordinated program for the use thereof on terms commensurate with the cost of services rendered and facilities furnished. The work of the school of medicine and health sciences must be coordinated with the work of the other departments of the university of North Dakota. Means must be provided whereby regularly enrolled students in other schools or departments of the university of North Dakota may, upon approval of the dean of such other school or department, enroll in elective courses in the medical school and receive credit therefor in the school or department in which they are regularly enrolled, subject to such policy and procedures as may be established by the university of North Dakota and the state board of higher education. Medical students may enroll in other departments and schools. Such action must be taken as may serve to make both the school of medicine and health sciences and the other departments and schools of the university of North Dakota more efficient and responsive to needs of the people through the mutual interchange of facilities, and service, wherever possible.

SECTION 15. AMENDMENT. Section 15-52-09 of the North Dakota Century Code is amended and reenacted as follows:

15-52-09. Expenditure of proceeds of one-mill levy authorized - Limitation.

The proceeds of the one-mill tax levy established by section 10 of article X of the Constitution of North Dakota, together with any other funds that may be received by the state treasurer, from time to time, for the benefit of the ~~North Dakota state medical center~~university of North Dakota school of medicine and health sciences, must be expended to establish, develop, and maintain the university of North Dakota school of medicine and health sciences, as provided in this chapter, by the issuance of state warrants drawn on such funds by the director of the office of management and budget.

SECTION 16. AMENDMENT. Section 15-52-31 of the North Dakota Century Code is amended and reenacted as follows:

15-52-31. Admission of students - Qualifications.

The faculty of the school of medicine and health sciences at the university of North Dakota may, with the advice of the school of medicine and health sciences advisory council and with the approval of the state board of higher education and in accordance with applicable accreditation requirements as specified by the liaison committee on medical education, adopt such rules and regulations governing the education and residency qualifications of applicants for admission to the school of medicine and health sciences as it deems necessary and proper to carry out its purpose as provided in section 15-52-01.

SECTION 17. AMENDMENT. Section 15-62.2-02 of the North Dakota Century Code is amended and reenacted as follows:

15-62.2-02. State board of higher education - Powers and duties.

The state board of higher education shall:

1. Administer the North Dakota student financial assistance program and the North Dakota scholars program and adopt functional rules regarding the eligibility and selection of grant and scholarship recipients.

2. Determine the amount of individual grants, which may not exceed one thousand ~~fivesix~~ hundred ~~fifty~~ dollars per recipient per academic year, under the North Dakota student financial assistance program.
3. For the North Dakota student financial assistance program, adopt criteria for substantial need, based upon the ability of the parents or guardian to contribute toward the applicant's educational expenses.
4. Establish the appropriate procedures for fiscal control, fund accounting, and necessary reports.
5. Apply for, receive, expend, and administer granted moneys from federal or private sources.

SECTION 18. AMENDMENT. Subsection 2 of section 15-70-04 of the North Dakota Century Code is amended and reenacted as follows:

2. If an application is approved, the state board of higher education shall distribute to the tribally controlled community college, during each year of the biennium, an amount equivalent to the most recent per student payment provided in accordance with the Tribally Controlled Colleges and Universities Assistance Act of 1978 [25 U.S.C. 20] for each nonbeneficiary student who is a resident of the state. If the amount appropriated is insufficient to meet the requirements of this section, the board shall prorate the amount to be distributed. The board may distribute no more than one-half of the biennial legislative appropriation provided for grants under this section during the first year of the biennium.

SECTION 19. 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, 2013~~2015~~) 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, 2013-2015) 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 20. REPEAL. Section 5 of Senate Bill No. 2018, as approved by the sixty-third legislative assembly, is repealed.

SECTION 21. 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 for the period beginning with the effective date of this Act and ending June 30, 2015, by the state board of higher education to the institutions and entities under its control based on the recommendations of the commissioner of higher education as follows:

1. The deferred maintenance funding pool line item includes funding that must be used to address deferred maintenance and other infrastructure needs at institutions based on the university system master plan and space utilization study. However, the state board of higher education may distribute up to one-half of the funds in the pool to institutions prior to the completion of the master plan and space utilization study.
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 performance funding pool line item includes funding that may be allocated to institutions based on the institution meeting specified goals or other performance measures as determined by the board. The funding in the performance funding pool may not be used for the operations or any function of the university system office. The state board of higher education shall consider any allocations from the oil and gas impact grant fund to higher education institutions when determining allocations to institutions from the performance funding pool. During the 2013-14 interim, the state board of higher education shall provide a report to the legislative management regarding the distribution of funds from the performance funding pool.

SECTION 22. SYSTEM INFORMATION TECHNOLOGY SERVICES - OFFICE CONSOLIDATION - LEGISLATIVE MANAGEMENT REPORTS - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. Upon the completion of the joint information technology building project on the campus of the university of North Dakota, as approved by the sixty-second legislative assembly, the state board of higher education shall require system information technology services staff offices of newly hired employees to be located in the building unless the position is specifically assigned to an institution or the university system office. During the 2013-14 interim, the state board of higher education shall provide annual reports to the budget section and information technology committee regarding the status of the consolidation of university system information technology services, including the location of staff members providing those services. The university system shall provide a report to the appropriations committees of the sixty-fourth legislative assembly regarding the consolidation of university system information technology services and shall provide a comprehensive report of the budget for all university system information technology services, including services provided by institutions.

SECTION 23. UNIVERSITY OF NORTH DAKOTA - RESEARCH ENTERPRISE AND COMMERCIALIZATION BUILDING PURCHASE - BUDGET SECTION REPORT. During the period beginning with the effective date of this Act and ending June 30, 2015, the state board of higher education may enter a purchase and financing agreement or agreements with a private entity and do all things necessary and proper to authorize the purchase of the research enterprise and commercialization building on the campus of the university of North Dakota using donations, gifts, or other funds. The state board of higher education shall provide a report to the budget section if the research enterprise and commercialization building is purchased as provided under this section.

SECTION 24. CAPITAL PROJECTS CONTINGENCY POOL - TRANSFER AUTHORITY - BUDGET SECTION REPORT. The capital projects contingency pool line item contained in subdivision 1 of section 1 of this Act includes funding that may be transferred to institutions for capital projects as provided under this section. The state board of higher education may transfer funds from the capital projects

contingency pool to an institution if the lowest acceptable bid received for a capital project exceeds the legislative appropriation provided for the project. The board shall provide a prorated amount to institutions from the pool if the amount of funding required for eligible projects exceeds available funding. An institution may only receive funding from the pool for capital projects that receive a general fund appropriation and are authorized under this Act. For purposes of this section, the "legislative appropriation provided for a project" does not include funds appropriated from private donations and other local funds to enhance a project. During the 2013-14 interim, the state board of higher education shall provide periodic reports to the budget section regarding funds distributed from the capital projects contingency pool.

SECTION 25. CAMPUS CAPITAL PROJECTS - PROJECT MANAGEMENT.

During the biennium beginning July 1, 2013, and ending June 30, 2015, 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 26. BISMARCK STATE COLLEGE COMMUNICATIONS AND CREATIVE ARTS CENTER.

The capital assets line item in subdivision 2 of section 1 of this Act includes the sum of \$12,635,000 from the general fund and \$665,000 from special funds derived from donations and other income for the Bismarck state college communications and creative arts center project. The capital assets line item in subdivision 2 of section 1 of this Act also includes the sum of \$6,000,000 from special funds derived from donations and other income which may be used to construct a theater as part of the communications and creative arts center project. Up to \$600,000 of the general fund appropriation for the project may be used to develop programming at the communications and creative arts center that includes written and spoken communications, visual and performing arts, social sciences, history, law, economics, philosophy, and current events. Funding may be used for items including curriculum development, student activities, faculty enhancement, public programming, and the development and publication of appropriate media to promote these activities.

SECTION 27. UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH SCIENCES BISMARCK FAMILY PRACTICE CENTER SKYWALK PROJECT. The capital assets line item in subdivision 5 of section 1 of this Act includes the sum of \$750,000 from the general fund for the university of North Dakota school of medicine and health sciences Bismarck family practice center skywalk project. The university of North Dakota shall provide \$1 of nonstate funding for the project for every \$1 of funding used from the general fund appropriation.

SECTION 28. UNIVERSITY OF NORTH DAKOTA SCHOOL OF MEDICINE AND HEALTH SCIENCES FACILITY PROJECT - LOAN AUTHORIZATION.

The legislative assembly authorizes the construction of the university of North Dakota school of medicine and health sciences facility project to be funded in two phases as provided under this section. The capital assets line item in subdivision 5 of section 1 of this Act includes the sum of \$60,450,000, or so much of the sum as may be necessary, for phase 1 of the project. The university of North Dakota may also seek funding from the capital projects contingency pool in accordance with section 24 of this Act for costs associated with phase 1 of the project. During the biennium beginning July 1, 2013, and ending June 30, 2015, and continuing into the biennium beginning July 1, 2015, and ending June 30, 2017, the state board of higher education may borrow the sum of \$62,000,000, or so much of the sum as may be necessary, from the Bank of North Dakota for completion of phase 2 of the school of medicine and health sciences facility project. The state board of higher education

shall seek funding from the sixty-fourth legislative assembly to repay the loan authorized under this section.

SECTION 29. DICKINSON STATE UNIVERSITY - THEODORE ROOSEVELT CENTER - THEODORE ROOSEVELT PRESIDENTIAL LIBRARY. The operations line item in subdivision 8 of section 1 of this Act includes the sum of \$800,000 for the Theodore Roosevelt center. Of this amount, up to \$200,000 may be used for the planning and design of a facility to house the Theodore Roosevelt presidential library.

SECTION 30. MINOT STATE UNIVERSITY - FLOOD RECOVERY FUNDING. The sum of \$5,000,000 included in the operations line item in subdivision 10 of section 1 of this Act must be used by Minot state university to address housing, budget, and other needs relating to the 2011 flood, including capital, as determined by the university.

SECTION 31. NORTH DAKOTA STATE UNIVERSITY - MINARD HALL - BUDGET SECTION REPORT. North Dakota state university may use unspent funding from the \$5,000,000 appropriation received during the biennium beginning July 1, 2007, and ending June 30, 2009, and unspent funding from the \$13,000,000 appropriation received during the biennium beginning July 1, 2009, and ending June 30, 2011, for the Minard hall project, for the biennium beginning July 1, 2013, and ending June 30, 2015. 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 32. STUDENT LOAN TRUST FUND. Subdivision 1 of section 1 of this Act includes the sum of \$1,004,744, 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 and \$539,437 is for connectND campus solution positions, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 33. 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, 2013, and ending June 30, 2015. 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 based on the recommendation of the commissioner of higher education.

SECTION 34. 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 institutions and entities under the control of the state board of higher education are appropriated to those institutions and entities, for the biennium beginning July 1, 2013, and ending June 30, 2015. All additional funds received under the North Dakota-Minnesota reciprocity agreement during the biennium beginning July 1, 2013, and ending June 30, 2015, are appropriated to the state board of higher education for reimbursement to institutions under the control of the board.

SECTION 35. TRANSFER AUTHORITY. If, during the biennium beginning July 1, 2013, and ending June 30, 2015, 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 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, 2013, and ending June 30, 2015. The North Dakota university system shall report any adjustments to the office of management and budget before the submission of the 2015-17 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 Act and ending June 30, 2015. 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:

University of North Dakota - Student housing facility	\$19,187,262
University of North Dakota - Wilkerson hall dining center	29,000,000
University of North Dakota - Resident apartment building	<u>8,300,000</u>
Total special funds	\$56,487,262

SECTION 38. LEGISLATIVE MANAGEMENT REPORT - POSTSECONDARY ACADEMIC MATCHING GRANTS. Before October 1, 2014, the state board of higher education shall provide a report to the legislative management regarding the number of matching grants that were sought, the number that were awarded, and the manner in which the grants were used as provided in sections 5 through 10 of this Act.

SECTION 39. LEGISLATIVE MANAGEMENT STUDY - STATE AGENCY LEGAL SERVICES. During the 2013-14 interim, the legislative management shall consider studying legal services provided by attorneys in executive branch state agencies. The study, if conducted, must review the services provided by attorneys in each agency, supervision of the attorneys in each agency, and whether the attorneys are classified as assistant or special assistant attorneys general. The study must also review the use of contracted legal services by each agency. The legislative management shall report its findings and recommendations, together with any legislation needed to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 40. EXPIRATION DATE. Sections 5 through 10 of this Act are effective through June 30, 2015, and after that date are ineffective.

Approved May 20, 2013
Filed May 22, 2013

CHAPTER 35

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 department of health; to amend and reenact section 14-02.1-01 of the North Dakota Century Code as amended in section 1 of Senate Bill No. 2368, as approved by the sixty-third legislative assembly, and the new section to chapter 14-02.1 of the North Dakota Century Code as created by section 3 of Senate Bill No. 2368, as approved by the sixty-third legislative assembly, relating to the state's compelling interest in the unborn human life from the time the unborn child is capable of feeling pain; to repeal chapter 23-17.5 and section 23-46-05 of the North Dakota Century Code, relating to health care provider cooperative agreements and state financial assistance for emergency medical services; to provide legislative intent; 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 state department of health for the purpose of defraying the expenses of the state department of health, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	\$49,351,659	\$5,260,119	\$54,611,778
Accrued leave payments	0	2,223,289	2,223,289
Operating expenses	50,272,030	(12,299,016)	37,973,014
Capital assets	1,998,073	226,215	2,224,288
Grants	57,928,038	(1,297,309)	56,630,729
Tobacco prevention	6,162,396	(618,145)	5,544,251
WIC food payments	24,158,109	501,752	24,659,861
Federal stimulus funds	0	155,000	155,000
Total all funds	\$189,870,305	(\$5,848,095)	\$184,022,210
Less estimated income	156,956,525	(17,388,091)	139,568,434
Total general fund	\$32,913,780	\$11,539,996	\$44,453,776
Full-time equivalent positions	344.00	9.00	353.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

One-Time Funding Description	2011-13	2013-15
Federal fiscal stimulus	\$3,492,228	\$155,000
EPA lawsuit contingency	1,000,000	500,000
Funding to contract for autopsies	0	480,000

ST-elevated myocardial infarction (STEMI)	600,000	0
Food and lodging licensing management system	0	110,000
Total all funds	\$5,092,228	\$1,245,000
Less estimated income	3,992,228	265,000
Total general fund	\$1,100,000	\$980,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The state department of health shall report to the appropriations committees of the sixty-third legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. FAMILY VIOLENCE GRANTS - CONTINGENT FUNDING. The grants line item in section 1 of this Act includes \$80,000 from the general fund for family violence services and prevention grants. This funding is contingent on the state department of health certifying to the director of the office of management and budget that federal funds available to the department for family violence grants have been reduced due to federal sequestration. The department may spend these funds to the extent that federal funds are reduced.

SECTION 4. ENVIRONMENT AND RANGELAND PROTECTION FUND. The estimated income line item included in section 1 of this Act includes \$272,310, 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, 2013, and ending June 30, 2015. This amount includes \$50,000 for a grant to the North Dakota stockmen's association environmental services program.

SECTION 5. INTENT - INDIRECT COST RECOVERIES. Notwithstanding section 54-44.1-15, the state department of health may deposit indirect cost recoveries in its operating account.

SECTION 6. FOLLOWUP COLORECTAL SCREENING GUIDELINES. The grants line item included in section 1 of this Act includes \$160,200 from the general fund for recommended followup colorectal screenings. These funds may be spent for the cost of recommended followup colorectal screenings of up to \$1,800 per screening for the biennium beginning July 1, 2013, and ending June 30, 2015.

¹² **SECTION 7. AMENDMENT.** Section 14-02.1-01 of the North Dakota Century Code as amended in section 1 of Senate Bill No. 2368, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

14-02.1-01. Purpose.

~~The purpose of this section is to protect the state's compelling interest in the unborn human life from the time the unborn child is capable of feeling pain. The purpose of this chapter is to protect unborn human life and maternal health within present constitutional limits. It reaffirms the tradition of the state of North Dakota to protect every human life whether unborn or aged, healthy or sick.~~

SECTION 8. AMENDMENT. The new section to chapter 14-02.1 of the North Dakota Century Code as created by section 3 of Senate Bill No. 2368, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

¹² Section 14-02.1-01 was also amended by section 1 of Senate Bill No. 2368, chapter 116.

Determination of postfertilization age - Abortion of unborn child of twenty or more weeks postfertilization age prohibited.

1. The purpose of this section is to protect the state's compelling interest in the unborn human life from the time the unborn child is capable of feeling pain.
2. Except in the case of a medical emergency, an abortion may not be performed or induced or be attempted to be performed or induced unless the physician performing or inducing the abortion has first made a determination of the probable postfertilization age of the unborn child or relied upon such a determination made by another physician. In making the determination, the physician shall make those inquiries of the woman and perform or cause to be performed the medical examinations and tests as a reasonably prudent physician, knowledgeable about the case and the medical conditions involved, would consider necessary to perform in making an accurate diagnosis with respect to postfertilization age.
- ~~2-3.~~ Except in the case of a medical emergency, a person may not perform or induce or attempt to perform or induce an abortion upon a woman when it has been determined, by the physician performing or inducing or attempting to perform or induce the abortion or by another physician upon whose determination that physician relies, that the probable postfertilization age of the woman's unborn child is twenty or more weeks.

SECTION 9. LEGISLATIVE MANAGEMENT STUDY. The legislative management shall consider studying, during the 2013-14 interim, 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 performed by the state department of health and the university of North Dakota school of medicine and health sciences. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

¹³ **SECTION 10. REPEAL.** Chapter 23-17.5 and section 23-46-05 of the North Dakota Century Code are repealed.

Approved May 2, 2013
Filed May 2, 2013

¹³ Section 23-46-05 was amended by section 3 of House Bill No. 1145, chapter 178.

CHAPTER 36**SENATE BILL NO. 2005**

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

AN ACT to provide an appropriation for defraying the expenses of the Indian affairs commission; and to provide for a 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 Indian affairs commission for the purpose of defraying the expenses of the Indian affairs commission, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$601,373	\$251,496	\$852,869
Accrued leave payments	0	8,421	8,421
Operating expenses	<u>221,505</u>	<u>(55,237)</u>	<u>166,268</u>
Total general fund	\$822,878	\$204,680	\$1,027,558
Full-time equivalent positions	4.00	1.00	5.00

SECTION 2. REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The Indian affairs commission shall report to the appropriations committees of the sixty-fourth legislative assembly regarding the activities of the Native American health system program administrator.

Approved April 30, 2013
Filed April 30, 2013

CHAPTER 37

SENATE BILL NO. 2006

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

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds are 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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$1,005,639	\$129,967	\$1,135,606
Accrued leave payments	0	10,772	10,772
Operating expenses	2,258,049	(281,000)	1,977,049
Capital assets	780,000	(390,000)	390,000
Grants	<u>9,040,000</u>	<u>6,460,000</u>	<u>15,500,000</u>
Total all funds	\$13,083,688	\$5,929,739	\$19,013,427
Less estimated income	<u>12,533,688</u>	<u>(70,261)</u>	<u>12,463,427</u>
Total general fund	\$550,000	\$6,000,000	\$6,550,000
Full-time equivalent positions	6.00	0.00	6.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Anemometer tower database	\$4,500	\$0
Grants to airports	0	6,000,000
Total general fund	\$4,500	\$6,000,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The aeronautics commission shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 38

SENATE BILL NO. 2007

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

AN ACT to provide an appropriation for defraying the expenses of the veterans' home and department of veterans' affairs; to provide legislative intent; 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 and department of veterans' affairs for the purpose of defraying the expenses of the veterans' home and department of veterans' affairs, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

VETERANS' HOME

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$13,916,861	\$1,958,006	\$15,874,867
Accrued leave payments	0	458,196	458,196
Operating expenses	5,942,285	(533,435)	5,408,850
Capital assets	705,500	916,540	1,622,040
Shop addition	0	788,200	788,200
New veterans' home	<u>332,000</u>	<u>(332,000)</u>	<u>0</u>
Total all funds	\$20,896,646	\$3,255,507	\$24,152,153
Less estimated income	<u>15,343,323</u>	<u>1,086,477</u>	<u>16,429,800</u>
Total general fund	\$5,553,323	\$2,169,030	\$7,722,353
Full-time equivalent positions	120.72	0.00	120.72

Subdivision 2.

VETERANS' AFFAIRS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Veterans' affairs	\$1,099,626	\$225,954	\$1,325,580
Transport vans	0	30,000	30,000
Accrued leave payments	<u>0</u>	<u>10,123</u>	<u>10,123</u>
Total general fund	\$1,099,626	\$266,077	\$1,365,703
Full-time equivalent positions	7.00	1.00	8.00

Subdivision 3.

BILL TOTAL

	Base Level	Adjustments or Enhancements	Appropriation
Grand total general fund	\$6,652,949	\$2,435,107	\$9,088,056
Grand total special funds	<u>15,343,323</u>	<u>1,086,477</u>	<u>16,429,800</u>
Grand total all funds	\$21,996,272	\$3,521,584	\$25,517,856
Full-time equivalent positions	127.72	1.00	128.72

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Veterans' home		
Demolition of old veterans' home	\$0	\$1,121,000
Shop addition	0	788,200
Department of veterans' affairs		
Website	15,593	15,000
Discharge project	22,000	0
In lieu of postwar trust fund income	210,000	0
Vans	50,000	30,000
Stand down events	<u>20,000</u>	<u>0</u>
Total all funds	\$317,593	\$1,954,200
Less estimated income	0	<u>1,348,700</u>
Total general fund	\$317,593	\$605,500

The 2013-15 one-time funding amounts are not a part of the agencies' base budget for the 2015-17 biennium. The veterans' home and department of veterans' affairs shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. EXEMPTION - VETERANS' HOME ELECTRONIC HEALTH RECORD SYSTEM PROJECT FUNDING. The unexpended amount remaining from the appropriation for a veterans' home electronic health record system in chapter 35 of the 2009 Session Laws which was continued into the 2011-13 biennium under section 54-44.1-11 is not subject to the provisions of section 54-44.1-11 at the end of the 2011-13 biennium and may be continued into the 2013-15 biennium for paying expenses of the veterans' home electronic health record system project.

SECTION 4. 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 under section 54-44.1-11 is not subject to the provisions of section 54-44.1-11 at the end of the 2011-13 biennium and may be continued into the 2013-15 biennium for paying expenses of the veterans' home construction project.

SECTION 5. FUNDING TRANSFER - EXCEPTION - AUTHORIZATION. Notwithstanding section 54-16-04, the veterans' home may transfer up to \$170,000 from the operating expenses line item to the salaries and wages line item, for the biennium beginning July 1, 2011, and ending June 30, 2013. The veterans' home

shall notify the office of management and budget of any transfer made pursuant to this section.

SECTION 6. SHOP ADDITION PROJECT - MELVIN NORGARD MEMORIAL FUND. The funds appropriated in the shop addition line item in section 1 of this Act are from the Melvin Norgard memorial fund. The veterans' home may begin construction of the shop addition when the balance in the Melvin Norgard memorial fund is sufficient to provide for all costs of the project during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 7. LEGISLATIVE INTENT - 2015-17 DEPARTMENT OF VETERANS' AFFAIRS APPROPRIATION BILL. It is the intent of the sixty-third legislative assembly that the governor include the recommended funding for the department of veterans' affairs in a separate draft appropriations act for introduction to the sixty-fourth legislative assembly.

SECTION 8. LEGISLATIVE INTENT - TRANSPORT VAN REPLACEMENT PLAN. It is the intent of the sixty-third legislative assembly that the department of veterans' affairs prepare and provide a transport van replacement plan to the sixty-fourth legislative assembly and introduce legislation seeking state funding for the replacement of transport vans based on the plan.

SECTION 9. EMERGENCY. Section 5 of this Act is declared to be an emergency measure.

Approved May 1, 2013

Filed May 1, 2013

CHAPTER 39**SENATE BILL NO. 2008**

(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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$5,356,855	\$518,134	\$5,874,989
Accrued leave payments	0	120,783	120,783
Operating expenses	1,459,463	(31,018)	1,428,445
Contingency	<u>20,000</u>	<u>136,000</u>	<u>156,000</u>
Total special funds	\$6,836,318	\$743,899	\$7,580,217
Full-time equivalent positions	29.00	0.00	29.00

Approved April 29, 2013
 Filed April 29, 2013

CHAPTER 40**SENATE BILL NO. 2009**

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

AN ACT to provide an appropriation for defraying the expenses of the state fair association; 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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Capital assets	\$210,000	\$2,540,000	\$2,750,000
Premiums	<u>520,000</u>	<u>26,000</u>	<u>546,000</u>
Total general fund	\$730,000	\$2,566,000	\$3,296,000

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Repair flood damage	\$0	\$2,750,000
Total general fund	\$0	\$2,750,000

The 2013-15 one-time funding amounts are not part of the entity's base budget for the 2015-17 biennium. The state fair association shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. EMERGENCY. The capital assets line item in section 1 of this Act is declared to be an emergency measure.

Approved April 30, 2013
Filed April 30, 2013

CHAPTER 41

SENATE BILL NO. 2010

(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 matching requirement.

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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$741,580	\$49,176	\$790,756
Accrued leave payments	0	7,933	7,933
Operating expenses	275,575	72,448	348,023
Grants	<u>2,201,307</u>	<u>(99,000)</u>	<u>2,102,307</u>
Total all funds	\$3,218,462	\$30,557	\$3,249,019
Less estimated income	<u>1,854,860</u>	<u>(109,943)</u>	<u>1,744,917</u>
Total general fund	\$1,363,602	\$140,500	\$1,504,102
Full-time equivalent positions	5.00	0.00	5.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Update cultural guide	\$0	\$10,000
Total general fund	\$0	\$10,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The council on the arts shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. APPROPRIATION. All income from the cultural endowment fund is appropriated to the council on the arts for the furthering of the cultural arts in the state for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 4. MATCHING REQUIREMENT - INSTITUTIONAL SERVICES GRANT PROGRAM. The grants line item in section 1 of this Act includes the sum of \$50,000 from the general fund for increased funding from the general fund to replace an anticipated reduction in federal funding for the institutional services grant program,

for the biennium beginning July 1, 2013, and ending June 30, 2015. The council on the arts may not award grants from the funds appropriated from the general fund referred to in this section unless grant recipients provide matching funds from nonstate sources on a dollar-for-dollar basis.

Approved May 1, 2013

Filed May 1, 2013

CHAPTER 42

SENATE BILL NO. 2011

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

AN ACT to provide an appropriation for defraying the expenses of the highway patrol.

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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Administration	\$3,159,842	\$306,271	\$3,466,113
Field operations	40,651,139	8,969,638	49,620,777
Law enforcement training academy	1,602,488	5,200,555	6,803,043
Accrued leave payments	<u>0</u>	<u>1,110,651</u>	<u>1,110,651</u>
Total all funds	\$45,413,469	\$15,587,115	\$61,000,584
Less estimated income	<u>11,364,325</u>	<u>2,028,217</u>	<u>13,392,542</u>
Total general fund	\$34,049,144	\$13,558,898	\$47,608,042
Full-time equivalent positions	198.00	15.00	213.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Digital radio equipment upgrade	\$1,237,000	\$0
Emergency vehicle operations course and weapons training range	0	5,000,000
Emergency lighting equipment	0	672,000
Taser equipment	0	202,000
Trailer scale systems	0	150,000
Law enforcement training academy extraordinary repairs	<u>0</u>	<u>121,000</u>
Total all funds	\$1,237,000	\$6,145,000
Total special funds	<u>161,000</u>	<u>798,000</u>
Total general fund	\$1,076,000	\$5,347,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The highway patrol shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. SPECIAL FUNDS TRANSFER. The less estimated income line item in section 1 of this Act includes the sum of \$6,841,066, 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, 2013, and ending June 30, 2015.

SECTION 4. PAYMENTS TO HIGHWAY PATROL OFFICERS. Each patrol officer of the state 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, 2013, and ending June 30, 2015. 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.

Approved May 6, 2013
Filed May 7, 2013

CHAPTER 43

SENATE BILL NO. 2012

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

AN ACT to provide an appropriation for defraying the expenses of the department of transportation; to provide appropriations to the state treasurer for transportation funding distributions; to provide an appropriation to the department of corrections and rehabilitation for costs related to a general license plate issue; to amend and reenact sections 39-02-03, 39-04-09, and 57-43.2-19 of the North Dakota Century Code and section 27 of chapter 579 of the 2011 Session Laws, relating to department of transportation motor vehicle branch offices, the issuance of license plates, deposits of special fuels excise taxes, and transportation funding distributions to non-oil-producing political subdivisions; to provide for transfers and contingent transfers; to provide exemptions; to provide for budget section reports; to provide for legislative management studies; 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. 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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$165,966,396	\$21,511,189	\$187,477,585
Accrued leave payments	0	7,280,897	7,280,897
Operating expenses	204,090,250	172,631,465	376,721,715
Capital assets	709,079,831	560,431,376	1,269,511,207
Grants	<u>67,767,407</u>	<u>22,020,623</u>	<u>89,788,030</u>
Total all funds	\$1,146,903,884	\$783,875,550	\$1,930,779,434
Less estimated income	<u>1,146,903,884</u>	<u>773,875,550</u>	<u>1,920,779,434</u>
Total general fund	\$0	\$10,000,000	\$10,000,000
Full-time equivalent positions	1,063.50	16.00	1,079.50

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Federal stimulus funds	\$24,119,575	\$0
Devils Lake area highway project	5,850,000	0
Extraordinary state highway maintenance	228,600,000	0
County and township road reconstruction program	142,000,000	0
Emergency relief program borrowing authority	200,000,000	0

Road grade raising grants	6,000,000	0
Highway-rail grade crossing safety grants	1,431,000	0
Enhanced state highway investments	0	541,600,000
Federal TIGER III grant match	0	<u>10,000,000</u>
Total all funds	\$608,000,575	\$551,600,000
Total special funds	<u>602,150,575</u>	<u>541,600,000</u>
Total general fund	\$5,850,000	\$10,000,000

The 2013-15 one-time funding amounts are not part of the entity's base budget for the 2015-17 biennium. The department of transportation shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

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 pursuant to this section.

SECTION 4. HIGHWAY-RAIL GRADE CROSSING SAFETY PROJECTS FUND - PILOT PROGRAM. The grants line item in section 1 of this Act includes the sum of \$640,000 from the highway-rail grade crossing safety projects fund which may be used by the department of transportation to continue highway-rail grade crossing safety projects approved by the department and for which funding was obligated prior to January 1, 2013.

The grants line item in section 1 of this Act includes the sum of \$500,000 from the highway-rail grade crossing safety projects fund for a highway-rail grade crossing safety pilot program during the biennium beginning July 1, 2013, and ending June 30, 2015. The director of the department of transportation shall develop guidelines for the distribution of program funds for rail safety projects the director deems necessary for public safety. An eligible project may be located on a paved or unpaved roadway and a local match of 10 percent of total project costs must be provided for any approved project that is not located on the state highway system.

On June 30, 2015, the state treasurer shall transfer any unexpended and unobligated balance in the highway-rail grade crossing safety projects fund to the highway tax distribution fund.

SECTION 5. 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 \$1,100,000, 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, 2013, and ending June 30, 2015. The office of management and budget shall transfer the sum of \$550,000 on July 1, 2013, if deposits in the public transportation fund from the highway tax distribution fund are \$5,000,000 or less during the period beginning July 1, 2012, and ending June 30, 2013. The office of management and budget shall transfer the sum of \$550,000 on July 1, 2014, if deposits in the public transportation fund from the highway tax distribution fund are \$5,000,000 or less during the period beginning July 1, 2013, and ending June 30, 2014.

SECTION 6. APPROPRIATION - STATE TREASURER - 2011-13 BIENNIUM - TOWNSHIP TRANSPORTATION FUNDING DISTRIBUTIONS CORRECTION - EXEMPTION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$720,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing transportation funding distributions to counties and townships in accordance with this section, for the period beginning with the effective date of this Act and ending June 30, 2013. The state treasurer shall distribute the funding provided under this section to counties and townships that are eligible to receive a distribution under subsection 3 of section 27 of chapter 579 of the 2011 Session Laws and have not already received a distribution under that subsection. Beginning with the effective date of this Act, section 27 of chapter 579 of the 2011 Session Laws is not subject to section 54-11-01 and the state treasurer may not require a political subdivision to return an overpayment of funds received from distributions under the section.

SECTION 7. APPROPRIATION - STATE TREASURER - TOWNSHIP TRANSPORTATION FUNDING DISTRIBUTIONS CORRECTION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$385,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing transportation funding distribution to counties and townships in accordance with this section, for the period beginning with the effective date of this Act and ending June 30, 2015. The state treasurer shall use the funding provided under this section to ensure that all eligible counties and townships receive a distribution in accordance with subsection 3 of section 2 of Senate Bill No. 2176 as approved by the sixty-third legislative assembly. Any funds that remain after the distributions to eligible counties and townships must be distributed by the state treasurer pursuant to the method provided in subsection 3 of section 2 of Senate Bill No. 2176 as approved by the sixty-third legislative assembly.

SECTION 8. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - GENERAL LICENSE PLATE ISSUE - BUDGET SECTION APPROVAL - EXEMPTION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$6,820,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of defraying the expenses for a general license plate issue, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of transportation may not use embossed printed license plates for the general license plate issue. The department of transportation shall develop a process to select a new design to be used for the general license plate issue and shall develop guidelines regarding the administration of the license plate issue. The department shall provide its recommendation for the new license plate design to the budget section, and budget section approval must be received prior to the issuance of the new license plates. The one-time general fund appropriation provided under this section is not subject to section 54-44.1-11 and may be continued into the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 9. APPROPRIATION - DEPARTMENT OF CORRECTIONS AND REHABILITATION - GENERAL LICENSE PLATE ISSUE. There is appropriated from special funds and other income received, the sum of \$4,900,000, or so much of the sum as may be necessary, to the department of corrections and rehabilitation for expenses incurred by roughrider industries related to the general license plate issue, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 10. 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 \$541,600,000, 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, 2013, and ending June 30, 2015. 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. The funding provided in this section is considered a one-time funding item.

SECTION 11. ENHANCED STATE HIGHWAY INVESTMENTS - CARRYOVER AUTHORITY. Section 54-44.1-11 does not apply to funding of \$541,600,000 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, 2015, must be continued into the biennium beginning July 1, 2015, and ending June 30, 2017, and may be expended only for enhanced state highway investments.

SECTION 12. 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, 2013, and ending June 30, 2015.

SECTION 13. 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. ~~In addition, the~~ The director ~~shall~~ may provide for a ~~uniform~~ 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 ~~overhead~~ 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 14. AMENDMENT. Section 39-04-09 of the North Dakota Century Code is amended and reenacted as follows:

39-04-09. Director may design and issue number plates.

The director may design and issue plates of distinctly different color for each classification of motor vehicle, and there must at all times be a marked contrast between the background color of the plates and that of the numerals and letters ~~thereon on the plates.~~ License plates must be acquired from the North Dakota state penitentiary if the penitentiary has the facilities to manufacture license plates. The director shall make a general issue during the biennium beginning July 1, 2013, and

ending June 30, 2015, and continuing into the biennium beginning July 1, 2015, and ending June 30, 2017.

SECTION 15. AMENDMENT. Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-19. 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.

SECTION 16. AMENDMENT. Section 27 of chapter 579 of the 2011 Session Laws is amended and reenacted as follows:

SECTION 27. CONTINGENT APPROPRIATION - STATE TREASURER - TRANSPORTATION FUNDING DISTRIBUTIONS TO NON-OIL-PRODUCING POLITICAL SUBDIVISIONS. If the tax commissioner certifies that total oil and gas tax revenue collections for the period July 1, 2011, through February 29, 2012, exceed total oil and gas tax revenue collection projections for that period by at least \$48,000,000, based on legislative estimates made at the close of the 2011 regular legislative session, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$23,000,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing transportation funding distributions, for the period beginning with the effective date of this Act and ending June 30, 2013. The funding provided in this section is considered a one-time funding item. The state treasurer shall distribute the funds provided under this section on April 1, 2012, as follows:

1. Six million eight hundred thousand dollars to non-oil-producing counties and cities pursuant to subsection 4 of section 54-27-19.
2. One million seven hundred thousand dollars to counties and townships in non-oil-producing counties pursuant to section 54-27-19.1. Organized townships are not required to provide matching funds to receive distributions under this section.
3. Fourteen million five hundred thousand dollars to counties and townships in non-oil-producing counties through a distribution of \$10,000 to each organized township and a distribution of \$10,000 for each unorganized township to the county in which the unorganized township is located. If any funds remain after the distributions provided under this subsection, the state treasurer shall distribute eighty percent of the remaining funds to counties and cities pursuant to the method provided in subsection 1 of this section and shall distribute twenty percent of the remaining funds to counties and townships pursuant to the method provided in subsection 2 of this section.

For purposes of this section, a "non-oil-producing county" means a county that received no allocation of funding or a total allocation under section 57-51-15 of less than \$500,000 for state fiscal year ~~2011~~2010. Any funds received by a

county under this section for an unorganized township distribution must be used for roadway purposes in those unorganized townships located in the county. All funds distributed under this section must be used for extraordinary roadway maintenance purposes.

SECTION 17. LEGISLATIVE MANAGEMENT STUDY - RAILROAD ASSISTANCE PROGRAMS. During the 2013-14 interim, the legislative management shall consider studying state railroad assistance programs. The study, if conducted, must review existing programs and funding levels and whether the existing programs and funding levels are adequate to meet current industry needs. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 18. LEGISLATIVE MANAGEMENT STUDY - TRANSPORTATION COSTS AND FUNDING. During the 2013-14 interim, the legislative management shall consider studying the long-term costs of transportation infrastructure maintenance and improvement projects and methods for funding these projects. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 19. LEGISLATIVE MANAGEMENT STUDY - RENEWABLE FUEL STANDARDS. During the 2013-14 interim, the legislative management shall consider studying potential statutory or administrative changes that could be made to assist parties in the fuel supply chain in complying with federal renewable fuel standards, including compliance with the renewable identification number credits requirements. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 20. LEGISLATIVE MANAGEMENT STUDY - MOTOR VEHICLE BRANCH OFFICES. During the 2013-14 interim, the legislative management shall consider studying the use of branch offices by the department of transportation. The study must include a review of the structure of agreements with operators of branch offices, the number of motor vehicles registered at each office, the current locations of offices, the quality of data provided by the offices, the staffing needs of the offices, and the fees received by offices for services provided. The study must also include a review of the future use of branch offices, including office locations, alternative uses for facilities, and other changes that may promote efficiencies. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 21. EFFECTIVE DATE - EXPIRATION DATE. Section 15 of this Act is effective for taxable events occurring after June 30, 2013, and before July 1, 2015, and is thereafter ineffective.

SECTION 22. EMERGENCY. Sections 6, 7, and 16 of this Act and funding of \$10,000,000 in the grants line item in section 1 of this Act to match a federal TIGER III grant for railroad improvements are declared to be an emergency measure.

Approved May 14, 2013
Filed May 15, 2013

CHAPTER 44

SENATE BILL NO. 2013

(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 distributions from permanent funds; and to amend and reenact section 57-62-04 of the North Dakota Century Code, relating to the energy infrastructure and impact 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 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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,145,824	\$1,011,191	\$5,157,015
Accrued leave payments	0	108,541	108,541
Operating expenses	1,431,096	544,767	1,975,863
Capital assets	0	65,550	65,550
Grants	99,778,269	(99,778,269)	0
Energy infrastructure and impact office	0	700,826	700,826
Contingencies	<u>100,000</u>	<u>100,000</u>	<u>200,000</u>
Total special funds	\$105,455,189	(\$97,247,394)	\$8,207,795
Full-time equivalent positions	24.75	6.25	31.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Contingent energy impact grants	\$30,000,000	\$0
Contingent energy impact grants - new development counties	5,000,000	0
Capital assets	10,000	65,550
Private lands study	0	50,000
Flood impact grants	30,000,000	0
Total all funds	\$65,010,000	\$115,550
Less estimated income	<u>35,010,000</u>	<u>115,550</u>
Total general fund	\$30,000,000	\$0

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The department shall report to the appropriations committees

of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. OIL AND GAS IMPACT GRANTS - EXEMPTION. Section 54-44.1-11 does not apply to appropriations made for oil and gas impact grants in House Bill No. 1358, as approved by the sixty-third legislative assembly, or to the energy infrastructure and impact office line item in section 1 of this Act.

SECTION 4. OIL AND GAS IMPACT GRANTS - FLOOD-IMPACTED POLITICAL SUBDIVISION INFRASTRUCTURE DEVELOPMENT GRANTS - 2011-13 - EXEMPTION. Section 54-44.1-11 does not apply to appropriations made by the sixty-second legislative assembly for oil and gas impact grants and flood-impacted political subdivision infrastructure development grants pursuant to chapter 579 of the 2011 Session Laws.

SECTION 5. 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 6. DISTRIBUTIONS TO STATE INSTITUTIONS. Pursuant to section 1 of article IX of the Constitution of North Dakota, the board of university and school lands shall distribute during the biennium beginning July 1, 2013, and ending June 30, 2015, the following amounts, from the permanent funds managed for the benefit of the following entities:

Common schools	\$130,326,000
North Dakota state university	2,066,000
University of North Dakota	1,814,000
Youth correctional center	810,000
School for the deaf	720,000
State college of science	731,428
State hospital	803,428
Veterans' home	325,428
Valley City state university	372,000
North Dakota vision services - school for the blind	331,428
Mayville state university	236,000
Dakota college at Bottineau	49,428
Dickinson state university	49,428
Minot state university	49,428
Total	\$138,683,996

SECTION 7. PRIVATE LAND STUDY - EMERGENCY COMMISSION APPROVAL FOR ADDITIONAL FUNDS. The operating expenses line item in section 1 of this Act includes the sum of \$50,000 from the strategic investment and improvements fund for a study provided for in House Bill No. 1338, as approved by the sixty-third legislative assembly, of private lands owned adjacent to lands under control of the United States army corps of engineers. If the \$50,000 provided for the study is insufficient, the department of trust lands may seek emergency commission approval for additional funding from the state contingencies appropriation of up to \$50,000 for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 8. AMENDMENT. Section 57-62-04 of the North Dakota Century Code is amended and reenacted as follows:

57-62-04. Energy infrastructure and impact office - Appointment of director.

There is hereby created an energy infrastructure and impact office, to be a division within the office of the commissioner of the board of university and school lands, the director of which must be appointed by and serve at the pleasure of the board of university and school lands. The director shall have knowledge of state and local government and shall have experience or training in the fields of taxation and accounting. The salary of the director must be set by the commissioner of university and school lands within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose. The board of university and school lands shall fill any vacancy in the position of director in the same manner as listed above and, in addition, shall serve as an appeals board under rules promulgated by the board of university and school lands to reconsider grant applications for aid under this chapter which have been denied by the director. All action by the board of university and school lands, including appointment of a director, must be by majority vote.

SECTION 9. OIL AND GAS IMPACT GRANT DISTRIBUTION - DUST CONTROL. If the dust control pilot project provided for in House Bill No. 1358, as approved by the sixty-third legislative assembly, is deemed effective by the director of the energy infrastructure and impact office, the board of university and school lands may approve up to \$3,000,000 of additional oil and gas impact grants to counties for dust control.

SECTION 10. OIL AND GAS IMPACT GRANT DISTRIBUTION - NEW COUNTIES - OTHER USES. Notwithstanding any other provisions of this Act, the director of the energy infrastructure and impact office may include within recommendations to the board of university and school lands for oil and gas impact grants up to \$5,000,000 of the funds designated for counties experiencing oil and gas development in House Bill No. 1358, as approved by the sixty-third legislative assembly, to any eligible political subdivision if, by January 1, 2015, the funds have not been committed to counties meeting the eligibility requirements for this funding, under provisions of House Bill No. 1358, as approved by the sixty-third legislative assembly.

Approved May 6, 2013
Filed May 7, 2013

CHAPTER 45

SENATE BILL NO. 2014

(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 legislative intent; to provide an appropriation; to provide a continuing appropriation; to provide a contingent appropriation; to authorize transfers; to create and enact a new section to chapter 6-09.15, a new subsection to section 6-09.15-01, a new section to chapter 54-44.5, and a new subsection to section 57-35.3-05 of the North Dakota Century Code, relating to a loan guarantee for child care facilities, housing incentive fund tax credits, and the energy conservation fund; to amend and reenact subsection 1 of section 6-09.15-01, subsection 2 of section 54-17-40, subsection 1 of section 54-17.6-05, subsection 17 of section 54-44.3-20, and sections 57-38-01.32, 57-51.1-07, and 57-51.1-07.3 of the North Dakota Century Code, relating to the beginning entrepreneur loan guarantee program, the resources trust fund, the oil and gas research council membership, the oil and gas research fund, the housing incentive fund, housing incentive fund credits, and classified employees; to provide for a value-added market opportunities for renewable energy resources and oil and gas study; to provide for a report to the legislative management; 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. 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, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

INDUSTRIAL COMMISSION

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$12,059,220	\$5,814,656	\$17,873,876
Accrued leave payments	0	347,696	347,696
Operating expenses	3,378,744	2,551,832	5,930,576
Capital assets	0	5,800	5,800
Grants - lignite research and development	19,971,300	(471,300)	19,500,000
Grants - bond payments	25,389,733	(5,579,764)	19,809,969
Mineral resources contingency	<u>743,972</u>	<u>(743,972)</u>	<u>0</u>
Total all funds	\$61,542,969	\$1,924,948	\$63,467,917
Less estimated income	<u>46,766,756</u>	<u>(5,792,964)</u>	<u>40,973,792</u>

Total general fund	\$14,776,213	\$7,717,912	\$22,494,125
Full-time equivalent positions	76.06	22.69	98.75

Subdivision 2.

BANK OF NORTH DAKOTA - OPERATIONS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Bank of North Dakota operations	\$45,587,155	\$5,936,761	\$51,523,916
Accrued leave payments	0	881,231	881,231
Capital assets	<u>1,266,000</u>	<u>(521,000)</u>	<u>745,000</u>
Total special funds	\$46,853,155	\$6,296,992	\$53,150,147
Full-time equivalent positions	176.50	3.00	179.50

Subdivision 3.

BANK OF NORTH DAKOTA - ECONOMIC DEVELOPMENT

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Partnership in assisting community expansion fund	\$6,000,000	(\$6,000,000)	\$0
Agriculture partnership in assisting community expansion fund	1,000,000	(1,000,000)	0
Beginning farmer revolving loan fund	1,400,000	(1,400,000)	0
Biofuels partnership in assisting community expansion fund	<u>1,000,000</u>	<u>(1,000,000)</u>	<u>0</u>
Total general fund	\$9,400,000	(\$9,400,000)	\$0

Subdivision 4.

MILL AND ELEVATOR ASSOCIATION

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$26,018,008	\$3,123,742	\$29,141,750
Accrued leave payments	0	575,807	575,807
Operating expenses	20,443,869	1,352,131	21,796,000
Contingencies	400,000	0	400,000
Agriculture promotion	<u>210,000</u>	<u>0</u>	<u>210,000</u>
Total from mill and elevator fund	\$47,071,877	\$5,051,680	\$52,123,557
Full-time equivalent positions	131.00	4.00	135.00

Subdivision 5.

HOUSING FINANCE AGENCY

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$6,516,277	\$918,600	\$7,434,877
Accrued leave payments	0	147,806	147,806
Operating expenses	5,114,849	(1,323,091)	3,791,758
Grants	26,858,920	2,674,130	29,533,050
Housing finance agency contingencies	<u>100,000</u>	<u>0</u>	<u>100,000</u>
Total special funds	\$38,590,046	\$2,417,445	\$41,007,491
Full-time equivalent positions	46.00	0.00	46.00

Subdivision 6.

BILL TOTAL

	Base Level	Adjustments or Enhancements	Appropriation
Grand total general fund	\$24,176,213	\$18,831,159	\$43,007,372
Grand total special funds	179,281,834	7,973,153	187,254,987
Grand total all funds	\$203,458,047	\$26,804,312	\$230,262,359

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the grand total appropriation in section 1 of this Act:

One-Time Funding Description	2011-13	2013-15
Renewable energy development program	\$1,500,000	\$0
Temporary employees - core library	90,000	0
Carbon dioxide storage facility administrative fund	532,000	0
Coalbed methane/shallow gas studies	25,000	0
Fracturing sand and proppant studies	50,000	0
Oil-bearing rock study	40,000	80,000
Paleontologic preparatory work	62,400	0
Western area water supply loan	35,000,000	0
Possible environmental protection agency litigation	1,000,000	0
Housing incentive fund	0	15,400,000
Possible federal agency litigation	0	1,000,000
Core library - architect services	0	25,000
Temperature profiles study	0	50,000
Wide-bed plotter	0	5,800
Total all funds	\$38,299,400	\$16,560,800
Total special funds	10,000,000	0
Total general fund	\$28,299,400	\$16,560,800

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The industrial commission shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. LEGISLATIVE INTENT - BOND PAYMENTS. The amount of \$19,809,969 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, 2013, and ending June 30, 2015:

North Dakota university system	\$10,436,045
North Dakota university system - energy conservation projects	491,397
Department of corrections and rehabilitation	1,289,450
State department of health	642,688
Job service North Dakota	540,376
Adjutant general	28,586
Information technology department - ConnectND	2,504,100
Office of management and budget	665,272
Office of attorney general	765,851
State historical society	1,392,337
Parks and recreation department	73,627

Research and extension service	571,400
Veterans' home	<u>408,840</u>
Total	\$19,809,969

SECTION 4. APPROPRIATION. In addition to the amount appropriated to the housing finance agency in subdivision 5 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, 2013, and ending June 30, 2015.

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, 2013, and ending June 30, 2015.

SECTION 6. TRANSFER. The sum of \$647,547, 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 to the industrial commission fund for administrative services rendered by the commission. Transfers shall be made during the biennium beginning July 1, 2013, and ending June 30, 2015, 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 - 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 period beginning with the effective date of this Act and ending June 30, 2015.

SECTION 8. TRANSFER - BANK OF NORTH DAKOTA - AGRICULTURE 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 agriculture partnership in assisting community expansion fund during the period beginning with the effective date of this Act and ending June 30, 2015.

SECTION 9. 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 period beginning with the effective date of this Act and ending June 30, 2015.

SECTION 10. TRANSFER - BANK OF NORTH DAKOTA - BEGINNING FARMER REVOLVING LOAN FUND. The Bank of North Dakota shall transfer the sum of \$6,000,000, 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 period beginning with the effective date of this Act and ending June 30, 2015.

SECTION 11. APPROPRIATION - TRANSFER - GENERAL FUND TO HOUSING INCENTIVE FUND. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$15,400,000, or so much of

the sum as may be necessary, which the office of management and budget shall transfer to the housing incentive fund for the period beginning with the effective date of this Act and ending June 30, 2015. The funding provided in this section is considered a one-time funding item.

SECTION 12. APPROPRIATION - DEPARTMENT OF COMMERCE. 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 department of commerce for the purpose of conducting a study to evaluate value-added market opportunities for renewable energy resources and oil and gas under section 13 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 13. APPROPRIATION - DEPARTMENT OF COMMERCE. 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, to the department of commerce for the purpose of providing grants to homeless shelters, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 14. APPROPRIATION - DEPARTMENT OF COMMERCE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,600,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of providing grants to child care facilities, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department shall establish guidelines to qualify for a grant under this section which must include a matching requirement of one dollar of matching funds for every three dollars of grant funds and a maximum grant amount of \$187,500.

SECTION 15. APPROPRIATION - STATE TREASURER. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$13,247, or so much of the sum as may be necessary, to the state treasurer for the purpose of defraying additional information technology development costs relating to changes in oil revenue distributions and other changes, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 16. VALUE-ADDED MARKET OPPORTUNITIES FOR RENEWABLE ENERGY RESOURCES AND OIL AND GAS STUDY - REPORT TO THE LEGISLATIVE MANAGEMENT.

1. During the 2013-14 interim, the department of commerce shall conduct a study to evaluate value-added market opportunities related to renewable energy resources and oil and gas.
2. The department of commerce shall cooperate with the energy policy commission in conducting this study.
3. The department of commerce shall report its findings and recommendations to the legislative management before September 1, 2014.

SECTION 17. LIGNITE RESEARCH, DEVELOPMENT, AND MARKETING PROGRAM - LIGNITE MARKETING FEASIBILITY STUDY. The amount of \$4,500,000, or so much of the amount as may be necessary, included in the grants and special funds appropriation line item in subdivision 1 of section 1 of this Act, is from the lignite research fund 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 pursuant to this section may also 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 18. OIL AND GAS RESEARCH PROGRAM - OIL AND GAS DEVELOPMENT IMPACT STUDIES. The industrial commission may use the sum of \$150,000, or so much of the sum as may be necessary, from the oil and gas research fund for nonmatching followup studies to provide updates and refinements to employment models used to track and forecast changes in the oil and gas industry workforce and estimate housing and population in the Williston basin and to make a comprehensive assessment of the demographic makeup of the current and expected oil and gas industry workforce.

SECTION 19. DEPARTMENT OF MINERAL RESOURCES FUNDING - TRIGGER. Of the funds appropriated in subdivision 1 of section 1 of this Act, \$430,518 in the salaries and wages line and \$155,712 in the operating line are from the general fund. If funds are required due to the total number of wells capable of production or injection in the state exceeding 15,000, the oil and gas division may spend up to \$586,230 and hire three full-time equivalent positions, upon notification to the office of management and budget.

¹⁴ **SECTION 20. AMENDMENT.** Subsection 1 of section 6-09.15-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning entrepreneur" means a resident of this state who:
 - a. Has graduated from high school or has received a general equivalency certificate.
 - b. Has had some training, by education or experience, in the type of revenue-producing enterprise which that person wishes to begin.
 - c. Has, including the net worth of that person's dependents and spouse, if any, a net worth of less than ~~two hundred thousand dollars~~ an amount determined by the Bank of North Dakota.

¹⁵ **SECTION 21.** A new subsection to section 6-09.15-01 of the North Dakota Century Code is created and enacted as follows:

¹⁴ Section 6-09.15-01 was also amended by section 21 of Senate Bill No. 2014, chapter 45.

¹⁵ Section 6-09.15-01 was also amended by section 20 of Senate Bill No. 2014, chapter 45.

"Child care provider" means a child care home, group, or center licensed by the department of human services.

SECTION 22. A new section to chapter 6-09.15 of the North Dakota Century Code is created and enacted as follows:

Loan guarantee for child care facility.

A beginning entrepreneur who receives a loan for a child care facility must be a child care provider.

¹⁶ **SECTION 23. AMENDMENT.** Subsection 2 of section 54-17-40 of the North Dakota Century Code is amended and reenacted as follows:

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 ~~with a population of not more than ten thousand individuals~~ to address an unmet housing need or alleviate a housing shortage. ~~At least fifty percent~~A portion of the fund as determined by the housing finance agency in the annual allocation plan must be used to benefit ~~households with incomes at not more than fifty percent of the area median~~individuals and families of low or moderate income. The agency may collect a reasonable administrative fee from the fund, project developers, applicants, or grant recipients.

SECTION 24. AMENDMENT. Subsection 1 of section 54-17.6-05 of the North Dakota Century Code is amended and reenacted as follows:

1. The oil and gas research council is composed of ~~eight~~seven members, four of whom must currently be engaged in and have at least five years of active experience in the oil and natural gas exploration and production industry. The council consists of:
 - a. Four members appointed by the governor from a list provided by the North Dakota petroleum council. The governor may reject the list and request the council to submit a new list until the appointments are made.
 - b. One member appointed by the governor from a list provided by the North Dakota association of oil and gas producing counties. The governor may reject the list and request the association to submit a new list until the appointment is made.
 - c. The executive director of the North Dakota petroleum council or the executive director's designee.
 - d. ~~The president of the northern alliance of independent producers or the president's designee.~~
 - e. A county commissioner from an oil producing county appointed by the governor.
 - f.e. The director of the oil and gas division and the state geologist shall serve on the council as advisory nonvoting members.

¹⁶ Section 54-17-40 was also amended by section 2 of House Bill No. 1029, chapter 406.

SECTION 25. AMENDMENT. Subsection 17 of section 54-44.3-20 of the North Dakota Century Code is amended and reenacted as follows:

17. Engineers, engineering technicians, and geologists employed by the director of mineral resources.

SECTION 26. A new section to chapter 54-44.5 of the North Dakota Century Code is created and enacted as follows:

Energy conservation grant fund - Continuing appropriation.

The energy conservation grant fund is a special fund in the state treasury. All funds in the energy conservation grant fund are appropriated to the department on a continuing basis for the purpose of providing grants to political subdivisions for energy conservation projects in nonfederal public buildings. The department shall develop guidelines to qualify for a grant under this section which must include a requirement that projects have a combined payback period of ten years or less, a matching requirement of one dollar of matching funds for every dollar of grant funds, and a maximum grant amount of one hundred thousand dollars. Interest earned by the fund must be credited to the fund.

SECTION 27. A new subsection to section 57-35.3-05 of the North Dakota Century Code is created and enacted as follows:

There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to the contribution to the housing incentive fund under section 54-17-40. For the purpose of the credit allowed in this subsection, subsections 2 through 8 of section 57-38-01.32 apply.

SECTION 28. 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, ~~2010~~2012) 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.

¹⁷ Section 57-38-01.32 was also amended by section 5 of House Bill No. 1029, chapter 406, section 24 of House Bill No. 1106, chapter 443, and section 10 of Senate Bill No. 2325, chapter 449.

5. The aggregate amount of tax credits allowed to all eligible contributors is limited to ~~fifteen~~twenty million dollars per biennium. This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.
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 or financial institutions 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 partnership, subchapter S corporation, limited partnership, limited liability company, or any other 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 29. AMENDMENT. Section 57-51.1-07 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-07. Allocation of moneys in oil extraction tax development fund.

Moneys deposited in the oil extraction tax development fund must be transferred monthly by the state treasurer as follows:

1. Twenty percent must be allocated and credited to the sinking fund established for payment of the state of North Dakota water development bonds, southwest pipeline series, and any moneys in excess of the sum necessary to maintain the accounts within the sinking fund and for the payment of principal and interest on the bonds must be credited to a special trust fund, to be known as the resources trust fund. The resources trust fund must be established in the state treasury and the funds therein must be deposited and invested as are other state funds to earn the maximum amount permitted by law which income must be deposited in the resources trust fund. Five percent of the amount credited to the resources trust fund must be transferred no less than quarterly into the renewable energy development fund, not to exceed three million dollars per biennium. One-half of one percent of the amount credited to the resources trust fund must be transferred no less than quarterly into the energy conservation grant fund not to exceed one million two hundred thousand

dollars per biennium. The principal and income of the resources trust fund may be expended only pursuant to legislative appropriation and are available to:

- a. The state water commission for planning for and construction of water-related projects, including rural water systems. These water-related projects must be those which the state water commission has the authority to undertake and construct pursuant to chapter 61-02; and
 - b. The industrial commission for the funding of programs for development of ~~energy conservation~~ and renewable energy sources; for studies for development of cogeneration systems that increase the capacity of a system to produce more than one kind of energy from the same fuel; for studies for development of waste products utilization; and for the making of grants and loans in connection therewith.
 - c. The department of commerce for the funding of programs for development of energy conservation and for the making of grants and loans relating to energy conservation.
2. Twenty percent must be allocated to the common schools trust fund and foundation aid stabilization fund as provided in section 24 of article X of the Constitution of North Dakota.
 3. Thirty percent must be allocated to the legacy fund as provided in section 26 of article X of the Constitution of North Dakota.
 4. Thirty percent must be allocated and credited to the state's general fund.

SECTION 30. 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, 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 ~~fourteen~~ fourteen 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 31. EMERGENCY COMMISSION - MILL AND ELEVATOR ASSOCIATION. The salaries and wages line item in subdivision 4 of section 1 of this Act includes \$232,681 for overtime pay. Notwithstanding chapter 54-16, the mill and elevator association may request additional appropriation authority from the emergency commission if the funds provided for overtime pay are not sufficient for the beginning July 1, 2013, and ending June 30, 2015 biennium.

SECTION 32. MILL AND ELEVATOR PROFITS - TRANSFER TO THE GENERAL FUND. Notwithstanding any other provision of law, the industrial commission shall transfer to the state general fund 50 percent of the annual earnings and undivided profits of the North Dakota mill and elevator association after any transfers to other state agricultural-related programs or the sum of \$6,817,200,

whichever is less, during the biennium beginning July 1, 2013, and ending June 30, 2015. The moneys must be transferred on an annual basis in the amounts and at the times requested by the director of the office of management and budget.

SECTION 33. LEGISLATIVE INTENT - OIL AND GAS RESEARCH FUND. It is the intent of the legislative assembly that the industrial commission give special emphasis to value-added processing of oil and gas projects in the awarding of funds from the oil and gas research fund during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 34. LEGISLATIVE INTENT - ADMINISTRATIVE RULES - RESERVE PITS. It is the intent of the sixty-third legislative assembly that the industrial commission's department of mineral resources oil and gas division include in its next administrative rules review and revision process, the effect of provisions included in North Dakota Administrative Code section 43-02-03-19.5 relating to reserve pits for drilling mud and drill cuttings from shallow wells drilled and completed outside of the Bakken and Three Forks formations for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 35. EFFECTIVE DATE - EXPIRATION DATE. Sections 27 and 28 of this Act are effective for the first two taxable years beginning after December 31, 2012, and are thereafter ineffective.

SECTION 36. EMERGENCY. The amount of \$61,751 and five full-time equivalent positions included in subdivision 1 of section 1 and sections 7 through 10 of this Act are declared to be an emergency measure.

Approved May 3, 2013

Filed May 7, 2013

CHAPTER 46

SENATE BILL NO. 2015

(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 for refusal of admission of inmates; to provide for a legislative management study; to provide for a report to legislative management; to provide an exemption; and to amend and reenact subsection 2 of section 12.1-32-07 of the North Dakota Century Code, relating to supervision fees.

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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Adult services	\$160,825,768	\$17,819,891	\$178,645,659
Youth services	27,221,743	1,643,380	28,865,123
Accrued leave payments	0	<u>4,639,529</u>	<u>4,639,529</u>
Total all funds	\$188,047,511	\$24,102,800	\$212,150,311
Less estimated income	<u>30,145,650</u>	<u>1,089,272</u>	<u>31,234,922</u>
Total general fund	\$157,901,861	\$23,013,528	\$180,915,389
Full-time equivalent positions	794.29	20.00	814.29

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Equipment	\$665,100	\$552,900
Capital projects	1,717,968	349,950
Information technology upgrades	0	652,900
Missouri River correctional center study	0	200,000
Extraordinary repairs	<u>741,490</u>	<u>1,683,296</u>
Total all funds	\$3,124,558	\$3,439,046
Less estimated income	<u>1,460,500</u>	<u>298,000</u>
Total general fund	\$1,664,058	\$3,141,046

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The department of corrections and rehabilitation shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of

this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. EXEMPTION. Appropriation authority continued for the biennium beginning July 1, 2011, and ending June 30, 2013, pursuant to section 54-44.1-11, relating to the penitentiary expansion project, is not subject to cancellation pursuant to section 54-44.1-11 and may be continued until June 30, 2014.

SECTION 4. DEPARTMENT OF CORRECTIONS AND REHABILITATION - REPORT TO LEGISLATIVE MANAGEMENT. Section 1 of this Act includes the sum of \$200,000, or so much of the sum as may be necessary, that the department of corrections and rehabilitation, in conjunction with the office of management and budget, shall use to develop options for the feasibility and desirability of relocating the Missouri River correctional center and for a land use study, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department may use up to \$50,000 to contract for a land use study of the Missouri River correctional center site. The study must review options to develop all or a portion of the current site into a day park and options to continue agriculture activities on the current site. The study may not include options to develop the land for residential, commercial, or industrial purposes. The department may use up to \$150,000 for the development of options for relocating the Missouri River correctional center including the determination of facilities, services, and activities that may be shared by the Missouri River correctional center and the youth correctional center; to develop a plan to move the Missouri River correctional center to a site adjacent to the youth correctional center; and to provide cost estimates for construction necessary to relocate the Missouri River correctional center during the 2015-17 biennium, pending approval and funding by the sixty-fourth legislative assembly. During the 2013-14 interim, the office of management and budget shall provide a report to the budget section regarding options for the possible relocation of the Missouri River correctional center and results of the study. The department shall present its plan to move the Missouri River correctional center to a site adjacent to the youth correctional center to the legislative management by July 1, 2014.

SECTION 5. LEGISLATIVE MANAGEMENT STUDY OF JAMES RIVER CORRECTIONAL CENTER AND STATE HOSPITAL PROPERTY. During the 2013-14 interim, the legislative management shall consider studying the use of the structures and property of the James River correctional center and the state hospital to determine the best and most efficient use of the properties. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 6. REFUSAL OF ADMISSION OF INMATES - REPORT TO LEGISLATIVE MANAGEMENT. The department of corrections and rehabilitation may refuse to admit inmates sentenced to the physical custody of the department when the admission of inmates will exceed the maximum operational capacity of the penitentiary and its affiliated facilities and result in the department exceeding its authorized legislative appropriation for contracting for housing inmates in other correctional facilities. For purposes of this section, maximum operational capacity of the department means the total number of inmates that may be imprisoned at the same time in the penitentiary and its affiliated facilities. The department shall develop a prison population management plan to prioritize admissions based on sentences and the availability of space in the penitentiary and its affiliated facilities. The department shall report annually to the budget section of the legislative management on the prison population management plan and inmate admissions and the number of inmates the department has not admitted after sentencing.

¹⁸ **SECTION 7. AMENDMENT.** Subsection 2 of section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

2. The conditions of probation must be such as the court in its discretion deems reasonably necessary to ensure that the defendant will lead a law-abiding life or to assist the defendant to do so. The court shall provide as an explicit condition of every probation that the defendant not commit another offense during the period for which the probation remains subject to revocation. The court shall order supervision costs and fees of not less than ~~forty-five~~fifty-five dollars per month unless the court makes a specific finding on record that the imposition of fees will result in an undue hardship. If the offender has not paid the full amount of supervision fees and costs before completion or termination of probation, the court may issue an order, after opportunity for hearing, to determine the amount of supervision fees and costs that are unpaid. The order may be filed, transcribed, and enforced by the department of corrections and rehabilitation in the same manner as civil judgments rendered by a district court of this state.

Approved May 3, 2013
Filed May 7, 2013

¹⁸ Section 12.1-32-07 was also amended by section 1 of Senate Bill No. 2141, chapter 112, and section 1 of Senate Bill No. 2181, chapter 111.

CHAPTER 47**SENATE BILL NO. 2016**

(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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$35,270,584	\$953,694	\$36,224,278
Accrued leave payments	0	1,479,868	1,479,868
Operating expenses	13,698,670	4,989,030	18,687,700
Capital assets	20,000	0	20,000
Grants	7,576,284	1,274,213	8,850,497
Workforce 20/20	1,531,160	10,764	1,541,924
Reed Act - Unemployment insurance computer modernization	12,400,000	7,000	12,407,000
Federal stimulus funds	0	496,496	496,496
Total all funds	\$70,496,698	\$9,211,065	\$79,707,763
Less estimated income	<u>68,616,806</u>	<u>9,180,722</u>	<u>77,797,528</u>
Total general fund	\$1,879,892	\$30,343	\$1,910,235
Full-time equivalent positions	261.76	(11.00)	250.76

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Federal stimulus funds	<u>\$1,500,000</u>	<u>\$496,496</u>
Total special funds	\$1,500,000	\$496,496

The 2013-15 one-time funding amounts are not part of the entity's base budget for the 2015-17 biennium. Job service North Dakota shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of the one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

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, 2013, and ending June 30, 2015.

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, 2013, and ending June 30, 2015.

Approved April 29, 2013

Filed April 29, 2013

CHAPTER 48

SENATE BILL NO. 2017

(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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$978,182	\$80,993	\$1,059,175
Accrued leave payments	0	10,698	10,698
Operating expenses	<u>849,017</u>	<u>900,006</u>	<u>1,749,023</u>
Total special funds	\$1,827,199	\$991,697	\$2,818,896
Full-time equivalent positions	5.00	0.00	5.00

Approved April 29, 2013

Filed April 29, 2013

CHAPTER 49

SENATE BILL NO. 2018

(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 an appropriation to the department of human services for early childhood service provider grants; to provide an appropriation to Dickinson state university; to create and enact a new section to chapter 10-30.5, two new sections to chapter 54-60, and three new sections to chapter 54-65 of the North Dakota Century Code, relating to the research North Dakota venture program, an unmanned aircraft systems program, and the research North Dakota program; to amend and reenact sections 4-14.1-02, 4-14.1-03, 4-44-03, 17-02-05, and 54-18-21, subdivision d of subsection 5 of section 54-44.7-03, and sections 57-43.1-03, 57-43.1-03.1, 57-43.1-03.3, and 57-43.1-08 of the North Dakota Century Code and section 1 of Senate Bill No. 2218, as approved by the sixty-third legislative assembly, relating to the agricultural fuel tax fund, the ethanol production incentive fund, the agricultural research fund, and workforce development grants to tribally controlled community colleges; to provide exemptions; to provide for transfers; to provide continuing appropriations; to provide statements 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 commerce for the purpose of defraying the expenses of the department of commerce, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$10,858,251	\$1,502,863	\$12,361,114
Accrued leave payments	0	243,767	243,767
Operating expenses	13,876,650	2,059,099	15,935,749
Capital assets	70,018	(60,018)	10,000
Grants	59,977,994	(3,605,044)	56,372,950
Discretionary funds	928,082	0	928,082
Workforce enhancement fund	0	2,000,000	2,000,000
Economic development initiatives	186,846	0	186,846
Flood impact grants/loans	0	18,358,866	18,358,866
Agricultural products utilization commission	2,739,767	500,727	3,240,494
Research North Dakota	0	12,000,000	12,000,000
North Dakota trade office	2,613,400	0	2,613,400
Partner programs	2,022,044	0	2,022,044
Federal fiscal stimulus funds	0	796,770	796,770
Visual North Dakota	0	250,000	250,000

Total all funds	\$93,273,052	\$34,047,030	\$127,320,082
Less estimated income	<u>69,666,470</u>	<u>3,696,552</u>	<u>73,363,022</u>
Total general fund	\$23,606,582	\$30,350,478	\$53,957,060
Full-time equivalent positions	68.25	1.00	69.25

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Workforce enhancement fund	\$375,000	\$2,000,000
Electronic portfolio pilot project	150,000	0
2020 and beyond	50,000	0
American Indian business office	50,000	0
Flood impact grants/loans	235,000,000	18,358,866
Centers of research excellence	12,000,000	0
Research North Dakota	0	12,000,000
Unmanned aircraft system	0	5,000,000
Base retention grants	0	1,500,000
Tourism large infrastructure grants	0	750,000
Visual North Dakota	0	250,000
Innovation grants	0	300,000
Federal fiscal stimulus	24,496,750	796,770
Enhanced use lease grant	0	<u>2,500,000</u>
Total all funds	\$272,121,750	\$43,455,636
Less estimated income	<u>259,496,750</u>	<u>21,655,636</u>
Total general fund	\$12,625,000	\$21,800,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The department of commerce shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - EARLY CHILDHOOD SERVICE PROVIDER GRANTS. 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 department of human services for the purpose of providing grants to licensed early childhood services providers that provide care for children with disabilities or developmental delays pursuant to section 50-11.1-18, for the biennium beginning July 1, 2013, and ending June 30, 2015. The grants may be used for equipment, renovation of facilities used to provide the services, and staff. The funding provided in this section is considered a one-time funding item.

SECTION 4. APPROPRIATION - DICKINSON STATE UNIVERSITY - THEODORE ROOSEVELT PRESIDENTIAL LIBRARY. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$6,000,000, or so much of the sum as may be necessary, to Dickinson state university for the purpose of awarding a grant to the Theodore Roosevelt center or the Theodore Roosevelt presidential library for the construction of a Theodore Roosevelt presidential library, for the biennium beginning July 1, 2013, and ending June 30, 2015. Dickinson state university may not use any of the funds appropriated in this section for administrative costs and may not award any of the funds until the grant recipient has raised at least \$3,000,000 from nonstate sources for the project. A

grant awarded under this section may be used only for construction costs of the Theodore Roosevelt presidential library. The facility constructed may be used only to house the Theodore Roosevelt presidential library. The funding provided in this section is considered a one-time funding item.

SECTION 5. CONTINGENT APPROPRIATION - DICKINSON STATE UNIVERSITY - THEODORE ROOSEVELT PRESIDENTIAL LIBRARY. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$6,000,000, or so much of the sum as may be necessary, to Dickinson state university for the purpose of awarding a grant to the Theodore Roosevelt center or the Theodore Roosevelt presidential library for the construction of a Theodore Roosevelt presidential library, for the biennium beginning July 1, 2013, and ending June 30, 2015. The funding provided under this section is available to Dickinson state university only if actual general fund revenues, excluding transfers into the general fund from the strategic investment and improvements fund, the mill and elevator, the lottery, and the gas tax administration, for the period July 1, 2013, through June 30, 2014, exceed estimated general fund revenues, excluding transfers into the general fund from the strategic investment and improvements fund, the mill and elevator, the lottery, and the gas tax administration, for that period by at least five percent, as determined by the office of management and budget, based on the legislative estimates made at the close of the 2013 regular legislative session. Dickinson state university may not use any of the funds appropriated in this section for administrative costs and may not award any of the funds until the grant recipient has raised at least \$3,000,000 from nonstate sources for the project. A grant awarded under this section may be used only for construction costs of the Theodore Roosevelt presidential library. The facility constructed may be used only to house the Theodore Roosevelt presidential library. The funding provided in this section is considered a one-time funding item.

SECTION 6. AMENDMENT. Section 4-14.1-02 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-02. Agricultural ~~fuel tax~~products utilization fund - Purposes.

There is created in the state treasury a fund known as the agricultural ~~fuel tax~~products utilization fund which must be used to fund programs for the enhancement of agricultural research, development, processing, technology, and marketing. The fund must be used to defray the expenses of the North Dakota agricultural products utilization commission necessary to implement the purposes of this chapter. Interest earned on moneys in the fund must be credited to the fund.

SECTION 7. AMENDMENT. Section 4-14.1-03 of the North Dakota Century Code is amended and reenacted as follows:

4-14.1-03. Agricultural products utilization commission - Composition - Appointment.

The agricultural ~~fuel tax~~products utilization fund must be administered by the agricultural products utilization commission. The commission consists of nine members, five of whom must be appointed by the governor for terms of two years each, arranged so that two terms expire in odd-numbered years and three terms expire in even-numbered years. Three members appointed by the governor must be actively engaged in farming in this state and two members appointed by the governor must be actively engaged in business in this state. The agriculture commissioner shall appoint one member for a term of two years which expires in odd-numbered years. The member appointed by the commissioner must be actively engaged in farming in

this state. Commission members may be reappointed to the commission. Terms of commissioners shall run from the first day of July. The commissioner of commerce, the president of North Dakota state university, and the agriculture commissioner, or their designees, are members of the commission. The commission shall elect one of its members as chairman.

SECTION 8. AMENDMENT. Section 4-44-03 of the North Dakota Century Code is amended and reenacted as follows:

4-44-03. (Effective through June 30, 2015) Crop insurance development board - Duties.

1. The crop insurance development board shall assess the feasibility and desirability of proposals submitted by individuals and by public and nonpublic entities pertaining to the development and implementation of crop insurance instruments. The board may authorize the awarding of grants to assist with future actuarial and development costs.
2. Grants may be awarded for up to seventy-five percent of the first fifty thousand dollars and up to fifty percent of the costs thereafter.
3. The board shall establish conditions pertaining to the receipt of grants, including the repayment of some or all of the grants with moneys received by the applicant from the federal crop insurance corporation for continued development of the proposal. The board shall forward any moneys received as repayments under this section to the state treasurer for deposit in the agricultural ~~fuel-tax~~products utilization fund.

SECTION 9. A new section to chapter 10-30.5 of the North Dakota Century Code is created and enacted as follows:

Research North Dakota venture investment program.

1. The corporation shall administer a research North Dakota venture investment program that provides investments to startup or spinoff businesses that utilize technology developed at a research university, as defined in section 54-65-01, or jointly developed by a research university and the private sector.
2. A qualified applicant for a research North Dakota venture investment:
 - a. Must be a business operating in North Dakota that is in the startup or spinoff state;
 - b. Must be utilizing technology that is licensed from a research university or a nonprofit foundation affiliated with a research university; and
 - c. Must meet underwriting guidelines established by the corporation.
3. An investment under this section may not exceed two hundred fifty thousand dollars. A recipient business may not receive more than one award under this section.
4. An investment under this section is not a business incentive under chapter 54-60.1.

SECTION 10. AMENDMENT. Section 17-02-05 of the North Dakota Century Code is amended and reenacted as follows:

17-02-05. Ethanol production incentive fund - Continuing appropriation.

There is created in the state treasury a special fund known as the ethanol production incentive fund. The fund consists of transfers made in accordance with section 39-04-39 and ~~deposits made in accordance with section 57-43.1-03.1.~~ All moneys in the fund are appropriated on a continuing basis to the office of renewable energy and energy efficiency for use in paying ethanol production incentives under this chapter.

SECTION 11. AMENDMENT. Section 54-18-21 of the North Dakota Century Code is amended and reenacted as follows:

54-18-21. Annual transfer.

Within thirty days after the conclusion of each fiscal year, the industrial commission shall transfer five percent of the net income earned by the state mill and elevator association during that fiscal year to the agricultural fuel-taxproducts utilization fund.

SECTION 12. AMENDMENT. Subdivision d of subsection 5 of section 54-44.7-03 of the North Dakota Century Code is amended and reenacted as follows:

- d. Location, with higher priority given to firms headquartered in North Dakota.

SECTION 13. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

Unmanned aircraft systems program - Report to legislative management.

The department may establish and administer an unmanned aircraft systems test site, contingent upon receiving official designation by the federal aviation administration. The department shall cooperate with the university of North Dakota, the North Dakota aeronautics commission, the adjutant general, and private parties appointed by the governor in the administration of the test site. The department may charge fees sufficient to operate the test site. The department shall, to the extent possible, use competitive bidding in the establishment and administration of the test site. The commissioner may charter a public corporation to operate the test site. The corporation must possess all of the powers of a business corporation consistent with this chapter. The department shall report to the legislative management semiannually on the status of the program.

SECTION 14. A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

Unmanned aircraft systems program fund - Continuing appropriation.

There is created in the state treasury a special fund known as the unmanned aircraft systems fund, which must be used to defray the expenses of the operations of an unmanned aircraft systems test site officially designated by the federal aviation administration. The fund consists of fees collected for the administration of the test site. All moneys in the fund are appropriated to the department of commerce on a continuing basis for the purpose of defraying the expenses of the unmanned aircraft systems program. Interest earned on moneys in the fund must be credited to the fund.

SECTION 15. A new section to chapter 54-65 of the North Dakota Century Code is created and enacted as follows:

Research North Dakota grants.

The department shall establish and administer a research North Dakota grant program to provide grants to a research university for research, development, and commercialization activities related to a private sector partner. The centers of excellence commission, established under chapter 15-69, shall make grant award determinations under this section. The department shall work with the centers of excellence commission in establishing guidelines to qualify for a grant under this section, including the requirement that an application must be accompanied by a partnership agreement between the private sector partner and a research university. The agreement must include details regarding the scope of the work, the budget, the location of the work to be completed, the intellectual property ownership rights, and the intellectual property income distribution. The commission may approve changes to the scope of the work or the budget only to the extent that the changes are agreed upon by the private sector partner and the research university. Before the commission directs the department to distribute funds awarded under this section, the research university shall provide the commission with detailed documentation of private sector participation and the availability of one dollar of matching funds for each dollar of state funds to be distributed. Matching funds must be in the form of cash given to the research university and may not include in-kind assets.

SECTION 16. A new section to chapter 54-65 of the North Dakota Century Code is created and enacted as follows:

Research North Dakota venture grants.

The department shall establish and administer a research North Dakota venture grant program to provide grants to a research university for pursuing further commercialization of technology developed by the research university or developed jointly by the research university and a startup or spinoff business operating in North Dakota. The department shall collaborate with the centers of excellence commission in establishing guidelines to qualify for a grant under this section.

SECTION 17. A new section to chapter 54-65 of the North Dakota Century Code is created and enacted as follows:

Research North Dakota fund - Continuing appropriation.

The research North Dakota fund is a special fund in the state treasury. All moneys in the research North Dakota fund are appropriated to the department of commerce on a continuing basis for the purpose of implementing and administering the research North Dakota grant program and the research North Dakota venture grant program. Interest earned on moneys in the fund must be credited to the fund.

SECTION 18. AMENDMENT. Section 57-43.1-03 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03. Refund of tax for fuel used for an industrial purpose - Reduction for agricultural fuel-taxproducts utilization fund.

Any consumer who buys or uses any motor vehicle fuel for an industrial 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 provided for in this section must be reduced by one-half cent per gallon [3.79 liters], except for

those fuels used in aircraft or with respect to refunds claimed by aircraft fuel users, and the one-half cent per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax products utilization fund.

SECTION 19. 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. ~~Two cents per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural fuel tax fund, one cent per gallon [3.79 liters] withheld from the refund must be deposited in the ethanol production incentive fund, and four cents~~The amount per gallon [3.79 liters] withheld from the refund must be deposited in the agricultural research fund.

SECTION 20. AMENDMENT. Section 57-43.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-03.3. Refund to emergency medical services operation.

Upon application to the commissioner, the operator of an emergency medical services operation licensed under chapter 23-27 is entitled to a refund of taxes paid under this chapter for motor vehicle fuel purchased and used by the emergency medical services operation. The refund provided for in this section is not subject to reduction for deposit in the agricultural fuel tax products utilization fund, ~~the ethanol production incentive fund,~~ or the agricultural research fund.

SECTION 21. AMENDMENT. Section 57-43.1-08 of the North Dakota Century Code is amended and reenacted as follows:

57-43.1-08. Refund to state or political subdivision.

When any construction, reconstruction, or maintenance of a public road, highway, street, or airport is undertaken by the state or any political subdivision in the state and public funds of the United States, state, or any political subdivision are directly used for the purchasing of motor vehicle fuel to be used in publicly owned vehicles for such construction, reconstruction, or maintenance, such motor vehicle fuel is subject to a refund of the tax paid on the fuel as provided for in this chapter and under the same terms and conditions. The refund provided for in this section may not be reduced for deposit to the agricultural fuel tax products utilization fund.

¹⁹ **SECTION 22. AMENDMENT.** Section 1 of Senate Bill No. 2218, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

¹⁹ Section 54-60.2-01 was created by section 1 of Senate Bill No. 2218, chapter 437.

Establishment of workforce development grant for tribally controlled community colleges.

There is established within the division of workforce development of the department of commerce a program to provide workforce development grants to tribally controlled community colleges in North Dakota. A tribally controlled community college in this state may apply to the department of commerce for a job training grant in such manner as the department of commerce prescribes. ~~In order to qualify for a grant under this section, an applicant must be a tribally controlled community college not located on an Indian reservation or a tribally controlled community college located on an Indian reservation with an unemployment rate of greater than thirty percent.~~ The department of commerce shall consult with the executive director of the Indian affairs commission to determine eligible tribally controlled community colleges.

SECTION 23. EXEMPTION. The amount appropriated for the agricultural products utilization commission in section 1 of chapter 50 of the 2011 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, 2013, and ending June 30, 2015.

SECTION 24. EXEMPTION. The amount appropriated for the discretionary funds line item in section 1 of chapter 50 of the 2011 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, 2013, and ending June 30, 2015.

SECTION 25. EXEMPTION. Of the \$1,000,000 appropriated for the technology-based entrepreneurship grant program contained in the grants line item in section 1 of chapter 50 of the 2011 Session Laws, \$700,000 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, 2013, and ending June 30, 2015. The department of commerce shall spend these funds for the purposes provided in this section. The department of commerce shall use up to \$300,000 for a grant to a nonprofit organization assisting individuals with business ideas. The department of commerce shall use any remaining amount for the technology-based entrepreneurship grant program.

SECTION 26. EXEMPTION. Any amount carried over pursuant to section 22 of chapter 50 of the 2011 Session Laws that is unexpended as of June 30, 2013, is not subject to section 54-44.1-11 and is available for promotion and marketing of the USS North Dakota during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 27. EXEMPTION. Any amount carried over pursuant to section 18 of chapter 50 of the 2011 Session Laws, relating to the antiballistic missile site acquisition grant and base realignment grant, that is unexpended as of June 30, 2013, is not subject to section 54-44.1-11 and is available during the biennium beginning July 1, 2013, and ending June 30, 2015. The department of commerce shall spend these funds for the purposes provided in this section. The department of commerce shall award a grant of up to \$100,000 for promotion and marketing of the USS North Dakota. The department of commerce shall award a grant to assist in the acquisition of the antiballistic missile site at the Stanley R. Mickelson safeguard complex in Nekoma. The department of commerce shall award a direct grant and not a cost reimbursement grant for a base realignment grant to enhance economic development and employment opportunities associated with the Minot air force base resulting from action by the federal defense base closure and realignment commission.

SECTION 28. 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, 2013, and ending June 30, 2015.

SECTION 29. TRANSFER - INTERNSHIP FUND. The office of management and budget shall transfer \$1,500,000 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, 2015.

SECTION 30. 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 and the research North Dakota venture grant program, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of commerce may use up to \$2,000,000 of the funds transferred to the research North Dakota fund for venture grants. The department of commerce shall use \$4,000,000 of the funds transferred to the research North Dakota fund for research North Dakota grants to conduct research on and develop and commercialize vaccines and antibodies for the prevention of, treatment of, or cure for cancer; virally infectious diseases; or other pathogens, including bacteria, mycobacteria, fungi, and parasites.

SECTION 31. 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, 2013, and ending June 30, 2015. Matching funds may include money spent by businesses or organizations to pay salaries to export assistant, provide training to export assistants, or buy computer equipment as part of the North Dakota trade office's export assistance program.

SECTION 32. 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, 2013, and ending June 30, 2015. 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 33. UNMANNED AIRCRAFT SYSTEMS PROGRAM. The grants line item in section 1 of this Act includes the sum of \$1,000,000 from the general fund for costs related to pursuing federal aviation administration designation as an unmanned aircraft systems test site. The grants line item in section 1 of this Act includes the sum of \$4,000,000 from the general fund for operations of the test site, contingent upon receiving official designation by the federal aviation administration as a national test site.

SECTION 34. INNOVATION GRANT PROGRAM. The grants line item in section 1 of this Act includes the sum of \$300,000 from the general fund for grants to entrepreneurial centers associated with a research university. The department shall

develop guidelines to qualify for a grant under this section, including the requirements that an entrepreneurial center submit a detailed proposal on how the grant funds will be used to further innovation and entrepreneurship in the state and that an entrepreneurial center provide a detailed report of the results. Grants awarded under this section must be divided equally among eligible entrepreneurial centers.

SECTION 35. STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - ENHANCED USE LEASE GRANT PROGRAM. The grants line item in section 2 of this Act includes the sum of \$2,500,000 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, 2013, and ending June 30, 2015. 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, contingent upon certification from the department of commerce verifying both a signed enhanced use lease agreement and a commitment by a private sector business to locate in the development.

SECTION 36. NORTH DAKOTA ECONOMIC DEVELOPMENT FOUNDATION - 2020 AND BEYOND INITIATIVE - REPORT TO THE LEGISLATIVE MANAGEMENT. Before September 1, 2014, the North Dakota economic development foundation shall provide a report to the legislative management regarding progress made toward the recommendations provided as part of the 2020 and beyond initiative and any recommendations for future legislation.

SECTION 37. EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH - RESEARCH NORTH DAKOTA - REPORT TO BUDGET SECTION. Before June 1, 2014, the department of commerce shall provide a progress report on the experimental program to stimulate competitive research and research North Dakota, including the research North Dakota venture investment program to the budget section of the legislative management.

SECTION 38. LEGISLATIVE MANAGEMENT STUDY - CHILD CARE SERVICES. During the 2013-14 interim, the legislative management shall consider studying child care services. The study must include consideration of the current and potential needs for child care services and the current and potential workforce needs related to child care. The study must include consideration of the current quality of child care services. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 39. LEGISLATIVE MANAGEMENT STUDY - INTELLECTUAL PROPERTY AT RESEARCH UNIVERSITIES. During the 2013-14 interim, the legislative management shall consider studying the intellectual property policies and procedures at research universities within the state. The study must include consideration of the current and potential income generated through the commercialization of intellectual property. The study must include consideration of the best practices related to intellectual property, the federal Bayh-Dole Act, and the federal Patent Reform Act of 2011. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 40. LEGISLATIVE MANAGEMENT STUDY - CHILDREN'S SCIENCE CENTER. During the 2013-14 interim, the legislative management shall consider studying the development of a children's science center in the city where the state capitol is located. The study must include consideration of the feasibility and desirability of providing state assistance to develop a children's science center. The

legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 41. LEGISLATIVE MANAGEMENT STUDY - ENERGY CORRIDOR.

During the 2013-14 interim, the legislative management shall consider studying the feasibility and desirability of the establishment of an energy corridor in the western portion of the state, including an examination of rights of way and state highway and county road easements necessary for the further development of energy resources in the state, and including the existing and necessary easements required to make United States highway 85 a four-lane highway corridor to complement the development of energy transportation resources. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 42. LEGISLATIVE INTENT - RESEARCH NORTH DAKOTA VENTURE INVESTMENT PROGRAM.

It is the intent of the sixty-third legislative assembly that the North Dakota development fund, incorporated, use funding transferred to the North Dakota development fund, incorporated, in section 18 of chapter 50 of the 2011 Session Laws for investments under the research North Dakota venture investment program.

SECTION 43. LEGISLATIVE INTENT - THEODORE ROOSEVELT PRESIDENTIAL LIBRARY.

It is the intent of the sixty-third legislative assembly that the Theodore Roosevelt center become an independent nonprofit organization and be renamed the Theodore Roosevelt presidential library.

Approved May 3, 2013

Filed May 7, 2013

CHAPTER 50**SENATE BILL NO. 2019**

(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; to provide for a report to the budget section; and to provide borrowing authority to Williston state college.

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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$4,362,974	\$306,969	\$4,669,943
Accrued leave payments	0	96,477	96,477
Operating expenses	1,253,339	0	1,253,339
Grants	29,025,000	1,878,698	30,903,698
Grants - postsecondary	357,452	490,000	847,452
Adult farm management	749,802	0	749,802
Workforce training	<u>3,000,000</u>	<u>1,000,000</u>	<u>4,000,000</u>
Total all funds	\$38,748,567	\$3,772,144	\$42,520,711
Less estimated income	<u>10,766,888</u>	<u>(479,093)</u>	<u>10,287,795</u>
Total general fund appropriation	\$27,981,679	\$4,251,237	\$32,232,916
Full-time equivalent positions	27.50	(0.50)	27.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Workforce training	\$0	\$1,000,000
Total general fund	\$0	\$1,000,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The state board for career and technical education shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. REPORT TO BUDGET SECTION. The department of career and technical education shall report performance measures of the science, technology,

engineering, and mathematics program to the budget section during the 2013-14 interim, including the increase of science, technology, engineering, and mathematics programs available to students; the increase in enrollment in science, technology, engineering, and mathematics programming at the secondary and postsecondary level; and the business partnerships created by the expansion of the science, technology, engineering, and mathematics programs.

SECTION 4. SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS PROGRAM GRANTS - MATCHING REQUIREMENT. The grants - postsecondary line item in section 1 of this Act includes the sum of \$150,000 from the general fund for science, technology, engineering, and mathematics grants. Prior to awarding a grant from these funds, the state board for career and technical education shall verify that the grant recipient has available matching funds from private industry grants equal to the state grant award, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 5. WORKFORCE TRAINING GRANTS - MATCHING REQUIREMENT. The workforce training line item in section 1 of this Act includes the sum of \$1,000,000 from the general fund for workforce training grants to the trainND program for the purchase of appropriate equipment specific to each of the four quadrant's workforce training needs. Prior to awarding a grant from these funds, the state board for career and technical education shall verify that the grant recipient has available matching funds from private industry equal to the state grant award, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 6. BORROWING AUTHORITY - APPROPRIATION - WILLISTON STATE COLLEGE - WORKFORCE TRAINING PROJECT. Williston state college may borrow the sum of \$2,500,000, or so much of the sum as may be necessary, from the Bank of North Dakota, under the terms and conditions as determined by the Bank of North Dakota, for the workforce training facility project, for the biennium beginning July 1, 2013, and ending June 30, 2015. The proceeds of the loan authorized in this section are appropriated to Williston state college for the purpose of constructing a workforce training facility for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved May 2, 2013
Filed May 2, 2013

CHAPTER 51

SENATE BILL NO. 2020

(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 provide for transfers; to provide an exemption; to provide for a state water commission study; to provide for a legislative management report; to amend and reenact subsection 6 of section 4-05.1-19 of the North Dakota Century Code, relating to the duties of the state board of agricultural research and education; 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, 2013, and ending June 30, 2015, as follows:

Subdivision 1.

NORTH DAKOTA STATE UNIVERSITY EXTENSION SERVICE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Extension service	\$47,026,654	\$3,876,331	\$50,902,985
Soil conservation committee	987,800	150,000	1,137,800
Accrued leave payments	0	<u>1,716,289</u>	<u>1,716,289</u>
Total all funds	\$48,014,454	\$5,742,620	\$53,757,074
Less estimated income	<u>23,128,810</u>	<u>1,718,999</u>	<u>24,847,809</u>
Total general fund	\$24,885,644	\$4,023,621	\$28,909,265
Full-time equivalent positions	256.26	2.00	258.26

Subdivision 2.

NORTHERN CROPS INSTITUTE

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Northern crops institute	\$3,347,307	\$472,520	\$3,819,827
Accrued leave payments	0	42,195	42,195
Total all funds	\$3,347,307	\$514,715	\$3,862,022
Less estimated income	<u>1,654,725</u>	<u>142,436</u>	<u>1,797,161</u>

Total general fund	\$1,692,582	\$372,279	\$2,064,861
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	\$24,069,961	\$2,218,199	\$26,288,160
Accrued leave payments	0	241,627	241,627
Total all funds	\$24,069,961	\$2,459,826	\$26,529,787
Less estimated income	<u>22,150,333</u>	<u>302,630</u>	<u>22,452,963</u>
Total general fund	\$1,919,628	\$2,157,196	\$4,076,824
Full-time equivalent positions	51.75	2.00	53.75

Subdivision 4.

MAIN RESEARCH CENTER

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Main research center	\$89,012,990	\$20,085,853	\$109,098,843
Accrued leave payments	0	2,561,394	2,561,394
Total all funds	\$89,012,990	\$22,647,247	\$111,660,237
Less estimated income	<u>41,630,644</u>	<u>11,423,072</u>	<u>53,053,716</u>
Total general fund	\$47,382,346	\$11,224,175	\$58,606,521
Full-time equivalent positions	349.01	2.48	351.49

Subdivision 5.

RESEARCH CENTERS

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Dickinson research center	\$5,588,562	\$528,059	\$6,116,621
Central grasslands research center	2,865,847	364,020	3,229,867
Hettinger research center	3,373,175	1,288,554	4,661,729
Langdon research center	2,378,807	453,688	2,832,495
North central research center	4,399,821	182,856	4,582,677
Williston research center	3,410,089	356,897	3,766,986
Carrington research center	7,126,488	766,006	7,892,494
Accrued leave payments	0	503,916	503,916
Total all funds	\$29,142,789	\$4,443,996	\$33,586,785
Less estimated income	<u>14,997,581</u>	<u>1,003,502</u>	<u>16,001,083</u>
Total general fund	\$14,145,208	\$3,440,494	\$17,585,702
Full-time equivalent positions	103.04	4.00	107.04

Subdivision 6.

AGRONOMY SEED FARM

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Agronomy seed farm	\$1,435,168	\$30,850	\$1,466,018
Accrued leave payments	0	5,741	5,741

Total special funds	\$1,435,168	\$36,591	\$1,471,759
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	\$90,025,408	\$21,217,765	\$111,243,173
Grand total special funds	<u>104,997,261</u>	<u>14,627,230</u>	<u>119,624,491</u>
Grand total all funds	\$195,022,669	\$35,844,995	\$230,867,664

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Main research center greenhouse project	\$9,494,581	\$0
Main research center special assessments	82,402	0
Dickinson research center operations pool	800,000	0
Upper great plains transportation institute transportation study	350,000	0
Agronomy laboratories	0	5,925,000
Extension 4-H camp renovation	0	1,900,000
Oil impact assistance	0	100,000
Feed mill equipment	0	100,000
Video conference equipment	0	110,000
Upper great plains transportation institute state match for federal funds	0	1,250,000
Diagnostic equipment	0	<u>400,000</u>
Total all funds	\$10,726,983	\$9,785,000
Total other funds	<u>2,852,931</u>	<u>950,000</u>
Total general fund	\$7,874,052	\$8,835,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The main research center shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

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 the act, grant, gift, or donation, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 4. DICKINSON RESEARCH EXTENSION CENTER - MINERAL RIGHTS INCOME. The Dickinson research extension center may spend up to \$755,000 of revenues received during the 2013-15 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, 2013, and ending June 30, 2015.

SECTION 5. WILLISTON RESEARCH EXTENSION CENTER - MINERAL RIGHTS INCOME. The Williston research extension center must retain all revenues received during the 2013-15 biennium from mineral royalties, leases, or easements in the Williston research extension center fund and shall report to the sixty-fourth legislative assembly on the amounts received for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 6. 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 7. NORTH DAKOTA STATE UNIVERSITY EXTENSION SERVICE - NEW TECHNICAL SUPPORT FULL-TIME EQUIVALENT POSITION. The North Dakota state university extension service may utilize the new full-time equivalent technical support position recommended in the 2013-15 executive recommendation and included in subdivision 1 of section 1 of this Act, in either the weed science or potato program for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 8. 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, subject to availability of funds. The board shall report any adjustments to the office of management and budget prior to the submission of the 2015-17 budget request.

SECTION 9. UNEXPENDED GENERAL FUND - EXCESS INCOME. 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, 2015, and ending June 30, 2017.

SECTION 10. EXEMPTION. The amounts appropriated for the research greenhouse complex project, as contained in subdivision 4 of section 3 of chapter 48 of the 2005 Session Laws and subdivision 4 of section 1 of chapter 19 of the 2011 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, 2013, and ending June 30, 2015.

SECTION 11. INTERNSHIP. The extension service line item in subdivision 1 of section 1 of this Act includes \$250,000 from the general fund for an extension service internship program and agents-in-training program, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 12. AMENDMENT. Subsection 6 of section 4-05.1-19 of the North Dakota Century Code is amended and reenacted as follows:

6. Develop a biennial budget request based on its prioritized needs list and submit that request to the president of North Dakota state university and the state board of higher education, and forward its prioritized needs list and request without modification to the office of management and budget and the appropriations committees of the legislative assembly;

SECTION 13. STATE WATER COMMISSION STUDY - MOUSE RIVER AND TRIBUTARIES - LEGISLATIVE MANAGEMENT REPORT. During the 2013-14 interim, the state water commission shall conduct a study of the Mouse River and its tributaries, including the causes of flooding and measures that could be taken to improve waterflows and reduce flooding and the amount of time flooded land is affected. The state water commission shall report its findings to the legislative management.

SECTION 14. EMERGENCY. The appropriation for capital projects of \$5,925,000 in subdivision 4 of section 1 of this Act; \$1,900,000 in subdivision 1 of section 1 of this Act; and \$82,000 relating to a flooded lands study in subdivision 4 of section 1 of this Act are declared to be an emergency measure.

Approved May 3, 2013
Filed May 7, 2013

CHAPTER 52

SENATE BILL NO. 2021

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

AN ACT to provide an appropriation for defraying the expenses of the information technology department; to create and enact a new section to chapter 54-59; to amend and reenact sections 54-59-15 and 54-59-22 of the North Dakota Century Code, relating to acceptance of funds and to agencies exempted from certain services of the information technology department; to provide for studies; to provide for a report to the budget section; to provide an appropriation for the office of management and budget; and to provide for various transfers.

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 that agency, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$47,383,177	\$4,170,074	\$51,553,251
Accrued leave payments	0	2,626,084	2,626,084
Operating expenses	69,218,477	(4,383,834)	64,834,643
Capital assets	15,035,666	(2,535,066)	12,500,600
Center for distance education	6,649,238	(780,847)	5,868,391
Statewide longitudinal data system	1,869,243	1,511	1,870,754
Educational technology council	1,075,403	739,206	1,814,609
EduTech	7,926,447	125,647	8,052,094
K-12 wide area network	5,206,992	(278,815)	4,928,177
Geographic information system	1,112,065	348,229	1,460,294
Health information technology office	13,959,238	(9,208,515)	4,750,723
Criminal justice information sharing	2,781,394	1,087,967	3,869,361
Federal stimulus funds	0	<u>6,800,000</u>	<u>6,800,000</u>
Total all funds	\$172,217,340	(\$1,288,359)	\$170,928,981
Less estimated income	<u>153,165,136</u>	<u>(3,490,583)</u>	<u>149,674,553</u>
Total general fund	\$19,052,204	\$2,202,224	\$21,254,428
Full-time equivalent positions	336.30	4.00	340.30

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-second legislative assembly for the 2011-13 biennium and the 2013-15 one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2011-13</u>	<u>2013-15</u>
Criminal justice information sharing projects	\$200,000	\$800,000
Statewide longitudinal data system	1,757,624	0

Eligibility system	1,500,000	0
Federal fiscal stimulus	8,000,000	0
Educational technology council grants	0	200,000
Archiving study	0	100,000
Geographic information system projects	0	215,000
Total all funds	\$11,457,624	\$1,315,000
Less estimated income	<u>11,257,624</u>	0
Total general fund	\$200,000	\$1,315,000

The 2013-15 one-time funding amounts are not a part of the entity's base budget for the 2015-17 biennium. The information technology department shall report to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. 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 4. DEPARTMENT OF PUBLIC INSTRUCTION - STATEWIDE LONGITUDINAL DATA SYSTEM EXPENDITURES - APPROVAL. The department of public instruction may spend only the federal funds for costs associated with the statewide longitudinal data system upon approval of the expenditures by the information technology department, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 5. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Information technology project planning.

Each executive branch state agency, excluding entities under the control of the state board of higher education, considering the development of an information technology project with an estimated cost of one hundred thousand dollars or more shall involve the information technology department in the planning and study of the project. A state agency must receive a recommendation from the information technology department prior to proceeding with any study relating to the project.

SECTION 6. AMENDMENT. Section 54-59-15 of the North Dakota Century Code is amended and reenacted as follows:

54-59-15. Acceptance of funds.

The department may accept federal or other funds, which must be deposited in the information technology operating account or other accounts specified by the office of management and budget and which may be spent subject to legislative appropriation. The department may apply for any public or private grants available for the improvement of information technology.

SECTION 7. AMENDMENT. Section 54-59-22 of the North Dakota Century Code is amended and reenacted as follows:

54-59-22. Required use of electronic mail, file and print server administration, database administration, application server, and hosting services.

Each state agency and institution, excluding the legislative and judicial branches, the institutions under the control of the state board of higher education, ~~the public employees retirement system, the retirement and investment office, the attorney general, and any entity exempted by the office of management and budget after advisement by the information technology department,~~ shall obtain electronic mail, file and print server administration, database administration, storage, application server, and hosting services through a delivery system established by the information technology department in conjunction with the office of management and budget. The office of management and budget, after receiving advice from the information technology department, 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 8. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - INFORMATION TECHNOLOGY HARDWARE RELOCATION AND CONSOLIDATION STUDY. 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 office of management and budget for the purpose of contracting with a private consultant to conduct an information technology relocation and consolidation study of information technology equipment operated by the attorney general and by agencies that have been exempted by the office of management and budget under section 54-59-22, for the biennium beginning July 1, 2013, and ending in June 30, 2015.

1. The study:
 - a. Must include input from the attorney general and representatives from the exempted agencies and a review of the feasibility and the desirability of relocating and consolidating information technology hardware of the attorney general and the agencies exempted by the office of management and budget to the information technology department's secure data center.
 - b. Must address the issues of cost, physical security, cybersecurity, redundancy, staffing, impact on service to stakeholders, and impact on contractual relationships for software and hardware with federal partnerships.
 - c. Must be completed before December 31, 2013.
2. The office of management and budget shall report its findings and recommendations to the budget section and the legislative management's information technology committee by March 31, 2014, and submit any proposed legislation necessary to implement the consolidation or relocation to the legislative management's information technology committee by July 1, 2014. If the findings of the study indicate that a partial or full consolidation of information technology services or relocation of information technology hardware, are feasible and desirable, the office of management and budget and the information technology department shall assist any affected agency in developing an implementation plan as a part of the agency's 2015-17 budget request.

SECTION 9. INFORMATION TECHNOLOGY DESKTOP SUPPORT STUDY - REPORT TO BUDGET SECTION. Prior to January 1, 2014, the information technology department shall conduct a study of all state agencies' information technology desktop support to determine the feasibility and desirability of centralization of desktop support services through the information technology department for all state agencies. The study must include a review of the support staff, associated costs to the respective agency, use of third-party information technology contractors, and a cost-benefit comparison of current state agencies' desktop support self services and desktop support services provided by the information technology department. The information technology department shall report its findings and recommendations to the office of management and budget, the budget section, and the interim information technology committee prior to January 1, 2014. The office of management and budget shall provide a report to the budget section regarding the findings, recommendations, and any legislation required to implement the recommendations of the study.

Approved May 3, 2013
Filed May 7, 2013

CHAPTER 53

SENATE BILL NO. 2022

(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 1 of section 29-07-01.1 of the North Dakota Century Code, relating to the application fee for indigent defense services; 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 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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Commission on legal counsel for indigents	\$11,779,282	\$2,525,122	\$14,304,404
Accrued leave payments	<u>0</u>	<u>116,872</u>	<u>116,872</u>
Total all funds	\$11,779,282	\$2,641,994	\$14,421,276
Less special funds	<u>1,970,852</u>	<u>527,014</u>	<u>2,497,866</u>
Total general fund	\$9,808,430	\$2,114,980	\$11,923,410
Full-time equivalent positions	30.00	3.00	33.00

SECTION 2. AMENDMENT. Subsection 1 of section 29-07-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Lawyers provided to represent indigent persons must be compensated at a reasonable rate to be determined by the commission on legal counsel for indigents. Expenses necessary for the adequate defense of an indigent person prosecuted in district court, other than for a violation of a home rule county's ordinance, when approved by the commission, must be paid by the state. Expenses necessary for the adequate defense of an indigent person prosecuted for violation of a home rule county's ordinance must be paid by the home rule county. Expenses necessary for the adequate defense of an indigent person prosecuted in municipal court, when approved by the judge, must be paid by the city in which the alleged offense took place. The city shall also pay the expenses in any matter transferred to district court pursuant to section 40-18-06.2 or 40-18-15.1, in any appeal taken to district court from a judgment of conviction in municipal court pursuant to section 40-18-19, and in an appeal or postconviction matter seeking relief from a conviction resulting from violation of a municipal ordinance. A defendant requesting representation by counsel at public expense, or for whom counsel provided at public expense without a request is considered appropriate by the court, shall submit an application for indigent defense services. For an application for indigent defense services in the district court, a nonrefundable application fee of

~~twenty-five~~^{thirty-five} dollars must be paid at the time the application is submitted. The district court may extend the time for payment of the fee or may waive or reduce the fee if the court determines the defendant is financially unable to pay all or part of the fee. If the application fee is not paid before disposition of the case, the fee amount must be added to the amount to be reimbursed under this section. Application fees collected under this subsection must be forwarded for deposit in the indigent defense administration fund established under subsection 4.

SECTION 3. LEGISLATIVE INTENT - REIMBURSEMENT OF ATTORNEY FEES. It is the intent of the sixty-third legislative assembly that a defendant who has been charged with a felony and for whom counsel is provided by the commission on legal counsel for indigents pay \$575 for reimbursement of attorney's fees.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 54

SENATE BILL NO. 2023

(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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Racing commission	\$447,501	\$104,361	\$551,862
Accrued leave payments	0	3,789	3,789
Total all funds	\$447,501	108,150	\$555,651
Less estimated income	130,000	36,407	166,407
Total general fund	\$317,501	\$71,743	\$389,244
Full-time equivalent positions	2.00	0.00	2.00

Approved April 29, 2013
 Filed April 29, 2013

CHAPTER 55

SENATE BILL NO. 2024

(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 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 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, 2013, and ending June 30, 2015, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Comprehensive tobacco control	\$12,922,614	\$2,884,823	\$15,807,437
Accrued leave	<u>0</u>	<u>8,391</u>	<u>8,391</u>
Total special funds	\$12,922,614	\$2,893,214	\$15,815,828
Full-time equivalent positions	5.00	3.00	8.00

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - COMPREHENSIVE STATEWIDE TOBACCO PREVENTION AND CONTROL PLAN.

1. During the 2013-14 interim, the legislative management shall consider studying the comprehensive statewide tobacco prevention and control plan used in this state.
2. As part of the study, the tobacco prevention and control executive committee and state department of health shall work together to create a single assessment of programs in both agencies including funding sources for the programs, service providers, areas and populations served by the programs, and effectiveness of the programs on improving the health and policy environment in the state. The tobacco prevention and control executive committee and state department of health shall present this assessment to the legislative management.
3. The study may include:
 - a. A review of the service delivery system for the comprehensive statewide tobacco prevention and control programs provided by the two agencies, whether the delivery system is fiscally efficient, and how the delivery system is consistent with the centers for disease control's best practices for comprehensive tobacco control programs;

- b. A review of the effectiveness of the comprehensive statewide tobacco prevention and control programs provided in the state and ways to improve the health and policy outcomes of the programs; and
 - c. A review of how the comprehensive statewide tobacco prevention and control programs provided by the two agencies address the Native American population on the Indian reservations.
4. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved May 1, 2013
Filed May 1, 2013

CHAPTER 56

SENATE BILL NO. 2176

(Senators Holmberg, Wardner, G. Lee)
(Representatives Carlson, Delzer, Thoreson)

AN ACT to provide an appropriation to the department of transportation for the construction and maintenance of state highways; to provide an appropriation to the state treasurer for transportation funding distributions; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - STATE HIGHWAY CONSTRUCTION AND MAINTENANCE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$620,000,000, or so much of the sum as may be necessary, to the department of transportation for the construction and maintenance of state highways, for the period beginning with the effective date of this Act and ending June 30, 2015. The funding provided in this section is considered a one-time funding item.

SECTION 2. APPROPRIATION - STATE TREASURER - TRANSPORTATION FUNDING DISTRIBUTIONS. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$100,000,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of providing transportation funding distributions, for the period beginning with the effective date of this Act and ending June 30, 2015. The funding provided in this section is considered a one-time funding item. The state treasurer shall distribute the funds provided under this section as soon as possible as follows:

1. Sixty-four million dollars to non-oil-producing counties and cities pursuant to subsection 4 of section 54-27-19.
2. Sixteen million dollars to counties and townships in non-oil-producing counties pursuant to section 54-27-19.1. Organized townships are not required to provide matching funds to receive distributions under this section.
3. Twenty million dollars to counties and townships in non-oil-producing counties through a distribution of \$15,000 to each organized township and a distribution of \$15,000 for each unorganized township to the county in which the unorganized township is located. If any funds remain after the distributions provided under this subsection, the state treasurer shall distribute eighty percent of the remaining funds to counties and cities pursuant to the method provided in subsection 1 and shall distribute twenty percent of the remaining funds to counties and townships pursuant to the method provided in subsection 2.

For purposes of this section, a "non-oil-producing county" means a county that received no allocation of funding or a total allocation under section 57-51-15 of less than \$500,000 for state fiscal year 2012. Any funds received by a county under this section for an unorganized township distribution must be used for roadway purposes

in those unorganized townships located in the county. All funds distributed under this section must be used for extraordinary roadway maintenance purposes.

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

Approved February 4, 2013
Filed February 4, 2013

CHAPTER 57**SENATE BILL NO. 2205**

(Senators J. Lee, Dever, Warner)
(Representatives Hofstad, Hogan, Strinden)

AN ACT to provide an appropriation to the department of human services for providing a grant for administering 2-1-1 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 \$285,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing a grant to an organization for administering statewide 2-1-1 services that include suicide prevention services, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved May 2, 2013
Filed May 2, 2013

CHAPTER 58

SENATE BILL NO. 2238

(Senators Carlisle, Wardner, Schneider)
(Representatives Nathe, Porter, Glassheim)

AN ACT to reimburse school districts and nonpublic schools for expenses incurred in providing cardiopulmonary resuscitation training to students; and to provide an appropriation.

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 \$450,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of reimbursing school districts and nonpublic schools for costs incurred in providing cardiopulmonary resuscitation training to students, for the biennium beginning July 1, 2013, and ending June 30, 2015. The superintendent of public instruction may not spend the funds appropriated in this section for any other purpose and any funds remaining unspent at the end of the biennium must be canceled in accordance with provisions of section 54-44.1-11.

1. A school district may be eligible for reimbursement under this section if the school district utilizes one high school 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 and provides in-kind or cash match for the reimbursement requested. A nonpublic school may be eligible for reimbursement under this section if the nonpublic school utilizes one high school 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 and provides in-kind or cash match for the reimbursement requested. Total in-kind or cash match must equal or exceed twenty-five percent of the cost of the program during the first year of the biennium and fifty percent of the cost of the program during the second year of the biennium. 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; and
 - d. Include instruction in the use of an automated external defibrillator.
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, any expenses incurred in providing the training, and evidence of appropriate in-kind or cash match.

-
- 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 \$22.50 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 \$22.50 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.

Approved April 17, 2013
Filed April 17, 2013

CHAPTER 59

SENATE BILL NO. 2267

(Senators Laffen, Flakoll, Poolman, Robinson)
(Representatives Beadle, Trottier)

AN ACT to provide an appropriation for school district safety grants.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION - SCHOOL DISTRICT SAFETY GRANTS.

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 superintendent of public instruction for the purpose of awarding to eligible school districts safety grants, in accordance with the provisions of this section, for the biennium beginning July 1, 2013, and ending June 30, 2015.
2. The superintendent of public instruction shall forward to each eligible school district:
 - a. Ten thousand dollars; plus
 - b. The school district's pro rata share of the remaining appropriation, calculated by using the latest available average daily membership of each school district.
3.
 - a. Each school district accepting funds under this section shall expend the funds for projects that improve safety.
 - b. By June 30, 2016, each school district shall submit to the superintendent of public instruction documentation indicating the appropriate expenditure of the funds.
 - c. Authorized expenditures for safety include the purchase, installation, and maintenance of alarms, cameras, electronic door locks, emergency response call buttons, intercom systems, key or pass cards, metal detectors, and other similar equipment designed to minimize the potential for a life-threatening crisis and to maximize the safety of school district students and staff in the event of a life-threatening crisis. Authorized expenditures for safety do not include personnel costs or contracts for the provision of security services.
4. For purposes of this section, an eligible school district is a school district that:
 - a. Is not precluded from receiving state aid by section 15.1-27-35.3;
 - b. Provides an equal monetary match for any amount received under this section; and

- c. As of June 30, 2013, has an ending general fund balance that does not exceed twenty-five percent of the district's total general fund expenditures.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 60

SENATE BILL NO. 2344

(Senators Sorvaag, Miller, Unruh)
(Representatives Brabandt, Hatlestad, Owens)

AN ACT to provide an appropriation for training service dogs; and to provide for a legislative management study.

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 training service dogs to assist North Dakota veterans having posttraumatic stress disorder, for the biennium beginning July 1, 2013, and ending June 30, 2015.

1. A payment under this section may be made by the department of veterans' affairs only upon the completion of a service dog's training.
2. Payment may not exceed \$12,500 per service dog.

SECTION 2. VETERANS SERVICE DOG TRAINING - LEGISLATIVE MANAGEMENT REPORT. The department of veterans' affairs shall provide a report to the legislative management during the 2013-14 interim regarding the status of the service dog training program, including benefits to veterans, number of applicants, and number of service dogs provided.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY. The legislative management shall consider studying statutory changes that would benefit North Dakota veterans and include therein possible changes to state income taxes and property taxes, the provision of veteran-focused incentives, assistance with obtaining and maintaining benefits, and assistance with obtaining and maintaining various life-enhancing services. The legislative management shall consider studying current state and federal benefits available to North Dakota veterans. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 61**SENATE BILL NO. 2354**

(Senators Poolman, J. Lee, Schneider)
(Representatives Delmore, Dockter, Meier)

AN ACT to provide an appropriation to the state department of health for a loan repayment program for dentists in public health and nonpublic dental clinics.

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 \$180,000, or so much of the sum as may be necessary, to the state department of health for the purpose of defraying the expenses of a loan repayment program for dentists who practice in a public health setting or nonprofit dental clinic using a sliding fee schedule to bill patients, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 62

SENATE BILL NO. 2356

(Senators Dever, Heckaman, J. Lee, Poolman)
(Representatives Delmore, Hawken)

AN ACT to provide an appropriation to the department of human services for grants to children's advocacy centers.

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 \$300,000, or so much of the sum as may be necessary, to the department of human services for the purpose of providing grants to children's advocacy centers, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 16, 2013

Filed April 16, 2013

GENERAL PROVISIONS

CHAPTER 63

HOUSE BILL NO. 1043

(Legislative Management)
(Judiciary Committee)

AN ACT to amend and reenact sections 11-11-02 and 11-28.3-09, subsection 7 of section 12-60-26, section 15.1-20-04, subsection 2 of section 15.1-23-02, subsection 2 of section 28-32-10, subsection 1 of section 29-15-21, subsection 1 of section 43-44-07, sections 43-44-08 and 43-44-09, subsection 4 of section 43-44-10, subsection 1 of section 43-44-15, subsection 5 of section 57-64-02, section 64-02-09, and subsection 1 of section 65-02-35 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; and to repeal section 54-03-01.11 of the North Dakota Century Code, relating to obsolete provisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-11-02 of the North Dakota Century Code is amended and reenacted as follows:

11-11-02. Commissioner must be resident of district - Exceptions.

Each county commissioner shall be chosen by the qualified electors of the district of which the commissioner is a resident, except as otherwise provided in section 11-07-03 or 11-07-06.

SECTION 2. 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.

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 levy a tax not to exceed ~~five~~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.

SECTION 3. AMENDMENT. Subsection 7 of section 12-60-26 of the North Dakota Century Code is amended and reenacted as follows:

7. For purposes of this section:
 - a. "Flag the records" means marking the division of vital records, school, day care, or home education records in such a manner that any personnel viewing that record will be automatically alerted that the child or individual has been reported as lost, missing, or runaway.
 - b. "Home education" means a program of education supervised by a child's parent, ~~in the child's home~~, in accordance with the requirements of chapter 15.1-23.
 - c. "Proof of identity" means a certified copy of a birth certificate, a certified transcript, or similar student records from the previous school, or any other documentary evidence the school, licensed day care facility, or school superintendent considers appropriate proof of identity.
 - d. "School" or "licensed day care facility" means all elementary and secondary schools, licensed day care centers, licensed child care facilities, headstart programs, and nursery schools whether public or nonpublic.

SECTION 4. AMENDMENT. Section 15.1-20-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-20-04. Home education - Definition.

For purposes of this chapter, "home education" means ~~an educational program for a child provided~~ a program of education supervised by a child's parent in accordance with chapter 15.1-23 ~~by the child's parent in the child's home.~~

SECTION 5. AMENDMENT. Subsection 2 of section 15.1-23-02 of the North Dakota Century Code is amended and reenacted as follows:

2. The statement must be accompanied by a copy of the child's immunization record and proof of the child's identity as required by section ~~54-23-2-04.212-60-26.~~

²⁰ **SECTION 6. AMENDMENT.** Subsection 2 of section 28-32-10 of the North Dakota Century Code is amended and reenacted as follows:

2. The agency shall mail or deliver a copy of the agency's full notice and proposed rule to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation enacted during the most recent session of the legislative assembly which is being implemented by the proposed rule and to each person who has made a timely request to the agency for a copy of the notice and proposed rule. The agency may mail or otherwise provide a copy of the agency's full notice to any person who is likely to be an interested person. ~~The agency shall mail or deliver a copy of the rules to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation enacted during the most recent session of the legislative assembly which is being implemented by the proposed rule and to any person requesting a copy.~~ The agency may charge persons who are not members of the legislative assembly fees for copies of the proposed rule as allowed under section 44-04-18.

SECTION 7. AMENDMENT. Subsection 1 of section 29-15-21 of the North Dakota Century Code is amended and reenacted as follows:

1. Subject to the provisions of this section, any party to a civil or criminal action or proceeding pending in the district court may obtain a change of the judge before whom the trial or any proceeding with respect thereto is to be heard by filing with the clerk of the court in which the action or proceeding is pending the original of a written demand for change of judge, executed ~~in triplicate~~ either:
 - a. By the personal signature of the party, if an individual, and by the personal signature of an authorized officer or manager, if a corporation, limited liability company, or association; or
 - b. By the attorney for a party with the permission of the party, in which event the attorney shall file with the demand a certificate that the attorney has mailed a copy of the demand to such party.

SECTION 8. AMENDMENT. Subsection 1 of section 43-44-07 of the North Dakota Century Code is amended and reenacted as follows:

1. An applicant for licensure as a licensed nutritionist must file a written application with the board and:
 - a. Have satisfactorily completed academic requirements required by the board, and have received a baccalaureate degree in the field of dietetics or food and nutrition, as approved by the board, from an accredited college or university;
 - b. Have received a master's or doctorate degree in human nutrition, nutrition education, foods and nutrition, or public health nutrition from an accredited college or university, or have received a master's or doctorate degree in a related field that meets eligibility requirements of the commission on dietetic registration of the American dietetic association academy of nutrition and dietetics or its predecessor or successor organization;

²⁰ Section 28-32-10 was also amended by section 1 of House Bill No. 1024, chapter 247.

- c. Maintain membership in one of the following organizations: American institute of nutrition, American society for clinical nutrition, or the American board of nutrition; or
- d. Present evidence to the board regarding employment and competence as a nutritionist before July 1, 1985, and the inability to meet the criteria of subdivision a, b, or c.

SECTION 9. AMENDMENT. Section 43-44-08 of the North Dakota Century Code is amended and reenacted as follows:

43-44-08. Requirements for licensure - Licensed registered dietitian.

1. Applicants for licensure as a licensed registered dietitian must:
 - a. Comply with subsection 1 of section 43-44-07.
 - b. Have satisfactorily completed the education and experience requirements for dietitians approved by the commission on dietetic registration of the American dietetic association academy of nutrition and dietetics or its predecessor or successor organization.
 - c. Have satisfactorily completed the examination approved and administered by the commission on dietetic registration of the American dietetic association academy of nutrition and dietetics or its predecessor or successor organization.
2. Applicants for renewal of licensure as a licensed registered dietitian must:
 - a. Comply with subsection 1.
 - b. Have satisfactorily completed continuing education requirements specified by the commission on dietetic registration of the American dietetic association academy of nutrition and dietetics or its predecessor or successor organization.

SECTION 10. AMENDMENT. Section 43-44-09 of the North Dakota Century Code is amended and reenacted as follows:

43-44-09. Waiver of requirements for licensure of dietitians.

Upon application, the board shall grant a license to any person certified prior to July 1, 1985, as a registered dietitian by the commission on dietetic registration of the American dietetic association academy of nutrition and dietetics or its predecessor or successor organization. Upon application of any person certified by the commission on dietetic registration of the American dietetic association academy of nutrition and dietetics or its predecessor or successor organization after July 1, 1985, the board may waive the examination, education, and experience requirements and grant the applicant a license if the board determines that the requirements for certification are equivalent to the related requirements for licensure in this chapter.

SECTION 11. AMENDMENT. Subsection 4 of section 43-44-10 of the North Dakota Century Code is amended and reenacted as follows:

4. Any person who does not meet the requirements of subdivision a, b, or c of subsection 1 of section 43-44-07, and who provides nutrition care services,

including weight control programs, under the supervision of a licensed registered dietitian, a dietitian licensed in another state that has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under this chapter, or a dietitian registered by the commission on dietetic registration of the ~~American dietetic association~~ academy of nutrition and dietetics or its predecessor or successor organization.

SECTION 12. AMENDMENT. Subsection 1 of section 43-44-15 of the North Dakota Century Code is amended and reenacted as follows:

1. The board may deny a license, refuse to renew a license, suspend a license, or revoke a license, or may impose probationary conditions on a licensee if the licensee or applicant has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct includes:
 - a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.
 - b. Being guilty of unprofessional conduct as defined by rules adopted by the board, or violating any code of ethics adopted by the ~~American dietetic association~~ academy of nutrition and dietetics or its predecessor or successor organization.
 - c. Being convicted of an offense, as defined by section 12.1-01-04, that the board determines has a direct bearing upon a person's ability to serve the public as a licensed registered dietitian or a licensed nutritionist or, following conviction of any offense, if the board determines that the person is not sufficiently rehabilitated under section 12.1-33-02.1.
 - d. Violating any lawful order or rule of the board.
 - e. Violating this chapter.

²¹ **SECTION 13. AMENDMENT.** Subsection 5 of section 57-64-02 of the North Dakota Century Code is amended and reenacted as follows:

5. For purposes of this section, "taxable valuation" means the valuation to which the mill rate is applied to determine the amount of ad valorem taxes or payments in lieu of taxes, and includes taxable valuation determined for agricultural, residential, and commercial property; railroad property assessed by the state board of equalization under chapter 57-05; gas company property, pipeline property, and power company property, ~~and railroad property assessed by the state board of equalization under chapter 57-06~~; mobile homes under chapter 57-55; land controlled by the game and fish department subject to valuation under chapter 57-02.1; land owned by the board of university and school lands or the state treasurer subject to valuation under chapter 57-02.3; national guard land subject to valuation under chapter 37-07.3; farmland or ranchland owned by nonprofit organizations for conservation purposes subject to valuation under section 10-06.1-10; land acquired by the state water commission for the Devils Lake project subject to valuation under chapter 61-02; a workforce safety and insurance building and

²¹ Section 57-64-02 was suspended by section 63 of House Bill No. 1013, chapter 13.

associated real property subject to valuation under section 65-02-32; and carbon dioxide pipeline property subject to valuation under section 57-06-17.2. For purposes of this section, "taxable valuation" includes the taxable valuation of the homestead credit reimbursed by the state under section 57-02-08.2 and the disabled veterans' credit reimbursed by the state under section 57-02-08.8.

SECTION 14. AMENDMENT. Section 64-02-09 of the North Dakota Century Code is amended and reenacted as follows:

64-02-09. Standards of weights and measures.

The commission shall maintain the following standards of weights and measures, which must conform to the United States standards:

1. One surveyor's chain, ~~thirty-three standards~~ sixty-six United States survey feet [40.06 meters] in length.
2. One yard [~~.9144 meter~~ in meters, equal to 36 divided by 39.37] measure.
3. One United States survey foot [.3048 meter in meters, equal to 12 divided by 39.37] measure and one international foot [exactly .3048 meters] measure.
4. One inch [25.40 millimeters] measure.
5. One one hundred pound [45.36 kilograms] weight.
6. One fifty pound [22.68 kilograms] weight.
7. One twenty-five pound [11.34 kilograms] weight.
8. One ten pound [4.54 kilograms] weight.
9. One one pound [.4536 kilogram] weight.
10. One half-pound [.2268 kilogram] weight.
11. One quarter-pound [.1134 kilogram] weight.
12. One one-eighth of a pound [.0567 kilogram] weight.
13. One one-sixteenth of a pound [.0284 kilogram] weight or one ounce [28.35 grams] weight.
14. One set of apothecaries' weights from one pound [.4536 kilogram] to one grain [64.80 milligrams] and one set of troy weights from one pound [.3732 kilogram] to one grain [64.80 milligrams].
15. Other weighing and measuring devices necessary to test and calibrate standards.

These standards are the legal standards of weights and measures for this state, and must be used for testing the secondary standards used to test weighing or measuring devices.

SECTION 15. AMENDMENT. Subsection 1 of section 65-02-35 of the North Dakota Century Code is amended and reenacted as follows:

1. The organization shall pay an injured employee's attorney for the fees and costs to consult with the injured employee regarding a request for rehearing of an administrative order issued by the organization under section 65-01-16 and chapter 28-32. The attorney's fees and costs under this section are for the purpose of an initial consultation and review of the claimant's case and are separate from and independent of the attorney's fees and costs provided for under section 65-02-08. To be eligible for payment of attorney's fees and costs under this section, before consulting the attorney the injured employee must first receive a certificate of completion from the decision review office of ~~independent review~~, and the attorney consultation must take place after the certificate of completion is issued but before the rehearing is conducted.

SECTION 16. REPEAL. Section 54-03-01.11 of the North Dakota Century Code is repealed.

Approved March 26, 2013

Filed March 27, 2013

AERONAUTICS

CHAPTER 64

SENATE BILL NO. 2278

(Senators Laffen, Andrist, Robinson, Sorvaag)
(Representatives K. Koppelman, Trottier)

AN ACT to amend and reenact section 2-05-06.5 of the North Dakota Century Code, relating to state assistance for airports.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 2-05-06.5 of the North Dakota Century Code is amended and reenacted as follows:

2-05-06.5. State assistance for airports.

~~Each public airport owned or operated by a public entity and each airport operated by an airport authority in this state which is served by at least one airline which is certified by the federal aviation administration or was at one time served by an airline certified by the federal aviation administration,~~ may be provided assistance according to guidelines established by the commission by rule, within the limits of legislative appropriations from the state general fund. The governing body or airport authority which operates an airport that receives assistance under this section shall deposit the moneys received in the same account or accounts as other airport funds are deposited and may expend the moneys as provided by law for other airport funds, including matching any funds made available by the United States.

Approved March 27, 2013
Filed March 27, 2013

AGRICULTURE

CHAPTER 65

HOUSE BILL NO. 1247

(Representatives Schmidt, Belter, Damschen, Headland, D. Johnson)
(Senators Dotzenrod, Wanzek)

AN ACT to create and enact a new section to chapter 4-01 of the North Dakota Century Code, relating to a database of agricultural wetland credits.

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:

Agricultural wetland credits - Database.

The agriculture commissioner shall create and maintain an electronic database of wetland credits that are available for purchase by an agricultural landowner.

Approved April 15, 2013

Filed April 16, 2013

CHAPTER 66

SENATE BILL NO. 2146

(Senators Krebsbach, Grindberg, Hogue, O'Connell)
(Representatives Belter, Kempenich)

AN ACT to create and enact a new section to chapter 4-01 of the North Dakota Century Code, relating to the grape and wine advisory committee; 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:

Grape and wine advisory committee - Membership.

The agriculture commissioner shall appoint a grape and wine advisory committee. The committee must include:

1. Two individuals who are grape producers;
2. One individual who is the producer of a fruit, other than grapes, used in vinification;
3. Two individuals who own wineries located in this state; and
4. One representative of the North Dakota grape and wine association.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$80,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of awarding grape and wine industry grants, for the biennium beginning July 1, 2013, and ending June 30, 2015. Grants awarded under this section must be used to provide research in support of or to promote the grape and wine industry in this state. The commissioner shall consult with the grape and wine advisory committee before selecting the grant recipients.

Approved April 17, 2013
Filed April 17, 2013

CHAPTER 67

SENATE BILL NO. 2352

(Senators Krebsbach, Lyson, O'Connell)
(Representatives Klein, Onstad, Sukut)

AN ACT to authorize the conveyance of real property owned by the state of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. TRANSFER OF LAND AUTHORIZED.

1. The state of North Dakota may sell, trade, or otherwise convey certain real property used for the purposes of the north central research extension center and the Williston research extension center in Ward County and Williams County if determined appropriate by the state board of agricultural research and education and the vice president for agricultural affairs at North Dakota state university and approved by the budget section of the legislative management. If any of the real property authorized to be conveyed under this Act is conveyed, the terms of the conveyance must be determined jointly by the state board of agricultural research and education, the vice president of agricultural affairs at North Dakota state university, and the director of the research extension center that is the subject of the conveyance. However, no conveyance may be completed unless the terms of the conveyance or other provisions allow for an appropriate relocation of the research extension centers and the replacement of the structures and personal property of the centers in a manner that is substantially equivalent to the research center property conveyed. Any funds received as a result of a conveyance under this Act which exceed the amount necessary to relocate an extension center 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 research extension center that is the subject of the conveyance. Sections 54-01-05.2 and 54-01-05.5 do not apply to a conveyance authorized by this Act.
2. The land authorized to be conveyed in Ward County is generally described as follows:
 - The south $\frac{1}{2}$ and the northwest $\frac{1}{4}$ of section 10 of township 154 north, range 83 west.
 - The north $\frac{1}{2}$ and the southwest $\frac{1}{4}$ of section 11 of township 154 north, range 83 west.
 - The northwest $\frac{1}{4}$ of section 12 of township 154 north, range 83 west.
 - The northeast $\frac{1}{4}$ of section 15 of township 154 north, range 83 west.

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3. The land authorized to be conveyed in Williams County is generally described as follows:

The northeast $\frac{1}{4}$ of section 36 of township 154 north, range 102 west.

Section 25 of township 154 north, range 102 west.

Approved April 19, 2013

Filed April 19, 2013

CHAPTER 68

SENATE BILL NO. 2072

(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to create and enact a new subsection to section 4-30-01 and two new sections to chapter 4-30 of the North Dakota Century Code, relating to shared animal ownership agreements; to amend and reenact subsection 21 of section 4-30-01 and sections 4-30-36.2, 4-30-36.3, and 4-30-36.4 of the North Dakota Century Code, relating to dairy products regulations; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²² **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 ~~2009~~2011 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.

²³ **SECTION 2.** A new subsection to section 4-30-01 of the North Dakota Century Code is created and enacted as follows:

"Shared animal ownership agreement" means any contractual arrangement under which an individual:

- a. Acquires an ownership interest in a milk-producing animal;
- b. Agrees to pay another for, reimburse another for, or otherwise accept financial responsibility for the care and boarding of the milk-producing animal at the dairy farm; and
- c. Is entitled to receive a proportionate share of the animal's raw milk production as a condition of the contractual arrangement.

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

²² Section 4-30-01 was also amended by section 2 of Senate Bill No. 2072, chapter 68.

²³ Section 4-30-01 was also amended by section 1 of Senate Bill No. 2072, chapter 68.

public health service/food and drug administration publication entitled "Methods of Making Sanitation Ratings of Milk Shippers - ~~2009~~2011 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 - ~~2009~~2011 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, ~~2009~~2011 Revision".

SECTION 6. A new section to chapter 4-30 of the North Dakota Century Code is created and enacted as follows:

Shared animal ownership agreement - Raw milk.

It is not a violation of this chapter to transfer or obtain raw milk under a shared animal ownership agreement. However, a person may not resell raw milk or raw milk products obtained under a shared animal ownership agreement.

SECTION 7. A new section to chapter 4-30 of the North Dakota Century Code is created and enacted as follows:

Commissioner - Rulemaking authority - Limitation.

Notwithstanding chapter 28-32, the commissioner may not adopt any rule that restricts, limits, or imposes additional requirements on any individual transferring or obtaining raw milk in accordance with the terms of a shared animal ownership agreement.

SECTION 8. LEGISLATIVE MANAGEMENT STUDY - RAW MILK. During the 2013-14 interim, the legislative management shall consider studying the availability of raw or unpasteurized milk, for human consumption, in this state. The study should examine the nature and extent of governmental oversight with respect to the safety of the milk; the health of the animals used to produce the milk; and the conditions under which the product is produced, transferred, or obtained. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 69

SENATE BILL NO. 2070

(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact subsection 10 of section 4-33-01 of the North Dakota Century Code, relating to the control of plant pests.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 10 of section 4-33-01 of the North Dakota Century Code is amended and reenacted as follows:

10. "Plant" means ~~agronomic field crops, horticultural crops, and native and tame grasses used for livestock production~~any part of a plant, tree, aquatic plant, plant product, plant material, shrub, vine, fruit, rhizome, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft, fruit pit, or agricultural commodity.

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 70

HOUSE BILL NO. 1054

(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact section 4.1-14-01 of the North Dakota Century Code, relating to forage certification; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-14-01 of the North Dakota Century Code is amended and reenacted as follows:

4.1-14-01. Certification of forage - Compliance with other standards.

1. To obtain certification that weeds prohibited according to the standards of the North American weed invasive species management association are not cut when producing viable seeds and included in baled forage, the owner of the forage shall request that the agriculture commissioner conduct a certification inspection.
2. Upon receiving the request, the agriculture commissioner shall:
 - a. Inspect the forage acreage within ten days before harvest to verify that weeds prohibited according to the standards of the North American weed invasive species management association are not present and producing viable seeds; and
 - b. (1) Ascertain that the scheduled harvest has occurred;
 - (2) Determine the number of bales for which certification tags or department-approved twine, or both, must be issued; and
 - (3) Verify that the baled forage is stored or will be stored only in an area where weeds prohibited according to the standards of the North American weed invasive species management association are not present and producing viable seeds.
3. If the agriculture commissioner determines that the conditions of subsection 2 have been met, the commissioner shall issue and affix or cause to be affixed on each bale of forage one dated certification tag or shall authorize the use of department-approved twine to bale the forage.

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

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 71

SENATE BILL NO. 2026

(Legislative Management)
(Agriculture Committee)

AN ACT to create and enact chapters 4.1-52, 4.1-55, and 4.1-56 and section 4.1-57-18.1 of the North Dakota Century Code, relating to the North Dakota seed department, seed potatoes, and seed potato control areas; to repeal chapters 4-10 and 4-26 and sections 4.1-53-02, 4.1-53-03, 4.1-53-04, 4.1-53-05, 4.1-53-06, 4.1-53-07, 4.1-53-08, 4.1-53-09, 4.1-53-10, 4.1-53-11, 4.1-53-62, 4.1-57-20, and 4.1-57-21 of the North Dakota Century Code, relating to seed potatoes, seed potato control areas, and general provisions regarding the North Dakota seed department; to provide a penalty; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 4.1-52 of the North Dakota Century Code is created and enacted as follows:

4.1-52-01. Seed department - Location.

The North Dakota seed department is the official seed-certifying agency of the state. The seed department must be located on the campus of North Dakota state university.

4.1-52-02. Seed department - Official seal.

The seed department shall use an official departmental seal that has been recorded in the office of the secretary of state.

4.1-52-03. Seed commission membership.

The seed commission is the governing board of the seed department. The seed commission consists of the following members:

1. An individual appointed by the North Dakota crop improvement association;
2. An individual appointed by the North Dakota certified seed potato growers association;
3. An individual appointed by the North Dakota dry edible bean seed growers association;
4. An individual appointed by the North Dakota agricultural association;
5. An individual appointed by the North Dakota potato council;
6. A resident of this state appointed by the northern plains potato growers association;

7. An individual who operates a seed-conditioning plant approved by the seed department, appointed by the North Dakota grain dealers association;
8. The director of the agricultural experiment station or the director's designee; and
9. The agriculture commissioner or the agriculture commissioner's designee.

4.1-52-04. Seed commission - Chairman - Meetings.

1. The agriculture commissioner shall serve as the chairman of the seed commission.
2. The chairman shall call all regular meetings of the seed commission and shall call a special meeting within seven days if petitioned to do so by two members of the seed commission.
3. The seed commission shall hold at least two regular meetings each year.

4.1-52-05. Seed commission - Appointment of proxy.

If a member of the seed commission is unable to attend a meeting of the commission, the member may appoint a proxy. The appointment must be in writing and must be presented to the chairman. The vote of the proxy is final.

4.1-52-06. Seed commission - Members - Compensation.

Each member of the seed commission, except the agriculture commissioner and the director of the agricultural experiment station, is entitled to receive compensation at the rate of one hundred thirty-five dollars per day and reimbursement for expenses, as provided by law for state officers, if the member is attending a commission meeting or performing duties directed by the commission.

4.1-52-07. Seed commission - Powers.

The seed commission may:

1. Establish branch offices and laboratories at locations in this state, other than the campus of North Dakota state university, if the seed commissioner determines that the offices and laboratories are necessary to carry out the duties of the seed commission, the seed commissioner, or the seed department;
2. Dismiss the seed commissioner for cause;
3. Appoint an acting seed commissioner if the position becomes vacant; and
4. Engage in efforts to promote and market certified seed produced in this state.

4.1-52-08. Seed commission - Duties.

The seed commission shall:

1. Appoint a seed commissioner;
2. Compensate the seed commissioner; and

3. Review the appointment of a seed commissioner, annually.

4.1-52-09. Seed commissioner - Powers.

The seed commissioner may:

1. Contract with North Dakota state university for the use of facilities and equipment;
2. Contract with any person for any lawful purpose;
3. Enter upon real property and access any structure and personal property, at any time, to:
 - a. Inspect, sample, and test seeds, potatoes, including seed potatoes, and other commodities for purposes of determining statutory and regulatory compliance; and
 - b. Inspect records for purposes of determining statutory and regulatory compliance;
4. Collect royalty, research, and patent fees; and
5. Issue phytosanitary certificates if authorized to do so by the United States department of agriculture animal and plant health inspection service or the agriculture commissioner.

4.1-52-10. Seed commissioner - Duties.

The seed commissioner shall:

1. Manage the seed department;
2. Provide, equip, and maintain offices, laboratories, and any other facilities necessary to carry out this chapter, subject to the approval of the seed commission;
3. Employ and compensate necessary personnel;
4. Permit North Dakota state university to use the seed department facilities and the services of the seed department laboratories at convenient times;
5.
 - a. Determine the nature and size of any seed and plant samples required by the seed department in order to conduct official tests or make official determinations; and
 - b. Prescribe the manner in which the seed and plant samples are to be obtained and delivered to the seed department;
6. Provide commodity inspection services upon request;
7. Establish and charge fees for services, subject to the approval of the seed commission;
8. Provide periodic reports to the seed commission regarding the management and operation of the seed department;

9. Recommend to the seed commission the annual budget and annual salary schedules for the seed department;
10. Do all things necessary to enforce the chapters over which the commissioner has authority and the rules implementing those chapters; and
11. Perform any other duties as directed by the seed commission.

4.1-52-11. Seed department fund - Continuing appropriation.

1. The seed commissioner shall forward all moneys received under the chapters over which the commissioner has authority to the state treasurer for deposit in a special fund known as the seed department fund. All moneys in the seed department fund are appropriated on a continuing basis to the seed department to carry out its statutory and regulatory obligations.
2. The seed commissioner shall approve all expenditures made pursuant to the chapters over which the commissioner has authority and shall document the expenditures at the time and in the manner required by the office of management and budget.
3. The seed commissioner shall provide a report to the house and senate appropriations committees of the legislative assembly, at the time and in the manner directed by the chairmen of the committees. The report must contain a summary of the department's activities during the current biennium and a statement of revenues and expenditures for the ensuing biennium.
4. At the direction of the seed commission, the state treasurer shall invest all available moneys in the seed department fund. The state treasurer shall credit twenty percent of the investment income to the general fund and the remaining eighty percent of the investment income to the seed department fund.

SECTION 2. Chapter 4.1-55 of the North Dakota Century Code is created and enacted as follows:

4.1-55-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Certification" means a process that includes the random inspection of potato plants growing in the field, the random inspection of seed potatoes after they have been harvested, and a determination that the seed potatoes are within acceptable disease tolerance levels.
2. "Certified" means a designation, the use of which is authorized by the seed commissioner, to indicate that the seed potatoes have met the requirements for certification.
3. "Closed container" means a container that is sewn, tied, sealed, glued, nailed, or otherwise secured for handling.
4. "Inspection" means the examination of a random sample of potato plants or potato tubers in accordance with rules of the seed department or requirements of the United States department of agriculture.

5. "Label" means a tag or device attached to a container, stamped or printed information on a container, or documentation accompanying a container, which sets forth the information required by law.
6. "Potato" means an Irish potato.
7. "Selection" means a subgroup of a potato variety and includes clones, lines, strains, and sports.
8. "Variety" means a subdivision of a kind that:
 - a. Can be differentiated by one or more identifiable morphological, physiological, or other characteristics from other varieties of the same kind;
 - b. Has describable variations in essential and distinct characteristics; and
 - c. Will remain unchanged in its essential and distinct characteristics and uniformity when reproduced or reconstituted, as required by the different categories of varieties.

4.1-55-02. Seed commissioner - Duties.

The seed commissioner shall:

1. Establish a system for the certification of seed potatoes; and
2. Provide for grade inspections of commercial potatoes in accordance with standards established by the United States department of agriculture or by contract.

4.1-55-03. Seed potato grades.

1. Seed potatoes may be graded:
 - a. (1) U.S. No. 1 seed potatoes;
(2) U.S. No. 2 seed potatoes; or
(3) North Dakota Certified Seed; or
 - b. As otherwise designated by the seed commissioner.
2. The U.S. grades must meet all of the requirements and standards established by the United States department of agriculture provided, however, that the seed commissioner may authorize an exception based on size.

4.1-55-04. Label requirements.

1. a. Except as otherwise provided in this subsection, every container of seed potatoes must be labeled if the potatoes:
 - (1) Were grown in this state;
 - (2) Are transported or shipped into this state; or

(3) Are offered for sale or consignment in this state.

b. Subdivision a does not apply to potatoes that are not intended for planting purposes.

2. The label must:

a. Be plainly printed in English;

b. Indicate the net weight when packed;

c. Indicate the correct grade or designation; and

d. Meet any other criteria established by the seed commissioner.

4.1-55-05. Seed potatoes - Certification - Exception.

1. a. A person may not plant seed potatoes unless the seed potatoes:

(1) Have been certified by the seed commissioner as meeting the standards of this state;

(2) Have been certified by another state or province having seed potato standards that are determined by the seed commissioner to meet or exceed the standards of this state; or

(3) At the request of the producer, were field inspected and approved for planting by the seed commissioner.

b. Subdivision a does not apply to a person who:

(1) Plants less than one acre [.405 hectare] of seed potatoes; or

(2) Is within twelve months of having that person's own certified parent seed potatoes.

2. The seed commissioner shall permit a North Dakota producer to sell or otherwise transfer certified seed potatoes to another North Dakota producer. The recipient producer may plant the seed potatoes only for commercial production. The seed potatoes may not be recertified or retained for use in the following production cycle.

3. If the seed commissioner determines that seed potatoes meeting the requirements of this section are not available in sufficient quantities to fulfill planting needs, the seed commissioner may permit the planting of seed potatoes with a higher disease content, provided that bacterial ring rot is not present and that no other serious disease threat is posed.

4. For purposes of this section, a "North Dakota producer" means a person that grows potatoes on property located within this state.

4.1-55-06. Records.

Any producer that plants more than one acre [.405 hectare] of seed potatoes shall maintain records indicating the acreage [hectarage], varieties, and source of all seed potatoes planted. The producer shall retain the records for a period of two years from

the completion of planting and make the records available to the seed commissioner upon request.

4.1-55-07. Imported seed potatoes - Certification requirement.

All seed potatoes brought into this state must be accompanied by:

1. A grade certificate;
2. A health certificate indicating that the seed potatoes were field inspected by an official certifying agency and meet standards that are determined by the seed commissioner to be similar to those established by this chapter; and
3. Any other documentation required by the jurisdiction of origin for seed potatoes entering that jurisdiction.

4.1-55-08. Exported seed potatoes - Certification requirement.

All seed potatoes leaving this state must be accompanied by:

1. A grade certificate; and
2. If required by the receiving jurisdiction, a health certificate.

4.1-55-09. Official inspection locations - Designation.

1. The seed commissioner shall designate the locations at which potato shipment inspections are conducted. In determining the locations, the seed commissioner shall consider the volume of shipments requiring inspection and the expense of maintaining the locations.
2. Upon request, the seed commissioner may provide inspection services at locations other than those designated in subsection 1. The seed commissioner may charge a fee for conducting any inspections requested under this subsection.

4.1-55-10. Potatoes shipped into state - Labeling requirement - Exception.

If seed potatoes are shipped into this state, the person receiving the potatoes shall ensure that the potatoes are labeled:

1. In the same manner as required for potatoes grown in this state; or
2. In accordance with the requirements of the state, territory, or country of origin, if permitted by the seed commissioner.

4.1-55-11. Grade inspection certificate - Prima facie evidence.

A grade inspection certificate issued by the seed commissioner is prima facie evidence that the seed potatoes described in the certificate were of the grade, quality, and condition indicated on the certificate at the time of inspection.

4.1-55-12. Liability - Potato crop quantity and quality.

A warranty of any kind, either expressed or implied, including a warranty of merchantability, fitness for a particular purpose, absence of disease, varietal identity,

or selection identity, is not made by the seed commission, the seed department, the seed commissioner, or any certified seed potato producer, as to the quantity or quality of the crop produced from the seed potatoes that were inspected and certified. The sole warranty is that the potatoes 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.

4.1-55-13. Plant and seed records - Exempt.

The following records of the seed commission are exempt from section 44-04-18:

1. Records of any plant or seed inspection, analysis, or testing and germination, purity, variety, or disease determinations conducted by the seed department on a fee-for-service basis for nonpublic entities or persons; and
2. Information received by the seed commissioner under this chapter from a nonpublic entity or person that the nonpublic entity or person determines is proprietary information or a trade secret.

4.1-55-14. Prohibitions.

1. A person may not offer for sale, sell, transport, or ship any seed potatoes that:
 - a. Are not labeled in accordance with this chapter; or
 - b. Are labeled with information the person knows is false or misleading.
2. A person that sells seed may not alter the label or a grade inspection certificate issued by the seed commissioner.

4.1-55-15. Seizure of seed potatoes - Liability.

1. The seed commissioner may seize any seed potatoes, if the seed commissioner believes that the seed potatoes are mislabeled.
2. The seed commissioner may hold any seed potatoes seized under this section until they are:
 - a. Graded or reconditioned to meet the claims on their label; or
 - b. Properly relabeled.
3. The seed commissioner is not liable for any loss or damage, or any other costs due to seizure when acting in accordance with this chapter and any applicable rules.
4. A person aggrieved by a seizure under this section may request a hearing pursuant to chapter 28-32.

4.1-55-16. Enforcement - Hearing.

1. If the seed commissioner believes that a violation of this chapter or the rules implementing this chapter may have occurred, the seed commissioner may hold a hearing.

2. If based on the testimony and evidence presented at the hearing the seed commissioner determines that a violation has occurred or if the person involved fails to appear, the seed commissioner may impose the civil penalty provided for in this chapter or consult with the attorney general regarding the institution of further legal proceedings.

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 thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the seed commissioner.

SECTION 3. Chapter 4.1-56 of the North Dakota Century Code is created and enacted as follows:

4.1-56-01. Definition.

As used in this chapter, unless the context otherwise requires, "potato" means an Irish potato.

4.1-56-02. Seed potato control area - Proposal - Notice of meeting.

1. In order to form a seed potato control area, five individuals who own land within the proposed area shall schedule and provide notice of a meeting that is open to all landowners and occupants in the proposed area.
 - a. The notice must define the boundaries of the proposed seed potato control area.
 - b. The notice must be published at least twice, for two successive weeks, in the official newspaper of each county containing land in the proposed seed potato control area.
2. If consented to by a majority of the landowners and occupants present at the meeting, a petition to form a seed potato control area may be circulated among all landowners in the proposed area.

4.1-56-03. Seed potato control area - Petition for formation.

The petition to be circulated, as provided in section 4.1-56-02, must:

1. Describe the boundaries of the proposed seed potato control area; and
2. State the quality of seed that may be planted within the proposed seed potato control area.

4.1-56-04. Seed potato control area - Creation.

1. Once the petition has been signed by at least eighty percent of the persons owning land in the proposed seed control area, the petition may be presented to the seed commissioner for approval.

2. If the seed commissioner determines that the petition meets the requirements of this chapter, the seed commissioner may order the creation of:
 - a. The seed potato control area as described in the petition; or
 - b. A seed potato control area having boundaries that are not as extensive as those set forth in the petition.
3. a. In the order establishing the seed potato control area, the seed commissioner shall prescribe the quality of seed potatoes that may be planted within the control area. The quality prescribed may differ from that set forth in the petition.
- b. After the establishment of a seed potato control area, the seed commissioner may issue an order changing the quality of seed potatoes that may be planted within the control area.

4.1-56-05. Seed potato control area - Governance committee.

1. Each seed potato control area must be governed by a committee consisting of three individuals who are appointed by the seed commissioner from a list of landowners or occupants within the control area.
2. The terms of office for members of the governance committee and its rules of operation must be provided for in the seed potato control area's bylaws and agreed to by at least eighty percent of the landowners or occupants within the control area.
3. If fewer than three qualified individuals are willing or able to serve as members of the governance committee, the governance committee shall consist of the lesser number. If, however, no qualified individual is willing or able to serve on the governance committee, the seed commissioner shall dissolve the seed potato control area.

4.1-56-06. Governance committee - Powers.

The governance committee may:

1. Expend moneys collected pursuant to this chapter;
2. Employ and compensate necessary personnel;
3. Accept gifts, grants, and donations of money, property, and services to carry out this chapter; and
4. Do all things necessary and proper to enforce this chapter and any rules adopted to implement this chapter.

4.1-56-07. Governance committee - Duties.

The governance committee shall:

1. Keep a record of its expenses;
2. Submit the record to the seed commissioner at the time and in the manner required by the seed commissioner; and

3. Provide reports at the time and in the manner required by the seed commissioner.

4.1-56-08. Prohibition.

A person may not plant or authorize the planting of seed potatoes other than those permitted within the seed potato control area.

4.1-56-09. Assessment.

1. The governance committee may impose an assessment at a rate determined by the committee, but not exceeding two and one-half cents per hundredweight [45.36 kilograms] on all seed potatoes produced within the control area.
2. Any person producing seed potatoes within the control area shall pay the assessment at the time and in the manner required by the governance committee.

4.1-56-10. Shipment of potatoes - Payment of assessment.

A person producing seed potatoes in a seed potato control area may not ship or transport the seed potatoes out of the area unless the person pays the assessment provided for in this chapter.

4.1-56-11. Seed commissioner - Orders.

The seed commissioner may by order:

1. Alter the boundaries of the seed potato control area;
2. Assign additional powers and duties to the governance committee;
3. Prescribe requirements for seed selection, seed treatment, field isolation, cultural practices, disease removal, and insect control;
4. Prescribe requirements for the governance committee with respect to seed potato control efforts;
5. Prescribe or authorize seed quality for use within the control area;
6. Provide for the inspection, testing, and approval of seed to be used within the control area; and
7. Set forth additional requirements or prohibitions with respect to activities within the seed potato control area.

4.1-56-12. Seed potato control area - Dissolution.

Upon a showing of good cause, or as otherwise authorized by this chapter, the seed commissioner may order the dissolution of a seed potato control area.

4.1-56-13. Penalty.

Any person violating this chapter is guilty of a class B misdemeanor.

SECTION 4. Section 4.1-57-18.1 of the North Dakota Century Code is created and enacted as follows:

4.1-57-18.1. Liability - Potato crop quantity and quality.

A warranty of any kind, either expressed or implied, including a warranty of merchantability, fitness for a particular purpose, absence of disease, varietal identity, or selection identity, is not made by wholesale potato dealers licensed under this chapter, as to the quantity or quality of the crop produced from the seed potatoes that were inspected and certified. The sole warranty is that the potatoes were inspected under the rules of the seed department or the United States department of agriculture.

SECTION 5. REPEAL. Chapters 4-10 and 4-26 and sections 4.1-53-02, 4.1-53-03, 4.1-53-04, 4.1-53-05, 4.1-53-06, 4.1-53-07, 4.1-53-08, 4.1-53-09, 4.1-53-10, 4.1-53-11, 4.1-53-62, 4.1-57-20, and 4.1-57-21 of the North Dakota Century Code are repealed.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 72

HOUSE BILL NO. 1026

(Legislative Management)
(Agriculture Committee)

AN ACT to create and enact chapters 4.1-72, 4.1-73, 4.1-74, 4.1-75, 4.1-83, and 4.1-88 of the North Dakota Century Code, relating to the North Dakota stockmen's association, livestock branding, estrays, registered livestock, and the licensing of livestock dealers and wool dealers; to repeal chapters 36-04, 36-09, 36-13, and 36-22 of the North Dakota Century Code, relating to livestock branding, estrays, and the licensing of livestock dealers and wool dealers; to provide a penalty; to provide for a legislative management study; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 4.1-72 of the North Dakota Century Code is created and enacted as follows:

4.1-72-01. North Dakota stockmen's association - Statutory authority.

1. The North Dakota stockmen's association is a livestock association organized under the laws of this state and registered as a market agency under the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.].
 - a. For the protection of the livestock industry of this state; and
 - b. To secure uniformity of inspection and cooperation with the United States department of agriculture.
2. The association shall inspect all cattle, horses, and mules, which are shipped or consigned to any livestock auction market, buying station, or packing plant, in this state, and all those that are shipped or consigned to a livestock auction market, buying station, or packing plant, located outside this state, if brand inspection services are provided in accordance with section 4.1-73-24, for the purpose of determining or verifying ownership and for any other purpose established by law.

4.1-72-02. Discrimination - Prohibited.

The North Dakota stockmen's association may not discriminate between members of the association and persons who are not members of the association with respect to fees, recordings, complaints, requests for assistance, or any other duties assigned under this chapter.

4.1-72-03. Office for recording brands - Chief brand inspector - Employment.

The North Dakota stockmen's association shall:

1. Maintain an office for recording brands; and

2. Employ an individual to serve as the chief brand inspector of this state.

4.1-72-04. Chief brand inspector - Deputy brand inspectors - Licensed peace officers.

The chief brand inspector and any individual employed by the North Dakota stockmen's association to serve as a deputy brand inspector must be licensed peace officers in accordance with chapter 12-63 or hold a limited peace officer license under section 12-63-09. These individuals may exercise the full authority of their license to enforce the brand laws and any other state laws relating to livestock. The chief brand inspector and the deputy brand inspectors may provide aid and assistance to other law enforcement agencies or officers, upon request, provided the requests are not for continuous or ongoing assistance.

4.1-72-05. Animal identification program - Administration.

The North Dakota stockmen's association shall serve as the state's administrator and allocator for that portion of any federally sponsored animal identification program which pertains to cattle, horses, and mules.

4.1-72-06. Federally sponsored programs - Administration - Records.

1. Except as provided in subsection 2, any information created, collected, or maintained by the state veterinarian or the North Dakota stockmen's association with respect to the administration of any federally sponsored program pertaining to livestock as permitted by section 4.1-72-05 is confidential and not subject to the open records requirements of section 44-04-18.
2. Neither the state veterinarian nor the North Dakota stockmen's association may release any information designated as confidential under subsection 1, except:
 - a. Upon the written consent of every person identified or identifiable by the information;
 - b. In accordance with federal law;
 - c. To any state or federal agency for the purpose of animal disease control or animal disease traceback;
 - d. To the attorney general and any other law enforcement agency pursuing a criminal investigation; or
 - e. Pursuant to an order issued by a court upon a showing of good cause.
3. This section does not preclude the exchange of information between the state veterinarian and the North Dakota stockmen's association.
4. Any person violating this section is subject to the remedies set forth in section 44-04-21.2. For purposes of applying section 44-04-21.2, "public entity" includes any person that has contracted with the state for the administration of any federally sponsored program pertaining to livestock.

4.1-72-07. Collection of fees - Continuing appropriation.

The North Dakota stockmen's association shall forward all moneys received under this title to the state treasurer for deposit in a special fund known as the North Dakota stockmen's association fund. All moneys in the North Dakota stockmen's association fund, together with all income earned on the moneys in the fund, are appropriated on a continuing basis to the North Dakota stockmen's association to carry out its statutory directives.

4.1-72-08. Biennial audit.

At least once every two years the North Dakota stockmen's association shall provide for an audit by a certified public accountant or a licensed public accountant and shall submit an electronic copy of the audit report to the legislative council.

²⁴ **SECTION 2.** Chapter 4.1-73 of the North Dakota Century Code is created and enacted as follows:

4.1-73-01. Definition.

For purposes of this chapter, "brand" means an identifying imprint that is:

1. Placed on livestock by use of a hot branding iron; or
2. Placed on equines by means of either a hot branding iron or a freeze branding technique.

4.1-73-02. Brand - Application for ownership.

1. To acquire ownership of a brand, a person shall file an application with the North Dakota stockmen's association.
2. The application must contain a depiction of the proposed brand.
3. The application must include a statement regarding:
 - a. The kind of livestock on which the brand will be placed; and
 - b. The placement or position of the brand on each kind of livestock listed in subdivision a.
4. The chief brand inspector shall review each application to ensure compliance with the requirements of this chapter.

4.1-73-03. Brands - Requirements for recording.

1. The chief brand inspector shall approve an application for ownership of a brand, filed in accordance with section 4.1-73-02, and record the brand, unless:
 - a. The chief brand inspector determines that:
 - (1) Official records indicate the brand is owned by another person;

²⁴ Section 4.1-73-18 was amended by section 2 of Senate Bill No. 2158, chapter 73.

- (2) The brand is deceptively similar to another recorded brand;
- (3) The brand is recorded in another state;
- (4) The brand may not be legible when placed on livestock; or
- (5) The proposed placement or position of the brand does not meet the requirements of section 4.1-73-05; or

b. The brand:

- (1) Consists of only one letter, number, or symbol, except as provided in subsection 2;
- (2) Contains either the letter "g" or the letter "q";
- (3) Contains a letter not found in the modern English alphabet;
- (4) Contains the numeral "0" or "1";
- (5) Contains a dot;
- (6) Contains a letter, number, or symbol placed within another letter, number, or symbol; or
- (7) Contains a symbol other than:
 - (a) A diamond;
 - (b) An arrow;
 - (c) A mill iron;
 - (d) A cross;
 - (e) A heart;
 - (f) A box;
 - (g) A triangle;
 - (h) A quarter circle;
 - (i) A bar;
 - (j) A star; or
 - (k) A forward or a backward slash.

2. The chief brand inspector may permit the recording of a brand that consists of one letter, number, or symbol, provided the brand meets all other statutory requirements for recording and is to be placed only on goats or sheep.

4.1-73-04. Brand inspection certificate.

Upon approving an application, the chief brand inspector shall provide a brand certificate to the owner. The certificate is evidence of the brand's ownership.

4.1-73-05. Brands - Permissible locations.

1. In the case of cattle, brands that meet all other statutory requirements for recording may be placed only on:
 - a. A designated shoulder;
 - b. A designated rib; or
 - c. A designated hip.
2. In the case of horses and mules, brands that meet all other statutory requirements for recording may be placed only on:
 - a. A designated shoulder;
 - b. A designated hip; or
 - c. A designated jaw.
3. In the case of bison, brands that meet all other statutory requirements for recording may be placed only on:
 - a. A designated rib; or
 - b. A designated hip.
4. In the case of any other livestock, brands that meet all other statutory requirements for recording may be placed only on those locations designated by the chief brand inspector. For purposes of this subsection, the designation of locations is not subject to rulemaking under chapter 28-32.

4.1-73-06. Recorded numerical brand - Impermissible placement.

A person may not place a recorded brand that consists entirely of upright numbers on the hips of cattle.

4.1-73-07. Numerical brands - Applicability of designated placement provisions.

The design and placement restrictions set forth in this chapter do not apply to:

1. A numerical brand that was first recorded before July 1, 1957, and which has been continually rerecorded; or
2. An unrecorded numerical brand that is used for purposes such as herd or animal identification or registration.

4.1-73-08. Chief brand inspector - Determination regarding brand.

A determination by the chief brand inspector regarding the acceptability of a brand or the permissibility of its location or placement, for purposes of recording, is final.

4.1-73-09. Cancellation of brand.

1. The chief brand inspector shall cancel a legally recorded brand if the chief brand inspector:
 - a. Receives for filing a bill of sale for the brand, properly executed by the owner, as shown in the records of the chief brand inspector;
 - b. Determines that the brand duplicates a previously recorded brand; or
 - c. Determines that the brand was obtained through fraud, misrepresentation, or other illegal means.
2. The chief brand inspector may cancel a legally recorded brand if the chief brand inspector determines that the brand has been recorded in another state.

4.1-73-10. Expiration of brands.

On January 1, 2016, and every five years thereafter, each livestock brand recorded in this state expires, unless:

1. The brand was issued within the six-month period immediately preceding the date of expiration; or
2. The brand has been rerecorded in accordance with this chapter.

4.1-73-11. Expiration of brand - Notice to owner.

1. Before September 1, 2015, and every five years thereafter, the chief brand inspector shall provide to each owner of record:
 - a. Written notice of the brand's expiration date;
 - b. Written notice of the owner's right to rerecord the brand; and
 - c. A written statement indicating that if the brand is allowed to expire, the person will have lost ownership interest in the brand and may no longer use the brand.
2. The chief brand inspector shall send the notice and statement required by this section to the owner:
 - a. Electronically; or
 - b. By first-class mail if requested by the owner.

4.1-73-12. Expiration of brands - Notice by publication.

1. The chief brand inspector shall publish in the official newspaper of each county a notice of the date by which livestock brands must be rerecorded in accordance with this chapter.

2. The notice must be published at least once per week for three successive weeks. The first publication must occur between the first and fifteenth day of September, before the expiration of all brands.

4.1-73-13. Brands authorized for rerecording.

Notwithstanding any other provision of this chapter, the chief brand inspector shall accept for rerecording:

1. Any brand that the owner previously recorded; and
2. A brand that consists of one letter, number, or symbol, provided the brand is to be placed only on goats or sheep.

4.1-73-14. Recording and rerecording brands - Fee.

Each application for recording or rerecording a brand must be accompanied by a fee in the amount of twenty-five dollars.

4.1-73-15. Reassignment of expired brand.

- a. Except as provided in subdivision b, for a period of one year from the date of a brand's expiration, the chief brand inspector may not reassign the expired brand to any person other than the registered owner at the time of the brand's expiration.
- b. If the person who owned the brand at the time it expired provides the chief brand inspector with written authorization, the chief brand inspector may reassign the brand to a new owner, at any time during the one-year period.
2. Upon expiration of a brand and the passage of time or the procurement of authorization, as set forth in subsection 1, the chief brand inspector may accept an application to record the brand, provided the brand meets the requirements of this chapter.

4.1-73-16. Use of unrecorded brand - Penalty.

A person is guilty of a class B misdemeanor if the person places upon an animal a brand that has not been recorded in accordance with this chapter.

4.1-73-17. Defacing brands - Unlawful branding - Penalty.

A person is guilty of a class A misdemeanor for a first offense and a class C felony for a second or subsequent offense if the person:

1. Alters, defaces, or attempts to alter or deface the brand on any animal owned by another for the purpose of deceiving others as to the animal's ownership; or
2. Willfully brands, or causes to be branded, any animal owned by another for the purpose of deceiving others as to the animal's ownership.

4.1-73-18. Bill of sale - Copy with shipment - Effect - Penalty.

1. A person may not sell any livestock carrying a recorded brand unless:

- a. The seller is the owner of the recorded brand and delivers a bill of sale for the livestock to the purchaser; or
 - b. The seller delivers to the purchaser a bill of sale executed by the owner of the recorded brand and endorsed by the seller evidencing the later transaction.
2. The bill of sale must include:
 - a. The date;
 - b. The name, address, and signature of the seller;
 - c. The name, address, and signature of an individual who is at least eighteen years of age and who can verify the name and signature of the seller;
 - d. The name and address of the buyer;
 - e. The total number of animals sold;
 - f. A description of each animal sold as to sex and color; and
 - g. A depiction of the recorded brand.
 3. The buyer shall retain the bill of sale for as long as the buyer owns any animals described in the bill of sale.
 4. The seller shall provide a copy of the bill of sale to the individual hauling the livestock. The individual shall ensure that the document remains with the livestock while in transit.
 5. The bill of sale or a copy of the bill of sale must be shown by the possessor on demand to any law enforcement officer or brand inspector.
 6. The bill of sale is prima facie evidence of the sale of the livestock described in the bill of sale.
 7. Subsections 1 through 6 do not apply to the sale of livestock for which a brand inspector has issued a certificate of ownership.
 8. Any person willfully violating this section is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

4.1-73-19. Proof of ownership - Alteration or falsification - Penalty.

A person that knowingly makes, completes, alters, or in any way falsifies any document evidencing proof of livestock ownership, with the intent to deceive or harm another, is guilty of a class B felony.

4.1-73-20. False proof of ownership - Sale of livestock - Penalty.

A person willfully providing false proof of ownership in conjunction with the sale of livestock is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

4.1-73-21. Transportation of livestock from state - Brand inspection - Penalty.

1. A person may not transport or attempt to transport cattle, horses, or mules from this state unless a brand inspector has inspected the livestock and issued a certificate of ownership. The certificate must remain with the livestock while in transit and be presented to the purchaser upon arrival at the destination. This subsection does not apply to a person that:
 - a. Transports cattle, horses, or mules from this state to obtain for the animals emergency medical treatment by a licensed veterinarian; or
 - b. Transports cattle, horses, or mules from this state to a livestock auction market, buying station, or packing plant, that is located in a bordering state and which is provided with brand inspection services in accordance with section 4.1-73-24.
2. A person may not remove cattle, horses, or mules from a livestock auction market, buying station, or packing plant until a brand inspector has inspected the livestock and issued a certificate of ownership.
3. Any person willfully violating this section is guilty of a class A misdemeanor. Any person willfully violating this section a second time within five years or willfully violating this section three or more times is guilty of a class C felony.

4.1-73-22. Request for reinspection - Cost.

1. A person may request that a brand inspector conduct a reinspection if the person has reason to believe that:
 - a. An error was made during the brand inspection; and
 - b. Cattle, horses, or mules were shipped to an unintended destination as a result of the error.
2. If it is determined that an error was made during the brand inspection, the North Dakota stockmen's association shall bear the cost of the reinspection. If it is determined that a brand inspection error was not made, the person that requested the reinspection shall reimburse the North Dakota stockmen's association for the cost of the reinspection.

4.1-73-23. Brand inspection services - Out-of-state facilities.

1. The state board of animal health may authorize the provision of brand inspection services at a livestock auction market, buying station, or packing plant located outside this state.
2. In order to obtain brand inspection services under this section, an entity shall file a petition with the state board of animal health.
3. Before making a determination on the petition, the state board of animal health shall provide the North Dakota stockmen's association with an opportunity to comment.

4. The state board of animal health shall establish by rule the criteria to be considered in determining whether to authorize the services.

4.1-73-24. Rules - Fees for brand inspection.

1. The state board of animal health, after seeking advice from the North Dakota stockmen's association, shall adopt rules regarding:
 - a. The provision of brand inspection services at livestock auction markets, packing plants, and buying stations; and
 - b. The provision of brand inspection services at locations other than those listed in subdivision a.
2. The rules must include:
 - a. The fees to be charged for the provision of the brand inspections;
 - b. The collection of fees by the brand inspectors; and
 - c. The time and manner in which the brand inspectors must submit the fees to the North Dakota stockmen's association.

4.1-73-25. Slaughtering of cattle - Records - Penalty.

1. Any person slaughtering cattle on a custom basis or for the purpose of selling the meat at retail or wholesale shall record:
 - a. The date each animal was purchased or accepted for custom slaughtering;
 - b. The name and address of:
 - (1) The seller; or
 - (2) The person for whom custom slaughtering is being performed;
 - c. The animal's age or estimated age;
 - d. The animal's sex; and
 - e. Any brand found on the animal.
2. Any person required to record information in accordance with this section shall:
 - a. Compile the information in the manner directed by the North Dakota stockmen's association; and
 - b. Forward the information to the North Dakota stockmen's association at least quarterly.
3. Until such time as the information is forwarded to the North Dakota stockmen's association, any person required to record information in accordance with this section shall make the information available for inspection by a representative of the association, upon request.

4. Any information created, collected, or maintained by the North Dakota stockmen's association under this section is confidential and not subject to the open record requirements of section 44-04-18. The information may be released by the association only:
 - a. Upon the written consent of every person identified or identifiable by the information;
 - b. In accordance with federal law;
 - c. To any state or federal agency for the purposes of animal disease control or animal disease traceback;
 - d. To the attorney general and any other law enforcement agency pursuing a criminal investigation; or
 - e. Pursuant to an order issued by a court upon a showing of good cause.
5. Any person violating this section is guilty of an infraction.

4.1-73-26. Record of brands.

The chief brand inspector shall keep a record of all brands issued in this state. The record must include:

1. The name and address of the person that owns the brand;
2. A depiction of the brand;
3. The type of livestock on which the brand is authorized for use; and
4. The location or placement of the brand as authorized by the chief brand inspector.

4.1-73-27. Chief brand inspector to issue brand book.

1. The chief brand inspector shall compile and issue a brand book from the records required by section 4.1-73-26, as of the final date for rerecording and shall compile and issue an annual supplement.
2. a. The chief brand inspector shall provide a paper or an electronic copy of the brand book and each annual supplement, free of charge, to:
 - (1) Each brand inspector; and
 - (2) Any other law enforcement officer located in this state upon request.
- b. The chief brand inspector shall make paper copies of the brand books and annual supplements available for purchase by all other persons. The purchase price must be established by the North Dakota stockmen's association and approved by the state board of animal health.
3. The chief brand inspector shall post the brand book and each annual supplement on the North Dakota stockmen's association website.

4.1-73-28. Official brand book - Presumptive evidence.

The official brand book published by the chief brand inspector must be received in all courts of this state as presumptive evidence of the recording and ownership of livestock brands.

4.1-73-29. Effect of recorded brand - Bill of sale to be given and kept.

A brand recorded in accordance with this chapter and properly located on livestock is prima facie evidence that the animal bearing the brand is the property of the brand's owner, unless covered by a bill of sale as provided by section 4.1-73-18.

SECTION 3. Chapter 4.1-74 of the North Dakota Century Code is created and enacted as follows:

4.1-74-01. Registered livestock - Misrepresentation or falsification of records - Penalty.

1. A person may not willfully:
 - a. Sell any livestock with a certificate of registration or breeding that does not pertain to the livestock;
 - b. Falsify a certificate of registration or breeding;
 - c. Misrepresent or falsify any production or performance information referenced in a certificate of registration;
 - d. Change the markings of livestock with the intent of deceiving a purchaser;
or
 - e. Misrepresent the sire to which livestock has been bred.
2. A person violating this section is guilty of a class A misdemeanor for a first offense and a class C felony for a second or subsequent offense.

SECTION 4. Chapter 4.1-75 of the North Dakota Century Code is created and enacted as follows:

4.1-75-01. Definition.

In this chapter, unless the context otherwise requires, "estrays" means cattle, horses, or mules, whether branded or unbranded, whose ownership has not been determined.

4.1-75-02. Estrays - Possession.

1. If an individual discovers an estray on property that the individual owns or controls, the individual shall make a good-faith effort to:
 - a. Take possession of the estray;
 - b. Determine its ownership; and
 - c. Facilitate its return.
2. If the individual is unable to determine its ownership, the individual shall:

- a. Notify the sheriff of the county in which the estray was found or the chief brand inspector, and:
 - (1) Provide to the sheriff or the chief brand inspector any information that may assist in determining ownership of the estray;
 - (2) Make the estray available for examination if requested by the chief brand inspector; and
 - (3) Follow the directives of the chief brand inspector regarding the estray's care and disposal; or
 - b. Deliver the estray to a livestock auction market in this state or to an out-of-state livestock auction market that receives brand inspection services under section 4.1-73-24 and notify the brand inspector that it appears to be an estray.
3. Any person failing to comply with this section is liable to the owner of the estray for treble damages and may not claim reimbursement for any expenses otherwise allowed under this chapter.

4.1-75-03. Notification - Record of date and time.

A county sheriff or the chief brand inspector shall make a record of the date and time that notification is received under section 4.1-75-02. The individual taking possession of the estray is not entitled to reimbursement for expenses incurred before the recorded date and time.

4.1-75-04. Estrays - Notification of chief brand inspector.

If an individual notifies a county sheriff that the individual has taken possession of an estray, the sheriff shall contact the chief brand inspector and relay any information regarding the estray.

4.1-75-05. Claiming estrays.

1. If before an estray is sold the chief brand inspector determines its owner, the individual who took possession of the estray shall return it to its owner, provided the owner reimburses the individual for all incurred expenses in accordance with the reimbursement schedule developed by the North Dakota stockmen's association or in a lesser agreed-to amount.
2. If the individual who took possession of the estray and its owner are unable to reach an agreement regarding the return of the estray, as provided for in subsection 1, the individual who took possession of the estray shall:
 - a. Deliver the estray to a livestock auction market in this state or to an out-of-state livestock auction market that receives brand inspection services under section 4.1-73-24; and
 - b. Notify the brand inspector that the estray is to be sold and that reimbursement for the individual's expenses must be paid from the proceeds of the estray's sale, in accordance with the reimbursement schedule developed by the North Dakota stockmen's association.

4.1-75-06. Reimbursement for costs - Schedule.

1. Except as otherwise provided in section 4.1-75-05, the individual taking possession of an estray in accordance with this chapter is entitled to receive reimbursement for incurred expenses in accordance with a reimbursement schedule developed by the North Dakota stockmen's association.
2. The amount reimbursable under this section must be deducted from the proceeds of the estray's sale. Any amount remaining thereafter must be forwarded to the North Dakota stockmen's association and submitted to the state treasurer for deposit in the North Dakota stockmen's association fund.

4.1-75-07. List of estrays - Publication - Proof of ownership.

1. Each December, the North Dakota stockmen's association shall publish at least twice in the official newspaper of each county, a list of all estrays found in the county and for which the association received sale proceeds during the preceding twelve months.
2. The association shall maintain and make available on its website an updated list of all estrays for which the association received sale proceeds during the preceding seventy-two months.
3. If a person demonstrates ownership of an estray to the satisfaction of the chief brand inspector within seventy-two months of the date on which the proceeds of its sale were distributed to the North Dakota stockmen's association, the association shall return to the owner the amount it received but shall retain any income earned on the amount.

4.1-75-08. Possession of estray - Immunity from liability.

1. If an individual, without being negligent, takes possession of an estray and complies with this chapter, that individual is not liable:
 - a. For any injury or damage caused by the estray while in the individual's possession or in the event the estray escapes; or
 - b. For any economic loss incurred by:
 - (1) The owner of the estray, if later identified; or
 - (2) Any other person having a claim to the estray.
2. If an individual, without being negligent, attempts to take possession of an estray in order to comply with this chapter, that individual is not liable:
 - a. For any injury or damage caused by the estray during the attempt to take possession; or
 - b. For any economic loss incurred by:
 - (1) The owner of the estray, if later identified; or
 - (2) Any other person having a claim to the estray.

4.1-75-09. Failure to comply with chapter - Penalty.

Any individual who takes possession of an estray and willfully fails to comply with this chapter is guilty of a class B misdemeanor.

SECTION 5. Chapter 4.1-83 of the North Dakota Century Code is created and enacted as follows:

4.1-83-01. Definition.

In this chapter, unless the context otherwise requires, "livestock dealer" means a person that buys horses, mules, cattle, hogs, goats, or sheep from a producer or a livestock auction market:

1. On the person's own account, more than once per year for the purpose of resale within thirty days;
2. On commission; or
3. For slaughter.

4.1-83-02. Livestock dealer - License required.

1. Before a person may transact business as a livestock dealer, the person must be licensed by the agriculture commissioner.
2. This section does not apply to:
 - a. A packing plant, provided the plant's annual purchases of cattle, goats, hogs, horses, mules, or sheep do not exceed five hundred thousand dollars; or
 - b. The purchase of cattle, goats, hogs, horses, mules, or sheep:
 - (1) By a livestock cooperative from a member of the cooperative; or
 - (2) By one member of a livestock cooperative from another member.

4.1-83-03. Application for livestock dealer's license - Required information.

To obtain a livestock dealer's license, a person must complete an application and submit it to the agriculture commissioner. The application must include:

1. The applicant's name and:
 - a. The name of each partner if the applicant is a partnership;
 - b. The name of each corporate officer and the state of incorporation if the applicant is a corporation; or
 - c. The name of each manager and the state of organization if the applicant is a limited liability company;
2. The applicant's mailing address; and
3. The applicant's principal place of business.

4.1-83-04. License - Fee - Expiration.

1. The fee for a livestock dealer's license is fifty dollars.
2. A livestock dealer's license issued under this chapter expires on June thirtieth of each year.
3. A livestock dealer's license is not transferable.

4.1-83-05. Application for license - Posting of bond.

1. As a condition of licensure, the applicant shall post a bond with the agriculture commissioner. The bond must be:
 - a. A surety bond;
 - b. A cash bond; or
 - c. An irrevocable letter of credit.
2. The agriculture commissioner must be named as the obligee.
3. The bond required by this section must be:
 - a. In an amount and form required by this chapter;
 - b. Applicable to the period during which the livestock dealer's license is in effect;
 - c. For the benefit of any person selling livestock to the livestock dealer or the dealer's agent; and
 - d. Conditioned for the payment of any financial obligation owed by a livestock dealer to another person in conjunction with the sale of livestock.

4.1-83-06. Bond requirements - Alternative.

Any applicant having a bond on file with the United States department of agriculture pursuant to the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.], may meet the requirements of section 4.1-83-05 by filing a copy of that bond with the agriculture commissioner, provided the commissioner is named as the trustee of the bond.

4.1-83-07. Out-of-state applicant - Trustee.

A bond posted by an out-of-state applicant for a livestock dealer's license may name as trustee a financially responsible, disinterested person who is satisfactory to the commissioner.

4.1-83-08. Bond - Minimum amount.

1. The agriculture commissioner shall determine the amount of the bond required in accordance with this chapter by using the same basis as that prescribed for livestock dealers who are subject to the provisions of the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.].

2. Notwithstanding subsection 1, if at the time of licensure or at any point during the period of licensure the agriculture commissioner has reason to believe that a bond is inadequate to secure the performance of the livestock dealer's obligations, the commissioner shall require an increase in the amount of the bond.
3. A bond required by this chapter may not be in an amount less than ten thousand dollars.

4.1-83-09. Release of records - Confidentiality.

1. As a condition of licensure, the applicant shall agree to provide to the agriculture commissioner, upon request, any financial record that the commissioner deems relevant for purposes related to:
 - a. The issuance of a livestock dealer's license; or
 - b. An investigation after issuance of a livestock dealer's license.
2. As a condition of licensure, the applicant shall file a records release with the agriculture commissioner, authorizing the commissioner to obtain, from any source, any financial record that the commissioner deems relevant for purposes related to:
 - a. The issuance of a livestock dealer's license; or
 - b. An investigation after issuance of a livestock dealer's license.
3. Any information gained by the agriculture commissioner under this section is confidential and may be provided only:
 - a. To federal authorities in accordance with federal law;
 - b. To the attorney general, state agencies, and law enforcement agencies, for use in the pursuit of official duties; and
 - c. As directed by an order of a court pursuant to a showing of good cause.

4.1-83-10. Dealer's license - Grounds for denial - Hearing.

1. The agriculture commissioner shall deny an applicant a livestock dealer's license if:
 - a. The applicant's current assets do not exceed the applicant's current liabilities; or
 - b. The applicant submitted false or misleading information in connection with the application.
2. The agriculture commissioner may deny an applicant a livestock dealer's license:
 - a. If after due investigation, the commissioner has reason to believe that the applicant has failed to pay, in a timely manner and without reasonable cause, prior obligations incurred in connection with livestock transactions;

- b. If the applicant has failed to pay brand inspection fees or veterinary inspection fees, as required by law, within sixty days of the date on which they were due;
 - c. If the applicant has violated any of the laws of this state governing the handling, shipment, or transportation of livestock; or
 - d. For any other just and good cause.
3. Any applicant denied a license under this section may request a hearing before the agriculture commissioner within thirty days of the denial.

4.1-83-11. Change of circumstance - Notification of agriculture commissioner.

A livestock dealer shall notify the agriculture commissioner of:

1. Any legal change to the name in which the livestock dealer's license is issued;
2. Any change to the legal status of the livestock dealer; and
3. Any change in the nature and scope of the livestock dealer's business, if that change would warrant an increase in the amount of the bond posted by the dealer in accordance with this chapter.

4.1-83-12. Records.

Each livestock dealer shall keep records regarding all purchases and sales of livestock for a period of two years. The records may be examined by the agriculture commissioner upon request.

4.1-83-13. Agent's license.

Before an individual may serve as the agent of a livestock dealer, the individual must be licensed by the agriculture commissioner. In order for an individual to obtain an agent's license, the agent's principal must request the license, at the time and in the manner determined by the agriculture commissioner.

4.1-83-14. Agent's license - Requirements - Liability of principal.

Before the agriculture commissioner issues an agent's license, the commissioner shall verify that:

1. The agent's principal is a livestock dealer licensed in accordance with this chapter; and
2. The principal has filed with the agriculture commissioner a signed statement indicating that the principal is responsible for and will be held strictly liable for any acts and omissions arising out of the agent's livestock dealings, even if the dealings were not authorized by the principal.

4.1-83-15. Agent's license - Grounds for denial.

1. The agriculture commissioner may refuse to issue an agent's license:

- a. If the individual seeking the license was previously denied a livestock dealer's license or an agent's license;
 - b. If the individual seeking the license had a livestock dealer's license or an agent's license revoked;
 - c. If the individual seeking the license has been convicted of an offense for which a term of imprisonment or a fine is authorized by statute; or
 - d. For any other just and good cause.
2. Any applicant denied a license under this section may request a hearing before the agriculture commissioner, within thirty days of the denial.

4.1-83-16. Agent's authority - Limitation.

While acting as an agent, an individual may not conduct any transaction involving livestock in the agent's own name.

4.1-83-17. Order to cease and desist - Hearing.

The agriculture commissioner may issue an order to cease and desist if the commissioner has reason to believe that a person has committed or is about to commit a violation of this chapter. If the agriculture commissioner issues a cease and desist order, the commissioner shall hold a hearing within thirty days of the issuance and within sixty days of the issuance, revoke the order or make it permanent.

4.1-83-18. Investigation of livestock dealer - Hearing.

1. a. The agriculture commissioner shall investigate the conduct of any livestock dealer if the commissioner has reasonable cause to believe that the livestock dealer may have violated this chapter or engaged in any activity that constitutes a ground for license suspension or revocation under this chapter.
- b. Subdivision 1 does not apply if an investigation is being conducted by the grain inspection, packers and stockyards administration.
2. If after conducting an investigation the agriculture commissioner has probable cause to believe that a violation of the chapter occurred or that the livestock dealer engaged in any activity that constitutes a ground for license suspension or revocation under this chapter, the commissioner may conduct a hearing to determine whether the license of the livestock dealer should be suspended or revoked.

4.1-83-19. Grounds for suspension or revocation of license.

The agriculture commissioner may suspend or revoke the license of a livestock dealer if:

1. The livestock dealer has violated this chapter;
2. The livestock dealer has violated any of the laws of this state governing the handling, shipment, or transportation of livestock;

3. The livestock dealer has been found guilty of deceit, fraud, dishonesty, forgery, or theft, as a dealer in livestock;
4. The livestock dealer submitted false or misleading information in connection with the application for licensure;
5. The livestock dealer has failed to maintain records that disclose all purchases and sales of livestock, as required by section 4.1-83-12;
6. The livestock dealer has refused the commissioner's request to provide financial records to the commissioner, as required by section 4.1-83-09;
7. The livestock dealer has failed to pay brand inspection fees or veterinary inspection fees, as required by law, within sixty days of the date on which they were due;
8. The livestock dealer is convicted under section 4.1-03-13 of failing to submit beef promotion assessments; or
9. The livestock dealer has failed to pay for livestock purchased in a timely manner and without reasonable cause.

4.1-83-20. License suspension or revocation - Hearing - Appeal.

1. Before the agriculture commissioner may suspend or revoke a livestock dealer's license, the commissioner shall:
 - a. Prepare a complaint;
 - b. Designate the time and place for a hearing; and
 - c. Serve a copy of the complaint and a notice of the hearing upon the livestock dealer at least fifteen days before the date of the hearing.
2. The agriculture commissioner shall serve the required notice by registered mail or in the manner provided by the North Dakota Rules of Civil Procedure for the service of a summons.
3. At the hearing, the agriculture commissioner shall take and receive testimony and evidence.
4. After the hearing, the agriculture commissioner shall issue an order to:
 - a. Dismiss the proceedings;
 - b. Suspend the livestock dealer's license; or
 - c. Revoke the livestock dealer's license.
5. The aggrieved party may appeal the order to the district court of the county in which the party maintains its principal place of business.

4.1-83-21. Bond - Claim for relief.

If a livestock dealer defaults in the provisions of any bond required by this chapter, the livestock dealer is deemed to be insolvent within the meaning of this chapter. The

claim for relief for damages upon the bond, and the amount recovered in any claim for relief for the conversion of livestock purchased by the livestock dealer while the license is in force and effect, constitutes a trust fund in the hands of the agriculture commissioner for all persons having a claim for relief against the livestock dealer on the bond.

4.1-83-22. Appointment of trustee.

1. Upon the insolvency of a livestock dealer, the agriculture commissioner may apply to the district court of the county in which the dealer maintains its principal place of business for appointment as the trustee.
2. Upon notice to the livestock dealer, as the court shall prescribe but not exceeding ten days, or upon a written waiver of notice by the dealer, the court shall hear and make a determination regarding the application in a summary manner.
3. If the court determines that the livestock dealer is insolvent within the meaning of this chapter and that it would be in the best interest of persons holding claims against the dealer for the purchase price of livestock sold to the dealer or to the dealer's agent that the agriculture commissioner execute the trust, the court shall issue an order appointing the commissioner as the trustee, without bond.
4. Upon being appointed as the trustee, the agriculture commissioner shall perform the duties of a trustee as set forth in this chapter.

4.1-83-23. Possession of records and property - Notice to file claims.

1.
 - a. Upon being appointed trustee, the agriculture commissioner shall take possession of all accounts and records pertaining to the livestock dealer's business. After reviewing the records, the agriculture commissioner may return to the dealer any records that are not necessary to the settlement of claims under this chapter.
 - b. Upon being appointed trustee, the agriculture commissioner shall take possession of all livestock purchased by the dealer under the dealer's license and remaining in the dealer's possession.
2. The agriculture commissioner, as trustee, shall publish a notice once each week for three consecutive weeks in the official newspaper of each county in which the livestock dealer was conducting business, directing any person having a claim against the dealer to file the claim and all supporting documentation with the commissioner no later than forty-five days from the last date of publication. Any person failing to meet the filing requirements set forth in the notice is barred from participating in any funds marshalled by the agriculture commissioner under this chapter.

4.1-83-24. Maintenance of action - Marshalling of assets.

1. The agriculture commissioner, as trustee, may in the name of the state upon its own relation but for the benefit of all claimants against the livestock dealer's bond, maintain suits or special proceedings upon the bond and against any person who has converted any of the livestock, for the purpose of marshalling all of the trust assets of the insolvent dealer and distributing the assets among the claimants.

2. However, recourse must be had against the bond before recourse is had against a person who knowingly and in good faith converted any of the livestock, unless the agriculture commissioner determines it necessary that all of the remedies be pursued at the same time.

4.1-83-25. Remedy of claimants - Pursuit of separate action.

1. A claimant may not pursue a separate claim for relief against the livestock dealer's bond unless the agriculture commissioner fails or refuses to apply for appointment as trustee.
2. A claimant may pursue concurrently with the agriculture commissioner, however, any other remedy against the livestock dealer or the dealer's property that the claimant may have for the entire claim or for any deficiency that occurs after all payments have been made from the trust fund.

4.1-83-26. Actions by agriculture commissioner - Exoneration.

1. The agriculture commissioner may:
 - a. Prosecute an action for any claim arising under this chapter;
 - b. Appeal from any adverse judgment to the court of last resort; and
 - c. Settle and compromise any action if the commissioner determines that doing so is in the best interests of the claimant.
2. When the agriculture commissioner receives a compromise payment or the full amount of any bond or conversion claim, the commissioner may exonerate the person compromising or paying the claim from further liability growing out of the action.

4.1-83-27. Moneys collected on claims - Required deposit.

All moneys collected and received by the agriculture commissioner as trustee must be deposited in the Bank of North Dakota pending the marshalling of the fund.

4.1-83-28. Report of amounts payable - Distribution of trust fund.

1. Upon recovery of the trust fund, or so much of the fund as is recoverable or necessary to pay the outstanding claims, the agriculture commissioner shall file with the court a report showing the amount payable on each claim, after recognition of all proper liens, pledges, assignments, and deductions.
2. If the trust fund is insufficient to pay all claims in full, the agriculture commissioner shall prorate the fund among the claimants.
3. The court shall notify the claimants by mail regarding the proposed distribution and direct that the claimants show cause why the report and distribution should not be approved.
4. After holding a hearing on the matter, the court shall:
 - a. Approve or modify the report;
 - b. Issue an order directing that the trust fund be distributed; and

- c. Discharge the agriculture commissioner from all duties as trustee.

4.1-83-29. Court costs.

The agriculture commissioner is not required to pay any filing fee or other court cost or disbursement in connection with an application for appointment as trustee or with any action brought under this chapter if the fee, cost, or disbursement accrues to the state or to a county in this state.

4.1-83-30. Violations of chapter - Criminal penalty - Civil penalty.

1. Any person violating this chapter is guilty of a class A misdemeanor.
2. Any person violating this chapter is subject to a civil penalty in an amount not to exceed five thousand dollars for each violation. The civil penalty may be adjudicated by a court or by the agriculture commissioner through an administrative hearing.

SECTION 6. Chapter 4.1-88 of the North Dakota Century Code is created and enacted as follows:

4.1-88-01. Definition.

In this chapter, unless the context otherwise requires, "wool dealer" means a person that buys wool from a producer.

4.1-88-02. Wool dealer - License required.

1. Before a person may transact business as a wool dealer, the person must be licensed by the agriculture commissioner.
2. This section does not apply to the purchase of wool:
 - a. By a wool cooperative from a member of the cooperative; or
 - b. By one member of a wool cooperative from another member.

4.1-88-03. Application for wool dealer's license - Required information.

To obtain a wool dealer's license, a person must complete an application and submit it to the agriculture commissioner. The application must include:

1. The applicant's name and:
 - a. The name of each partner if the applicant is a partnership;
 - b. The name of each corporate officer and the state of incorporation if the applicant is a corporation; and
 - c. The name of each manager and the state of organization if the applicant is a limited liability company;
2. The applicant's mailing address; and
3. The applicant's principal place of business.

4.1-88-04. License - Fee - Expiration.

1. The fee for a wool dealer's license is ten dollars.
2. A wool dealer's license issued under this chapter expires on June thirtieth of each year.
3. A wool dealer's license is not transferable.

4.1-88-05. Application for license - Posting of bond.

1. As a condition of licensure, the applicant must post a bond with the agriculture commissioner. The bond must be:
 - a. A surety bond;
 - b. A cash bond; or
 - c. An irrevocable letter of credit.
2. The agriculture commissioner must be named as the obligee.
3. The bond required by this section must be:
 - a. In an amount and form required by this chapter;
 - b. Applicable to the period during which the wool dealer's license is in effect;
 - c. For the benefit of any person selling wool to the wool dealer or the dealer's agent; and
 - d. Conditioned for the payment of any financial obligation owed by a wool dealer to another person in conjunction with the sale of wool.

4.1-88-06. Out-of-state applicant - Trustee.

A bond filed by an out-of-state applicant for a wool dealer's license may name as trustee a financially responsible, disinterested person who is satisfactory to the agriculture commissioner.

4.1-88-07. Bond - Minimum amount.

1. The agriculture commissioner shall determine the amount of the bond required in accordance with this chapter, provided that the amount of the bond is not less than ten thousand dollars.
2. If at the time of licensure or at any point during the period of licensure the agriculture commissioner has reason to believe that a bond is inadequate to secure the performance of the wool dealer's obligations, the commissioner shall require an increase in the amount of the bond.

4.1-88-08. Release of records - Confidentiality.

1. As a condition of licensure, the applicant shall agree to provide to the agriculture commissioner, upon request, any financial record that the commissioner deems relevant for purposes related to:

- a. The issuance of a wool dealer's license; or
- b. An investigation after issuance of a wool dealer's license.
2. As a condition of licensure, the applicant shall file a records release with the agriculture commissioner, authorizing the commissioner to obtain, from any source, any financial record that the commissioner deems relevant for purposes related to:
 - a. The issuance of a wool dealer's license; or
 - b. An investigation after issuance of a wool dealer's license.
3. Any information gained by the agriculture commissioner under this section is confidential and may be provided only:
 - a. To federal authorities in accordance with federal law;
 - b. To the attorney general, state agencies, and law enforcement agencies, for use in the pursuit of official duties; and
 - c. As directed by an order of a court pursuant to a showing of good cause.

4.1-88-09. Wool dealer's license - Grounds for denial - Hearing.

1. The agriculture commissioner shall deny an applicant a wool dealer's license if:
 - a. The applicant's current assets do not exceed the applicant's current liabilities; or
 - b. The applicant submitted false or misleading information in connection with the application.
2. The agriculture commissioner may deny an applicant a wool dealer's license:
 - a. If after due investigation, the commissioner has reason to believe that the applicant has failed to pay, in a timely manner and without reasonable cause, prior obligations incurred in connection with wool transactions; or
 - b. For any other just and good cause.
3. Any applicant denied a license under this section may request a hearing before the agriculture commissioner, within thirty days of the denial.

4.1-88-10. Change of circumstance - Notification of agriculture commissioner.

A wool dealer shall notify the agriculture commissioner of:

1. Any legal change to the name in which the wool dealer's license is issued;
2. Any change to the legal status of the wool dealer; and

3. Any change in the nature and scope of the wool dealer's business, if that change would warrant an increase in the amount of the bond posted by the dealer in accordance with this chapter.

4.1-88-11. Records.

Each wool dealer shall keep records regarding all purchases and sales of wool for a period of two years. The records may be examined by the agriculture commissioner upon request.

4.1-88-12. Agent's license.

Before an individual may serve as the agent of a wool dealer, the individual must be licensed by the agriculture commissioner. In order for an individual to obtain an agent's license, the agent's principal must request the licensure, at the time and in the manner determined by the agriculture commissioner.

4.1-88-13. Agent's license - Requirements - Liability of principal.

Before the agriculture commissioner issues an agent's license, the commissioner shall verify that:

1. The agent's principal is a wool dealer licensed in accordance with this chapter; and
2. The principal has filed with the agriculture commissioner a signed statement indicating that the principal is responsible for and will be held strictly liable for any acts and omissions arising out of the agent's wool dealings, even if the dealings were not authorized by the principal.

4.1-88-14. Agent's license - Grounds for denial - Hearing.

1. The agriculture commissioner may refuse to issue an agent's license:
 - a. If the individual seeking the license was previously denied a wool dealer's license or an agent's license;
 - b. If the individual seeking the license has had a wool dealer's license or an agent's license revoked;
 - c. If the individual seeking the license has been convicted of an offense for which a term of imprisonment or a fine is authorized by statute; or
 - d. For any other just and good cause.
2. Any applicant denied a license under this section may request a hearing before the agriculture commissioner, within thirty days of the denial.

4.1-88-15. Agent's authority - Limitation.

While acting as an agent, an individual may not conduct any transaction involving livestock, in the agent's own name.

4.1-88-16. Order to cease and desist - Hearing.

The agriculture commissioner may issue an order to cease and desist if the commissioner has reason to believe that a person has committed or is about to commit a violation of this chapter. If the commissioner issues a cease and desist order, the commissioner shall hold a hearing within thirty days of the issuance and within sixty days of the issuance, revoke the order or make it permanent, as the facts require.

4.1-88-17. Investigation of wool dealer - Hearing.

1. The agriculture commissioner shall investigate the conduct of any wool dealer if the commissioner has reasonable cause to believe that the wool dealer may have violated this chapter or engaged in any activity that constitutes a ground for license revocation under this chapter.
2. If after conducting an investigation the agriculture commissioner has probable cause to believe that a violation of the chapter occurred or that the wool dealer engaged in any activity that constitutes a ground for license suspension or revocation under this chapter, the commissioner may conduct a hearing to determine whether the license of the wool dealer should be suspended or revoked.

4.1-88-18. Grounds for suspension or revocation of license.

The commissioner may revoke the license of a wool dealer if:

1. The wool dealer has violated this chapter;
2. The wool dealer has been found guilty of deceit, fraud, dishonesty, forgery, or theft, as a dealer in wool;
3. The wool dealer submitted false or misleading information in connection with the application for licensure;
4. The wool dealer has failed to maintain records that disclose all purchases and sales of wool, as required by section 4.1-88-11;
5. The wool dealer has refused the commissioner's request to provide financial records to the commissioner, as required by section 4.1-88-08; or
6. The wool dealer has failed to pay for wool purchased in a timely manner and without reasonable cause.

4.1-88-19. License suspension or revocation - Hearing - Appeal.

1. Before the agriculture commissioner may suspend or revoke a wool dealer's license, the commissioner shall:
 - a. Prepare a complaint;
 - b. Designate the time and place for a hearing; and
 - c. Serve a copy of the complaint and a notice of the hearing upon the wool dealer at least fifteen days before the date of the hearing.

2. The agriculture commissioner shall serve the required notice by registered mail or in the manner provided by the North Dakota Rules of Civil Procedure for the service of a summons.
3. At the hearing, the agriculture commissioner shall take and receive testimony and evidence.
4. After the hearing, the agriculture commissioner shall issue an order to:
 - a. Dismiss the proceedings;
 - b. Suspend the wool dealer's license; or
 - c. Revoke the wool dealer's license.
5. The aggrieved party may appeal the order to the district court of the county in which the party maintains its principal place of business.

4.1-88-20. Bond - Claim for relief.

If a wool dealer defaults in the provisions of any bond required by this chapter, the wool dealer is deemed to be insolvent within the meaning of this chapter. The claim for relief for damages upon the bond, and the amount recovered in any claim for relief for the conversion of wool purchased by the wool dealer, while the license is in force and effect, constitutes a trust fund in the hands of the agriculture commissioner for all persons having a claim for relief against the wool dealer on the bond.

4.1-88-21. Appointment of trustee.

1. Upon the insolvency of a wool dealer, the agriculture commissioner may apply to the district court of the county in which the dealer maintains its principal place of business for appointment as the trustee.
2. Upon notice to the wool dealer, as the court shall prescribe but not exceeding ten days, or upon a written waiver of notice by the dealer, the court shall hear and make a determination regarding the application in a summary manner.
3. If the court determines that the wool dealer is insolvent within the meaning of this chapter and that it would be in the best interest of persons holding claims against the dealer for the purchase price of wool sold to the dealer or to the dealer's agent that the agriculture commissioner execute the trust, the court shall issue an order appointing the commissioner as the trustee, without bond.
4. Upon being appointed as the trustee, the agriculture commissioner shall perform the duties of a trustee as set forth in this chapter.

4.1-88-22. Possession of records and property - Notice to file claims.

1. a. Upon being appointed trustee, the agriculture commissioner shall take possession of all accounts and records pertaining to the wool dealer's business. After reviewing the records, the agriculture commissioner may return to the dealer any records that are not necessary to the settlement of claims under this chapter.

- b. Upon being appointed trustee, the agriculture commissioner shall take possession of all wool purchased by the dealer under the dealer's license and remaining in the dealer's possession.
2. The agriculture commissioner, as trustee, shall publish a notice once each week for three consecutive weeks in the official newspaper of each county in which the wool dealer was conducting business, directing any person having a claim against the dealer to file the claim and all supporting documentation with the commissioner no later than forty-five days from the last date of publication. Any person failing to meet the filing requirements set forth in the notice is barred from participating in any funds marshalled by the commissioner under this chapter.

4.1-88-23. Maintenance of action - Marshalling of assets.

1. The agriculture commissioner, as trustee, may in the name of the state upon its own relation but for the benefit of all claimants against the wool dealer's bond, maintain suits or special proceedings upon the bond and against any person who has converted any of the wool, for the purpose of marshalling all of the trust assets of the insolvent dealer and distributing the assets among the claimants.
2. However, recourse must be had against the bond before recourse is had against a person who knowingly and in good faith converted any of the wool, unless the agriculture commissioner determines it necessary that all of the remedies be pursued at the same time.

4.1-88-24. Remedy of claimants - Pursuit of separate action.

1. A claimant may not pursue a separate claim for relief against the wool dealer's bond unless the agriculture commissioner fails or refuses to apply for appointment as trustee.
2. A claimant may pursue concurrently with the agriculture commissioner, however, any other remedy against the wool dealer or the dealer's property that the claimant may have for the entire claim or for any deficiency that occurs after all payments have been made from the trust fund.

4.1-88-25. Actions by agriculture commissioner - Exoneration.

1. The agriculture commissioner may:
 - a. Prosecute an action for any claim arising under this chapter;
 - b. Appeal from any adverse judgment to the court of last resort; and
 - c. Settle and compromise any action if the commissioner determines that doing so is in the best interests of the claimant.
2. When the agriculture commissioner receives a compromise payment or the full amount of any bond or conversion claim, the commissioner may exonerate the person compromising or paying the claim from further liability growing out of the action.

4.1-88-26. Moneys collected on claims - Required deposit.

All moneys collected and received by the agriculture commissioner as trustee must be deposited in the Bank of North Dakota pending the marshalling of the fund.

4.1-88-27. Report of amounts payable - Distribution of trust fund.

1. Upon recovery of the trust fund, or so much of the fund as is recoverable or necessary to pay the outstanding claims, the agriculture commissioner shall file with the court a report showing the amount payable on each claim, after recognition of all proper liens, pledges, assignments, and deductions.
2. If the trust fund is insufficient to pay all claims in full, the agriculture commissioner shall prorate the fund among the claimants.
3. The court shall notify the claimants by mail regarding the proposed distribution and direct that the claimants show cause why the report and distribution should not be approved.
4. After holding a hearing on the matter, the court shall:
 - a. Approve or modify the report;
 - b. Issue an order directing that the trust fund be distributed; and
 - c. Discharge the agriculture commissioner from all duties as trustee.

4.1-88-28. Court costs.

The agriculture commissioner is not required to pay any filing fee or other court cost or disbursement in connection with an application for appointment as trustee or with any action brought under this chapter if the fee, cost, or disbursement accrues to the state or to a county of this state.

4.1-88-29. Violations of chapter - Criminal penalty - Civil penalty.

1. Any person violating this chapter is guilty of a class A misdemeanor.
2. Any person violating this chapter is subject to a civil penalty in an amount not to exceed five thousand dollars for each violation. The civil penalty may be adjudicated by a court or by the agriculture commissioner through an administrative hearing.

SECTION 7. AGRICULTURAL LAW REWRITE - STUDY. The legislative management shall continue its study of North Dakota Century Code provisions that relate to agriculture for the purpose of recommending changes to laws that are found to be 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-fourth legislative assembly.

SECTION 8. REPEAL. Chapters 36-04, 36-09, 36-13, and 36-22 of the North Dakota Century Code are repealed.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 73

SENATE BILL NO. 2158

(Senators Erbele, Larsen)
(Representatives D. Johnson, Trottier)

AN ACT to amend and reenact section 36-09-20 of the North Dakota Century Code or in the alternative to amend and reenact section 4.1-73-18 of the North Dakota Century Code, relating to bill of sale requirements in livestock transactions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. If House Bill No. 1026 does not become effective, section 36-09-20 of the North Dakota Century Code is amended and reenacted as follows:

36-09-20. Bill of sale to be given and kept - Copy with shipment - Effect - Penalty.

1. A person may not sell cattle, horses, mules, or any other livestock carrying a registered brand unless:
 - a. ~~The~~ the seller is the owner of the registered brand and delivers a bill of sale for the cattle, horses, mules, or other livestock to the purchaser; ~~or~~
 - b. ~~The seller delivers to the purchaser a bill of sale executed by the owner of the registered brand and endorsed by the seller evidencing the later transaction.~~
2. The bill of sale must include:
 - a. The date;
 - b. The name, address, and signature of the seller;
 - c. The name, address, and signature of an individual who is at least eighteen years of age and who can verify the name and signature of the seller;
 - d. The name and address of the buyer;
 - e. The total number of animals sold;
 - f. A description of each animal sold as to sex and kind; and
 - g. A description of the registered brands.
3. The bill of sale must be kept by the buyer for two years and as long thereafter as the buyer owns any of the animals described in the bill of sale.
4. A copy of the bill of sale must be given to each hauler of the livestock, other than railroads, and must go with the shipment of the livestock while in transit.

5. The bill of sale or a copy of the bill of sale must be shown by the possessor on demand to any peace officer or brand inspector.
6. The bill of sale is prima facie evidence of the sale of the livestock described in the bill of sale.
7. A bill of sale is not required relative to sales of livestock covered by a legal livestock brand inspection.
8. Any person that willfully violates this section is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

²⁵ **SECTION 2. AMENDMENT.** Section 4.1-73-18 of the North Dakota Century Code, as created by section 2 of House Bill No. 1026, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

4.1-73-18. Bill of sale - Copy with shipment - Effect - Penalty.

1. a. ~~A~~Except as provided in subsection 2, a person may not sell any livestock carrying a recorded brand unless:
 - ~~a.~~ The ~~the~~ seller is the owner of the recorded brand and delivers a bill of sale for the livestock to the purchaser;~~or~~
 - ~~b.~~ The seller delivers to the purchaser a bill of sale executed by the owner of the recorded brand and endorsed by the seller evidencing the later transaction.
2. The bill of sale must include:
 - ~~a.~~(1) The date;
 - ~~b.~~(2) The name, address, and signature of the seller;
 - ~~c.~~(3) The name, address, and signature of an individual who is at least eighteen years of age and who can verify the name and signature of the seller;
 - ~~d.~~(4) The name and address of the buyer;
 - ~~e.~~(5) The total number of animals sold;
 - ~~f.~~(6) A description of each animal sold as to sex and color; and
 - ~~g.~~(7) A depiction of the recorded brand.
- ~~3.~~b. The buyer shall retain the bill of sale for as long as the buyer owns any animals described in the bill of sale.
- ~~4.~~c. The seller shall provide a copy of the bill of sale to the individual hauling the livestock. The individual shall ensure that the document remains with the livestock while in transit.

- ~~5-d.~~ The bill of sale or a copy of the bill of sale must be shown by the possessor on demand to any law enforcement officer or brand inspector.
- ~~6-e.~~ The bill of sale is prima facie evidence of the sale of the livestock described in the bill of sale.
- ~~7-2.~~ ~~Subsections 1 through 6 do~~ Subsection 1 does not apply to the sale of livestock for which a brand inspector has issued a certificate of ownership.
- ~~8-3.~~ Any person willfully violating this section is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

Approved April 3, 2013
Filed April 3, 2013

ALCOHOLIC BEVERAGES

CHAPTER 74

SENATE BILL NO. 2147

(Senators J. Lee, Krebsbach, Murphy, Sinner)
(Representatives Louser, Gruchalla)

AN ACT to amend and reenact sections 5-01-01, 5-01-16, and 5-03-06 of the North Dakota Century Code, relating to direct shipment of alcoholic beverages from out of state; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 5-01-01 of the North Dakota Century Code is amended and reenacted as follows:

5-01-01. Definitions.

In this title:

1. "Alcohol" means neutral spirits distilled at or above one hundred ninety degrees proof, whether or not such product is subsequently reduced, for nonindustrial use.
2. "Alcoholic beverages" means any liquid suitable for drinking by human beings, which contains one-half of one percent or more of alcohol by volume.
3. "Beer" means any malt beverage containing one-half of one percent or more of alcohol by volume.
4. "Bottle or can" means any container, regardless of the material from which made, having a capacity less than a bulk container for use for the sale of malt beverages at retail.
5. "Direct shipper" means a person that is licensed by the commissioner and ships or causes to be shipped alcoholic beverages directly into this state to a consumer for the consumer's personal use and not for resale.
6. "Distilled spirits" means any alcoholic beverage that is not beer, wine, sparkling wine, or alcohol.
- ~~6-7.~~ "In bulk" means in containers having a capacity not less than one-sixth barrel for use for the sale of malt beverages at retail.
- ~~7-8.~~ "Licensed alcohol carrier" means a person licensed to transport or deliver alcoholic beverages to a consumer without first having the alcoholic beverage delivered through a wholesaler licensed in this state.

9. "Licensed logistics shipper" means a person that provides fulfillment house services, including warehousing, packaging, distribution, order processing, or shipment of alcoholic beverages on behalf of a licensed direct shipper and by way of a licensed alcohol carrier.
10. "Licensed premises" means the premises on which beer, liquor, or alcoholic beverages are normally sold or dispensed and must be delineated by diagram or blueprint which must be included with the license application or the license renewal application.
- ~~8-11.~~ "Liquor" means any alcoholic beverage except beer.
- 9-12. "Local governing body" means the governing entity of a city, county, or federally recognized Indian tribe in this state.
- ~~40-13.~~ "Local license" means a city, county, or tribal retail alcoholic beverage license issued by the appropriate local governing body.
- ~~44-14.~~ "Microbrew pub" means a brewer that brews ten thousand or fewer barrels of beer per year and sells beer produced or manufactured on the premises for consumption on or off the premises or serves beer produced or manufactured on the premises for purposes of sampling the beer.
- ~~42-15.~~ "Organization" means a domestic or foreign corporation, general partnership, limited partnership, or limited liability company.
- ~~43-16.~~ "Sparkling wine" means wine made effervescent with carbon dioxide.
- ~~44-17.~~ "Supplier" means an alcoholic beverage manufacturer, importer, marketer, or wholesaler selling alcoholic beverages to a wholesaler licensed in this state for purposes of resale.
- ~~45-18.~~ "Tribal licensee" means a person issued a local license by the governing body of a federally recognized Indian tribe in this state for the retail sale of alcoholic beverages within the exterior tribal reservation boundaries.
- ~~46-19.~~ "Twenty-one years of age" means it is after eight a.m. on the date twenty-one years after a person's date of birth.
- ~~47-20.~~ "Wine" means the alcoholic beverage obtained by fermentation of agricultural products containing natural or added sugar or such beverage fortified with brandy and containing not more than twenty-four percent alcohol by volume.

SECTION 2. AMENDMENT. Section 5-01-16 of the North Dakota Century Code is amended and reenacted as follows:

5-01-16. Direct sale from out-of-state sellerperson to consumer - Penalty.

1. A person in the business of selling alcoholic beverages may not knowingly or intentionally ship, or cause to be shipped, any alcoholic beverage from an out-of-state location directly to a person in this state who is not a licensed wholesaler in this state.
2. A person in the business of transporting goods may not knowingly or intentionally transport, or cause to be transported, any alcoholic beverage, ~~from an out-of-state location of a person in the business of selling alcoholic~~

beverages, directly to a person in this state who is not a licensed wholesaler in this state.

3. For a first violation of subsection 1 or 2, the ~~state~~ tax commissioner shall notify, by certified mail, the ~~violator~~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. The second violation of subsection 1 or 2 is a class A misdemeanor ~~and a third and~~. 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.
4. The alcoholic beverage transported in violation of this section and the vehicle used in violation of this section are forfeitable property under chapter 29-31.1.
5. This section does not apply to a transaction in which an individual ~~twenty-one years of age or older who imports or transports into this state 7.13 gallons [27 liters] or less of wine, two hundred eighty-eight fluid ounces [8517.18 milliliters] or less of beer, or 2.38 gallons [9 liters] or less of any other alcoholic beverage per month for personal use and not for resale from by a person holding a valid manufacturer's or retailer's license issued by the state of its domicile. Every package and if the person obtains a direct shipping license from and on a form prescribed by the tax commissioner before making a shipment. The annual fee for a direct shipping license is fifty dollars. Licensed direct shippers may sell and ship to an individual twenty-one years of age or older 7.13 gallons [27 liters] or less of wine, two hundred eighty-eight fluid ounces [8517.18 milliliters] or less of beer, or 2.38 gallons [9 liters] or less of any other alcoholic beverages per month for personal use and not for resale.~~
 - a. A direct shipper shall ship all containers of alcoholic beverages shipped directly to a resident of this state using a licensed alcohol carrier and may cause the alcoholic beverages to be shipped by a licensed logistics company.
 - b. A direct shipper shall label all containers of alcoholic beverages shipped directly to an individual in this state with conspicuous words "SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY". A shipper shall obtain the signature of an individual twenty-one years of age or older before delivering any alcoholic beverages shipped directly to an individual in this state. A manufacturer or retailer selling or shipping alcoholic beverages under this subsection shall obtain a direct shipping permit from the tax commissioner and pay an annual fee of fifty dollars within thirty days of making the first shipment.
 - c. A licensed direct shipper shall report and pay the wholesaler excise tax and retailer sales taxes to the tax commissioner on all alcoholic beverages sold to residents in this state at the rates set forth in sections 5-03-07 and 57-39.6-02. The excise tax reports are due January fifteenth of the year following the year sales and shipments were made. When the fifteenth day of January falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter. The report must provide such detail and be in format as prescribed by the tax commissioner and include the identification of any logistics or fulfillment houses the licensee used for such shipments. The sales and use tax reports are due as set forth in chapter 57-39.6. The

- sales and use tax reports must be in a format as prescribed by the tax commissioner. The tax commissioner may require that the report be submitted in an electronic format approved by the tax commissioner.
- d. All alcoholic beverages that are shipped directly to a resident of this state must be properly registered with the federal alcohol and tobacco tax and trade bureau and must be owned by the licensed direct shipper.
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 quantity of alcoholic beverages shipped, 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 3.
7. Licensed logistics shippers must obtain a logistics shipping license from the tax commissioner and shall pay an annual fee of one hundred dollars before making or causing a shipment.
- a. A licensed logistics shipper 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".
- b. All containers of alcoholic beverage shipped directly to a resident of this state must be shipped using a licensed alcohol carrier as provided in subsection 6.

- c. A licensed logistics shipper shall maintain records of alcoholic beverages shipped which include the license number and name of the licensed direct shipper, the license number and name of the licensed common carrier, the date of each shipment, the quantity and kind of alcohol shipped, and the recipient's name and address for each shipment. A licensed logistics shipper 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.
- d. Licensed logistics shippers may not ship alcoholic beverages from unlicensed direct shippers or through unlicensed carriers. For a violation, a licensed logistics shipper is subject to the penalties in subsection 3.
8. The tax commissioner may initiate and maintain an action in a court of competent jurisdiction to enjoin a violation of this ~~subsection~~section and may request award of all costs and attorney's fees incurred by the state incidental to that action. Upon determination by the tax commissioner that an illegal sale or shipment of alcoholic beverages has been made to a consumer in this state by ~~either a manufacturer or retailer of alcoholic beverages~~any person, the tax commissioner may notify both the alcohol and tobacco tax and trade bureau of the United States department of the treasury and the licensing authority for the state in which the ~~manufacturer or retailer~~person is domiciled that a state law pertaining to the regulation of alcoholic beverages has been violated and may request those agencies to take appropriate action.

SECTION 3. AMENDMENT. Section 5-03-06 of the North Dakota Century Code is amended and reenacted as follows:

5-03-06. Examination by tax commissioner - Penalty for improper returns.

The state tax commissioner may at any reasonable time make an examination of the books and premises of any retailer, wholesaler, manufacturer, domestic winery, domestic distillery, microbrew pub, direct shipper, licensed alcohol carrier, licensed logistics shipper, or other person to determine if ~~such~~the person has fully complied with all statutes and rules pertaining to the person's business. If any manufacturer, wholesaler, domestic winery, domestic distillery, microbrew pub, or direct shipper liable for any taxes imposed by this chapter fails to pay such tax on the date payment is due, there must be added to the tax a penalty of five percent of the total amount of the tax or five dollars, whichever is greater, plus interest of one percent of the tax per month or fraction of a month of delay, except the first month after the return or tax became due. Any manufacturer, wholesaler, domestic winery, domestic distillery, microbrew pub, or direct shipper, licensed alcohol carrier, or licensed logistics shipper failing to furnish reports when required must be assessed a penalty of one hundred dollars for each day such reports are delinquent. The state tax commissioner may forgive all or part of any penalty for good cause shown. The tax commissioner shall give notice of the determination to the person liable for tax. If the determination of tax due relates to an incorrect or insufficient return filed by a taxpayer, notice of the determination must be given not later than three years after the last day on which the return was due or three years after the return was filed, whichever is later. If it is determined upon audit by the tax commissioner that the tax due was twenty-five percent or more above the amount reported on the return, notice of determination of

tax due must be given not later than six years after the last day on which the return was due or six years after the return was filed, whichever ~~was~~ later. Notice of determination of tax due for any reporting period for which a taxpayer failed to file a return must be given not later than six years after the due date of the return, but if fraudulent information is given in a return or the failure to file a return is due to the fraudulent intent or willful attempt of the taxpayer in any manner to evade the tax, the time limitation provided in this section for giving notice of the determination of tax due does not apply. If any manufacturer, wholesaler, domestic winery, domestic distillery, microbrew pub, or direct shipper files a fraudulent return, there must be added to the tax an amount equal to the tax evaded or attempted to be evaded and such manufacturer, wholesaler, domestic winery, domestic distillery, microbrew pub, or direct shipper is also guilty of a class C felony. All such taxes and civil penalties may be collected by assessment or distraint, and no court of this state may enjoin the collection of any such tax or civil penalty. No wholesaler may purchase alcoholic beverages from a manufacturer after notice from the state tax commissioner that such manufacturer has failed to file required reports with the tax commissioner's office. Any manufacturer, wholesaler, domestic winery, domestic distillery, microbrew pub, ~~or~~ direct shipper, licensed alcohol carrier, or licensed logistics shipper may have its license suspended or revoked for violation of any of the provisions of this title after a hearing conducted similar to that prescribed by this law.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 75

HOUSE BILL NO. 1077

(Representatives Ruby, J. Nelson, Glassheim)
(Senators Sitte, Klein, Murphy)

AN ACT to create and enact a new section to chapter 5-01 of the North Dakota Century Code, relating to direct sales by licensed wineries.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 5-01 of the North Dakota Century Code is created and enacted as follows:

Direct sale by licensed wineries.

1. A licensed winery that produces no more than fifty thousand gallons [189,271 liters] of wine per year may sell and deliver, onsite or offsite, the wine produced by the winery directly to licensed retailers. The licensed winery may sell and deliver wine onsite to a licensed retailer who presents the retailer's license or a photocopy of the license. The winery may deliver the wine offsite if the winery:
 - a. Uses the winery's equipment, trucks, and employees to deliver the wine;
 - b. Contracts with a licensed distributor to ship and deliver the wine to the retailer; or
 - c. Contracts with a common carrier to ship and deliver the wine to the retailer directly from the winery or the winery's bonded warehouse.
2. The shipments delivered by a winery's equipment, trucks, and employees in a year may not exceed four thousand five hundred cases. A case may not exceed 2.38 gallons [9 liters].
3. Individual shipments delivered by common carrier may not exceed three cases a day for each licensed retailer. The shipments delivered by a common carrier in a year may not exceed four thousand five hundred cases. A case may not exceed 2.38 gallons [9 liters].

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 76

SENATE BILL NO. 2284

(Senators Larsen, Klein, O'Connell)
(Representatives J. Nelson, Ruby, Streyle)

AN ACT to create and enact a new section to chapter 5-01 of the North Dakota Century Code, relating to brewer taproom licenses; to amend and reenact section 5-03-07 of the North Dakota Century Code, relating to taxes on alcohol; and to provide for a statement of legislative intent and severability.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 5-01 of the North Dakota Century Code is created and enacted as follows:

Brewer taproom license.

1. The tax commissioner may issue a brewer taproom license to the owner or operator of a brewery producing no more than twenty-five thousand barrels of malt beverages annually. A 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.
2. A brewer holding a brewer taproom license may:
 - a. Manufacture on the licensed premises, store, transport, sell, and export no more than twenty-five thousand barrels of malt beverages annually.
 - b. Sell malt beverages manufactured on the licensed premises for consumption on the premises of the brewery or a restaurant owned by the licensee and located on property contiguous to the brewery.
 - c. Sell beer manufactured on the licensed premises for off premises consumption in brewery-sealed containers of not less than twelve ounces [.36 liters] and not more than 5.16 gallons [19.53 liters].
 - d. Sell and deliver beer produced by the brewery to licensed beer wholesalers.
 - e. Dispense free samples of beer offered for sale. Complimentary samples of beer may not be in an amount exceeding sixteen ounces [.47 liter] per patron.
 - f. Sell and deliver beer produced by the brewery to licensed retailers within the state, but only if:
 - (1) The brewer uses the brewer's own equipment, trucks, and employees to deliver the beer;

- (2) Individual deliveries, other than draft beer, are limited to the case equivalent of eight barrels per day to each licensed retailer;
- (3) The total amount of beer sold or delivered directly to all retailers does not exceed ten thousand barrels per year; and
- (4) A common carrier is not used to ship or deliver the brewery's product to the public or to licensed retailers. All other sales and deliveries of beer to licensed retailers in this state may be made only through a wholesaler licensed in this state.
3. The tax commissioner may issue special event permits for not more than twenty days per calendar year to a brewer taproom licensee allowing the licensee, subject to local ordinance, to give free samples of its beer and to sell its beer by the glass or in closed containers, at a designated trade show, convention, festival, or a similar event approved by the tax commissioner.
4. For any month in which a brewery has made sales to a wholesaler licensed in this state, that brewery shall file a report with the tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after that day.
5. A brewer taproom licensee is subject to section 5-03-06 and shall report and pay annually to the tax commissioner the wholesaler taxes due on all beer sold by the licensee at retail or to a retail licensee, including all beer sold directly to consumers as set forth in sections 5-03-07 and 57-39.6-02. The annual wholesaler tax reports are due January fifteenth of the year following the year sales were made. When the fifteenth of January falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after that day. The report must provide the detail and be in a format as prescribed by the tax commissioner. The tax commissioner may require the report be submitted in an electronic format approved by the tax commissioner.
6. A brewer may have only one taproom license and 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.

SECTION 2. AMENDMENT. Section 5-03-07 of the North Dakota Century Code is amended and reenacted as follows:

5-03-07. Imposition of tax - Rate.

A tax is hereby imposed upon all alcoholic beverage wholesalers, domestic wineries, domestic distilleries, microbrew pubs, brewer taproom licensees, and direct shippers for the privilege of doing business in this state. The amount of this tax shall be determined by the gallonage according to the following schedule:

Beer in bulk containers - per wine gallon	\$.08 (.021 per liter)
Beer in bottles and cans - per wine gallon	.16 (.042 per liter)
Wine, including sparkling wine, containing less than 17% alcohol by volume - per wine gallon	.50 (.132 per liter)

Wine containing 17%-24% alcohol by volume - per wine gallon	.60 (.159 per liter)
Distilled spirits - per wine gallon	2.50 (.66 per liter)
Alcohol - per wine gallon	4.05 (1.07 per liter)

SECTION 3. LEGISLATIVE INTENT - SEVERABILITY. A licensee who manufactures more than twenty-five thousand barrels of malt beverages annually may not use the sales and distribution activities identified in section 1 of this Act. In the event that a court of competent or final jurisdiction holds that any section of title 5 is unconstitutional or otherwise invalid, the invalidity does not affect other provisions or applications of title 5 that can be given effect without the invalid provisions or application, and to this end the provisions of title 5 are severable.

Approved March 21, 2013

Filed March 21, 2013

BANKS AND BANKING

CHAPTER 77

HOUSE BILL NO. 1085

(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to create and enact a new subsection to section 6-01-02 and section 6-03-59.2 of the North Dakota Century Code, relating to providing a definition for a financial corporation and to authorize lease financing of public facilities by a state-chartered bank; and to amend and reenact sections 6-01-01, 6-01-04, 6-01-04.3, 6-01-05, 6-01-06, and 6-01-09, subsection 1 of section 6-01-10, and sections 6-01-13, 6-01-14, 6-01-15, 6-01-16, 6-03-05, 6-03-11, 6-03-13, 6-03-27, 6-03-37, 6-05-04.1, 6-05-15.1, 6-05-26, 6-05-28, 6-05-29, and 6-08-27 of the North Dakota Century Code, relating to the management and control of entities regulated by the department of financial institutions, the powers and duties of the state banking board and state credit union board, assessment of civil money penalties, the taking of testimony and enforcement of orders, the appointment of receivers, the supervision and examination by the commissioner of financial institutions, the records kept and reports made by the commissioner of financial institutions, the appointment of an assistant commissioner and assignment of titles within the department of financial institutions, the reports of deputies of the commissioner of financial institutions, the prohibition of financial interest by officers and employees of the department of financial institutions in entities regulated by the department of financial institutions, the salaries of deputies of the commissioner of financial institutions, the regulation and limitation of loans on real estate, the conversion, consolidation, or merger of banking institutions, the removal to a new location of a banking association, requirements regarding how the list of shareholders of a banking institution is to be kept and when it is to be filed with the commissioner of financial institutions, reserve funds of banking associations, the right of action against security deposits of trust companies, responsibilities of trust companies to a beneficiary of a trust, reports regarding the increase in capital stock of trust companies to the state banking board, fees paid to the department of financial institutions by trust companies, the duty of the commissioner of financial institutions when an examination of a trust company discloses a violation of law, and the authorization and application by a nonresident bank or trust company intending to establish a place of business, branch office, or agency in the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-01-01 of the North Dakota Century Code is amended and reenacted as follows:

6-01-01. Management and control - State department of financial institutions - Local ordinances preempted.

The state department of financial institutions is under the supervision of the state banking board, state credit union board, and a chief officer designated as the commissioner of financial institutions. The state department of financial institutions has charge of the execution of all laws relating to state banks, trust companies, credit unions, building and loan associations, mutual investment corporations, mutual savings corporations, banking institutions, and other financial corporations, exclusive of the Bank of North Dakota. A local governing body may not adopt or enforce a resolution or an ordinance regulating a financial institution, financial corporation, or credit union.

SECTION 2. A new subsection to section 6-01-02 of the North Dakota Century Code is created and enacted as follows:

"Financial corporation" means all entities regulated by the department of financial institutions, excluding financial institutions and credit unions.

SECTION 3. AMENDMENT. Section 6-01-04 of the North Dakota Century Code is amended and reenacted as follows:

6-01-04. Powers and duties of the state banking board and state credit union board.

The state banking board may adopt rules for the government of financial ~~corporations~~institutions and trust companies mentioned in section 6-01-01 to the extent the rules do not conflict with any law of this state or of the United States. The state banking board shall make and enforce such orders as are necessary or proper to protect the public and the depositors or creditors of those financial ~~corporations~~ and institutions and trust companies.

The same powers are given to the state credit union board with reference to credit unions as are granted to the state banking board with reference to financial ~~corporations~~institutions and trust companies named in this chapter.

SECTION 4. AMENDMENT. Section 6-01-04.3 of the North Dakota Century Code is amended and reenacted as follows:

6-01-04.3. Assessment of civil money penalties.

1. The commissioner or the board may assess a civil money penalty against a financial institution ~~or~~ financial corporation, including state chartered banks, credit unions, trust companies, and savings and loan associations ~~or credit union~~, or an officer, director, employee, agent, or person participating in the conduct of the affairs of the financial corporation, financial institution, or credit union upon finding one or more of the following:
 - a. Failure to comply with a permanent or temporary cease and desist order that has been voluntarily consented to or issued pursuant to section 6-01-04.2;
 - b. Failure to comply with a final order that has been voluntarily consented to or issued following formal proceedings under chapter 28-32;
 - c. Payment of dividends in violation of section 6-03-36;

- d. Loans and leases to one borrower or concern which exceed the limitations set forth in sections 6-03-59 and 6-03-59.1;
 - e. Loans to directors, officers, and employees in violation of section 6-03-60;
 - f. The intentional filing of inaccurate or misleading call reports required by section 6-03-70 or 6-06-08;
 - g. Violations of loan limitations under subsection 1 of section 6-06-12 or North Dakota Administrative Code section 13-03-16-03, 13-03-16-05, or 13-03-16-08;
 - h. Loans in violation of section 6-06-14 or subsection 2 of section 13-03-16-02 of the North Dakota Administrative Code or subsection 2 of section 13-03-16-05 of the North Dakota Administrative Code; or
 - i. Failure to file notice of change of control under section 6-08-08.1.
2. The commissioner or the board commences administrative proceedings to assess civil money penalties by serving a complaint on the respondent stating the factual basis for the commissioner's or board's belief that a violation has occurred and the amount of civil penalties that the complaint seeks to impose. The complaint must contain a notice of an opportunity for an administrative hearing conducted under chapter 28-32. The date for the hearing must be set not less than thirty days after the date the complaint is served upon the respondent. If assessment of civil money penalties are proposed based on conditions described in subdivisions c through i of subsection 1, a complaint may not be filed unless the respondent has been provided with prior orders, examination reports, or other written communications, and has willfully refused to take corrective action that the respondent was capable of taking at the time.
 3. If the respondent fails to answer the complaint within twenty days of its service, the commissioner or board may enter an order imposing civil money penalties upon the respondent. If a hearing is held and the board concludes that the record so warrants, the board may enter an order imposing civil money penalties upon the respondent. The assessment order is effective and enforceable immediately upon service or upon a date specified in the order, and remains effective and enforceable until it is stayed, modified, terminated, or set aside by action of the board or a reviewing court.
 4. In determining the amount of civil penalty imposed, the commissioner or board shall consider ~~the whether~~ whether good faith ~~of the financial institution or the person being assessed was exercised,~~ of the financial institution or the person being assessed was exercised, and the gravity of the violation and any previous violations. The commissioner or board may not impose a civil money penalty in excess of five thousand dollars for each occurrence and one hundred dollars per day for each day that the violation continues after service of an order. Any civil money penalties collected under this section must be paid to the ~~state treasurer~~ department of financial institutions and deposited in the financial institutions regulatory fund.

SECTION 5. AMENDMENT. Section 6-01-05 of the North Dakota Century Code is amended and reenacted as follows:

6-01-05. Taking of testimony and enforcement of orders.

The state banking board, the state credit union board, the commissioner, and the deputy examiners each have the power to subpoena witnesses, administer oaths, and generally to do and perform any and all acts and things necessary to the complete performance of the powers and duties imposed upon them in this title, and to enforce the provisions of law relating to financial corporations, financial institutions, and credit unions. For the purpose of enabling them to perform all the duties imposed upon them, the provisions of section 27-10-23 are applicable to their proceedings. Any and all orders made by the issuing board or commissioner are operative immediately and remain in full force until modified, amended, or annulled by the issuing board, commissioner, or by a court of competent jurisdiction in an action commenced by the party against whom such order has been issued.

SECTION 6. AMENDMENT. Section 6-01-06 of the North Dakota Century Code is amended and reenacted as follows:

6-01-06. Appointment of receivers.

The state banking board and state credit union board, except as otherwise provided in this title, ~~has~~have authority and power to appoint, by ~~its~~their own order, receivers for insolvent ~~corporations or financial~~ institutions ~~defined in this title and credit unions under their regulatory supervision~~. Such receivers have the same power and authority, and their acts have the same validity, as if they had been appointed under and by the direction of a district court. Nothing herein contained may be construed so as to take away from the courts the power to appoint receivers of such ~~corporations or financial~~ institutions and credit unions at any stage of the proceedings and thus to terminate the receivership ordered by the board.

SECTION 7. 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 and financial institutions, and credit unions, including all out-of-state branches of financial corporations and financial institutions, and branches of out-of-state state-chartered banks, savings and loan associations, or savings banks within the jurisdiction of the board credit unions. Either the commissioner or one or more examiners shall visit each of the ~~state banking associations and other corporations, associations, and branches under the commissioner's jurisdiction~~financial institution at least once each thirty-six months to examine ~~their~~its affairs and ascertain ~~their~~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 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 8. AMENDMENT. Subsection 1 of section 6-01-10 of the North Dakota Century Code is amended and reenacted as follows:

1. The assistant commissioner shall act as secretary and keep all proper records and files pertaining to the duties and work of the ~~office of the assistant commissioner~~ department of financial institutions and the proceedings of the board. The commissioner shall report to the board annually, touching on all the commissioner's official acts and those of the deputy examiners, giving abstracts of statistics and of the conditions of the various institutions to which the commissioner's duties relate, and making such recommendations and suggestions as the commissioner may determine proper.

SECTION 9. AMENDMENT. Section 6-01-13 of the North Dakota Century Code is amended and reenacted as follows:

6-01-13. Commissioner - Appointment of ~~deputies~~assistant commissioner and assignment of titles within the department.

The commissioner may appoint, remove, and assign appropriate titles to such deputy examiners and such other employees as in the commissioner's judgment may be necessary for the proper discharge of the business of the department of financial institutions. The commissioner may select and designate one of said deputy examiners to be ~~chief deputy examiner and the assistant commissioner~~ to act during the absence or disability of the commissioner, and in such cases the ~~deputy examiner~~ assistant commissioner so designated has charge of the office and shall administer its affairs. The ~~chief deputy examiner~~ assistant commissioner shall perform such duties as may be prescribed by the commissioner.

SECTION 10. AMENDMENT. Section 6-01-14 of the North Dakota Century Code is amended and reenacted as follows:

6-01-14. Deputies controlled by commissioner - Reports.

Each deputy examiner provided for in this title is under the direct orders and instructions of the commissioner, and shall report to the commissioner during or immediately after the completion of each examination of each financial corporation ~~or, financial institution, or credit union~~ examined by the deputy examiner, together with such recommendations and suggestions as the deputy examiner may deem advisable. Such report must be in such form as may be prescribed by the commissioner ~~or, the state banking board, or state credit union board.~~

SECTION 11. AMENDMENT. Section 6-01-15 of the North Dakota Century Code is amended and reenacted as follows:

6-01-15. Officers and employees to be disinterested.

1. No officer or employee of this department may have any interest, directly or indirectly, in any financial corporation or financial institution within the jurisdiction of the department of financial institutions, nor in any corporation or institution engaged wholly or in part in the writing or issuing of bonds of or for

any such corporation or institution or any officer or employee thereof. Provided, however, this prohibition does not apply to membership in a state-chartered credit union or savings and loan association.

2. For purposes of this section, "interest" means ownership of or investment in such corporations or institutions.

SECTION 12. AMENDMENT. Section 6-01-16 of the North Dakota Century Code is amended and reenacted as follows:

6-01-16. Salaries of commissioner's deputies.

The salary of the chief deputy ~~examiner~~assistant commissioner and the salary of each other deputy must be fixed by the commissioner within the limits of the legislative appropriation for such salaries. In addition to the amounts herein specified, each deputy must be allowed the deputy's actual and necessary traveling expenses when engaged in the discharge of the deputy's duties. The salaries of all clerks, stenographers, and other assistants must be fixed by the commissioner within the limits of the legislative appropriation therefor.

SECTION 13. AMENDMENT. Section 6-03-05 of the North Dakota Century Code is amended and reenacted as follows:

6-03-05. Loans on real estate - Regulation - Limitation.

1. Before any real estate loan of ~~equal to or~~ equal to or more than two hundred fifty thousand dollars is made, an appraisal must be conducted by a licensed or certified appraiser if required by the federal Financial Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73; 103 Stat. 512; 12 U.S.C. 3332 et seq.]. A
2. ~~Before any real estate loan that does not meet the requirements of subsection 1 is made, a~~ bank must obtain an appropriate evaluation of real property collateral for transactions ~~that do not require~~ that do not require if an appraisal by a licensed or certified appraiser ~~is not obtained~~.
3. ~~Regardless of the value of a real estate loan, the~~ commissioner may ~~require~~ issue an order requiring an appraisal by a licensed or certified appraiser when necessary to address safety and soundness concerns. Any real estate loan made must conform to loan-to-value limits as established by rule by the state banking board under chapter 28-32.

SECTION 14. AMENDMENT. Section 6-03-11 of the North Dakota Century Code is amended and reenacted as follows:

6-03-11. Conversion, consolidation, or merger.

Any two or more banking institutions ~~as defined in section 6-01-02~~ upon making application to the state banking board may consolidate or merge if authorized by the board into one banking institution under the charter of either existing banking institution on such terms and conditions as lawfully may be agreed upon by a majority of the board of directors of each banking institution proposing to consolidate or merge subject to rules adopted by the state banking board. Before becoming final, such consolidation or merger must be ratified and confirmed by the vote of the shareholders of each such banking institution owning at least two-thirds of its capital stock outstanding at a meeting to be held on the call of the directors. Notice of such

meeting and of the purpose thereof must be given to each shareholder of record by registered or certified mail at least ten days prior to the meeting. The shareholders may unanimously waive such notice and may consent to such meeting and consolidation or merger in writing. The capital stock and surplus of such consolidated banking institution must not be less than that required under this title for the organization of a banking institution of the class of the largest consolidating banking institution. Immediately after the consolidation or merger a full report thereof, including a statement of the assets and liabilities of the consolidated banking institution, must be made to the commissioner by the surviving banking institution. Any banking institution may without approval by any state authority convert into or merge or consolidate with a national banking association as provided by federal law. A national bank proposing to merge into a state-chartered bank shall grant the commissioner discretionary authority to conduct an examination. The commissioner shall set fees for such examination at an hourly rate sufficient to cover all reasonable expenses of the department of financial institutions associated with the examination. Fees must be collected by the commissioner, ~~transferred to the state treasurer, and deposited in the financial institutions regulatory fund.~~

SECTION 15. AMENDMENT. Section 6-03-13 of the North Dakota Century Code is amended and reenacted as follows:

6-03-13. Conversion to national bank - Sale of bank - Removal to new location.

An association organized to do business in any city in this state, and which has sold or converted its business to a national bank or to any other banking association which is continued at the same place, may not use its charter to recommence business at another place without first obtaining the consent of the state banking board. When a banking association which has not so converted or sold its business is located at a place where there is not, or can reasonably project that there will not be, sufficient business for the profitable conduct of a bank, such association may apply to the state banking board for authority to remove its business to some other place within the state and to change its name if desired, and upon the approval of such application, by the board and the proper amendment of the articles of incorporation, the board may issue authority for such removal and change. No such association, however, is permitted to remove its business to any city unless it has the full amount of capital stock and surplus required by this title for a new organization in such city. A banking association may apply to the state banking board for authority to move its main office to any location currently being operated by the banking association as a facility or to another location within the same corporate city limits.

SECTION 16. AMENDMENT. Section 6-03-27 of the North Dakota Century Code is amended and reenacted as follows:

6-03-27. List of shareholders to be kept and filed.

1. The president ~~or cashier~~ of every banking institution formed pursuant to the provisions of this title, at all times, shall keep a true and correct list of the names and post-office addresses of all shareholders of such banking institution, with the amount of stock held by each, the date of transfer, and to whom transferred, which list shall be verified on the thirty-first day of December of each year. A copy of the verified list shall be filed in the office of the commissioner on the same date.
2. ~~Whenever a change in control occurs, a letter indicating the parties involved in the change, the amount of the stock, the date of the transfer, and to whom~~

~~transferred must be forwarded to the commissioner within ten days of such change. For purposes of this subsection, "control" means owning or controlling directly or indirectly or by acting through one or more persons, of the power to vote twenty-five percent or more of any class of voting securities of the association or banking institution, controlling in any manner the election of a majority of the directors of the association or banking institution, or directing the management or policies of the association or banking institution.~~

3. The commissioner may request at least annually a list of all shareholders of a bank holding company controlling a state-chartered banking institution.

SECTION 17. AMENDMENT. Section 6-03-37 of the North Dakota Century Code is amended and reenacted as follows:

6-03-37. Reserve funds.

~~Every banking association shall have on hand at all times in available funds an amount which equals a percentage of its demand deposits and amounts due to other banks, plus a percentage of its time deposits. Such percentage must be set by the state banking board. Such reserve funds may consist of cash on hand and balances due to the association from the Bank of North Dakota, a federal reserve bank, or good solvent state or national banks, approved by the commissioner for such purposes and located in such cities as will facilitate banking exchange. The commissioner, whenever the commissioner deems it necessary, may require such banking association, on fifteen days' notice in writing, to increase such reserve requirements to not more than twenty percent of its demand deposits nor more than ten percent of its time deposits. Cash items must not be included in computing reserve, and no association may carry as cash, or as cash items, any paper or other matter except legitimate bank exchange which will be cleared on the same or the next succeeding day. Whenever its reserve funds are below the required amount, no dividend may be paid.~~

~~If on any one day, reserves do not meet the requirements, it is not a violation of this section provided that the average reserve for the period starting on Thursday of the same calendar week and ending on the second Wednesday following, equals or exceeds the minimum requirements.~~

~~The commissioner must notify any association whose reserve is below the amount required to make good such reserve, and if such association fails to do so for a period of thirty days after such notice, the state banking board may impose a penalty of not less than one hundred dollars or an amount equal to seven percent per annum based on the average deficiency for the period of deficiency, whichever is greater, which must be collected in the same manner as other penalties prescribed in this title meets the requirements of the board of governors of the federal reserve system.~~

SECTION 18. Section 6-03-59.2 of the North Dakota Century Code is created and enacted as follows:

6-03-59.2. Lease financing of public facilities.

A state-chartered bank may purchase or construct a municipal building, school building, or other similar public facility and, as holder of legal title, lease the facility to a municipality or other public authority having resources sufficient to make all rental payments as they become due. The lease agreement must provide that the lessee will become the owner of the building or facility upon the expiration of the lease. All

leases provided in accordance with this section must be subject to the bank's legal lending limit.

SECTION 19. AMENDMENT. Section 6-05-04.1 of the North Dakota Century Code is amended and reenacted as follows:

6-05-04.1. Right of action against deposit.

The security deposited with the ~~state treasurer~~department of financial institutions as provided in section 6-05-04 must be held by the ~~state treasurer~~department of financial institutions for the benefit of any person making any transfer or deposit of money or property in the state of North Dakota to or with any trust company and who suffers loss or damage because of the breach of any trust committed by such trust company. Any judgment obtained by any such person from any court of competent jurisdiction may be satisfied from the security deposited with the ~~state treasurer~~department of financial institutions.

SECTION 20. AMENDMENT. Section 6-05-15.1 of the North Dakota Century Code is amended and reenacted as follows:

6-05-15.1. Corporate trustee - Investment of trust funds - Commingling funds.

Any trust company may invest all moneys received by it in authorized securities, and shall be responsible to the owner or ~~estui que~~beneficiary of a trust for the validity, regularity, quality, value, and genuineness of these investments and securities so made, and for the safekeeping of the securities and evidences thereof. When special directions are given in any order, judgment, decree, will, or other written instrument as to the particular manner or the particular class or kind of securities or property in which any investment must be made, it shall follow such directions, and in such case it is not further responsible by reason of the performance of such trust. In all other cases it may invest funds held in any trust capacity in authorized securities using its best judgment in the selection thereof, and shall be responsible for the validity, regularity, quality, and value thereof at the time made, and for their safekeeping. Whether it be the sole trustee or one of two or more cotrustees, it may invest in fractional parts of, as well as in whole, securities, or may commingle funds for investment. If it invests in fractional parts of securities or commingles funds for investment, all of the fractional parts of such securities, or the whole of the funds so commingled must be owned and held by the trust company in its several trust capacities, and it is liable for the administration thereof in all respects as though separately invested. Funds so commingled for investment must be designated collectively as a common trust fund. It may, in its discretion, retain and continue any investment and security or securities coming into its possession in any fiduciary capacity. The foregoing applies as well whether a corporation trustee is acting alone or with an individual cotrustee.

SECTION 21. AMENDMENT. Section 6-05-26 of the North Dakota Century Code is amended and reenacted as follows:

6-05-26. Increase in capital stock - Action by stockholders - Report to state ~~treasurer~~banking board.

The capital stock of such a corporation may be increased from time to time by a majority vote of its stockholders. Such action may be taken at any regularly called general or special meeting held upon sixty days' notice, when in the notice of such meeting the object thereof has been set out fully. No such increase of capital stock is

valid unless paid in, in cash, and reported to the state ~~treasurer~~banking board in writing, verified by the oath of the president, secretary, or managing officer of the corporation.

SECTION 22. AMENDMENT. Section 6-05-28 of the North Dakota Century Code is amended and reenacted as follows:

6-05-28. Examination by commissioner - Fees - Power over business, officers, and employees.

The commissioner shall make a full, true, complete, and accurate examination and investigation of the affairs of each corporation doing business under this chapter as often as the commissioner deems necessary. Such examination must be made without previous notice to the corporation to be examined. Fees for such examinations 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 examinations provided for by this section. Fees must be paid to the ~~state treasurer~~department of financial institutions and deposited in the financial institutions regulatory fund. The commissioner, in the commissioner's discretion, may accept, in lieu of any examination authorized or required by this title to be conducted by the department of financial institutions, the examination that may have been made of such institution within a reasonable period by the federal reserve bank or federal deposit insurance corporation, if a copy of such examination is furnished to the commissioner. The commissioner shall assume and exercise over each such corporation and its business, officers, directors, and employees all the power and authority conferred upon the commissioner over financial or moneyed corporations or associations.

SECTION 23. AMENDMENT. Section 6-05-29 of the North Dakota Century Code is amended and reenacted as follows:

6-05-29. Duty of commissioner when examination discloses violation of law.

If it appears to the commissioner from any examination made by the commissioner that any such corporation has committed a violation of the law or that it is conducting its business in an unsafe or unauthorized manner, or that the deposit made by it with the ~~state treasurer~~department of financial institutions, as hereinbefore provided, is insufficient to protect the interests of all concerned, the commissioner, by an order addressed to such corporation, shall direct the discontinuance of such illegal or unsafe practice, and order it to conform with the requirements of the law or to make a further deposit with the ~~state treasurer~~department of financial institutions in an amount sufficient to insure the safety of its trusts, deposits, and liabilities. Whenever any corporation refuses to comply with any such order, or whenever it appears to the commissioner that it is unsafe or inexpedient for any such corporation to continue to transact business, the commissioner shall communicate the facts to the attorney general, who thereupon shall institute such proceedings against any such corporation as the case may require.

SECTION 24. AMENDMENT. Section 6-08-27 of the North Dakota Century Code is amended and reenacted as follows:

6-08-27. Resident place of business, branch office, or agency not authorized - Acts prohibitedApplication.

~~The provisions of sections 6-08-25 through 6-08-28 may not be construed to permit a~~ bank or trust company, organized and doing business under the laws of any

other state, territory, or district than the state of North Dakota, including a national bank doing business in any other state, ~~to~~may establish in this state a place of business, branch office, or agency for the conduct of business as a fiduciary to the extent that the state, territory, or district in which such bank or trust company is organized or has its principal place of business grants authority for a North Dakota state-chartered bank or trust company to establish a place of business, branch office, or agency for the conduct of business as a fiduciary within that state's, territory's, or district's jurisdiction.

~~No~~Prior to the establishment of any place of business, branch office, or agency, under this section, a bank or trust company organized and doing business under the laws of any state or territory of the United States of America, or of the District of Columbia, other than the state of North Dakota, or a national bank doing business in any other state, territory, or district, ~~may act in a fiduciary capacity in this state, except pursuant to the provisions of sections 6-08-25 through 6-08-28~~must submit a copy of its application to the North Dakota department of financial institutions for review and comment.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 78

HOUSE BILL NO. 1164

(Representative N. Johnson)
(Senator Campbell)

AN ACT to create and enact a new section to chapter 6-03 of the North Dakota Century Code, relating to a standard of conduct for directors of financial institutions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-03 of the North Dakota Century Code is created and enacted as follows:

Standard of conduct for directors of financial institutions.

1. A director shall discharge the duties of the position of director in good faith, in a manner the director reasonably believes to be in the best interests of the financial institution, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a director of the financial institution.
2. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:
 - a. One or more officers or employees of the financial institution whom the director reasonably believes to be reliable and competent in the matters presented;
 - b. Counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence; or
 - c. A committee of the board upon which the director does not serve, duly established by the board as to matters within its designated authority, if the director reasonably believes the committee to merit confidence.
3. Subsection 2 does not apply to a director who has specialized knowledge concerning the matter in question that makes the reliance otherwise permitted by subsection 2 unwarranted.
4. A director who is present at a meeting of the board when an action is approved by the affirmative vote of a majority of the directors present is presumed to have assented to the action approved, unless the director:
 - a. 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 thereafter in the meeting, in which case the director shall not be considered to be present at the meeting for any purpose;

- b. Votes against the action at the meeting; or
- c. Is prohibited from voting on the action:
 - (1) By the articles;
 - (2) By the bylaws;
 - (3) As the result of a decision to approve, ratify, or authorize a transaction that meets the standards and follows the process stated in section 10-19.1-51 for a business corporation; or
 - (4) By a conflict of interest policy adopted by the board.
- 5. A director's personal liability to the financial institution or its shareholders for monetary damages for breach of fiduciary duty as a director may be eliminated or limited in the articles. The articles may not eliminate or limit the liability of a director:
 - a. For any breach of the director's duty of loyalty to the financial institution or its shareholders;
 - b. For acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
 - c. For illegal distributions which a director who is present and not disqualified from acting has voted for or failed to vote against;
 - d. For any transaction from which the director derived an improper personal benefit; or
 - e. For any act or omission occurring prior to the date when the provision in the articles eliminating or limiting liability becomes effective.
- 6. In discharging the duties of the position of director, a director may, in considering the best interests of the financial institution, consider the interests of the financial institution's employees, customers, suppliers, and creditors; the economy of the state and nation; community and societal considerations; and the long-term and short-term interests of the financial institution and its shareholders, including the possibility these interests may be best served by the continued independence of the financial institution.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 79

HOUSE BILL NO. 1243

(Representatives Dockter, Becker)
(Senator Poolman)

AN ACT to amend and reenact sections 6-08-16 and 6-08-16.2 of the North Dakota Century Code, relating to issuance of checks without sufficient funds or without an account.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁶ **SECTION 1. AMENDMENT.** Section 6-08-16 of the North Dakota Century Code is amended and reenacted as follows:

6-08-16. Issuing check or draft without sufficient funds or credit - Notice - Time limitation - Financial liability - Penalty.

1. A person may not, for that person, as the agent or representative of another, or as an officer or member of a ~~firm, company, copartnership, or corporation~~ an organization, make, draw, utter, or deliver any check, draft, or order, or authorize an electronic funds transfer, for the payment of money upon a bank, banker, or depository, if at the time of the making, drawing, uttering, electronically authorizing, or delivery, or at the time of presentation for payment, if the presentation for payment is made within fourteen days after the original delivery thereof, there are not sufficient funds in or credit with the bank, banker, or depository to meet the check, draft, electronic funds transfer, or order in full upon its authorized presentation. Violation of this subsection is:
 - a. An infraction if the amount of insufficient funds or credit is not more than fifty dollars;
 - b. A class B misdemeanor if the amount of insufficient funds or credit is more than fifty dollars but not more than two hundred fifty dollars, or if the individual has pled guilty or been found guilty of a violation of this section within three years of issuing an insufficient funds check, draft, or order;
 - c. A class A misdemeanor if the amount of insufficient funds or credit is more than two hundred fifty dollars but not more than five hundred dollars, or if the individual has pled guilty or been found guilty of two violations of this section within three years of issuing an insufficient funds check, draft, or order; or
 - d. A class C felony if the amount of insufficient funds or credit is more than five hundred dollars, or an individual has pled guilty or been found guilty of three or more violations of this section within five years of willfully issuing an insufficient funds check, draft, or order.

²⁶ Section 6-08-16 was also amended by section 1 of Senate Bill No. 2251, chapter 104.

2. The grade of an offense under this section may be determined by individual or aggregate totals of insufficient funds checks, drafts, electronic funds transfer authorizations, or orders.
 - a. ~~The~~ In addition to the criminal penalty, the person is also liable for collection fees or costs, not in excess of thirty-five forty dollars, which are recoverable by the holder, or its agent or representative, of the check, draft, electronic funds transfer authorization, or order or by the holder's agent or representative. If the holder of the check, draft, electronic funds transfer authorization, or order or the holder's agent or representative uses the automated clearinghouse network to collect the collection fees or costs, that person shall comply with the network's rules and requirements. If the state's attorney or holder determines the person identified as the issuer of the instrument did not make, draw, utter, or deliver the instrument in violation of this section but instead is the victim of fraud, that state's attorney or holder shall provide the holder or ~~its~~ the holder's agent or representative written notice of the fraud and upon receipt of the notice that holder or ~~its~~ the holder's agent or representative may not collect fees or costs under this subdivision.
 - b. A collection agency shall reimburse the original holder of the check, draft, electronic funds transfer authorization, or order any additional charges assessed by the depository bank of the check, draft, electronic funds transfer authorization, or order if recovered by the collection agency.
 - c. If the person does not pay the instrument in full and any collection fees or costs not in excess of ~~thirty-five forty~~ dollars within ten days from receipt of the notice of dishonor provided for in subsection 4, ~~a civil penalty is also recoverable by civil action by the holder, or its agent or representative, of the check, draft, electronic funds transfer authorization, or order or the holder's agent or representative is entitled to bring a civil action to recover a civil penalty.~~ The civil penalty ~~consists of~~ is payment to the holder, ~~or its agent or representative,~~ of the instrument ~~or for the holder's agent or representative~~ the lesser of two hundred dollars or three times the amount of ~~the~~ each instrument.
 - d. The court may order an individual convicted under this section to undergo an evaluation by a licensed gaming, alcohol, or drug addiction counselor.
3. The word "credit" as used in this section means an arrangement or understanding with the bank, banker, or depository for the payment of the check, draft, electronic funds transfer authorization, or order. The making of a postdated check knowingly received as such, or of a check issued under an agreement with the payee that the check would not be presented for payment for a time specified, does not violate this section.
4. A notice of dishonor may be mailed by the holder, ~~or the holder's agent or representative,~~ of the check upon dishonor or by the holder's agent or representative upon dishonor. Proof of mailing may be made by return receipt or by an affidavit of mailing signed by the individual making the mailing. The notice must be in substantially the following form:

Notice of Dishonored Check

Date _____
 Name of Issuer _____
 Street Address _____
 City and State _____
 You are according to law notified that a check dated _____,
 _____, drawn on the _____ Bank
 of _____ in the amount of _____ has been returned
 unpaid with the notation the payment has been refused because
 of nonsufficient funds. Within ten days from the receipt of this
 notice, you must pay or tender to _____
 (Holder or agent or representative)
 sufficient moneys to pay such instrument in full and any collection
 fees or costs not in excess of thirty-fiveforty dollars.

The notice of dishonor also may contain a recital of the penal provisions of this section and the possibility of a civil action to recover any collection fees or costs or civil penalty authorized by this section.

5. An agent acting for the receiver of a check in violation of this section may present the check to the state's attorney for prosecution if the holder, or the holder's agent or representative, mailed a notice under subsection 4. During the first one hundred twenty days after the drawer received notice under this subsection the state's attorney shall accept the instrument presented by the agent. The criminal complaint for the offense of issuing a check, draft, electronic funds transfer authorization, or order without sufficient funds under this section must be executed within not more than one hundred twenty days after the dishonor by the drawee of said instrument for nonsufficient funds. The failure to execute a complaint within said time bars the criminal charge under this section.

²⁷ **SECTION 2. AMENDMENT.** Section 6-08-16.2 of the North Dakota Century Code is amended and reenacted as follows:

6-08-16.2. Issuing check without account - Financial liability - Penalty - Exceptions.

1. As used in this section unless the context otherwise requires:
 - a. "Account" means any account at a bank or depository from which an instrument could legally be paid.
 - b. "Dishonor" is synonymous with "nonpayment".
 - c. "Instrument" means any check, draft, electronic funds transfer authorization, or order for the payment of money.
 - d. "Issues" means draws, utters, electronically authorizes, or delivers.
2. A person ~~who~~that, for that person or as agent or representative of another, willfully as defined in section 12.1-02-02 issues any instrument is guilty of a class C felony if that person has been previously convicted of issuing an

²⁷ Section 6-08-16.2 was also amended by section 2 of Senate Bill No. 2251, chapter 104.

instrument without an account pursuant to section 6-08-16.1, and at the time of issuing the instrument the drawer does not have an account with the bank or depository on which the instrument is drawn.

3. A person ~~who~~that, for that person or an agent or representative of another, willfully as defined in section 12.1-02-02 issues any instrument is guilty of a class C felony if the instrument was for at least five hundred dollars or that person, agent, or representative of another, issues more than one instrument ~~wherein~~for which the aggregate total of all instruments issued exceeds five hundred dollars, and at the time of issuing the instrument, the drawer does not have an account with the bank or depository on which the instrument is drawn.
4. A person ~~who~~that issues an instrument under subsection 2 or 3 ~~also~~ is liable for collection fees or costs, not in excess of ~~thirty-five~~forty dollars per instrument; which are recoverable by the holder of the instrument, or the holder's agent or representative. If the state's attorney or holder determines the person identified as the issuer of the instrument did not issue the instrument in violation of this section but instead is the victim of fraud, that state's attorney or holder shall provide the holder or ~~its~~the holder's agent or representative written notice of the fraud and upon receipt of the notice that holder or ~~its~~that holder's agent or representative may not collect fees or costs under this subsection. ~~A civil penalty is also recoverable by civil action by the~~The holder, or its agent or representative, of the instrument or the holder's agent or representative is entitled to bring a civil action to recover a civil penalty. The civil penalty ~~consists of~~is payment to the holder of the instrument of the lesser of two hundred dollars or three times the amount of ~~the~~each instrument.
5. An agent acting for the receiver of an instrument issued in violation of this section may present the instrument to the state's attorney for prosecution if the holder, or the holder's agent or representative, mailed a notice under subsection 6. During the first one hundred twenty days after the drawer received notice under this subsection the state's attorney shall accept the instrument presented by the agent. A criminal complaint for violating this section must be executed within one hundred twenty days after the drawer receives notice from the holder, ~~or its agent or representative,~~ of a no-account or closed-account instrument or the holder's agent or representative.
6. A notice of dishonor may be mailed by the holder, ~~or the holder's agent or representative,~~ of the instrument upon dishonor or by the holder's agent or representative upon dishonor. Proof of mailing may be made by return receipt or by an affidavit of mailing signed by the individual making the mailing. The notice must be in substantially the following form:

Notice of Dishonored Instrument

Date _____
 Name of Issuer _____
 Street Address _____
 City and State _____
 You are according to law notified that an instrument dated _____,
 _____, drawn on the _____ Bank of
 _____ in the amount of _____ has been
 returned unpaid with the notation the payment has been refused
 because (of nonsufficient funds) (the drawer does not have an

account). Within ten days from the receipt of this notice, you must pay or tender to _____
(Holder or agent or representative)
sufficient moneys to pay such instrument in full and any collection fees or costs not in excess of ~~thirty-five~~forty dollars.

The notice may also contain a recital of the penal provisions of this section and the possibility of a civil action to recover any collection fees or costs authorized by this section.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 80

HOUSE BILL NO. 1078

(Industry, Business and Labor Committee)
(At the request of the Bank of North Dakota)

AN ACT to amend and reenact subsection 4 of section 6-09-15 of the North Dakota Century Code, relating to the investment of funds by the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 6-09-15 of the North Dakota Century Code is amended and reenacted as follows:

4. Invest its funds:
 - a. In conformity with policies of the industrial commission.
 - b. In a public venture capital corporation organized and doing business in this state through the purchase of shares of stock.
 - c. In North Dakota alternative and venture capital investments and early-stage capital funds, including the North Dakota development fund, incorporated, not to exceed ~~ten~~fifteen million dollars, for the purpose of providing funds for investment in North Dakota alternative and venture capital investments, early-stage capital funds, and entrepreneurship awards. The Bank may invest a maximum of two hundred thousand dollars per biennium in North Dakota-based venture capital entities that make investments in companies located outside North Dakota. The Bank may allow for third-party management of the funds invested under this subdivision if the management is provided by the North Dakota development fund, incorporated, or a third party that is located in the state and that has demonstrated fund management experience.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 81

SENATE BILL NO. 2064

(Government and Veterans Affairs Committee)
(At the request of the Bank of North Dakota)

AN ACT to amend and reenact section 6-09-44 of the North Dakota Century Code, relating to the Bank of North Dakota residential mortgage loan program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09-44 of the North Dakota Century Code is amended and reenacted as follows:

6-09-44. (Effective through July 31, 2013) Residential mortgages.

1. The Bank may establish a residential mortgage loan program under which the Bank may originate residential mortgages if private sector mortgage loan services are not reasonably available. Under this program a local financial institution or credit union may assist the Bank in taking a loan application, gathering required documents, ordering required legal documents, and maintaining contact with the borrower.
2. If the Bank establishes a program under this section, at a minimum the program must provide:
 - a. ~~The Bank originate no more than eight million dollars in conventional rural residential mortgages;~~
 - b. An applicant must be referred to the Bank by a local financial institution ~~and the Bank may not have received from any other local financial institution an objection to the Bank's program or credit union;~~
 - e-b. The loan application must be for an owner-occupied primary residence;
 - d-c. The Bank provide all regulatory disclosures, process and underwrite the loan, prepare closing documents, and disburse the loan; and
 - e-d. The terms of the loan originated by the Bank must provide:
 - (1) The amount of the loan may not exceed ~~two hundred thousand dollars~~ an amount to be established by Bank policy;
 - (2) The term of the loan may not exceed thirty years;
 - (3) The rate of the loan must be equal to the Bank's market rate;
 - (4) The maximum loan to value may not exceed eighty percent of appraised value; however, a local financial institution or credit union may take a second mortgage that does not exceed a combined loan to value of ninety-five percent; and

(5) Standard credit underwriting and documentation applies.

3. The Bank may sell eligible first-time home buyer loans to the North Dakota housing finance agency.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 82

HOUSE BILL NO. 1185

(Representatives Louser, Brabandt, Nathe, Ruby)
(Senators Burckhard, Poolman)

AN ACT to amend and reenact section 6-09-46 of the North Dakota Century Code, relating to extension of the rebuilders loan program; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁸ **SECTION 1. AMENDMENT.** Section 6-09-46 of the North Dakota Century Code is amended and reenacted as follows:

6-09-46. Rebuilders loan program - Loan fund - Continuing appropriation - Requirements.

1. The Bank of North Dakota shall maintain a loan fund to make or participate in loans to North Dakota residents affected by a presidentially declared disaster in the state for the purpose of the resident rebuilding the resident's flood-damaged home or purchasing a new home or for rebuilding nonowner-occupied property in the disaster-impacted community. Up~~For a resident rebuilding the resident's flood-damaged home or purchasing a new home.~~ up to twenty percent of the loan proceeds disbursed under this program may be used for debt service, debt retirement, or other credit obligations. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund of principal and interest on loans made from the fund are appropriated for the purpose of providing loans in accordance with this section.
2. The Bank shall administer and supervise the loan fund and loans made from the fund. The Bank may deduct, from interest payments received on loans, a service fee for administering the fund for the Bank and originating financial institutions. An application for a loan from the fund must be made to the Bank or originating financial institution and, upon approval, a loan must be made from the fund in accordance with this section.
3. A loan may be made from the fund only to a homeowner residing, or owner of nonowner-occupied property, in an area in this state in which federal emergency management agency individual assistance was available to homeowners after a presidentially declared disaster in the state as a result of a flood event occurring during 2011. A loan may be made from the fund only to a homeowner residing in this state whose home, or owner of nonowner-occupied property whose property, was granted a reduction in 2011 in true and full valuation from the individual's property's pre-flood value by an assessment reduction pursuant to the governor's executive order 2011-22 or by an abatement for flood-damaged property granted by the board of county commissioners. In order for an owner of nonowner-occupied property to

²⁸ Section 6-09-46 was also amended by section 1 of Senate Bill No. 2132, chapter 83.

qualify for a loan under this section, the owner of the property must have been the owner at the time of the presidentially declared disaster and the number of households in the property rebuilt under this section must remain the same as before the presidentially declared disaster. The owner of nonowner-occupied property is eligible for only one loan for nonowner-occupied property under this section and that loan must be secured by the property for which the loan is made. An initial loan made to a homeowner or owner of nonowner-occupied property under this section from state funds may not exceed thirty thousand dollars or the actual amount of documented damage not paid by flood insurance, whichever is less. If federal funds are made available for this program, an additional amount as determined by the Bank may be borrowed by eligible homeowners who received an initial loan of thirty thousand dollars. For purposes of this section, "nonowner-occupied property" means property consisting of one or more rental dwelling units, none of which is occupied by the owner, and does not include hotel or motel accommodations or any other commercial property.

4. A loan from the fund must have the interest rate fixed at one percent per year for no more than twenty years.
5. For every loan made from the fund to a homeowner to rebuild or replace that individual's flood-damaged home, principal and interest payments must be deferred for the first twenty-four months of the loan. There is no deferral of principal and interest payments for a loan for nonowner-occupied property.
6. A loan application for a loan for nonowner-occupied property under this section may not be accepted after September 30, 20122013.
7. If, subsequent to receiving a loan from the fund, the property for which the loan was made is purchased for flood mitigation purposes or otherwise sold, the balance of the loan and any interest accrued on the loan must be repaid to the fund upon the closing of the sale.
8. The industrial commission shall contract with a certified public accounting firm to audit the fund as necessary. The cost of the audit, and any other actual costs incurred by the Bank on behalf of the fund, must be paid by the fund.
9. The Bank shall adopt policies to implement this section.

SECTION 2. EXEMPTION - REBUILDERS LOAN PROGRAM. The amount appropriated for the rebuilders loan program fund, as contained in section 8 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 for continuation of the rebuilders loan program during the biennium beginning July 1, 2013, and ending June 30, 2015.

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

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 83

SENATE BILL NO. 2132

(Senator Krebsbach)

(Representatives Frantsvog, Maragos)

AN ACT to amend and reenact section 6-09-46 of the North Dakota Century Code, relating to the rebuilders loan program; to provide an exemption; to provide for transfers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁹ **SECTION 1. AMENDMENT.** Section 6-09-46 of the North Dakota Century Code is amended and reenacted as follows:

6-09-46. Rebuilders loan program - Loan fund - Continuing appropriation - Requirements.

1. The Bank of North Dakota shall maintain a loan fund to make or participate in loans to North Dakota residents affected by a presidentially declared disaster in the state for the purpose of the resident rebuilding the resident's flood-damaged home or purchasing a new home or federal emergency management agency temporary housing unit located in a community-approved group housing site in the disaster-impacted community. ~~Up~~For a resident rebuilding the resident's flood-damaged home or purchasing a new home, up to twenty percent of the loan proceeds disbursed under this program may be used for debt service, debt retirement, or other credit obligations. All moneys transferred into the fund, interest upon moneys in the fund, and payments to the fund of principal and interest on loans made from the fund are appropriated for the purpose of providing loans in accordance with this section.
2. The Bank shall administer and supervise the loan fund and loans made from the fund. The Bank may deduct, from interest payments received on loans, a service fee for administering the fund for the Bank and originating financial institutions. An application for a loan from the fund must be made to the Bank or originating financial institution and, upon approval, a loan must be made from the fund in accordance with this section.
3. A loan may be made from the fund only to a resident of a federal emergency management agency temporary housing unit located in a community-approved group housing site or a homeowner residing in an area in this state in which federal emergency management agency individual assistance was available to homeowners after a presidentially declared disaster in the state as a result of a flood event occurring during 2011. A loan may be made from the fund only to a resident of a federal emergency management agency temporary housing unit located in a community-approved group housing site or a homeowner residing in this state whose home was granted a reduction in 2011 in true and full valuation from

²⁹ Section 6-09-46 was also amended by section 1 of House Bill No. 1185, chapter 82.

the individual's property's preflood value by an assessment reduction pursuant to the governor's executive order 2011-22 or by an abatement for flood-damaged property granted by the board of county commissioners. An initial loan made to a homeowner under this section from state funds may not exceed thirty thousand dollars or the actual amount of documented damage not paid by flood insurance, whichever is less. If federal funds are made available for this program, an additional amount as determined by the Bank may be borrowed by eligible homeowners who received an initial loan of thirty thousand dollars. A supplemental loan of up to twenty thousand dollars may be made to a homeowner who has received an initial loan under this section if the full amount of the initial loan and supplemental loan is secured by the property and does not exceed the actual amount of documented damage not paid by flood insurance. A loan made to a resident of a federal emergency management agency temporary housing unit located in a community-approved group housing site may not exceed thirty thousand dollars or the purchase price as established by the federal emergency management agency, whichever is less.

4. A loan from the fund must have the interest rate fixed at one percent per year for no more than twenty years.
5. For every loan made from the fund, principal and interest payments must be deferred for the first twenty-four months of the loan.
6. A loan application for an initial loan to a homeowner or for a federal emergency management agency temporary housing unit under this section may not be accepted after September 30, 2012. A loan application for a supplemental loan to a homeowner may not be accepted before October 1, 2013, nor after December 31, 2013.
7. If, subsequent to receiving a loan from the fund, the property for which the loan was made is purchased for flood mitigation purposes or otherwise sold, the balance of the loan and any interest accrued on the loan must be repaid to the fund upon the closing of the sale. If the rebuilders loan borrower provides financial evidence satisfactory to the Bank of North Dakota to show that the borrower does not have the financial ability to repay the rebuilders loan in full upon sale of the property, after the sale of the property the Bank of North Dakota may allow the borrower to continue to make payments based on the loan terms.
8. The industrial commission shall contract with a certified public accounting firm to audit the fund as necessary. The cost of the audit, and any other actual costs incurred by the Bank on behalf of the fund, must be paid by the fund.
9. The Bank shall adopt policies to implement this section.

SECTION 2. EXEMPTION - REBUILDERS LOAN PROGRAM. The amount appropriated for the rebuilders loan program fund, as contained in section 8 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 for continuation of the rebuilders loan program during the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. TRANSFERS - BANK OF NORTH DAKOTA - REBUILDERS LOAN PROGRAM FUND. The Bank of North Dakota shall transfer the sum of \$5,000,000, or so much of the sum as may be necessary, from the Bank's current earnings and

undivided profits to the rebuilders loan program fund during the period beginning with the effective date of this Act and ending June 30, 2015. After June 30, 2013, repayments to the rebuilders loan program fund shall be transferred to replenish \$30,000,000 of the Bank of North Dakota's undivided profits which was transferred to the rebuilders loan program fund under section 7 of chapter 579 of the 2011 Session Laws and after that amount has been replenished, repayments to the rebuilders loan program fund must be transferred to replenish \$5,000,000 of the Bank of North Dakota's current earnings and undivided profits which was transferred to the rebuilders loan program fund under this section. On an annual basis, the Bank of North Dakota shall transfer repayments to the rebuilders loan program fund to the state treasurer for deposit in the state general fund in any amount exceeding the \$35,000,000 used to replenish the Bank of North Dakota's undivided profits under this section.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 25, 2013
Filed April 25, 2013

CHAPTER 84

SENATE BILL NO. 2187

(Senators J. Lee, Bowman, Mathern)
(Representatives Kempenich, J. Nelson, Holman)

AN ACT to create and enact section 6-09-47 of the North Dakota Century Code, relating to a Bank of North Dakota medical facility infrastructure loan program; to provide for a report; to provide for a transfer; to provide a contingent appropriation; to provide a continuing appropriation; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 6-09-47 of the North Dakota Century Code is created and enacted as follows:

6-09-47. (Effective through July 31, 2017) Medical facility infrastructure loan program - 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. All moneys in the medical facility infrastructure 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 2. APPROPRIATION - TRANSFER. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$50,000,000, or so much of the sum as may be necessary, to the medical facility infrastructure fund for use by the Bank of North Dakota to provide medical facility infrastructure loans under section 1 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015. In addition, any amount authorized by the state board of university and school lands under House Bill No. 1319, as enacted by the sixty-third legislative assembly, after December 31, 2014, as uncommitted school construction loans shall be transferred to the medical facility infrastructure fund and is appropriated for the purpose of loans by the Bank of North Dakota to provide medical facility infrastructure loans under section 1 of this Act.

SECTION 3. BALANCE TRANSFER. The Bank of North Dakota shall transfer any balance remaining in the medical facility infrastructure fund on July 31, 2017, to the state treasurer for deposit in the strategic investment and improvements fund.

SECTION 4. REPORT TO LEGISLATIVE ASSEMBLY. The Bank of North Dakota shall report to the sixty-fourth and sixty-fifth legislative assemblies on the status of the loan program provided for in this Act.

Approved May 3, 2013
Filed May 7, 2013

CHAPTER 85**SENATE BILL NO. 2096**

(Education Committee)
(At the request of the Bank of North Dakota)

AN ACT to create and enact a new section to chapter 6-09 of the North Dakota Century Code, relating to funds received by the Bank of North Dakota in relation to the federal student loan program; to provide a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 6-09 of the North Dakota Century Code is created and enacted as follows:

Funds received in relation to federal student loan program - Administration - Continuing appropriation.

1. The Bank of North Dakota shall administer and manage the funds received in relation to the federal student loan program under section 2212 of the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152].
2. The funds shall be used to support the functions of the Bank related to higher education.
3. The funds received by the Bank under subsection 1 are appropriated on a continuing basis to be used as provided in this section.
4. These funds are not subject to section 54-44.1-11.

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

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 86

SENATE BILL NO. 2057

(Political Subdivisions Committee)
(At the request of the Public Finance Authority)

AN ACT to amend and reenact section 6-09.4-10 of the North Dakota Century Code, relating to the reserve fund for public finance authority bonds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 6-09.4-10 of the North Dakota Century Code is amended and reenacted as follows:

6-09.4-10. Reserve fund.

1. The public finance authority shall establish and maintain a reserve fund in which there must be deposited all moneys appropriated by the state for the purpose of the fund, all proceeds of bonds required to be deposited therein by terms of any contract between the public finance authority and its bondholders or any resolution of the public finance authority with respect to the proceeds of bonds, any other moneys or funds of the public finance authority which it determines to deposit therein, any contractual right to the receipt of moneys by the public finance authority for the purpose of the fund, including a letter of credit or similar instrument, and any other moneys made available to the public finance authority only for the purposes of the fund from any other source or sources. Moneys in the reserve fund must be held and applied solely to the payment of the interest on and the principal of bonds and sinking fund payments as the same become due and payable and for the retirement of bonds, including payment of any redemption premium required to be paid when any bonds are redeemed or retired prior to maturity. Moneys in the reserve fund may not be withdrawn therefrom if the withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds and the principal of bonds then maturing and payable and sinking fund payments and for the retirement of bonds in accordance with the terms of any contract between the public finance authority and its bondholders and for the payments on account of which interest or principal or sinking fund payments or retirement of bonds, other moneys of the public finance authority are not then available in accordance with the terms of the contract. The required debt service reserve must be an aggregate amount equal to at least the largest amount of money required by the terms of all contracts between the public finance authority and its bondholders to be raised in the then current or any succeeding calendar year for the payment of interest on and maturing principal of outstanding bonds, and sinking fund payments required by the terms of any contracts to sinking funds established for the payment or redemption of the bonds.
2. If the establishment of the reserve fund for an issue or the maintenance of an existing reserve fund at a required level under this section would necessitate the investment of all or any portion of a new reserve fund or all or any portion of an existing reserve fund at a restricted yield, because to not restrict the

yield may cause the bonds to be taxable under the Internal Revenue Code, then at the discretion of the public finance authority no reserve fund need be established prior to the issuance of bonds or the reserve fund need not be funded to the levels required by other subsections of this section or an existing reserve fund may be reduced.

3. No bonds may be issued by the public finance authority unless there is in the reserve fund the required debt service reserve for all bonds then issued and outstanding and the bonds to be issued. Nothing in this chapter prevents or precludes the public finance authority from satisfying the foregoing requirement by depositing so much of the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve the required debt service reserve. The public finance authority may at any time issue its bonds or notes for the purpose of providing any amount necessary to increase the amount in the reserve fund to the required debt service reserve, or to meet such higher or additional reserve as may be fixed by the public finance authority with respect to such fund.
4. In order to assure the maintenance of the required debt service reserve, there shall be appropriated by the legislative assembly and paid to the public finance authority for deposit in the reserve fund, such sum, if any, as shall be certified by the industrial commission as necessary to restore the reserve fund to an amount equal to the required debt service reserve. However, the commission may approve a resolution for the issuance of bonds, as provided by section 6-09.4-06, which states in substance that this subsection is not applicable to the required debt service reserve for bonds issued under that resolution.
5. If the maturity of a series of bonds of the public finance authority is three years or less from the date of issuance of the bonds, the public finance authority may determine that no reserve fund need be established for that respective series of bonds. If such a determination is made, holders of that respective series of bonds may have no interest in or claim on existing reserve funds established for the security of the holders of previously issued public finance authority bonds, and may have no interest in or claim on reserve funds established for the holders of subsequent issues of bonds of the public finance authority.

The industrial commission may determine that this section is inapplicable in whole or in part for bonds issued under section 6-09.4-24 or under the public finance authority's state revolving fund program.

Approved March 14, 2013
Filed March 15, 2013

CHAPTER 87

SENATE BILL NO. 2287

(Senators Wanzek, Schneider, Wardner)
(Representatives Brandenburg, Headland, Pollert)

AN ACT to amend and reenact sections 6-09.7-02, 6-09.7-03, and 6-09.7-05 of the North Dakota Century Code, relating to the fuel production facility loan guarantee program; to repeal section 6-09.7-03 of the North Dakota Century Code, relating to the fuel production facility loan guarantee program; 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. AMENDMENT. Section 6-09.7-02 of the North Dakota Century Code is amended and reenacted as follows:

6-09.7-02. (Effective through July 31, 2015) Powers and duties of the Bank of North Dakota.

The Bank of North Dakota may:

1. Guarantee the loan of money by eligible banks, credit unions, and savings and loan associations, upon such terms, conditions, and procedures as it may establish in accordance with the provisions of this chapter, to any qualified person to assist that person in constructing an agriculturally derived fuel production facility. The facility must use biomass for agriculturally derived fuel production.
2. Take, hold, and administer, on behalf of the state from any source, any property, or any interest in the property, and the income therefrom, either absolutely or in trust, for any purpose of the guarantee loan program; provided, that no guarantee obligation of the Bank is payable out of any moneys of the Bank except those made available to the Bank under this chapter.
3. Adopt standards governing the qualifications and financial needs of applicants; establish a method of application for the guaranteeing of loans that may be made by banks, credit unions, farm credit associations, and savings and loan associations; and adopt any other standards necessary to administer this chapter.

(Effective after July 31, 2015) Powers and duties of the Bank of North Dakota. The Bank of North Dakota may:

1. ~~Guarantee the loan of money by eligible banks, credit unions, and savings and loan associations, upon such terms, conditions, and procedures as it may establish in accordance with the provisions of this chapter, to any qualified person to assist that person in constructing agriculturally derived fuel production facilities of a size to serve the community in or near which the facility is located. The facility must use grain-related and biomass farm products for agriculturally derived fuel production.~~

2. Take ~~take~~, hold, and administer, on behalf of the state from any source, any property, or any interest therein ~~in the property~~, and the income therefrom, either absolutely or in trust, for any purpose of the state guarantee loan program; provided, that no guarantee obligation of the Bank is payable out of any moneys of the Bank except those made available to ~~it~~ the Bank under this chapter.
3. ~~Adopt standards governing the qualifications and financial needs of applicants, and establish a method of application for the guaranteeing of loans which may be made by banks, credit unions, and savings and loan associations, and any other standards as may be necessary to administer properly this chapter.~~

³⁰ **SECTION 2. AMENDMENT.** Section 6-09.7-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.7-03. (Effective through July 31, 2013) Extent of loan guarantee.

The extent of the loan guarantee under this chapter may not exceed ~~twenty-five~~ thirty percent of the total loan. The maximum dollar amount of any guarantee on a single loan may not exceed ~~twelve~~ twenty-five million ~~five hundred thousand~~ dollars. The extent of the value of all loan guarantees under this chapter may not, at any one time, exceed twenty-five million dollars.

(Effective after July 31, 2013) Extent of loan guarantee. The extent of the loan guarantee under this chapter may not exceed twenty-five percent of the total loan. The maximum dollar amount of any guarantee on a single loan may not exceed two million five hundred thousand dollars. The extent of the value of all loan guarantees under this chapter may not, at any one time, exceed ten million dollars.

SECTION 3. AMENDMENT. Section 6-09.7-05 of the North Dakota Century Code is amended and reenacted as follows:

6-09.7-05. (Effective through July 31, 2013) Establishment and maintenance of adequate guarantee funds - Use of strategic investment and improvements fund.

The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The Bank may request the director of the office of management and budget to transfer funds from the strategic investment and improvements fund created by section 15-08.1-08 to maintain ~~twenty-five~~ one hundred percent of the guarantee reserve fund balance. Transfers from the strategic investment and improvements fund may not exceed a total of ~~six~~ twenty-five million ~~two hundred fifty thousand~~ dollars. Moneys in the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program ~~shall~~ must be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula ~~which~~ that will assure, as determined by the Bank, an adequate amount of reserve.

³⁰ Section 6-09.7-03 was repealed by section 4 of Senate Bill No. 2287, chapter 87.

~~(Effective after July 31, 2013) Establishment and maintenance of adequate guarantee funds – Use of strategic investment and improvements fund. The Bank of North Dakota shall establish and at all times maintain an adequate guarantee reserve fund in a special account in the Bank. The guarantee reserve fund must be maintained from the strategic investment and improvements fund created by section 15-08.1-08 and any moneys transferred from the strategic investment and improvements fund to maintain the guarantee reserve fund are available to reimburse lenders for guaranteed loans in default. The securities in which the moneys in the reserve fund may be invested must meet the same requirements as those authorized for investment under the state investment board. The income from such investments must be made available for the costs of administering the state guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The amount of reserves for all guaranteed loans must be determined by a formula which will assure, as determined by the Bank, an adequate amount of reserve.~~

³¹ **SECTION 4. REPEAL.** Section 6-09.7-03 of the North Dakota Century Code is repealed.

SECTION 5. EFFECTIVE DATE. Section 4 of this Act becomes effective August 1, 2015.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 26, 2013

Filed March 27, 2013

³¹ Section 6-09.7-03 was amended by section 2 of Senate Bill No. 2287, chapter 87.

CHAPTER 88

HOUSE BILL NO. 1079

(Industry, Business and Labor Committee)
(At the request of the Bank of North Dakota)

AN ACT to amend and reenact section 6-09.14-03 and subsection 4 of section 6-09.14-04 of the North Dakota Century Code and section 22 of chapter 579 of the 2011 Session Laws, relating to the partnership in assisting community expansion program at the Bank of North Dakota; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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, 20132015.

SECTION 2. AMENDMENT. Section 6-09.14-03 of the North Dakota Century Code is amended and reenacted as follows:

6-09.14-03. Fund - Purpose - Interest rate buydown.

Moneys in the partnership in assisting community expansion fund must be used for the purpose of buying down the interest rate on loans made by a lead financial institution in participation with the Bank of North Dakota. The Bank of North Dakota's participation may not exceed eighty percent nor be less than fifty percent of the total loans. If the loan is approved by the lenders and there is evidence of the community's commitment and ability to fund its portion of the buydown, the fund's participation in the buydown must automatically be approved. The community's contribution of direct cash, loans, equity investments, land, property, or infrastructure may count toward the community's funding of its portion of the buydown.

SECTION 3. AMENDMENT. Subsection 4 of section 6-09.14-04 of the North Dakota Century Code is amended and reenacted as follows:

4. The maximum amount from the fund in the interest rate buydown may not exceed ~~three~~five hundred thousand dollars per loan. The fund participation must be limited to the amount required to buy down the interest to five hundred basis points below the national prime interest rate.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 10, 2013
Filed April 10, 2013

CORPORATIONS

CHAPTER 89

SENATE BILL NO. 2266

(Senators Hogue, Andrist, Armstrong, Burckhard, Grabinger)
(Representative Glassheim)

AN ACT to amend and reenact sections 10-06.1-17 and 10-15-05, subsection 2 of section 10-15-12, section 10-19.1-01, subsection 1 of section 10-19.1-10, sections 10-19.1-17 and 10-19.1-115, subsection 2 of section 10-19.1-146, subsection 1 of section 10-32-07, section 10-32-14, subsection 1 of section 10-33-06, section 10-33-14, subsection 3 of section 10-34-04, and subsection 2 of section 10-35-28 of the North Dakota Century Code, relating to cooperative association of articles of incorporation and address of the principal office, business corporation definitions, articles of incorporation, amendment of articles of incorporation, involuntary dissolution, limited liability company articles of organization and amendment of the articles of organization, nonprofit corporation articles of incorporation and amendment of articles of incorporation, and contents of the registration a real estate investment trust.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 ~~5354~~ of section 10-19.1-01 if a corporation and subsection 58 of section 10-32-02 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.

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 10-32-149 except that the penalties must be calculated from the date of the report required by this section.

SECTION 2. AMENDMENT. Section 10-15-05 of the North Dakota Century Code is amended and reenacted as follows:

10-15-05. Articles - Provisions.

The articles of association shall set forth:

1. The name of the cooperative.
2. The period of existence, unless perpetual. Cooperatives now organized under the provisions of chapter 4-07 or 10-15 are granted perpetual existence irrespective of the period of existence set forth in articles of incorporation. Any such cooperative may nevertheless amend its articles to provide for a limited period of existence.
3. The purposes for which organized. It is sufficient to state that the cooperative may engage in any activity within the purposes for which cooperatives may be organized, and all such activities shall then be deemed within its purposes, subject to express limitations.
4. Whether the cooperative is organized with or without capital stock.
5. The designation of classes of members, if more than one.
6. The number and par value of shares of each authorized class of stock. If more than one class is authorized, the designation, preferences, limitations, and relative rights of each class shall also be set forth.
7. Which classes of stock are membership stock.
8. As to each class of stock, the rate of dividend, or that the rate of dividend may be fixed by the board, or that no dividend will be paid.
9. Any reservation of a right to acquire or recall any stock.
10. The basis of distribution of assets in the event of liquidation.
11. The complete address ~~in this state~~ where the cooperative's principal office is to be located ~~or the name and complete address in this state of the cooperative's registered agent.~~
12. If the address of the principal office is not located in North Dakota, the name and complete address in this state of the cooperative's registered agent.
13. The name and address of each incorporator.
- ~~13-14.~~ The names and addresses of at least five incorporators who will act as the temporary board.
- ~~14-15.~~ The effective date of the cooperative if a later date than that on which the certificate of association is issued by the secretary of state. A later effective

date may not be later than ninety days after the date on which the certificate of association is issued.

SECTION 3. AMENDMENT. Subsection 2 of section 10-15-12 of the North Dakota Century Code is amended and reenacted as follows:

2. The board may establish a registered agent and address of the registered agent or change the location of the principal office by causing a statement in writing to be filed as an amendment to the articles as provided in section 10-15-53 or, if only a change of address of the principal office is required, an amendment need not be filed; however, the change of address of the principal office must then be reported on the annual report filed after the change. Such if a written statement is filed, the statement shall set forth the name of the cooperative, the name and address of the registered agent as established, and the location of its principal office as ~~established or~~ changed. For the purposes of this chapter, the post-office address of an existing cooperative becoming subject to this chapter, as set forth in the articles for its business office, shall be considered its registered office and the secretary of the cooperative shall be considered its registered agent unless the articles are amended otherwise.

SECTION 4. AMENDMENT. Section 10-19.1-01 of the North Dakota Century Code is amended and reenacted as follows:

10-19.1-01. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. "Acquiring corporation" means the domestic or foreign corporation that acquires the shares of a corporation in an exchange.
2. "Acquiring organization" means the foreign or domestic organization acquiring the ownership interests of another foreign or domestic organization participating in an exchange.
3. "Address" means:
 - a. In the case of a registered office or principal executive office, the mailing address, including the zip code, of the actual office location, which may not be only a post-office box; and
 - b. In any other case, the mailing address, including the zip code.
4. "Articles" means:
 - a. In the case of a corporation incorporated under or governed by this chapter, articles of incorporation, articles of amendment, a resolution of election to become governed by this chapter, a demand retaining the two-thirds majority for shareholder approval of certain transactions, 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 shares, a statement of cancellation of authorized shares, articles of merger, articles of abandonment, articles of conversion, and articles of dissolution.

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- b. In the case of a foreign corporation, the term includes all records serving a similar function required to be filed with the secretary of state or other officer of the state of incorporation of the foreign corporation.
 5. "Authenticated electronic communication" means:
 - a. That the electronic communication is delivered:
 - (1) To the principal place of business of the corporation; or
 - (2) To an officer or agent of the corporation authorized by the corporation to receive the electronic communication; and
 - b. That the electronic communication sets forth information from which the corporation can reasonably conclude that the electronic communication was sent by the purported sender.
 6. "Ballot" means a written ballot or a ballot transmitted by electronic communications.
 7. "Board" or "board of directors" means the board of directors of a corporation.
 8. "Board member" means:
 - a. An individual serving on the board of directors in the case of a corporation; and
 - b. An individual serving on the board of governors in the case of a limited liability company.
 9. "Bylaws" means the code adopted for the regulation or management of the internal affairs of a corporation, regardless of how that code is designated.
 10. "Class", when used with reference to ownership interests, means a category of ownership interests that differs in designation or one or more rights or preferences from another category of ownership interests of the organization.
 11. "Closely held corporation" means a corporation that does not have more than thirty-five shareholders.
 12. "Constituent corporation" means a corporation or a foreign corporation that:
 - a. In a merger, is either the surviving corporation or a foreign or domestic corporation that is merged into the surviving organization; or
 - b. In an exchange, is either the acquiring corporation or a foreign or domestic corporation whose shares are acquired by the acquiring organization.
 13. "Constituent organization" means an organization that:
 - a. In a merger, is either the surviving organization or an organization that is merged into the surviving organization; or
 - b. In an exchange, is either the acquiring organization or an organization whose securities are acquired by the acquiring organization.

14. "Converted organization" means the organization into which a converting organization converts pursuant to sections 10-19.1-104.1 through 10-19.1-104.6.
15. "Converting organization" means an organization that converts into another organization pursuant to sections 10-19.1-104.1 through 10-19.1-104.6.
16. "Corporation" or "domestic corporation" means a corporation, other than a foreign corporation, organized for profit and incorporated under or governed by this chapter.
17. "Director" means a member of the board.
18. "Distribution" means a direct or indirect transfer of money or other property, other than its own shares, with or without consideration, or an incurrence or issuance of indebtedness, by a corporation to any of its shareholders in respect of its shares, and may be in the form of a dividend, an interim distribution, or a distribution in liquidation, or as consideration for the purchase, redemption, or other acquisition of its shares, or otherwise.
19. "Division" or "combination" means dividing or combining shares of a class or series, whether issued or unissued, into a greater or lesser number of shares of the same class or series.
20. "Domestic organization" means an organization created under the laws of this state.
21. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
22. "Electronic communication" means any form of communication, not directly involving the physical transmission of paper that:
 - a. Creates a record that may be retained, retrieved, and reviewed by a recipient of the communication; and
 - b. May be directly reproduced in paper form by the recipient through an automated process.
23. "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
24. "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.
25. "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 10-19.1-147, was delivered or communicated to the secretary of state by a method or medium of communication acceptable by the secretary of state and was determined by the secretary of state to conform to law.

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- 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 filing; and
 - (2) Record the record in the office of the secretary of state.
26. "Foreign corporation" means a corporation organized for profit which is incorporated under laws other than the laws of this state for a purpose for which a corporation may be incorporated under this chapter.
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 10-32.
28. "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.
29. "Good faith" means honesty in fact in the conduct of an act or transaction.
30. "Governing body" means for an organization that is:
- a. A corporation, its board of directors;
 - b. A limited liability company, its board of governors; 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.
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 10-32;
 - (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.
32. "Intentionally" means that the person referred to 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. A person "intentionally" violates a statute:

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- 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.
33. "Legal representative" means a person empowered to act for another person, including an agent, a manager, an officer, a partner, or an associate of an organization; a trustee of a trust; a personal representative; a trustee in bankruptcy; and a receiver, guardian, custodian, or conservator.
 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 10-32.
 35. "Nonprofit corporation" means a corporation, whether domestic or foreign, incorporated under or governed by chapter 10-33.
 36. "Notice":
 - a. Is given by a shareholder of a corporation to the corporation or an officer of the corporation:
 - (1) When in writing and mailed or delivered to the corporation or the officer at the registered office or principal executive office of the corporation; or
 - (2) When given by a form of electronic communication consented to by the corporation to which the notice is given if by:
 - (a) Facsimile communication, when directed to a telephone number at which the corporation has consented to receive notice.
 - (b) Electronic mail, when directed to an electronic mail address at which the corporation has consented to receive notice.
 - (c) Posting on an electronic network on which the corporation has consented to receive notice, together with separate notice to the corporation of the specific posting, upon the later of:
 - [1] The posting; or
 - [2] The giving of the separate notice.
 - (d) Any other form of electronic communication by which the corporation has consented to receive notice, when directed to the corporation.
 - b. Is given by a publicly held corporation to a shareholder if the notice is addressed to the shareholder or group of shareholders in a manner permitted by the rules and regulations under the Securities Exchange Act of 1934, as amended, provided that the corporation has first received any

- affirmative written consent or implied consent required under those rules and regulations.
- c. Is given, in all other cases:
- (1) When mailed to the person at an address designated by the person or at the last-known address of the person;
 - (2) When deposited with a nationally recognized overnight delivery service for overnight delivery or, if overnight delivery to the person is not available, for delivery as promptly as practicable to the person at an address designated by the person or at the last-known address of the person;
 - (3) When handed to the person;
 - (4) When left at the office of the person with a clerk or other person in charge of the office or:
 - (a) If there is no one in charge, when left in a conspicuous place in the office; or
 - (b) If the office is closed or the person to be notified has no office, when left at the dwelling house or usual place of abode of the person with some person of suitable age and discretion then residing there;
 - (5) When given by a form of electronic communication consented to by the person to whom the notice is given if by:
 - (a) Facsimile communication, when directed to a telephone number at which the person has consented to receive notice.
 - (b) Electronic mail, when directed to an electronic mail address at which the person has consented to receive notice.
 - (c) Posting on an electronic network on which the person has consented to receive notice, together with separate notice to the person of the specific posting, upon the later of:
 - [1] The posting; or
 - [2] The giving of the separate notice.
 - (d) Any other form of electronic communication by which the person has consented to receive notice, when directed to the person; or
 - (6) When the method is fair and reasonable when all of the circumstances are considered.
- d. Is given by mail when deposited in the United States mail with sufficient postage affixed.
- e. Is given by deposit for delivery when deposited for delivery as provided in paragraph 2 of subdivision c, after having made sufficient arrangements for payment by the sender.

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- f. Is deemed received when it is given.
37. "Officer" means an individual who is eighteen years of age or more who is:
- a. Elected, appointed, or otherwise designated as the president, the treasurer, or any other officer pursuant to section 10-19.1-52; or
 - b. Deemed elected as an officer pursuant to section 10-19.1-56.
38. "Organization":
- a. Means, whether domestic or foreign, a corporation, limited liability company, general partnership, limited partnership, limited liability partnership, limited liability limited partnership, or any other person subject to a governing statute; but
 - b. Excludes:
 - (1) Any nonprofit corporation, whether a domestic nonprofit corporation which is incorporated under chapter 10-33 or a foreign nonprofit corporation which is incorporated in another jurisdiction; and
 - (2) Any nonprofit limited liability company, whether a domestic nonprofit limited liability company which is organized under chapter 10-36 or a foreign nonprofit limited liability company which is organized in another jurisdiction.
39. "Originating records" means for an organization that 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.
40. "Outstanding shares" means all shares duly issued and not reacquired by a corporation.
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 membership interests;
 - c. A limited partnership, its partnership interests;
 - d. A general partnership, its partnership interests;
 - e. A limited liability partnership, its partnership interests;

- f. A limited liability limited partnership, its partnership interests; or
 - g. Any other organization, its governance or transferable interests.
43. "Parent" of a specified organization means an organization that directly, or indirectly through related organizations, owns more than fifty percent of the voting power of the ownership interests entitled to vote for directors or other members of the governing body of the specified organization.
44. "Principal executive office" means:
- a. If the corporation has an elected or appointed president, then an office where the elected or appointed president of a corporation has an office; or
 - b. If the corporation has no elected or appointed president, then the registered office of the corporation.
45. "Publicly held corporation" means a corporation that has a class of equity securities registered pursuant to section 12 of the Securities Exchange Act of 1934 [15 U.S.C. 78L], or is subject to section 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. 78o(d)].
46. "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.
- 46-47. "Registered office" means the place in this state designated in a corporation's articles of incorporation or in a foreign corporation's certificate of authority as the registered office.
- 47-48. "Related organization" means an organization that controls, is controlled by, or is under common control with another organization with control existing if an organization:
- a. Owns, directly or indirectly, at least fifty percent of the ownership interests of another organization;
 - b. Has the right, directly or indirectly, to elect, appoint, or remove fifty percent or more of the voting members of the governing body of another organization; or
 - c. Has the power, directly or indirectly, to direct or cause the direction of the management and policies of another organization, whether through the ownership of voting interests, by contract, or otherwise.
- 48-49. "Remote communication" means communication via electronic communication, conference telephone, videoconference, the internet, or such other means by which persons not physically present in the same location may communicate with each other on a substantially simultaneous basis.
- 49-50. "Security" has the meaning given in section 10-04-02.
- 50-51. "Series" means a category of shares, within a class of shares authorized or issued by a corporation by or pursuant to a corporation's articles, that have some of the same rights and preferences as other shares within the same

class, but that differ in designation or one or more rights and preferences from another category of shares within that class.

51-52. "Share" means one of the units, however designated, into which the shareholders' proprietary interests of the shareholder in a corporation are divided.

52-53. "Shareholder" means a person registered on the books or records of a corporation or the corporation's transfer agent or registrar as the owner of whole or fractional shares of the corporation.

53-54. "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; and
- b. With respect to a record required by this chapter to be filed with the secretary of state, that:
 - (1) The record is signed by a person authorized to do so by this chapter, the articles or bylaws, or a resolution approved by the directors as required under section 10-19.1-46 or the shareholders as required under section 10-19.1-74; and
 - (2) The signature and the record are communicated by a method or medium of communication acceptable by the secretary of state.

54-55. "Subscriber" means a person that subscribes for shares in a corporation, whether before or after incorporation.

55-56. "Subsidiary" of a specified organization means an organization having more than fifty percent of the voting power of its ownership interests entitled to vote for directors, governors, or other members of the governing body of the organization owned directly, or indirectly, through related organizations, by the specified organization.

56-57. "Surviving corporation" means the domestic or foreign corporation resulting from a merger which:

- a. May preexist the merger; or
- b. May be created by the merger.

57-58. "Surviving organization" means the organization resulting from a merger which:

- a. May preexist the merger; or
- b. May be created by the merger.

58-59. "Vote" includes authorization by written action.

59-60. "Written action" means:

- a. A written record signed by all of the persons required to take the action; or
- b. The counterparts of a written record signed by any of the persons taking the action described.
 - (1) Each counterpart constitutes the action of the person signing; and
 - (2) All the counterparts, taken together, constitute one written action by all of the persons signing the counterparts.

SECTION 5. AMENDMENT. Subsection 1 of section 10-19.1-10 of the North Dakota Century Code is amended and reenacted as follows:

1. The articles of incorporation must contain:
 - a. The name of the corporation.
 - b. The name of the registered agent as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of that noncommercial registered agent in this state.
 - c. The address of the principal executive office.
 - d. The aggregate number of shares that the corporation has authority to issue.
 - d-e. The name and address of each incorporator.
 - e-f. The effective date of incorporation if a later date than that on which the certificate of incorporation is issued by the secretary of state, which may not be later than ninety days after the date on which the certificate of incorporation is issued.

SECTION 6. 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. 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 7. AMENDMENT. Section 10-19.1-115 of the North Dakota Century Code is amended and reenacted as follows:

10-19.1-115. Involuntary dissolution.

1. This section applies to corporations that are not publicly held corporations.

- 4.2. A court may grant any equitable relief it deems just and reasonable in the circumstances or may dissolve a corporation and liquidate its assets and business:
- a. In a supervised voluntary dissolution pursuant to section 10-19.1-114;
 - b. In an action by a shareholder when it is established that:
 - (1) The directors or the persons having the authority otherwise vested in the board are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and the corporation or the parties have not provided for a procedure to resolve the dispute;
 - (2) The directors or those in control of the corporation have acted fraudulently or illegally toward one or more shareholders in their capacities as shareholders or directors of any corporation or as officers or employees of a closely held corporation;
 - (3) The directors or those in control of the corporation have acted in a manner unfairly prejudicial toward one or more shareholders in their capacities as shareholders or directors of a corporation that is not a publicly held corporation or as officers or employees of a closely held corporation;
 - (4) The shareholders of the corporation are so divided in voting power that, for a period that includes the time when two consecutive regular meetings were held, they have failed to elect successors to directors whose terms have expired or would have expired upon the election and qualification of their successors;
 - (5) The corporate assets are being misapplied or wasted; or
 - (6) The period of duration as provided in the articles has expired and has not been extended as provided in section 10-19.1-124;
 - c. In an action by a creditor when:
 - (1) The claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied; or
 - (2) The corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is unable to pay its debts in the ordinary course of business; or
 - d. In an action by the attorney general to dissolve the corporation in accordance with section 10-19.1-118 when it is established that a decree of dissolution is appropriate.
- 2.3. In determining whether to order equitable relief or dissolution, the court shall take into consideration the financial condition of the corporation but may not refuse to order equitable relief or dissolution solely on the ground that the corporation has accumulated or current operating profits.

- 3-4. In an action under subdivision b of subsection 1 involving a corporation that is not a publicly held corporation at the time the action is commenced and in which one or more of the circumstances described in that subdivision is established, the court, upon motion of a corporation or a shareholder or beneficial owner of shares of the corporation, may order the sale by a plaintiff or a defendant of all shares of the corporation held by the plaintiff or defendant to either the corporation or the moving shareholders, whichever is specified in the motion, if the court determines in its discretion that an order would be fair and equitable to all parties under the circumstances of the case.
- a. The purchase price of any shares so sold must be the fair value of the shares as of the date of the commencement of the action or as of another date found equitable by the court. However, if the shares in question are then subject to sale and purchase pursuant to the bylaws of the corporation, a shareholder control agreement, the terms of the shares, or otherwise, the court shall order the sale for the price and on the terms as set forth, unless the court determines that the price or terms are unreasonable under all the circumstances of the case.
 - b. Within five days after the entry of the order, the corporation shall provide each selling shareholder or beneficial owner with the information it is required to provide under subsection 6 of section 10-19.1-88.
 - c. If the parties are unable to agree on fair value within forty days of entry of the order, the court shall determine the fair value of the shares under the provisions of subsection 10 of section 10-19.1-88 and may allow interest or costs as provided in subsections 1 and 11 of section 10-19.1-88.
 - d. The purchase price must be paid in one or more installments as agreed on by the parties, or, if no agreement can be reached within forty days of entry of the order, as ordered by the court. Upon entry of an order for the sale of shares under this subsection and provided that the corporation or the moving shareholders post a bond in adequate amount with sufficient sureties or otherwise satisfy the court that the full purchase price of the shares, plus any additional costs, expenses, and fees as may be awarded, will be paid when due and payable, the selling shareholders shall no longer have any rights or status as shareholders, officers, or directors, except the right to receive the fair value of their shares plus such other amounts as may be awarded.
- 4-5. In determining whether to order equitable relief or dissolution, the court shall take into consideration the duty which all shareholders in a closely held corporation owe one another to act in an honest, fair, and reasonable manner in the operation of the corporation and the reasonable expectations of the shareholders as they exist at the inception and develop during the course of the shareholders' relationship with the corporation and with each other. For purposes of this section, any written agreement, including an employment agreement and a buy-sell agreement, between or among shareholders or between or among one or more shareholders and the corporation is presumed to reflect the parties' reasonable expectation concerning the matters dealt with in the agreement.
- 5-6. In deciding whether to order dissolution, the court shall consider whether lesser relief suggested by one or more parties, such as any form of equitable relief, a buyout, or a partial liquidation, would be adequate to permanently

relieve the circumstances established under subdivision b or c of subsection 1. Lesser relief may be ordered in any case when it would be appropriate under all the facts and circumstances of the case.

- 6-7. If the court finds that a party to a proceeding brought under this section has acted arbitrarily, vexatiously, or otherwise not in good faith, it may in its discretion award reasonable expenses, including attorney's fees and disbursements, to any of the other parties.
- 7-8. Proceedings under this section must be brought in a court within the county in which the principal executive office of the corporation is located. It is not necessary to make shareholders parties to the action or proceeding unless relief is sought against them personally.

SECTION 8. AMENDMENT. Subsection 2 of section 10-19.1-146 of the North Dakota Century Code is amended and reenacted as follows:

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 ~~5354~~ of section 10-19.1-01. If the corporation or foreign corporation is in the hands of a receiver or trustee, it must be signed on behalf of the corporation or foreign corporation by the receiver or trustee. The secretary of state may destroy all annual reports provided for in this section after they have been on file for six years.

SECTION 9. AMENDMENT. Subsection 1 of section 10-32-07 of the North Dakota Century Code is amended and reenacted as follows:

1. The articles of organization must contain:
- a. The name of the limited liability company;
 - b. The name of the registered agent of the limited liability company as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of such noncommercial registered agent in this state;
 - c. The address of the principal executive office;
 - d. The name and address of each organizer;
- ~~d-e.~~ The effective date of organization:
- (1) If a later date than that on which the certificate of organization is issued by the secretary of state; and
 - (2) Which may not be later than ninety days after the date on which the certificate of organization is issued; and
- e-f. If the articles of organization are filed with the secretary of state:
- (1) Before July 1, 1999, a statement stating in years that the period of existence for the limited liability company must be a period of thirty years from the date the articles of organization are filed with the secretary of state, unless the articles of organization expressly

authorize a shorter or longer period of duration, which may be perpetual.

- (2) After June 30, 1999, a statement stating in years the period of existence of the limited liability company, if other than perpetual.

SECTION 10. AMENDMENT. Section 10-32-14 of the North Dakota Century Code is amended and reenacted as follows:

10-32-14. Amendment of articles of organization.

The articles of organization of a limited liability company 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 organizer 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. Unless otherwise provided in this chapter, the articles may be amended or modified only in accordance with sections 10-32-14 through 10-32-18.

SECTION 11. AMENDMENT. Subsection 1 of section 10-33-06 of the North Dakota Century Code is amended and reenacted as follows:

1. The articles of incorporation must contain:
 - a. The name of the corporation;
 - b. The name of the registered agent of the corporation as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of that noncommercial registered agent in this state;
 - c. The address of the principal executive office:
 - d. The name and address of each incorporator;
 - ~~d-e.~~ The effective date of the incorporation:
 - (1) If a later date than that on which the certificate of incorporation is issued by the secretary of state; and
 - (2) Which may not be later than ninety days after the date on which the certificate of incorporation is issued; and
 - e-f. A statement that the corporation is incorporated under this chapter.

SECTION 12. 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. Unless otherwise provided in this chapter, the articles may be amended or modified only in accordance with section 10-33-15.

SECTION 13. AMENDMENT. Subsection 3 of section 10-34-04 of the North Dakota Century Code is amended and reenacted as follows:

3. A domestic or foreign real estate investment trust shall register with the secretary of state by submitting an application signed by a trustee which includes:
 - a. The name of the real estate investment trust which may not be the same or deceptively similar to the name of any other real estate investment trust registered with the secretary of state, or any corporation, limited liability company, limited partnership, limited liability partnership, or any name that is in some manner reserved with the secretary of state, that is a fictitious trade name registered as provided in chapter 45-11, or that is a trade name registered as provided in chapter 47-25 unless there is filed with the secretary of state a written consent of the holder of the similar trade name to use the name proposed by the real estate investment trust. The name may not contain the word "corporation", "company", "incorporated", "limited liability company", or any abbreviation of these words.
 - b. The state and date of its formation.
 - c. The name, address, and principal place of business of each trustee and officer.
 - d. The name of its registered agent as provided in chapter 10-01.1 and, if a noncommercial registered agent, then the address of that noncommercial registered agent in this state.
 - e. The address of the principal place of business.
 - f. A statement that the secretary of state is appointed the agent of the real estate investment trust for service of process as provided in section 10-01.1-13.

SECTION 14. AMENDMENT. Subsection 2 of section 10-35-28 of the North Dakota Century Code is amended and reenacted as follows:

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 5254 of section 10-19.1-01, the articles or the bylaws, or by a resolution approved by the affirmative vote of the required proportion or number of the directors. If the publicly traded corporation is in the hands of a receiver or trustee, it must be signed on behalf of the publicly traded corporation by the receiver or trustee. The secretary of state may destroy all annual reports provided for in this section after they have been on file for six years.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 90

SENATE BILL NO. 2144

(Senators Laffen, Grindberg, Klein)
(Representatives Porter, Zaiser)

AN ACT to create and enact a new section to chapter 10-31 of the North Dakota Century Code, relating to ownership of professional organizations; and to amend and reenact sections 10-31-01, 10-31-02, 10-31-02.1, 10-31-04, and 10-31-13 of the North Dakota Century Code, relating to nonprofessional ownership of professional organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 10-31-01 of the North Dakota Century Code is amended and reenacted as follows:

10-31-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Create" means to form an organization by:
 - a. Incorporating a professional corporation;
 - b. Organizing a professional limited liability company; or
 - c. Registering a professional limited liability partnership.
2. "Executive" means an officer or a director of a professional corporation, a manager or a governor of a professional limited liability company, or a partner of a professional limited liability partnership.
3. "Foreign limited liability partnership" has the meaning set forth in section 45-22-01.
4. "Foreign professional organization" means a professional organization that is created under laws other than the laws of this state for purposes for which a professional organization may be created under this chapter.
5. "Minority owner" means an owner of a professional organization:
 - a. Who is not licensed or otherwise legally authorized within this state to render the same professional service as the organization;
 - b. Who provides a service to the organization which is ancillary to the organization's professional service;
 - c. Who does not provide that owner's service to the public through the organization; and
 - d. Who is expressly authorized under subsection 3 of section 10-31-04.

6. "Owner" means a shareholder of a professional corporation, a member of a professional limited liability company, or a partner of a limited liability partnership.
- 6-7. "Professional corporation" or "corporation" means a corporation that is incorporated under this chapter for the purpose of rendering professional service and which has as its shareholders only individuals;
- a. Individuals who themselves are licensed or otherwise legally authorized within this state to render the same professional service as the corporation ~~or nonlicensed~~;
 - b. Nonlicensed employees as provided in section 10-31-07.1; and
 - c. Minority owners.
- 7-8. "Professional limited liability company" or "limited liability company" means a limited liability company that is organized under this chapter for the purpose of rendering professional service and which has as its members only individuals;
- a. Individuals who themselves are licensed or otherwise legally authorized within this state to render the same professional service as the limited liability company ~~or nonlicensed~~;
 - b. Nonlicensed employees as provided in section 10-31-07.2; and
 - c. Minority owners.
- 8-9. "Professional limited liability partnership" or "limited liability partnership" means a limited liability partnership that is registered under this chapter for the purpose of rendering professional service, is not a foreign limited liability partnership, and has as its partners only individuals;
- a. Individuals who are licensed or otherwise legally authorized within this state to render the same professional service as the limited liability partnership ~~or nonlicensed~~;
 - b. Nonlicensed employees as provided in section 10-31-07.1; and
 - c. Minority owners.
- 9-10. "Professional organization" or "organization" means:
- a. A professional corporation that is incorporated under this chapter;
 - b. A professional limited liability company that is organized under this chapter; or
 - c. A professional limited liability partnership that is registered under this chapter.
- 10-11. "Professional service" means the personal service to the public which requires a license as a condition precedent to the rendering of such service and which requires as a condition of licensure an undergraduate or advanced college degree in the specific field.

SECTION 2. AMENDMENT. Section 10-31-02 of the North Dakota Century Code is amended and reenacted as follows:

10-31-02. Articles of incorporation.

1. One or more individuals may incorporate a professional organization in the form of a corporation for the practice of a profession by filing articles of incorporation with the secretary of state. The articles of incorporation must meet the requirements of chapter 10-19.1 and contain the following:
 - a. The profession to be practiced through the professional corporation; and
 - b. The names and residence addresses of all of the original shareholders of the professional corporation who will practice the profession in this state and of the original shareholders of the professional corporation who are minority owners.
2. At the time the articles of incorporation are filed with the secretary of state, the professional corporation also shall file a:
 - a. A certificate from the regulating board of the profession involved that each of the directors and shareholders of voting shares who will practice the profession in this state, if any, is licensed to practice the profession in this state; or
 - b. If there is one or more minority owners, a certificate from the regulating board of the profession of the corporation certifying that each of the directors and shareholders of voting shares who will practice the profession in this state, if any, is licensed to practice the profession in this state and a certificate from the corporation identifying the minority owners who are exempt from the licensing requirement and the express law authorizing minority ownership.

SECTION 3. AMENDMENT. Section 10-31-02.1 of the North Dakota Century Code is amended and reenacted as follows:

10-31-02.1. Articles of organization.

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 10-32 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.
2. At the time the articles of organization are filed with the secretary of state, the professional limited liability company also shall file a:

- a. A certificate from the regulating board of the profession involved that each of the governors and members who will practice the profession in this state, if any, is licensed to practice the profession in this state; or
- b. If there is one or more minority owners, a certificate from the regulating board of the profession of the limited liability company certifying that each of the governors and members who will practice the profession in this state, if any, is licensed to practice the profession in this state and a certificate from the limited liability company identifying the minority owners and the express law authorizing minority ownership.

SECTION 4. AMENDMENT. Section 10-31-04 of the North Dakota Century Code is amended and reenacted as follows:

10-31-04. Purpose for which created - Minority ownership.

1. A professional organization may be created pursuant to this chapter only for the purpose of rendering one specific type of professional service and services ancillary thereto or for the purpose of rendering two or more kinds of professional services that are specifically authorized to be practiced in combination under the licensing laws of each of the professional services to be practiced by a licensed individual or partnership of licensed individuals and ancillary services. This subsection does not preclude an organization created pursuant to this chapter from rendering more than one specific type of professional service if the services rendered are set forth in chapters 43-03 and 43-19.1 or if the services rendered are set forth in chapters 43-26.1 and 43-40.
2. A professional organization may not engage in any business other than rendering the professional service for which it was created to render and services ancillary thereto ~~that professional service~~. However, a professional organization may own real and personal property necessary or appropriate for rendering the type of professional services it was created to render and may invest its funds in real estate mortgages, stocks, bonds, membership interests, and any other type of investment.
3. If expressly authorized under this subsection, a professional organization may have a minority ownership by one or more minority owners. A professional organization created under this chapter for the purpose of providing professional services as set forth in chapter 43-03 is expressly authorized to have minority owners.

SECTION 5. A new section to chapter 10-31 of the North Dakota Century Code is created and enacted as follows:

Issuance and transfer of shares, membership interests, and partnership interests - Exception for minority owners.

Notwithstanding sections 10-31-07, 10-31-07.2, and 10-31-07.3, if minority owners are expressly authorized under subsection 3 of section 10-31-04, a professional organization may issue shares and membership interests to minority members and an owner may transfer shares or membership interests to minority owners. In the case of issuance or transfer of shares or membership interests to a minority owner, the organization is exempt from the certificate filing requirement under sections 10-31-07, 10-31-07.2, and 10-31-07.3. However, if a professional organization has minority owners, an issuance or transfer of shares or membership

interests may not result in minority owners having a majority ownership in the organization.

³² **SECTION 6. AMENDMENT.** Section 10-31-13 of the North Dakota Century Code is amended and reenacted as follows:

10-31-13. Professional organizations - Annual reports - Renewal.

1. With respect to a professional organization in the form of a corporation:
 - a. Each corporation incorporated 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 10-19.1 giving the name and residence address of each officer, director, and shareholder of the corporation at the time of filing of the report. With respect to shares, the report must include:
 - (1) 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; and
 - (2) 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; and
 - (3) If there are minority owners, a statement of the issued shares, itemized by minority owner and nonminority owner.
 - b. ~~The~~Except as provided under subsection 4, the report must include a statement that all directors and shareholders of voting shares who practice in this state are licensed to render the same specific professional services as those for which the corporation was incorporated. The report must be:
 - (1) Made on a form as prescribed and furnished by the secretary of state;
 - (2) Signed by the president or vice president of the corporation; and
 - (3) Accompanied by the filing fee prescribed in chapter 10-19.1.
 - c. A copy of the report must be filed at the same time with the regulatory board that licenses the shareholders ~~described in the report~~providing the corporation's professional service. No filing fee may be charged by the ~~The~~ regulatory board may not charge a filing fee.
 - d. A regulatory board issuing a license under section 10-31-01 shall issue a certificate required in section 10-31-02. The certificate must be on a form prescribed and furnished by the secretary of state. The regulatory board may charge and collect a fee not to exceed twenty dollars per individual certified to be licensed by the regulating board.
2. With respect to a professional organization in the form of a limited liability company:

³² Section 10-31-13 was also amended by section 2 of Senate Bill No. 2152, chapter 91.

- 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 10-32 giving the name and residence address of all managers, governors, and members of the organization at the time of filing of the annual report.
 - b. ~~The~~Except as provided under subsection 4, the report must include a statement that all governors and members holding voting membership interests who practice in this state are licensed to render the same specific professional services as those for which the limited liability company was organized. This report must be:
 - (1) Made on a form as prescribed and furnished by the secretary of state;
 - (2) Signed by the president or vice president of the limited liability company; and
 - (3) Accompanied by the filing fee prescribed in section 10-32-180.
 - c. A copy of the report must be filed at the same time with the regulatory board that licenses the members ~~described in the report~~providing the limited liability company's professional service. ~~No filing fee may be charged by the~~The regulatory board may not charge a filing fee.
 - d. A regulatory board issuing a license under section 10-31-01 shall issue a certificate required in section 10-31-02. The certificate must be on a form prescribed and furnished by the secretary of state. The regulatory board may charge and collect a fee not to exceed twenty dollars per individual certified to be licensed by the regulatory board.
3. With respect to a professional organization in the form of a limited liability partnership:
- a. The annual report filed with the secretary of state at the time specified for the filing of the report by chapter 45-22 must include the name and residence address of each partner of the organization at the time of filing of the annual report.
 - b. ~~The~~Except as provided under subsection 4, the annual report must include a statement that each partner holding voting partnership interests who practices in this state is licensed to render the same specific professional services as those for which the limited liability partnership was registered. The annual report must be:
 - (1) Made on a form prescribed and furnished by the secretary of state;
 - (2) Signed by a managing partner of the limited liability partnership; and
 - (3) Accompanied by the filing fee prescribed in section 45-22-22.
 - c. A copy of the annual report must be filed at the same time with the regulatory board that licenses the partners ~~described in the annual report~~providing the limited liability partnership's professional service. ~~A filing fee may not be charged by the~~The regulatory board may not charge a filing fee.

- d. A regulatory board issuing a license under section 10-31-01 shall issue a certificate required in section 10-31-02. The certificate must be on a form prescribed and furnished by the secretary of state. The regulatory board may charge and collect a fee not exceeding twenty dollars per individual certified to be licensed by the regulating board.
4. If the organization has a minority owner, the annual report must include a statement that:
 - a. Each nonminority owner who practices in this state is licensed to render the organization's professional service;
 - b. Each minority owner provides a service to the organization which is ancillary to the organization's professional service;
 - c. Each minority owner does not provide that owner's service to the public through the organization; and
 - d. The minority owners do not hold a majority interest in the organization.
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 10-32-150. Fees collected by the secretary of state under this subsection must be deposited in the secretary of state's general services operating fund.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 91

SENATE BILL NO. 2152

(Senators Sitte, Campbell, Laffen)
(Representatives Karls, K. Koppelman, Mooney)

AN ACT to create and enact a new subsection to section 10-31-13 of the North Dakota Century Code, relating to regulation of professional organizations; and to amend and reenact section 10-31-06 of the North Dakota Century Code, relating to ownership of professional organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 10-31-06 of the North Dakota Century Code is amended and reenacted as follows:

10-31-06. Executives and owners.

1. ~~No~~An individual may ~~be not~~ simultaneously be an executive or owner of more than one professional organization rendering the same professional service.
2. A professional organization in the form of a corporation which has only one shareholder need have only one director, who must be the shareholder. That individual also shall serve as the president and treasurer of the corporation. The other officers of the corporation need not be licensed or otherwise legally authorized in the same field of endeavor as the president.
3. A retired individual may not continue as an executive or owner of a professional organization.

³³ **SECTION 2.** A new subsection to section 10-31-13 of the North Dakota Century Code is created and enacted as follows:

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 10-32-150. Fees collected by the secretary of state under this subsection must be deposited in the secretary of state's general services operating fund.

Approved April 24, 2013
Filed April 24, 2013

³³ Section 10-31-13 was also amended by section 6 of Senate Bill No. 2144, chapter 90.

COUNTIES

CHAPTER 92

HOUSE BILL NO. 1065

(Political Subdivisions Committee)
(At the request of the Supreme Court)

AN ACT to amend and reenact subsection 2 of section 11-07-04, subsection 5 of section 11-10.2-03, subsection 3 of section 11-10.3-02, and sections 11-12-05, 11-16-10, 11-16-13, 40-02-16, and 44-02-05 of the North Dakota Century Code, relating to district judge involvement in determining county commissioner terms of office, appointing individuals to fill county commission vacancies, receiving written documents consenting to county reorganization plans, approving state's attorneys expenses, and appointing arbitrators for disputes between a township and a newly organized municipality; and to repeal sections 11-16-11 and 11-16-12 of the North Dakota Century Code, relating to state's attorney submission of a statement of expenses to a district judge.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 11-07-04 of the North Dakota Century Code is amended and reenacted as follows:

2. If the county previously elected county commissioners at large and the county has been divided into districts, those elected in districts designated by even numbers constitute one class and those elected in districts designated by odd numbers constitute the other class. If election of commissioners at large is necessary and the county previously was districted, classes of such commissioners must be determined by assigning a number to their respective offices according to the numerical total of the votes cast for them at the general election at which they were elected. The commissioners of one class elected in the first election held following a redistricting pursuant to this chapter hold office for two years and those of the other class hold office for four years. The determination of the two classes must be by lot so that one-half of the commissioners, as nearly as practicable, may be elected biennially. ~~A district judge serving the county~~An individual mutually agreed upon by the two classes of commissioners shall perform the lot in the presence of all of the newly elected commissioners affected by this subsection within thirty days after the date of the first general election following redistricting or election of commissioners at large, if required, and shall certify in writing the results of such lot to the county auditor within five days after its completion.

SECTION 2. AMENDMENT. Subsection 5 of section 11-10.2-03 of the North Dakota Century Code is amended and reenacted as follows:

5. A proposed plan may not diminish the future term of office, or redesignate an elected office as appointed, with respect to any person who, on August 1,

1993, holds an elected county office and continues to hold that specific office for future terms on an uninterrupted basis. This subsection does not apply after January 1, 2002, or if the person holding the affected office consents in writing to the proposed plan and ~~submits files~~ that written document prior to the scheduled implementation of the plan ~~to with the district judge serving the judicial district in which court for the county is located.~~

SECTION 3. AMENDMENT. Subsection 3 of section 11-10.3-02 of the North Dakota Century Code is amended and reenacted as follows:

3. A proposed plan may not diminish the future term of office, or redesignate an elected office as appointed, with respect to any person who, on August 1, 1993, holds an elected county office and continues to hold that specific office for future terms on an uninterrupted basis. This subsection does not apply after January 1, 2002, or if the person holding the affected office consents in writing to the proposed plan, and ~~submits files~~ that written document prior to the scheduled implementation of the plan ~~to with the district judge serving the judicial district in which the court for each county is located.~~

SECTION 4. AMENDMENT. Section 11-12-05 of the North Dakota Century Code is amended and reenacted as follows:

11-12-05. Commissioners for new districts appointed.

The members of the board of county commissioners, ~~a district judge serving the county,~~ and the county auditor shall meet immediately after the county has been redistricted and shall appoint one commissioner for each of the new districts. The commissioners hold office until their successors are elected and qualified.

SECTION 5. AMENDMENT. Section 11-16-10 of the North Dakota Century Code is amended and reenacted as follows:

11-16-10. Use of state's attorney's contingent fund.

The state's attorney, ~~with the consent and approval of a district judge in and for the state's attorney's county,~~ may incur expenses in securing evidence and investigating criminal cases, so far as is necessary, to the amount annually appropriated by the board of county commissioners to the state's attorney's contingent fund.

SECTION 6. AMENDMENT. Section 11-16-13 of the North Dakota Century Code is amended and reenacted as follows:

11-16-13. Warrants on state's attorney's contingent fund.

All disbursements from the state's attorney's contingent fund ~~shall~~must be made in the usual manner by the county treasurer upon the warrant of the county auditor. The auditor's warrant ~~shall~~must be executed and delivered in the amount and to the person designated by the order of the state's attorney, ~~and shall be countersigned by a judge of the district court for that county.~~

SECTION 7. AMENDMENT. Section 40-02-16 of the North Dakota Century Code is amended and reenacted as follows:

40-02-16. Arbitration of differences between township and newly organized municipality upon division of property and indebtedness.

If the officers of a township and of a municipality which has been organized from territory situated therein cannot agree upon the valuation of any real estate, or of any indivisible property which is held jointly, or upon the just apportionment of the joint indebtedness, the officers of the township or municipality, upon five days' notice of the time and place, may apply to the ~~district court serving the county in which the township or municipality is located~~ director of the office of administrative hearings for arbitration of such differences. Thereupon, the ~~district judge~~ director shall appoint three ~~freeholders~~ residents of the county, not residents or taxpayers of the municipality or township involved, to act as arbitrators. After being duly sworn to perform the duties imposed upon them, the arbitrators shall view and appraise the property and fix the valuation thereof for the purpose of making the division. If the property to be divided is personal property and no satisfactory arrangement can be made otherwise, it must be sold at public auction to the highest bidder, and the municipality and township may bid at the sale. The township and municipality involved in the arbitration shall share equally in the costs and expenses of the arbitration. The director of the office of administrative hearings shall request payment from the township and municipality and the township and municipality shall pay to the office of administrative hearings both the costs and expenses of the arbitration proceedings and the cost of the services provided by the arbitrators and the director of the office of administrative hearings.

SECTION 8. AMENDMENT. Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

44-02-05. Vacancy in board of county commissioners - How filled.

When a vacancy occurs in the board of county commissioners, the remaining members of the board, ~~with the district judge selected by the remaining county commissioners,~~ immediately shall appoint some suitable person to fill the vacancy from the district in which the vacancy occurred. If a majority of the officers fails to agree upon a person to fill the vacancy, the county treasurer or, if the county does not have an elected treasurer, another elective county officer must be called in and shall act as an additional member of the board to fill the vacancy. The appointee holds office until the appointee's successor is elected at the next general election that occurs at least sixty days after the vacancy and the successor has qualified.

SECTION 9. REPEAL. Sections 11-16-11 and 11-16-12 of the North Dakota Century Code are repealed.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 93

HOUSE BILL NO. 1177

(Representatives Drovdal, N. Johnson, Vigesaa)
(Senators J. Lee, Lyson, Warner)

AN ACT to amend and reenact section 2-06-06, subsection 7 of section 4.1-47-06, sections 11-09.1-02, 11-11.1-02, 11-28-02, and 11-33-05, subsection 1 of section 11-36-07, subsection 2 of section 11-37-05, sections 23-11-05 and 23-24-05, subsection 6 of section 23-35-03, section 40-23-02, subsection 3 of section 40-38-03, subsection 4 of section 50-01.1-04, and sections 50-01.2-02 and 61-04.1-25 of the North Dakota Century Code, relating to compensation of members of political subdivision boards and committees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 2-06-06 of the North Dakota Century Code is amended and reenacted as follows:

2-06-06. Commissioners - Compensation - Meetings - Officers.

~~A commissioner of an authority may receive no compensation for services, but is entitled to the necessary expense, including traveling expenses, incurred in the discharge of the commissioner's duties.~~ Each commissioner shall hold office until the commissioner's successor has been appointed and has qualified. The certificates of the appointment and reappointment of commissioners must be filed with the authority. The appointing authority shall establish the rate of compensation for commissioners and actual expenses incurred by commissioners may be reimbursed at the official reimbursement rates of the appointing authority.

The powers of each authority are vested in the commissioners thereof. A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting business of the authority and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of the commissioners present.

There must be elected a chairman and vice chairman from among the commissioners. An authority may employ an executive director, secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the municipality or municipalities included in the authority or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

SECTION 2. AMENDMENT. Subsection 7 of section 4.1-47-06 of the North Dakota Century Code is amended and reenacted as follows:

7. The board of county commissioners shall establish the rate of compensation for county weed board members. Actual expenses incurred by board members may be reimbursed at the official reimbursement rates of the appointing authority.

SECTION 3. AMENDMENT. Section 11-09.1-02 of the North Dakota Century Code is amended and reenacted as follows:

11-09.1-02. Charter commission - Membership - Preparation and submission of charter - Compensation and expenses - Publication.

Within sixty days after proceedings have been initiated for a home rule charter, the board of county commissioners shall appoint a charter commission, comprised of at least five members, to draft the charter, unless a petition proposing a charter pursuant to section 11-09.1-01 prescribes the composition of the commission or the manner by which the composition of the commission is to be determined. The board shall designate one of the charter commission members as chairman of the charter commission. The board shall set the compensation and expenses of charter commission members. Actual expenses incurred by charter commission members may be reimbursed at the official reimbursement rates of the appointing authority. The board, from its general funds, may furnish the charter commission with office space, clerical help, supplies, and legal and other assistance. The charter commission shall hold at least one public hearing on the proposed charter and may use other suitable means to disseminate information, receive suggestions and comments, and encourage public discussion of the proposed charter. The commission shall prepare and submit the charter to the board of county commissioners within one year after appointment, unless the board allows additional time for submission of the charter. The charter must contain a list of county offices to be elected and any elected offices that will be eliminated or combined if the charter is adopted. The board of county commissioners shall publish the proposed charter once in the official newspaper of the county.

SECTION 4. AMENDMENT. Section 11-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

11-11.1-02. Members of the job development authority board of directors - Term of office - Oath - Expenses.

The members of the job development authority board of directors and the joint job development authority board of directors shall serve for a term of three years or until their successors are duly qualified. Terms of office begin on January first and must be arranged so that the terms of office of approximately one-third of the members expire on December thirty-first of each year. Each member of the board shall qualify by taking the oath provided for civil officers. The oath must be filed with the county auditor.

The board of directors shall annually elect members to serve as chairman, vice chairman, secretary, and treasurer. The board shall also select an executive committee with such powers and duties as may be delegated by the board. ~~Members may be reimbursed from funds available to the authority for mileage and expenses as provided in sections 44-08-04 and 54-06-09 but may not receive compensation for service.~~ The appointing authority shall establish the rate of compensation for the board members and actual expenses incurred by the members may be reimbursed at the official reimbursement rates of the appointing authority.

SECTION 5. AMENDMENT. Section 11-28-02 of the North Dakota Century Code is amended and reenacted as follows:

11-28-02. Eligibility for appointment - Term - Vacancy - Compensation.

Any resident citizen of the county, including county, city, and township officers, is eligible for appointment to the board of county park commissioners. Each appointed

county park commissioner shall hold office for a term of three years, or until a successor is appointed and qualified. Any vacancy in the board must be filled for the unexpired term by appointment by the board of county commissioners as soon as practicable. ~~Each member of the county park board is entitled to receive the same compensation for services for each day actually engaged in the performance of the duties of the office as that paid a county commissioner but not to exceed a total of twenty-four days in any one year, and is entitled to reimbursement for actual necessary expenses incurred in the performance of the member's duties. The appointing authority shall establish the rate of compensation for park commissioners and actual expenses incurred by the commissioners may be reimbursed at the official reimbursement rates of the appointing authority.~~ Unless otherwise agreed upon, the board of county park commissioners shall meet at the time of the regular meetings of the board of county commissioners upon the order of the chairman, and appointed members only are entitled to compensation for attendance at the concurrent meetings.

SECTION 6. AMENDMENT. Section 11-33-05 of the North Dakota Century Code is amended and reenacted as follows:

11-33-05. Meetings - Officers.

The commission shall meet within thirty days after its appointment and elect a chairman and other necessary officers from its membership. The commission may adopt rules and bylaws not inconsistent with the provisions of this chapter. A majority of the members of the commission ~~shall constitute~~ constitutes a quorum. ~~Members of the commission may be compensated for their actual expenses in the same manner as members of the board of county commissioners. The board of county commissioners may also authorize payment of a sum not to exceed forty five dollars per day for time actually spent in transacting the business of the planning commission, in addition to any salaries members of the planning commission receive from any other source, from the state or county or any municipality. The appointing authority shall establish the rate of compensation for commissioners and actual expenses incurred by commissioners may be reimbursed at the official reimbursement rates of the appointing authority.~~ The county auditor shall serve as secretary to the commission and shall keep all of the records and accounts of the commission.

SECTION 7. AMENDMENT. Subsection 1 of section 11-36-07 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~A commissioner of an authority may not receive compensation for services but is entitled to reimbursement of necessary expenses incurred in the discharge of duties. The appointing authority shall establish the rate of compensation for commissioners and actual expenses incurred by commissioners may be reimbursed at the official reimbursement rates of the appointing authority.~~ Each commissioner shall hold office until a successor has been appointed and has qualified. The certificates of the appointment and reappointment of commissioners must be filed with the port authority.

SECTION 8. AMENDMENT. Subsection 2 of section 11-37-05 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~A commissioner of a commerce authority may not receive compensation for services but is entitled to reimbursement of necessary expenses incurred in the discharge of duties at the rates provided in sections 44-08-04 and 54-06-09. The appointing authority shall establish the rate of compensation for~~

commissioners and actual expenses incurred by commissioners may be reimbursed at the official reimbursement rates of the appointing authority.

SECTION 9. AMENDMENT. Section 23-11-05 of the North Dakota Century Code is amended and reenacted as follows:

23-11-05. Commissioners of authority - Appointment, qualifications, tenure, compensation.

When the governing body of a city adopts a resolution declaring there is need for a housing authority, the governing body promptly shall notify the mayor of the adoption. Upon receiving the notice, the mayor shall appoint five persons as commissioners of the authority. When the governing body of a county adopts a resolution declaring there is need for a housing authority, the governing body shall appoint five persons as commissioners of the authority. The commissioners who are first appointed must be designated to serve for terms of one, two, three, four, and five years, respectively, from the date of appointment, and after that time each commissioner must be appointed for a term of office of five years except that all vacancies must be filled for the unexpired term. A commissioner shall hold office until a successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner must be filed with the auditor of the city or county, as the case may be, and the certificate is conclusive evidence of the due and proper appointment of the commissioner. ~~A commissioner, other than one who is a county commissioner, may receive up to forty five dollars a day for each day necessarily devoted to the work of the office. The per diem compensation provided for in this section may not exceed six hundred dollars in any one fiscal year. A commissioner, other than one who is a county commissioner, also may be compensated for the necessary expenses, including travel expenses, incurred in the discharge of the commissioner's duties.~~The governing body of the city or county shall establish the rate of compensation for commissioners and actual expenses incurred by commissioners may be reimbursed at the official reimbursement rates of the appointing authority.

SECTION 10. AMENDMENT. Section 23-24-05 of the North Dakota Century Code is amended and reenacted as follows:

23-24-05. Board of commissioners - Composition - Appointment - Term of office - Vacancy - Compensation.

When an order of the council creating a vector control district has been filed in the office of the county auditor of a county in which the district or a part of the district is situated, a three-member board of commissioners of the vector control district must be appointed as provided by this section. Any resident freeholder in the district is eligible for appointment to the board of commissioners thereof. The term of commissioners first appointed must be determined by lot. One commissioner shall hold office for a term of two years, one shall serve for a term of three years, and one shall serve for a term of five years. The term of a commissioner commences on the date of appointment. If the office of a commissioner becomes vacant, the commissioner appointed to fill the vacancy shall serve the unexpired term of the member of the board of commissioners whom the new commissioner replaces. Any vacancy must be filled in the manner provided for original appointments. Appointments to the board of commissioners must be made by the board of county commissioners of the county containing the largest area of the vector control district. Any member of the board of commissioners may be removed upon a majority vote of the board of county commissioners that appoints members for the board of commissioners and the board of commissioners may be dissolved upon a majority

vote of the board of county commissioners that appoints the members for the board. Each member shall receive the sum of thirty dollars per day while performing duties as a member of the board, or a lesser sum as the board may determine, an allowance for meals and lodging as provided in section 44-08-04, and mileage expense reimbursement at the rate provided in section 54-06-09. The appointing authority shall establish the rate of compensation for commissioners and actual expenses incurred by commissioners may be reimbursed at the official reimbursement rates of the appointing authority.

³⁴ **SECTION 11. AMENDMENT.** Subsection 6 of section 23-35-03 of the North Dakota Century Code is amended and reenacted as follows:

6. Any board member who is not a public employee may be compensated at a rate not exceeding sixty two dollars and fifty cents per day, but for no more than twenty-five days per year, and may be reimbursed for expenses incurred in the manner and in an amount not exceeding the amount provided for a state officer. The appointing authority shall establish the rate of compensation for board members and actual expenses incurred by board members may be reimbursed at the official reimbursement rates of the appointing authority.

SECTION 12. AMENDMENT. Section 40-23-02 of the North Dakota Century Code is amended and reenacted as follows:

40-23-02. Commissioners - Appointments subject to confirmation - Qualifications - Chairman - Compensation.

All appointments made to the special assessment commission shall be subject to the confirmation of the governing body. Upon appointment and confirmation, each commissioner shall file with the city auditor a written acceptance of the appointment and shall take and subscribe the oath required of other municipal officers, which shall be filed with the city auditor. The member of the commission having the shortest term to serve shall act as chairman. No member of the commission shall hold any other municipal office while serving as such member. Each member of the commission shall receive such suitable compensation for the member's services while actually engaged in the duties of the commission as determined by the governing body. The appointing authority shall establish the rate of compensation for commissioners and actual expenses incurred by commissioners may be reimbursed at the official reimbursement rates of the appointing authority.

SECTION 13. AMENDMENT. Subsection 3 of section 40-38-03 of the North Dakota Century Code is amended and reenacted as follows:

3. A director is entitled to payment for mileage and travel expenses as provided for in sections 44-08-04 and 54-06-09. No other compensation may be paid or allowed to a director unless the governing body of the municipality or the board of county commissioners provides by ordinance or by resolution for the payment of compensation for members of the board of directors. The appointing authority shall establish the rate of compensation for directors and actual expenses incurred by directors may be reimbursed at the official reimbursement rates of the appointing authority.

SECTION 14. AMENDMENT. Subsection 4 of section 50-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

³⁴ Section 23-35-03 was also amended by section 3 of Senate Bill No. 2030, chapter 217.

4. ~~Each member of the governing board is entitled to receive forty five dollars per day, not to exceed forty five days in any calendar year, for each day necessarily spent in the performance of official duties. In addition, each member is entitled to be paid for mileage and actual expenses incurred in attending meetings and in the performance of official duties in the amounts provided by law for state officials. The appointing authority shall establish the rate of compensation for members of the governing board and actual expenses incurred by members may be reimbursed at the official reimbursement rates of the appointing authority.~~

SECTION 15. AMENDMENT. Section 50-01.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-02. Members of county social service board - Term of office - Oath - Compensation.

The members of the county social service board serve a term of three years or until their successors have duly qualified. Terms of office must be arranged so the term of office of one member expires in one year, the term of one-half the remaining members the next year, and the term of the remaining members the third year. Each member of the board qualifies by taking the oath provided for civil officers. The oath must be filed with the county auditor. ~~The members of the county social service board are entitled to receive, in addition to any salaries they receive from any other source, from the state or county or any municipality, a sum not to exceed forty five dollars per day for time actually spent in transacting the business of the board. The county shall reimburse members for expenses actually incurred in the performance of their official duties and for mileage at the legal rate for necessary travel. The appointing authority shall establish the rate of compensation for board members and actual expenses incurred by board members may be reimbursed at the official reimbursement rates of the appointing authority.~~

SECTION 16. AMENDMENT. Section 61-04.1-25 of the North Dakota Century Code is amended and reenacted as follows:

61-04.1-25. Commissioners - Compensation - Meetings - Officers.

~~A commissioner of a weather modification authority shall receive no compensation for services, but shall be entitled to the necessary expense, as defined in section 44-08-04, incurred in the discharge of the commissioner's duties. The appointing authority shall establish the rate of compensation for commissioners of a weather modification authority and actual expenses incurred by commissioners may be reimbursed at the official reimbursement rates of the appointing authority. Each commissioner shall hold office until a successor has been appointed and has qualified. The certificates of appointment shall be filed with the weather modification authority.~~

The powers of each weather modification authority shall be vested in the commissioners thereof. A majority of the commissioners of an authority ~~shall constitute~~ constitutes a quorum for the purpose of conducting the business of the authority and exercising its powers and for all other purposes. ~~Although a majority of the commissioners shall constitute~~ constitutes a quorum, but action may not be taken by the authority except by an affirmative vote of not less than a majority of all the commissioners.

A chairman, vice chairman, and treasurer shall be elected from among the commissioners. A weather modification authority may employ an executive director,

secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. For such legal services as it may require, an authority may call upon the state's attorney of the county. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

Minutes shall be kept by the secretary of official meetings and shall include all official business such as contracts authorized and all authorizations for payment of weather modification authority funds to persons, organizations, companies, corporations, and limited liability companies. All disbursements shall be approved by a majority of all the commissioners of an authority. Disbursements authorized by the authority for the payment of employee salaries, bills, contracts, services, fees, expenses, and all other obligations shall be made by check signed by the chairman and the treasurer of the authority. Official policies shall also be entered into the minutes. An annual report shall be compiled with complete disclosure of funds expended for contracts, services, fees, salaries, and all other reimbursements, a copy of which shall be filed with the county auditor. The annual report shall be presented at a public meeting called for such purpose.

Approved April 2, 2013

Filed April 2, 2013

CHAPTER 94**HOUSE BILL NO. 1371**

(Representatives Brabandt, Brandenburg, Rohr, Schmidt)
(Senator Erbele)

AN ACT to amend and reenact section 11-10-02.3 of the North Dakota Century Code, relating to the appointment of state's attorneys.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-10-02.3 of the North Dakota Century Code is amended and reenacted as follows:

11-10-02.3. Appointment of state's attorney upon voter approval.

Upon the submission to the board of county commissioners of a petition signed by ten percent or more of the total number of qualified electors of the county voting for governor at the most recent gubernatorial election or upon resolution of the board of county commissioners, the county auditor shall place the question of appointing the state's attorney on the ballot at the next ~~regular~~primary or general election, whichever occurs first. If a majority of the qualified electors of the county voting on the question approves the change from elective to appointive, the change is effective at the end of the term of office of the state's attorney holding office at the time of the election.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 95

HOUSE BILL NO. 1225

(Representatives Louser, Hanson, Wieland)

AN ACT to amend and reenact section 11-18-02.2 of the North Dakota Century Code, relating to property sales price disclosures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-18-02.2 of the North Dakota Century Code is amended and reenacted as follows:

11-18-02.2. Statements of full consideration to be filed with state board of equalization or recorder - Procedure - ~~Secrecy of information~~ - Penalty.

1. Any grantee or grantee's authorized agent who presents a deed in the office of the county recorder shall certify on the face of the deed any one of the following:
 - a. A statement that the grantee has filed a report of the full consideration paid for the property conveyed with the state board of equalization.
 - b. A statement that the grantee has filed a report of the full consideration paid for the property conveyed with the recorder.
 - c. A statement of the full consideration paid for the property conveyed.
 - d. A statement designating one of the exemptions in subsection 7 which the grantee believes applies to the transaction.
2. Any party who presents an affidavit of affixation to real property of a manufactured home in the office of the county recorder in accordance with section 47-10-27 and who acquired the manufactured home before the affixation of the manufactured home to the real property shall either contain in or present in addition to the affidavit of affixation any one of the following:
 - a. A statement that the party has filed with the state board of equalization a report of the full consideration paid for the manufactured home before the affixation.
 - b. A statement that the party has filed with the recorder a report of the full consideration paid for the manufactured home before the affixation.
 - c. A statement of the full consideration paid by the party for the manufactured home before the affixation.
3. The recorder may not record any deed unless the deed contains one of the statements required by subsection 1 or record any affidavit of affixation unless the affidavit contains or is accompanied by one of the statements required by subsection 2.

4. The recorder shall accumulate and at least monthly forward to the state board of equalization a report containing the information filed in the recorder's office pursuant to subsection 1 or subsection 2.
5. The state board of equalization shall prescribe the necessary forms for the statements and reports to be used in carrying out this section, and the forms must contain a space for the explanation of special circumstances that may have contributed to the amount of the consideration.
6. For purposes of subsection 1, the word "deed" means an instrument or writing whereby any real property or interest therein is granted, conveyed, or otherwise transferred to the grantee, purchaser, or other person, except any instrument or writing that transfers any ownership in minerals or interests in minerals underlying land if that ownership has been severed from the ownership of the overlying land surface or any instrument or writing for the easement, lease, or rental of real property or any interest therein.
7. This section does not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
 - a. Property owned or used by public utilities.
 - b. Property classified as personal property.
 - c. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.
 - d. A sale that resulted as a settlement of an estate.
 - e. All sales to or from a government or governmental agency.
 - f. All forced sales, mortgage foreclosures, and tax sales.
 - g. All sales to or from religious, charitable, or nonprofit organizations.
 - h. All sales when there is an indicated change of use by the new owners.
 - i. All transfer of ownership of property for which is given a quitclaim deed.
 - j. Sales of property not assessable by law.
 - k. Agricultural lands of less than eighty acres [32.37 hectares].
 - l. A transfer that is pursuant to a judgment.
8. ~~The state board of equalization shall guard the secrecy of information contained on statements filed with the board under subsection 1 or subsection 2, and any information contained on statements and any information provided by local officials must be limited to data necessary to perform official duties and may not include the names of any grantors or grantees to deeds or of any parties to affidavits of affixation. Any reports made available to the public must be made in a manner that will not reveal the names of any grantors, grantees, or parties. The recorder shall guard the secrecy of information contained on reports filed in the recorder's office under subdivision b of subsection 1 or subdivision b of subsection 2.~~

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9. Any person that, in the statements provided for in subsection 1 or subsection 2, willfully falsifies the consideration paid for the transferred real property or the manufactured home, as applicable, or interest therein or that falsely certifies that the person has filed a report of full consideration with the state board of equalization is guilty of a class B misdemeanor.

Approved April 8, 2013

Filed April 8, 2013

CHAPTER 96

HOUSE BILL NO. 1339

(Representatives Hunskor, Froseth, D. Johnson, N. Johnson)
(Senators Andrist, Bowman, Dotzenrod)

AN ACT to amend and reenact section 11-28.2-02 of the North Dakota Century Code, relating to compensation of recreational service district board members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-28.2-02 of the North Dakota Century Code is amended and reenacted as follows:

11-28.2-02. Meetings of recreation service districts - Election of board.

The first meeting of the recreation service district must be held within thirty days after the district is organized at a time and place designated by the board of county commissioners. At the meeting, the qualified voters, as defined in section 11-28.2-03, shall elect not less than five qualified voters of the district to serve as members of the board of recreation service district commissioners. Each member elected and qualified shall serve until the first annual meeting of the district. The voters of the district shall assemble and hold an annual meeting during the month of June of each year, at a time and place within the county designated by the board of recreation service district commissioners. In addition to the annual meeting, the board of recreation service district commissioners may call a special meeting of the voters of the district at the time and place the board selects. For any annual or special meeting, the board shall publish notice of the meeting not less than fifteen days before the meeting in the official county newspaper of the county in which the district is located and the notice must be mailed to property owners of the district as recorded in the county treasurer's office in which the district is located not less than fifteen days before the meeting. No fewer than five qualified voters of the district must be elected to serve on the board of recreation service district commissioners at the annual meeting. Each member elected shall serve a term of three years, until a successor is elected and qualified. The term of each member must be established so that the terms of approximately one-third of the members terminate each year. The members of the board are entitled to receive compensation in an amount of no more than ~~twenty-five one hundred~~ one hundred dollars per meeting of the board, as determined by the board.

Approved March 27, 2013

Filed March 27, 2013

CORRECTIONS, PAROLE, AND PROBATION

CHAPTER 97

HOUSE BILL NO. 1392

(Representatives K. Koppelman, Hanson, Hogan, Karls, Klemin, Larson, Paur)
(Senators Hogue, Lyson)

AN ACT to amend and reenact sections 12-44.1-01 and 12-44.1-04 and subsection 1 of section 12-44.1-06 of the North Dakota Century Code, relating to correctional facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-44.1-01 of the North Dakota Century Code is amended and reenacted as follows:

12-44.1-01. Definitions.

As used in this chapter:

1. "Administrator" means the sheriff, chief of police, administrator, superintendent, director, or other individual serving as the chief executive officer of a correctional facility.
2. "Adult lockup" means a secure temporary-hold nonresidential facility that does not hold individuals overnight and includes a facility with cuffing rails or cuffing benches.
3. "Correctional facility" means a city or county jail or detention center, regional corrections center, or juvenile detention center for the detention or confinement of persons in accordance with law. The use of the term does not imply and may not be used to require the provision of services including treatment, counseling, career and technical education, or other educational services, except as may otherwise be required or provided for under this chapter.
- ~~3-4.~~ "Correctional facility staff" means correctional personnel with titles such as jailer, deputy, counselor, correctional officer, or any other title, whose duties include the ongoing supervision of inmates in a correctional facility.
- ~~4-5.~~ "Court holding facility" means a secure facility, other than an adult correctional facility or adult lockup, used to temporarily detain individuals before or after a detention hearing or other court proceedings, and is not used to detain individuals overnight.
6. "Inmate" means any person individual, whether sentenced or unsentenced, who is detained or confined in a correctional facility. The term does not include

an individual who is under the supervision of the correctional facility and is supervised under home detention, electronic monitoring, or a similar program that does not involve physical detention or confinement in the facility.

- ~~5-7.~~ "Jail" means a correctional facility, including a county or city jail or a regional corrections center.
- ~~6-8.~~ "Juvenile detention center" means a publicly ~~or privately established and~~ maintained correctional facility for the detention of juveniles. The term does not include the North Dakota youth correctional center.
- ~~7-9.~~ "Regional corrections center" means a correctional facility established and maintained by more than one county or city, or a combination of counties and cities, for the confinement of inmates.
- ~~8-10.~~ "Trained correctional facility staff" means correctional personnel who have completed a course of training approved by the ~~department of corrections and rehabilitation~~peace officer standards and training board.

SECTION 2. AMENDMENT. Section 12-44.1-04 of the North Dakota Century Code is amended and reenacted as follows:

12-44.1-04. Administration - Organization - Management.

The administrator of each correctional facility shall:

1. Formulate an operations manual, available to all correctional facility staff, which delineates the written policies and procedures for operating and maintaining the correctional facility.
2. Review and update all policies and procedures in the operations manual at least annually.
3. Specify an administrator in the operations manual to whom all correctional facility staff are responsible. The operations manual shall include the administrator's duties, responsibilities, and authority for the management of the correctional facility staff, inmates, programs, and physical plant.
4. Ensure that correctional facility staff who work in direct and continuing contact with inmates receive correctional facility training as determined and approved by the ~~department of corrections and rehabilitation~~peace officer standards and training board.

SECTION 3. AMENDMENT. Subsection 1 of section 12-44.1-06 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of corrections and rehabilitation shall, following inspection pursuant to section 12-44.1-24, grade correctional facilities as to length of allowable inmate confinement based upon construction, size, and usage, as follows:
 - a. "Grade one" means a correctional facility for confining inmates not more than one year.
 - b. "Grade two" means a correctional facility for confining inmates not more than ninety days.

- c. "Grade three" means a correctional facility for confining inmates not more than ninety-six hours.
- d. "Grade four" means an adult lockup or court holding facility in which individuals may not be detained overnight.

Approved April 12, 2013
Filed April 11, 2013

CHAPTER 98

HOUSE BILL NO. 1108

(Human Services Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 12-44.1-29 of the North Dakota Century Code, relating to medication administration in correctional facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-44.1-29 of the North Dakota Century Code is amended and reenacted as follows:

12-44.1-29. Provision of medication - Training requirements - Verification - Rules.

1. A correctional facility may authorize an employee to provide medication to an inmate of a correctional facility if the employee is:
 - a. Licensed or registered under title 43 and is providing the medication within the scope of practice of the profession for which the individual is licensed or registered; or
 - b. A correctional facility staff member who has successfully completed a medication administration training that has been preapproved assistant I training and competency evaluation program approved by the North Dakota board of nursing state department of health under chapter 23-44. The requirements for a medication assistant I training and competency evaluation program must be met, except for the requirement a correctional facility staff member must be a nurse aide or certified nurse aide on the department registry prior to entry into the medication assistant I training and competency evaluation program or following successful completion of the program.
2. If a correctional facility uses a correctional facility staff member to provide medication to an inmate under subdivision b of subsection 1:
 - a. The Upon successful completion of the department-approved medication assistant I training and competency evaluation program, the correctional facility staff member may not provide the medication by the parenteral route administration to inmates consistent within the scope and limitations of medication administration included in the medication assistant I training and competency evaluation program; and
 - b. The correctional facility shall provide to the board of nursing verification of appropriate medication administration training for that correctional facility staff member maintain records of all correctional facility staff members who have successfully completed the department-approved medication assistant I training and competency evaluation program, including verification of successful completion of the program. The department may periodically review the correctional facility's records to assure compliance

with medication assistant I training and competency evaluation requirements.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 99

HOUSE BILL NO. 1119

(Government and Veterans Affairs Committee)
(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact section 12-47-12 of the North Dakota Century Code, relating to authority of the warden of the state penitentiary to make rules.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-47-12 of the North Dakota Century Code is amended and reenacted as follows:

12-47-12. Warden to make rules.

The warden, subject to the approval of the director of the department of corrections and rehabilitation, shall make rules not in conflict with the laws of this state and shall prescribe penalties for violation of the rules:

1. For the admission of visitors, ~~but admission of visitors may not be limited to less than four days in each week, subject to the space limitations of the facility.~~
2. For the government of officers and employees of the penitentiary.
3. For the conduct of offenders imprisoned in the penitentiary.

A printed copy of the rules must be furnished to each offender imprisoned in the penitentiary at the time of admission and to each official or employee of the penitentiary at the time of hire. Two copies of the rules must be furnished to the state law library for the use of the state officials and the public. The rules must be explained to an offender who cannot read English.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 100

HOUSE BILL NO. 1115

(Judiciary Committee)
(At the request of the State Parole Board)

AN ACT to amend and reenact sections 12-59-03, 12-59-04, 12-59-05, 12-59-07, 12-59-08, 12-59-09, and 12-59-10 of the North Dakota Century Code, relating to parole.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-59-03 of the North Dakota Century Code is amended and reenacted as follows:

12-59-03. Supplies - Regulations governing parole.

The board shall provide ~~books of record, application blanks, and such other supplies as are necessary to the performance of its duties.~~ It shall formulate rules and regulations governing the manner in which inmates may become eligible to apply for discharge on parole.

SECTION 2. AMENDMENT. Section 12-59-04 of the North Dakota Century Code is amended and reenacted as follows:

12-59-04. Parole records - Inspection.

All parole records of the department of corrections and rehabilitation obtained in the discharge of official duty by any member of the parole board or employee of a division or department of the department of corrections and rehabilitation on behalf of the parole board may not be disclosed except in the manner provided under section 12-47-36. ~~An application for parole and the decision~~The decisions of the parole board ~~on the application to grant or deny parole~~ are open records.

SECTION 3. AMENDMENT. Section 12-59-05 of the North Dakota Century Code is amended and reenacted as follows:

12-59-05. Consideration by board.

~~Applications~~Every inmate's eligibility for parole must be reviewed in accordance with the rules adopted by the parole board. The board shall consider all pertinent information regarding each ~~applicant~~inmate, including the circumstances of the offense, the presentence report, the ~~applicant's~~inmate's family, educational, and social history and criminal record, the ~~applicant's~~inmate's conduct, employment, participation in education and treatment programs while in the custody of the department of corrections and rehabilitation, and the ~~applicant's~~inmate's medical and psychological records.

SECTION 4. AMENDMENT. Section 12-59-07 of the North Dakota Century Code is amended and reenacted as follows:

12-59-07. Requirements precedent to parole.

The parole board may grant an application for parole to an inmate if the board is convinced the applicant inmate will conform to the terms and conditions of parole the board or the department of corrections and rehabilitation may establish for the applicant inmate. The department of corrections and rehabilitation may establish intermediate conditions of parole, including incarceration for a period of seventy-two hours and restitution, subject to the subsequent approval of the parole board.

SECTION 5. AMENDMENT. Section 12-59-08 of the North Dakota Century Code is amended and reenacted as follows:

12-59-08. Application for parole – Emergency paroles.

An applicant for parole shall file an application with the department of corrections and rehabilitation. The parole board may consider the application whether an inmate may receive an emergency parole at a meeting scheduled by the chairman. The board may request an applicant the inmate to personally appear before the board before the board makes a decision on an application whether to grant the inmate an emergency parole. The board may grant or deny an emergency parole, or grant a conditional emergency parole, or continue its consideration to another meeting. In the event of an application for emergency parole, two Two members of the parole board may grant emergency parole, subject to terms and conditions of emergency parole that may be established by the two members of the parole board, or by the department of corrections and rehabilitation with the approval of the parole board. An applicant inmate who receives an emergency parole remains in the legal custody of the department of corrections and rehabilitation under the jurisdiction of the parole board until the expiration of the maximum term or terms of imprisonment for which the applicant inmate was sentenced, less any sentence reduction the applicant inmate has received.

SECTION 6. AMENDMENT. Section 12-59-09 of the North Dakota Century Code is amended and reenacted as follows:

12-59-09. Contents of application for parole Inmates subject to jurisdiction of parole board.

An application for parole must be in writing, addressed to the department of corrections and rehabilitation, and must be signed by the applicant or some person in the applicant's behalf. All inmates sentenced to the legal and physical custody of the department of corrections and rehabilitation are subject to the jurisdiction of the parole board, except when parole for the inmate is prohibited by statute.

SECTION 7. AMENDMENT. Section 12-59-10 of the North Dakota Century Code is amended and reenacted as follows:

12-59-10. Notice of application for parole.

The department of corrections and rehabilitation shall provide written notice of an application for parole to the district court and state's attorney's office in the county or counties where judgment of conviction was entered against the applicant inmate when the parole board is reviewing whether an inmate may be released on parole. The notice must include the name of the applicant inmate, the date of entry and docket number of the criminal judgment, the crime or crimes stated in the criminal judgment, and the date and place for the parole board's meeting on the application to review whether an inmate may be released on parole.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 101

HOUSE BILL NO. 1138

(Representatives Larson, Dockter, Karls)
(Senators Carlisle, Lyson)

AN ACT to amend and reenact sections 12-63-09 and 12-63-12 of the North Dakota Century Code, relating to peace officer licenses; and to repeal section 12-63-08 of the North Dakota Century Code, relating to peace officer licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-63-09 of the North Dakota Century Code is amended and reenacted as follows:

12-63-09. Limited license.

1. Pending successful completion of the written examination required in this chapter, the The board may grant a limited license to a person an individual who has completed the education, medical, and psychological examination requirements, criminal history background investigation, and has been qualified to carry a sidearm requirements of the board and this chapter.
2. The limited license allows the person individual to practice perform peace officer duties in accordance with the rules of the board. Except as otherwise provided, the limited license is valid for no longer than the earlier of the expiration of the next available training session, until the person is issued a license under section 12-63-10, or until the limited license is suspended or revoked by the board.
3. After being becoming employed but before taking the written examination as a peace officer, the person individual shall attend the first available basic full-time peace officer training program recognized course authorized by the board. The limited license may be renewed one time if the person has failed the examination. On terms and conditions prescribed by the board, the in accordance with the rules of the board.
4. The limited license is limited to the jurisdiction in which the person is employed and is valid until:
 - a. The individual has completed the first available basic full-time peace officer training course authorized by the board; and
 - b. The individual has completed the licensing examination and has been issued a peace officer license by the board.
5. The limited license may be renewed one time if the individual has failed the licensing examination.
6. The limited license is subject to section 12-63-12.

SECTION 2. AMENDMENT. Section 12-63-12 of the North Dakota Century Code is amended and reenacted as follows:

12-63-12. Adverse license action - Appeal.

1. The board shall deny a license, refuse to renew a license, suspend a license, revoke a license, or impose probationary conditions if the individual has been convicted or pled guilty or nolo contendere before a court of competent jurisdiction in any state, or before any court, of a felony offense.
2. The board may deny a license, refuse to renew a license, suspend a license, or revoke a license, or may impose probationary conditions if the ~~person~~individual:
 - a. Has been convicted or pled guilty or nolo contendere before a court of competent jurisdiction in any state, or before any court, of an offense involving domestic violence or violation of a domestic violence restraining order, an offense involving child abuse or neglect, an offense involving firearms under title 12.1 or title 62.1, or another criminal offense determined by the board to have a direct bearing upon a person's~~an individual's~~ ability to serve as a peace officer, or the board determines, following a conviction or adjudication, that the ~~person~~individual is not rehabilitated under section 12.1-33-02.1.
 - b. Has used unjustified deadly force in the performance of the duties as a peace officer as described in section 12.1-05-07.
 - c. Has made a false material statement under oath to the board.
 - d. Has made a false material statement to the board while obtaining or renewing a license or permit.
 - e. Has violated a provision of this chapter or a rule of the board.
- ~~2-3.~~ Denial, refusal to renew, suspension, revocation, or imposition of probationary condition on a license may be ordered by the board after a hearing in a ~~manner provided by rules adopted by the board~~accordance with chapter 28-32. An application for reinstatement may be made to the board one year from the date of the refusal to renew or the revocation of the license. The board may accept or reject an application for reinstatement and may hold a hearing to consider the reinstatement. In the case of a denial of an application, the applicant may not reapply for a period of one year from the date of the order of denial.
- ~~3-4.~~ An appeal from the final decision of the board to refuse to issue, to not renew, to suspend, or to revoke a license may be made to the district court. Venue is the county in which the aggrieved ~~person~~individual resides. The appeal must be made within ~~ninety~~thirty days from the service of the decision on the ~~person~~individual.

SECTION 3. REPEAL. Section 12-63-08 of the North Dakota Century Code is repealed.

Approved April 29, 2013
 Filed April 29, 2013

CRIMINAL CODE

CHAPTER 102

HOUSE BILL NO. 1116

(Judiciary Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 12.1-04-06 of the North Dakota Century Code, relating to an evaluation to determine a defendant's fitness to proceed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁵ **SECTION 1. AMENDMENT.** Section 12.1-04-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-06. Examination - Temporary commitment.

Whenever there is reason to doubt the defendant's fitness to proceed, the court may order the detention of the defendant for the purpose of an examination by a psychiatrist or a licensed psychologist. The detention must be in the least restrictive appropriate setting, including the state hospital, the developmental center at westwood park, Grafton, or other suitable facility for a reasonable period, not to exceed thirty days, for such examination. In lieu of detention, the court may allow the defendant to remain in the defendant's present residential setting or other suitable residential setting for the purpose of evaluation by a ~~human service center or other~~ suitable facility or personnel, subject to any reasonable limitation the court may impose. A human service center may not be considered a suitable facility and may not be considered suitable personnel under this section unless the court is aware that an inquiry has been made prior to the court ordering the evaluation to ensure that appropriate resources exist at the human service center being ordered to conduct the evaluation. The court, by subsequent order and for good cause shown, may extend the detention for a period not to exceed thirty additional days. While the defendant is detained, the defendant's legal counsel, family, and others necessary to assist in the defendant's case shall have reasonable opportunity to examine and confer with the defendant.

Approved April 8, 2013
Filed April 8, 2013

³⁵ Section 12.1-04-06 was also amended by section 1 of Senate Bill No. 2069, chapter 226.

CHAPTER 103

HOUSE BILL NO. 1320

(Representatives Kreun, Delmore, Hatlestad, N. Johnson)
(Senators Hogue, Laffen, Sorvaag)

AN ACT to amend and reenact section 12.1-17-07 of the North Dakota Century Code, relating to harassment offenses through electronic communications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-17-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-17-07. Harassment.

1. A person is guilty of an offense if, with intent to frighten or harass another, the person:
 - a. Communicates in writing or by ~~telephone~~electronic communication a threat to inflict injury on any person, to any person's reputation, or to any property;
 - b. Makes a telephone call anonymously or in offensively coarse language;
 - c. Makes repeated telephone calls or other electronic communication, whether or not a conversation ensues, with no purpose of legitimate communication; or
 - d. Communicates a falsehood in writing or by ~~telephone~~electronic communication and causes mental anguish.
2. The offense is a class A misdemeanor if it is under subdivision a of subsection 1 or subsection 4. Otherwise it is a class B misdemeanor.
3. Any offense defined herein and committed by use of ~~a telephone~~electronic communication may be deemed to have been committed at either the place at which the ~~telephone call or calls were~~electronic communication was made or at the place where the telephone call or calls wereelectronic communication was received.
4. A person ~~who telephones~~is guilty of an offense if the person initiates communication with a 911 emergency line, public safety answering point, or an emergency responder communication system with the intent to annoy or harass another person or a public safety agency or who makes a false 911 report is guilty of a class A misdemeanor to a public safety agency.
 - a. Intent to annoy or harass is established by proof of one or more calls with no legitimate ~~911~~emergency purpose.
 - b. Upon conviction of a violation of this subsection, a person is also liable for all costs incurred by any unnecessary emergency response.

5. Any offense defined herein is deemed communicated in writing if it is transmitted electronically, by electronic mail, facsimile, or other similar means. Electronic communication means transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic, or photo-optical system.

Approved April 12, 2013

Filed April 12, 2013

CHAPTER 104

SENATE BILL NO. 2251

(Senators Armstrong, Schaible, Nelson)
(Representatives Steiner, Thoreson, Oversen)

AN ACT to amend and reenact subsection 1 of section 6-08-16, subsection 3 of section 6-08-16.2, sections 12.1-23-02.1, 12.1-23-05, 12.1-23-06, 12.1-23-07, and 12.1-23-08, subsection 1 of section 12.1-23-09, and sections 12.1-24-01, 12.1-24-03, 12.1-32-01, 12.1-32-01.1, 26.1-02.1-05, and 29-03-22 of the North Dakota Century Code, relating to the penalties for crimes for which a monetary amount triggers the level of penalty; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁶ **SECTION 1. AMENDMENT.** Subsection 1 of section 6-08-16 of the North Dakota Century Code is amended and reenacted as follows:

1. A person may not, for that person, as the agent or representative of another, or as an officer or member of a firm, company, copartnership, or corporation, make, draw, utter, or deliver any check, draft, or order, or authorize an electronic funds transfer, for the payment of money upon a bank, banker, or depository, if at the time of the making, drawing, uttering, electronically authorizing, or delivery, or at the time of presentation for payment, if the presentation for payment is made within fourteen days after the original delivery thereof, there are not sufficient funds in or credit with the bank, banker, or depository to meet the check, draft, electronic funds transfer, or order in full upon its authorized presentation. Violation of this subsection is:
 - a. An infraction if the amount of insufficient funds or credit is not more than fiftyone hundred dollars;
 - b. A class B misdemeanor if the amount of insufficient funds or credit is more than fiftyone hundred dollars but not more than twofive hundred fifty dollars, or if the individual has pled guilty or been found guilty of a violation of this section within three years of issuing an insufficient funds check, draft, or order;
 - c. A class A misdemeanor if the amount of insufficient funds or credit is more than twofive hundred fifty dollars but not more than five hundredone thousand dollars, or if the individual has pled guilty or been found guilty of two violations of this section within three years of issuing an insufficient funds check, draft, or order; or
 - d. A class C felony if the amount of insufficient funds or credit is more than five hundredone thousand dollars, or an individual has pled guilty or been found guilty of three or more violations of this section within five years of willfully issuing an insufficient funds check, draft, or order.

³⁶ Section 6-08-16 was also amended by section 1 of House Bill No. 1243, chapter 79.

³⁷ **SECTION 2. AMENDMENT.** Subsection 3 of section 6-08-16.2 of the North Dakota Century Code is amended and reenacted as follows:

3. A person who, for that person or an agent or representative of another, willfully as defined in section 12.1-02-02 issues any instrument is guilty of a class C felony if the instrument was for at least five hundred one thousand dollars or that person, agent, or representative of another, issues more than one instrument wherein the aggregate total of all instruments issued exceeds five hundred one thousand dollars, and at the time of issuing the instrument, the drawer does not have an account with the bank or depository on which the instrument is drawn.

SECTION 3. AMENDMENT. Section 12.1-23-02.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-23-02.1. Disarming or attempting to disarm a law enforcement officer.

Notwithstanding subdivision d of subsection ~~23~~ of section 12.1-23-05, a person is guilty of a class C felony if, without the consent of the law enforcement officer, the person willfully takes or removes, or attempts to take or remove, a firearm from a law enforcement officer engaged in the performance of official duties.

SECTION 4. AMENDMENT. Section 12.1-23-05 of the North Dakota Century Code is amended and reenacted as follows:

12.1-23-05. Grading of theft offenses.

1. Notwithstanding subsection 3, theft under this chapter is a class A felony if the property or services stolen exceed fifty thousand dollars in value.
 2. Notwithstanding the provisions of subsection 23, theft under this chapter is a class B felony if the property or services stolen exceed ten thousand dollars in value but do not exceed fifty thousand dollars or are acquired or retained by a threat to commit a class A or class B felony or to inflict serious bodily injury on the person threatened or on any other person.
- ~~2-3.~~ Theft under this chapter is a class C felony if:
- a. The property or services stolen exceed five hundred one thousand dollars in value;
 - b. The property or services stolen are acquired or retained by threat and (1) are acquired or retained by a public servant by a threat to take or withhold official action, or (2) exceed fifty one hundred dollars in value;
 - c. The property or services stolen exceed fifty one hundred dollars in value and are acquired or retained by a public servant in the course of official duties;
 - d. The property stolen is a firearm, ammunition, explosive or destructive device, or an automobile, aircraft, or other motor-propelled vehicle;

³⁷ Section 6-08-16.2 was also amended by section 2 of House Bill No. 1243, chapter 79.

- e. The property consists of any government file, record, document, or other government paper stolen from any government office or from any public servant;
- f. The defendant is in the business of buying or selling stolen property and the defendant receives, retains, or disposes of the property in the course of that business;
- g. The property stolen consists of any implement, paper, or other thing uniquely associated with the preparation of any money, stamp, bond, or other document, instrument, or obligation of this state;
- h. The property stolen consists of livestock taken from the premises of the owner;
- i. The property stolen consists of a key or other implement uniquely suited to provide access to property the theft of which would be a felony and it was stolen to gain such access;
- j. The property stolen is a card, plate, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit, or is a debit card, electronic fund transfer card, code, or other means of access to an account for the purposes of initiating electronic fund transfers; or
- k. The property stolen is a prescription drug as defined in section 43-15.3-01.

~~3-4.~~ All other theft under this chapter is a class A misdemeanor, unless the requirements of subsection ~~45~~ are met.

~~4-5.~~ Theft under this chapter of property or services of a value not exceeding ~~two~~five hundred fifty dollars ~~shall be~~is a class B misdemeanor if:

- a. The theft was not committed by threat;
- b. The theft was not committed by deception by one who stood in a confidential or fiduciary relationship to the victim of the theft; and
- c. The defendant was not a public servant or an officer or employee of a financial institution who committed the theft in the course of official duties.

The special classification provided in this subsection ~~shall apply~~applies if the offense is classified under this subsection in the charge or if, at sentencing, the required factors are established by a preponderance of the evidence.

~~5-6.~~ Notwithstanding the ~~provisions of~~ subsection 3 of section 12.1-06-01, an attempt to commit a theft under this chapter is punishable equally with the completed offense when the actor has completed all of the conduct which the actor believes necessary on the actor's part to complete the theft except receipt of the property.

~~6-7.~~ For purposes of grading, the amount involved in a theft under this chapter ~~shall be~~is the highest value by any reasonable standard, regardless of the actor's knowledge of such value, of the property or services which were stolen by the actor, or which the actor believed that the actor was stealing, or which the actor could reasonably have anticipated to have been the property or

services involved. Thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be charged as one offense and the amounts proved to have been stolen may be aggregated in determining the grade of the offense.

SECTION 5. AMENDMENT. Section 12.1-23-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-23-06. Unauthorized use of a vehicle.

1. A person is guilty of an offense if, knowing that ~~he~~the person does not have the consent of the owner, ~~he~~the person takes, operates, or exercises control over an automobile, train, aircraft, motorcycle, motorboat, or other motor-propelled vehicle of another.
2. It is a defense to a prosecution under this section that the actor reasonably believed that the owner would have consented had ~~he~~the owner known of the conduct on which the prosecution was based.
3. The offense is a class C felony if the vehicle is an aircraft or if the value of the use of the vehicle and the cost of retrieval and restoration exceeds ~~five hundred one thousand~~ five hundred one thousand dollars. Otherwise the offense is a class A misdemeanor.

SECTION 6. AMENDMENT. Section 12.1-23-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-23-07. Misapplication of entrusted property.

1. A person is guilty of misapplication of entrusted property if the person disposes of, uses, or transfers any interest in property that has been entrusted to the person as a fiduciary, or in the person's capacity as a public servant or an officer, director, agent, employee of, or a person controlling a financial institution, in a manner that the person knows is not authorized and that the person knows to involve a risk of loss or detriment to the owner of the property or to the government or other person for whose benefit the property was entrusted.
2. Misapplication of entrusted property is:
 - a. A class A felony if the value of the property misapplied exceeds fifty thousand dollars.
 - b. A class B felony if the value of the property misapplied exceeds ten thousand dollars but does not exceed fifty thousand dollars.
 - b-c. A class C felony if the value of the property misapplied exceeds five hundred one thousand dollars but does not exceed ten thousand dollars.
 - e-d. A class A misdemeanor if the value of the property misapplied exceeds ~~two~~five hundred fifty dollars but does not exceed ~~five hundred one thousand~~ five hundred one thousand dollars.
 - d-e. A class B misdemeanor in all other cases.

SECTION 7. AMENDMENT. Section 12.1-23-08 of the North Dakota Century Code is amended and reenacted as follows:

12.1-23-08. Defrauding secured creditors.

1. An owner of property who creates a security interest in such property may not intentionally alter, conceal, destroy, damage, encumber, transfer, remove, or otherwise deal with property that is subject to the security interest without the prior consent of the secured party if that action has the effect of hindering the enforcement of the security interest.
2. A person may not destroy, remove, damage, conceal, encumber, transfer, or otherwise deal with property that is subject to a security interest with the intent to prevent collection of the debt represented by the security interest.
3. A person may not, at the time of sale of property that is subject to a security interest, or is described in a certificate provided for under section 41-09-28, make false statements as to the existence of security interests in the property, or as to the ownership or location of the property.
4. A violation of subsection 2 or 3 must be prosecuted as theft under section 12.1-23-02 or 12.1-23-04. Violation of subsection 2 or 3 is a class C felony if the property has a value of more than ~~five hundred~~ one thousand dollars, as determined under subsection ~~67~~ of section 12.1-23-05. In all other cases, violation of this section is a class A misdemeanor.

SECTION 8. AMENDMENT. Subsection 1 of section 12.1-23-09 of the North Dakota Century Code is amended and reenacted as follows:

1. It is a defense to a prosecution under this chapter that:
 - a. The actor ~~honestly~~reasonably believed that ~~he~~the actor had a claim to the property or services involved which ~~he~~the actor was entitled to assert in the manner which forms the basis for the charge against ~~him~~the actor; or
 - b. The victim is the actor's spouse, but only when the property involved constitutes household or personal effects or other property normally accessible to both spouses and the parties involved are living together. The term "spouse", as used in this section, includes persons living together as husband and wife.

SECTION 9. AMENDMENT. Section 12.1-24-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-24-01. Forgery or counterfeiting.

1. A person is guilty of forgery or counterfeiting if, with intent to deceive or harm the government or another person, or with knowledge that ~~he~~the person is facilitating such deception or harm by another person, ~~he~~the person:
 - a. Knowingly and falsely makes, completes, or alters any writing; or
 - b. Knowingly utters or possesses a forged or counterfeited writing.
2. Forgery or counterfeiting is:
 - a. A class B felony if:
 - (1) The actor forges or counterfeits an obligation or other security of the government; or

- (2) The offense is committed pursuant to a scheme to defraud another or others of money or property of a value in excess of ten thousand dollars, but not in excess of fifty thousand dollars. If the value of the property exceeds fifty thousand dollars, the offense is a class A felony.
- b. A class C felony if:
- (1) The actor is a public servant or an officer or employee of a financial institution and the offense is committed under color of office or is made possible by ~~his~~the actor's office;
 - (2) The actor forges or counterfeits foreign money or other legal tender, or utters or possesses any forged or counterfeited obligation or security of the government or foreign money or legal tender;
 - (3) The actor forges or counterfeits any writing from plates, dies, molds, photographs, or other similar instruments designed for multiple reproduction;
 - (4) The actor forges or counterfeits a writing which purports to have been made by the government; or
 - (5) The offense is committed pursuant to a scheme to defraud another or others of money or property of a value in excess of one ~~hundred~~thousand dollars.
- c. A class A misdemeanor in all other cases.

SECTION 10. AMENDMENT. Section 12.1-24-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-24-03. Deceptive writings.

1. A person is guilty of an offense if, with intent to deceive or harm the government or another person, or with knowledge that ~~he~~the person is facilitating such a deception or harm by another person, ~~he~~the person knowingly issues a writing without authority to issue it or knowingly utters or possesses a deceptive writing.
2. The offense is a:
 - a. A class B felony if it is committed pursuant to a scheme to defraud another or others of money or property of a value in excess of ten thousand dollars. ~~The offense is a~~
 - b. A class C felony if:
 - a. (1) The actor is a public servant or an officer or employee of a financial institution and the offense is committed under color of office or is made possible by ~~his~~the actor's office; or
 - b. (2) The offense is committed pursuant to a scheme to defraud another or others of money or property of a value in excess of one ~~hundred~~thousand dollars.

Otherwise it is a
 - c. A class A misdemeanor in all other cases.

SECTION 11. AMENDMENT. Section 12.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-01. Classification of offenses - Penalties.

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.
2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of ~~ten~~twenty thousand dollars, or both, may be imposed.
3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of ~~ten~~twenty thousand dollars, or both, may be imposed.
4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of ~~five~~ten thousand dollars, or both, may be imposed.
5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of ~~two~~three thousand dollars, or both, may be imposed.
6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of one thousand five hundred dollars, or both, may be imposed.
7. Infraction, for which a maximum fine of ~~five hundred~~one thousand dollars may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which the person was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

SECTION 12. AMENDMENT. Section 12.1-32-01.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-32-01.1. Organizational fines.

Any organization, as defined in section 12.1-03-04, shall, upon conviction, be subject to a maximum fine in accordance with the following classification:

1. For a class A felony, a maximum fine of ~~fifty~~one hundred thousand dollars.
2. For a class B felony, a maximum fine of ~~thirty-five~~seventy thousand dollars.
3. For a class C felony, a maximum fine of ~~twenty-five~~fifty thousand dollars.

4. For a class A misdemeanor, a maximum fine of ~~fifteen~~thirty thousand dollars.
5. For a class B misdemeanor, a maximum fine of ~~ten~~twenty thousand dollars.

Nothing in this section shall be construed as preventing the imposition of the sanction provided for in section 12.1-32-03, nor as preventing the prosecution of agents of the organization under section 12.1-03-03.

³⁸ **SECTION 13. AMENDMENT.** Section 26.1-02.1-05 of the North Dakota Century Code is amended and reenacted as follows:

26.1-02.1-05. Penalties - Restitution.

1. A violation of section 26.1-02.1-02.1 is a class C felony if the value of any property or services retained exceeds five thousand dollars and a class A misdemeanor in all other cases. For purposes of this section, the value of any property and services must be determined in accordance with subsection ~~6~~7 of section 12.1-23-05.
2. In the event that a practitioner is adjudicated guilty of a violation of section 26.1-02.1-02.1, the court shall notify the appropriate licensing authority of this state of the adjudication. The appropriate licensing authority shall hold an administrative hearing to consider the imposition of administrative sanctions as provided by law against the practitioner.
3. In addition to any other punishment, a person who violates section 26.1-02.1-02.1 must be ordered to make restitution to the insurer or to any other person for any financial loss sustained as a result of the violation of section 26.1-02.1-02.1. The court shall determine the extent and method of restitution.

SECTION 14. AMENDMENT. Section 29-03-22 of the North Dakota Century Code is amended and reenacted as follows:

29-03-22. Venue of multiple theft offenses involving credit cards.

If any of a series of thefts can be charged as one offense for purposes of grading under subsection ~~6~~7 of section 12.1-23-05, if each of those thefts involved the use of a credit card, and if the total value of the property or services stolen is at least fifty dollars, venue for the criminal action, in which the series of thefts is charged as one offense, is in any county where any of the thefts was committed.

Approved April 15, 2013
Filed April 16, 2013

³⁸ Section 26.1-02.1-05 was also amended by section 1 of Senate Bill No. 2074, chapter 229.

CHAPTER 105

HOUSE BILL NO. 1197

(Representatives Delmore, Dockter, Thoreson)
(Senators Dever, Holmberg, Triplett)

AN ACT to amend and reenact section 12.1-23-11 of the North Dakota Century Code, relating to identity theft; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

³⁹ **SECTION 1. AMENDMENT.** Section 12.1-23-11 of the North Dakota Century Code is amended and reenacted as follows:

12.1-23-11. Unauthorized use of personal identifying information - Penalty.

1. As used in this section, "personal identifying information" means any of the following information:
 - a. An individual's name;
 - b. An individual's address;
 - c. An individual's telephone number;
 - d. The distinguishing operator's license number assigned to an individual by the department of transportation under section 39-06-14;
 - e. An individual's social security number;
 - f. An individual's employer or place of employment;
 - g. An identification number assigned to the individual by the individual's employer;
 - h. The maiden name of the individual's mother;
 - i. The identifying number of a depository account in a financial institution; or
 - j. An individual's birth, death, or marriage certificate;:
 - k. An individual's photograph or computerized image;
 - l. An individual's e-mail address; or
 - m. An individual's username and password of any digital service or computer system.

³⁹ Section 12.1-23-11 was also amended by section 1 of House Bill No. 1280, chapter 107, and section 1 of House Bill No. 1435, chapter 106.

2. ~~A person~~An individual is guilty of an offense if the ~~person~~individual uses or attempts to use any personal identifying information of ~~an~~another individual, living or deceased, to obtain credit, money, goods, services, or anything else of value without the authorization or consent of the other individual ~~and by representing that person is the individual or is acting with the authorization or consent of the individual.~~ The offense is a class B felony if the credit, money, goods, services, or anything else of value exceeds one thousand dollars in value, otherwise the offense is a class C felony. A second or subsequent offense is a class A felony.
3. A violation of this section, of a law of another state, or of federal law that is equivalent to this section and which resulted in a plea or finding of guilt must be considered a prior offense. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
4. A prosecution for a violation of this section must be commenced within six years after discovery by the victim of the offense of the facts constituting the violation.
5. When a person commits violations of this section in more than one county involving either one or more victims or the commission of acts constituting an element of the offense, the multiple offenses may be consolidated for commencement of prosecution in any county where one of the offenses was committed.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 106

HOUSE BILL NO. 1435

(Representatives Mock, Karls, Sanford)
(Senators Berry, Mathern, Schneider, Sorvaag)

AN ACT to amend and reenact sections 12.1-23-11, 51-30-01, and 51-30-06 of the North Dakota Century Code, relating to medical information identity theft.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁰ **SECTION 1. AMENDMENT.** Section 12.1-23-11 of the North Dakota Century Code is amended and reenacted as follows:

12.1-23-11. Unauthorized use of personal identifying information - Penalty.

1. As used in this section, "personal identifying information" means any of the following information:
 - a. An individual's name;
 - b. An individual's address;
 - c. An individual's telephone number;
 - d. The ~~distinguishing operator's license number~~ information assigned to an individual by the department of transportation under section 39-06-14;
 - e. An individual's social security number;
 - f. An individual's employer or place of employment;
 - g. An identification number assigned to the individual by the individual's employer;
 - h. The maiden name of the individual's mother;
 - i. ~~The identifying number of a depository account in a~~ An individual's financial institution ~~account number, credit card number, or debit card number;~~ or
 - j. An individual's birth, death, or marriage certificate.;
 - k. An individual's health insurance policy number or subscriber identification number or any unique identifier used by a health insurer to identify the individual;
 - l. The nondriver color photo identification card information assigned to the individual by the department of transportation under section 39-06-03.1; or

⁴⁰ Section 12.1-23-11 was also amended by section 1 of House Bill No. 1197, chapter 105, and section 1 of House Bill No. 1280, chapter 107.

m. An individual's digitized or other electronic signature.

2. A person is guilty of an offense if the person uses or attempts to use any personal identifying information of an individual, living or deceased, to obtain credit, money, goods, services, or anything else of value without the authorization or consent of the individual and by representing that person is the individual or is acting with the authorization or consent of the individual. The offense is a class B felony if the credit, money, goods, services, or anything else of value exceeds one thousand dollars in value, otherwise the offense is a class C felony. A second or subsequent offense is a class A felony.
3. A violation of this section, of a law of another state, or of federal law that is equivalent to this section and which resulted in a plea or finding of guilt must be considered a prior offense. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
4. A prosecution for a violation of this section must be commenced within six years after discovery by the victim of the offense of the facts constituting the violation.
5. When a person commits violations of this section in more than one county involving either one or more victims or the commission of acts constituting an element of the offense, the multiple offenses may be consolidated for commencement of prosecution in any county where one of the offenses was committed.

SECTION 2. AMENDMENT. Section 51-30-01 of the North Dakota Century Code is amended and reenacted as follows:

51-30-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Breach of the security system" means unauthorized acquisition of computerized data when access to personal information has not been secured by encryption or by any other method or technology that renders the electronic files, media, or databases unreadable or unusable. Good-faith acquisition of personal information by an employee or agent of the person is not a breach of the security of the system, if the personal information is not used or subject to further unauthorized disclosure.
2. "Health insurance information" means an individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
3. "Medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.
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; or
 - ~~(8)~~(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 3. AMENDMENT. Section 51-30-06 of the North Dakota Century Code is amended and reenacted as follows:

51-30-06. Alternate compliance.

Notwithstanding section 51-30-05, a person that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this chapter is deemed to be in compliance with the notification requirements of this chapter if the person notifies subject individuals in accordance with its policies in the event of a breach of security of the system. A financial institution, trust company, or credit union that is subject to, examined for, and in compliance with the federal interagency guidance on response programs for unauthorized access to customer information and customer notice is deemed to be in compliance with this chapter. A covered entity, business associate, or subcontractor subject to breach notification requirements under title 45, Code of Federal Regulations, subpart D, part 164, is considered to be in compliance with this chapter.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 107

HOUSE BILL NO. 1280

(Representatives K. Koppelman, Paur, Wall)
(Senators Andrist, Hogue, Laffen)

AN ACT to amend and reenact section 12.1-23-11 of the North Dakota Century Code, relating to the unauthorized use of personal identifying information; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴¹ **SECTION 1. AMENDMENT.** Section 12.1-23-11 of the North Dakota Century Code is amended and reenacted as follows:

12.1-23-11. Unauthorized use of personal identifying information - Penalty.

1. As used in this section, "personal identifying information" means any of the following information:
 - a. An individual's name;
 - b. An individual's address;
 - c. An individual's telephone number;
 - d. The distinguishing operator's license number assigned to an individual by the department of transportation under section 39-06-14;
 - e. An individual's social security number;
 - f. An individual's employer or place of employment;
 - g. An identification number assigned to the individual by the individual's employer;
 - h. The maiden name of the individual's mother;
 - i. The identifying number of a depository account in a financial institution; or
 - j. An individual's birth, death, or marriage certificate.
2. A person is guilty of an offense if the person uses or attempts to use any personal identifying information of an individual, living or deceased, to obtain credit, money, goods, services, or anything else of value without the authorization or consent of the individual and by representing that person is the individual or is acting with the authorization or consent of the individual. The offense is a class B felony if the credit, money, goods, services, or anything else of value exceeds one thousand dollars in value, otherwise the

⁴¹ Section 12.1-23-11 was also amended by section 1 of House Bill No. 1197, chapter 105, and section 1 of House Bill No. 1435, chapter 106.

offense is a class C felony. A second or subsequent offense is a class A felony.

3. A person is guilty of an offense if the person uses or attempts to use any personal identifying information of an individual, living or deceased, without the authorization or consent of the individual, in order to interfere with or initiate a contract or service for a person other than that individual, to obtain or continue employment, to gain access to personal identifying information of another individual, or to commit an offense in violation of the laws of this state, regardless of whether there is any actual economic loss to the individual. A first offense under this subsection is a class A misdemeanor. A second or subsequent offense under this subsection is a class C felony.
4. A violation of this section, of a law of another state, or of federal law that is equivalent to this section and which resulted in a plea or finding of guilt must be considered a prior offense. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
- 4.5. A prosecution for a violation of this section must be commenced within six years after discovery by the victim of the offense of the facts constituting the violation.
- 5.6. When a person commits violations of this section in more than one county involving either one or more victims or the commission of acts constituting an element of the offense, the multiple offenses may be consolidated for commencement of prosecution in any county where one of the offenses was committed.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 108

SENATE BILL NO. 2126

(Senators Cook, Campbell, Dotzenrod)
(Representatives Belter, Headland, Meier)

AN ACT to create and enact sections 12.1-23-16 and 12.1-23-17 and a new subsection to section 57-39.2-14 of the North Dakota Century Code, relating to the prohibition of automated sales suppression devices and skimming devices used for a fraudulent purpose; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 12.1-23-16 of the North Dakota Century Code is created and enacted as follows:

12.1-23-16. Automated sales suppression device, zapper, or phantom-ware - Prohibition - Penalties.

1. For purposes of this section:

- a. "Automated sales suppression device" or "zapper" means a software program accessed through any method which falsifies the electronic records, transaction data, or transaction reports of electronic cash registers and other point-of-sale systems.
- b. "Electronic cash register" means a device that keeps a register or supporting documents through the use of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data or transaction reports.
- c. "Phantom-ware" means a hidden, preinstalled or installed at a later time, programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register, which can be used to create a virtual second cash register or that can eliminate or manipulate transaction records that may be preserved in digital formats to represent the true or manipulated transaction data or reports in the electronic cash register and is intended to falsify the electronic records of an electronic cash register or other point-of-sale system.
- d. "Transaction data" means items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.
- e. "Transaction report" means a report documenting sales, the tax collected, methods of payment, voided sales, or other information at an electronic cash register which is printed on cash register tape at the end of a day or

- shift, or a report documenting every transaction at an electronic cash register that is stored electronically.
2. It is unlawful to willfully sell, purchase, possess, install, transfer, manufacture, own, or use in this state, an automated sales suppression device, zapper, or phantom-ware.
 3. Any person convicted of a violation under subsection 2 is guilty of a class B felony. Any person convicted of a second or subsequent violation of subsection 2 is guilty of a class A felony and also is subject to a civil penalty of not more than one hundred thousand dollars.
 4. It is a defense to prosecution under this section that the person purchased, possessed, installed, transferred, owned, or used in this state, an automated sales suppression device, zapper, or phantom-ware for a legitimate purpose.
 5. Any person violating subsection 2 is liable for all sales and use tax, income tax, or other tax under title 57, and any county or city sales and use tax imposed under sections 11-09.2-05 and 40-05.1-06, and associated penalties and interest due the state as the result of the fraudulent use of an automated sales suppression device, zapper, or phantom-ware. Any tax found to be due must be assessed at double the amount so determined.
 6. The person shall forfeit all proceeds associated with the sale or use of an automated sales suppression device, zapper, or phantom-ware. The proceeds forfeited under this section must be deposited with the state treasurer for deposit in the state general fund.
 7. An automated sales suppression device, zapper, or phantom-ware, and the cash register or other device containing the device or the software, is contraband and subject to forfeiture in accordance with chapter 29-31.1.

SECTION 2. Section 12.1-23-17 of the North Dakota Century Code is created and enacted as follows:

12.1-23-17. Unlawful skimming of credit, debit, or other electronic payment cards - Penalty.

1. For purposes of this section:
 - a. "Authorized card user" means any person with the empowerment, permission, or competence to use an electronic payment card.
 - b. "Electronic payment card" means a credit card, charge card, debit card, hotel key card, stored value card, or any other card that is issued to an authorized card user which allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.
 - c. "Merchant" means an owner or operator of a retail mercantile establishment or an agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of a retail mercantile establishment who receives from an authorized user or someone believed to be an authorized user, an electronic payment card or information from an electronic payment card, or what is believed to be an electronic payment card or information from an electronic payment card, as the instrument for

- obtaining, purchasing, or receiving goods, services, money, or anything else of value from the retail mercantile establishment.
- d. "Re-encoder" means an electronic device that places encoded information from the magnetic strip or stripe of an electronic payment card onto the magnetic strip or stripe of a different electronic payment card.
- e. "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of an electronic payment card.
2. A person is guilty of unlawful skimming if the person uses:
- a. A scanning device to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of an electronic payment card without the permission of the authorized user of the electronic payment card, with the intent to defraud the authorized user of the electronic payment card, the issuer of the electronic payment card, or a merchant; or
- b. A re-encoder to place information encoded on the magnetic strip or stripe of an electronic payment card onto the magnetic strip or stripe of a different electronic payment card without the permission of the authorized user of the card from which the information is being re-encoded, with the intent to defraud the authorized user of the electronic payment card, the issuer of the electronic payment card, or a merchant.
3. Any person convicted of a violation under subsection 2 is guilty of a class B felony. Any person convicted of a second or subsequent violation of subsection 2 is guilty of a class A felony and also is subject to a civil penalty of not more than one hundred thousand dollars.

SECTION 3. A new subsection to section 57-39.2-14 of the North Dakota Century Code is created and enacted as follows:

Whenever the holder of a permit is convicted of violating section 12.1-23-16, the commissioner shall revoke the permit and the holder is not eligible to receive another permit for a period of ten years from the date of conviction. Any person convicted of violating section 12.1-23-16 who is not a holder of a permit at the time of conviction is not eligible to receive a permit for a period of ten years from the date of conviction.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 109

SENATE BILL NO. 2265

(Senators Schneider, Armstrong, Lyson)
(Representatives Kretschmar, Meier, Mock)

AN ACT to amend and reenact section 12.1-27.2-05 of the North Dakota Century Code, relating to sexual performance by a minor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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; 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; ~~or~~
3. ~~The defendant had no financial interest in promoting a sexual performance by a minor, other than employment in a theater, which employment does not include compensation based upon any proportion of the receipts arising from promotion of the sexual performance, and that person was in no way responsible for acquiring the material for sale, rental, or exhibition.~~

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 110

SENATE BILL NO. 2345

(Senators Schneider, Armstrong)
(Representatives Guggisberg, Larson, Maragos)

AN ACT to amend and reenact section 12.1-31-07.1 of the North Dakota Century Code, relating to the penalty for the exploitation of a disabled adult or vulnerable elderly adult.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-31-07.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-31-07.1. Exploitation of a vulnerable adult - Penalty.

1. A person is guilty of exploitation of a disabled adult or vulnerable elderly adult if:
 - a. The person stands in a position of trust and confidence or has a business relationship with the disabled adult or vulnerable elderly adult and knowingly, by deception or intimidation, obtains or uses, or attempts to obtain or use, the disabled adult's or vulnerable elderly adult's funds, assets, or property with the intent to temporarily or permanently deprive the disabled adult or vulnerable elderly adult of the use, benefit, or possession of the property, for the benefit of someone other than the disabled adult or vulnerable elderly adult; or
 - b. The person knows that the disabled adult or vulnerable elderly adult lacks the capacity to consent, and obtains or uses, or attempts to obtain or use, or assists another in obtaining or using or attempting to obtain or use, the disabled adult's or vulnerable elderly adult's funds, assets, or property with the intent to temporarily or permanently deprive the disabled adult or vulnerable elderly adult of the use, benefit, or possession of the property for the benefit of someone other than the disabled adult or vulnerable elderly adult.
2. Exploitation of a disabled adult or vulnerable elderly adult is:
 - a. A class A felony if the value of the exploited funds, assets, or property exceeds ~~one hundred fifty~~ thousand dollars.
 - b. A class B felony if the value of the exploited funds, assets, or property exceeds ~~twenty ten~~ thousand dollars but does not exceed ~~one hundred fifty~~ thousand dollars.
 - c. A class C felony if the value of the exploited funds, assets, or property is in excess of one thousand dollars but does not exceed ~~twenty ten~~ thousand dollars.

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- d. A class A misdemeanor if the value of the exploited funds, assets, or property does not exceed one thousand dollars.
3. It is not a defense to a prosecution of a violation of this section that the accused did not know the age of the victim.
 4. This section does not impose criminal liability on a person who has:
 - a. Managed the disabled adult's or vulnerable elderly adult's funds, assets, or property in a manner that clearly gives primacy to the needs and welfare of that person or is consistent with any explicit written authorization; or
 - b. Made a good-faith effort to assist in the management of the disabled adult's or vulnerable elderly adult's funds, assets, or property.

Approved April 16, 2013

Filed April 16, 2013

CHAPTER 111

SENATE BILL NO. 2181

(Senators J. Lee, Armstrong, Miller, Poolman, Heckaman)
(Representative Thoreson)

AN ACT to amend and reenact subsection 1 of section 12.1-32-07 of the North Dakota Century Code, relating to supervision of defendants for domestic violence offenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴² **SECTION 1. AMENDMENT.** Subsection 1 of section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

1. When the court imposes probation upon conviction for a felony, the court shall place the defendant under the supervision and management of the department of corrections and rehabilitation. In class A misdemeanor cases, ~~except for a violation of subdivision b of subsection 2 of section 12.1-17-01,~~ 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.

Approved April 3, 2013
Filed April 3, 2013

⁴² Section 12.1-32-07 was also amended by section 7 of Senate Bill No. 2015, chapter 46, and section 1 of Senate Bill No. 2141, chapter 112.

CHAPTER 112

SENATE BILL NO. 2141

(Senators Hogue, Burckhard, Krebsbach)
(Representatives Klemin, Louser)

AN ACT to amend and reenact subsection 4 of section 12.1-32-07 of the North Dakota Century Code, relating to the supervision of probationers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴³ **SECTION 1. AMENDMENT.** Subsection 4 of section 12.1-32-07 of the North Dakota Century Code is amended and reenacted as follows:

4. When imposing a sentence to probation, probation in conjunction with imprisonment, or probation in conjunction with suspended execution or deferred imposition of sentence, the court may impose such conditions as it deems appropriate and may include any one or more of the following:
 - a. Work faithfully at a suitable employment or faithfully pursue a course of study or of career and technical education training that will equip the defendant for suitable employment.
 - b. Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
 - c. Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
 - d. Support the defendant's dependents and meet other family responsibilities.
 - e. Make restitution or reparation to the victim of the defendant's conduct for the damage or injury which was sustained or perform other reasonable assigned work. When restitution, reparation, or assigned work is a condition of probation, the court shall proceed as provided in subsection 1 or 2, as applicable, of section 12.1-32-08.
 - f. Pay a fine imposed after consideration of the provisions of section 12.1-32-05, ~~except when imposition of sentence is deferred.~~
 - g. Refrain from excessive use of alcohol or any use of narcotics or of another dangerous or abusable drug without a prescription.
 - h. Permit the probation officer to visit the defendant at reasonable times at the defendant's home or elsewhere.
 - i. Remain within the jurisdiction of the court, unless granted permission to leave by the court or the probation officer.

⁴³ Section 12.1-32-07 was also amended by section 7 of Senate Bill No. 2015, chapter 46, and section 1 of Senate Bill No. 2181, chapter 111.

- j. Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment.
- k. Report to a probation officer at reasonable times as directed by the court or the probation officer.
- l. Submit to a medical examination or other reasonable testing for the purpose of determining the defendant's use of narcotics, marijuana, or other controlled substance whenever required by a probation officer.
- m. Refrain from associating with known users or traffickers in narcotics, marijuana, or other controlled substances.
- n. Submit the defendant's person, place of residence, or vehicle to search and seizure by a probation officer at any time of the day or night, with or without a search warrant.
- o. Serve a term of imprisonment of up to one-half of the maximum term authorized for the offense of which the defendant was convicted ~~or one year, whichever is less.~~
- p. Reimburse the costs and expenses determined necessary for the defendant's adequate defense when counsel is appointed or provided at public expense for the defendant. When reimbursement of indigent defense costs and expenses is imposed as a condition of probation, the court shall proceed as provided in subsection 4 of section 12.1-32-08.
- q. Provide community service for the number of hours designated by the court.
- r. Refrain from any subscription to, access to, or use of the internet.

Approved March 21, 2013

Filed March 21, 2013

CHAPTER 113

SENATE BILL NO. 2320

(Senators Poolman, Armstrong)
(Representatives Delmore, Heilman, Larson)

AN ACT to amend and reenact subsection 15 of section 12.1-32-15 of the North Dakota Century Code, relating to the release of juvenile records and other information to schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 15 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

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, ~~the superintendent or principal of the school the juvenile attends,~~ 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 ~~may~~shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 114

SENATE BILL NO. 2056

(Political Subdivisions Committee)
(At the request of the Information Technology Department)

AN ACT to amend and reenact subsection 1 of section 12.1-34-02 and section 12.1-34-06 of the North Dakota Century Code, relating to the statewide automated victim information and notification system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 12.1-34-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Informed by those entities that have contact with the victim or witness as to the availability of and the methods available for registration with the statewide automated victim information and notification system. Those entities include law enforcement, prosecuting attorneys, the courts, and custodial authorities. A victim or witness who clearly objects to registration may not be required to register with the system or must be able to opt out of the system.

SECTION 2. AMENDMENT. Section 12.1-34-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-34-06. Statewide automated victim information and notification system.

1. The information technology department may establish a statewide automated victim information and notification system that must:
 - a. Permit a victim to register or update the victim's registration information for the system by calling a toll-free telephone number or accessing a public website.
 - b. Notify a registered victim by telephone, mail, or e-mail in accordance with this chapter.
 - c. Notify a registered victim by telephone, mail, or e-mail when the offender has a scheduled court proceeding, a parole ~~or pardon~~ review, or a change in the status of the offender's parole or probation status, including a change in the offender's address.
 - d. ~~Notify a registered victim by telephone, mail, or e-mail when a registered sexual offender has updated the offender's registration information or failed to comply with any registration requirement.~~
 - e. Notify a registered victim by telephone, mail, or e-mail when a protective order requested by the victim has been served upon the respondent.
 - f.e. Permit a victim to receive a status report for an offender under the supervision or in the custody of the department of corrections and rehabilitation or other correctional facility ~~or for a registered sexual~~

offender by calling the system on a toll-free telephone number or by accessing the system through a public website.

2. ~~If a statewide automated victim information and notification system is established, the~~The provision of offender and case data on a timely basis to the automated victim information and notification system satisfies any obligation under this chapter to notify a registered victim of an offender's custody and the status of the offender's scheduled court proceedings.
3. ~~If a statewide automated victim information and notification system is established, the~~The user agency shall ensure that an offender's information contained in the system is updated to timely notify a victim that an offender has been released or discharged or has escaped. The failure of the system to provide notice to the victim does not establish a cause of action by the victim against the state or any custodial authority.
4. All affected entities, including custodial authorities, prosecuting attorneys, law enforcement agencies, courts, the attorney general's office, ~~the pardon board,~~ and the parole clerk, shall cooperate with the system operator in establishing and maintaining the statewide automated victim information and notification system.

Approved March 18, 2013

Filed March 18, 2013

DEBTOR AND CREDITOR RELATIONSHIPS

CHAPTER 115

HOUSE BILL NO. 1084

(Industry, Business and Labor Committee)
(At the request of the Department of Financial Institutions)

AN ACT to create and enact two new sections to chapter 13-05, two new sections to chapter 13-08, two new sections to chapter 13-09, and a new section to chapter 13-11 of the North Dakota Century Code, relating to a six-month extension of a collection agency license, a deferred presentment service provider license, and a money transmitter license during the 2014 calendar year, and the confidentiality of information submitted or received by the commissioner or commissioner's designee to a nationwide multistate licensing system; and to amend and reenact subsection 4 of section 6-01-07.1, sections 13-05-03, 13-05-05, 13-08-04, and 13-08-09, subsections 6 and 7 of section 13-08-12, and sections 13-09-07, 13-09-10, and 13-11-03 of the North Dakota Century Code, relating to the confidentiality of information shared with a nationwide multistate licensing system, collection agency license applications, the expiration and renewal of a collection agency license, deferred presentment service provider license applications, the expiration and renewal of a deferred presentment service provider license, deferred presentment service transaction procedures, money transmitter license applications, the expiration and renewal of a money transmitter license, and debt-settlement provider license applications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 6-01-07.1 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner may furnish information and enter into sharing agreements as to matters of mutual interest to an official or examiner of the federal reserve system, federal deposit insurance corporation, federal home loan bank board, national credit union administration, office of thrift supervision, comptroller of the currency, any other federal government agency, insurance commissioner, office of the securities commissioner, regulatory trade associations, or any state bank or credit union supervisors or supervisors of other licensed entities of other states, or a nationwide multistate licensing system.

SECTION 2. AMENDMENT. Section 13-05-03 of the North Dakota Century Code is amended and reenacted as follows:

13-05-03. Application for a collection agency license.

Every

1. Each application for a collection agency license, or for a renewal thereof, must be made upon forms furnished by the department of financial institutions in the form prescribed by the commissioner and must contain the following information:
 - 1-a. The full name and proposed business name of the applicant.
 - 2-b. The address where the business is to be conducted.
 - 3-c. The names and addresses of the applicant and those associated with the applicant. If the applicant is a corporation, the application must contain the names of the officers of the corporation. If the applicant is a limited liability company, the application must contain the names of the managers of the limited liability company. The applicant must register with the North Dakota secretary of state if so required.
 - 4-d. Such additional information which the department of financial institutions shall require.
2. To fulfill the purposes of this chapter, the commissioner may establish relationships or contracts with a nationwide multistate licensing system and registry or other entities designated by a nationwide multistate licensing system and registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to the chapter. The applicant shall pay directly to such nationwide multistate licensing system any additional fee relating to participation in such nationwide multistate licensing system.
3. In connection with an application for licensing as a collection agency, or any license renewals, the applicant shall furnish to the nationwide multistate licensing system information concerning the applicant's identity, which may include:
 - a. Fingerprints for submission to the federal bureau of investigation, and any governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check;
 - b. Personal history and experience in a form prescribed by the nationwide multistate licensing system, including the submission of authorization for the nationwide multistate licensing system and the commissioner to obtain:
 - (1) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and
 - (2) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction; and
 - c. Any other documents, information, or evidence the commissioner deems relevant to the application regardless of the location, possession, control, or custody of such documents, information, or evidence.
4. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have to maintain for purposes of subsection 3, the commissioner may use the nationwide multistate licensing

system and registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.

5. For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subsection 3, the commissioner may use the nationwide multistate licensing system and registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

SECTION 3. AMENDMENT. Section 13-05-05 of the North Dakota Century Code is amended and reenacted as follows:

13-05-05. Expiration and renewal of license.

All licenses required herein expire on ~~June thirtieth~~December thirty-first of each year and may be renewed. Applications for renewal must be submitted thirty days before the expiration of the license and must be accompanied by the required annual fees, which are not subject to refund. The form and content of renewal applications must be determined by the department of financial institutions and a renewal application may be denied upon the same grounds as would justify denial of an initial application. When a licensee has been delinquent in renewing the licensee's license, the department may charge an additional fee of fifty dollars for the renewal of the license. A collection agency license is not transferable. If the commissioner determines that an ownership change has occurred in a sole proprietorship, partnership, limited liability partnership, corporation, or limited liability corporation that was previously granted a collection agency license, the commissioner may require a new application from the purchaser. The application must be filed within forty-five days from the date change of ownership is consummated. The department shall act on the application within sixty days from the date the application is received but may extend the review period for good cause. The collection agency license granted to the previous owner continues in effect to the new purchaser until the application is either granted or denied.

SECTION 4. A new section to chapter 13-05 of the North Dakota Century Code is created and enacted as follows:

Automatic six-month extension of license during 2014 calendar year.

All current licensees who have made payment of a fee in accordance with sections 13-05-04 and 13-05-05, for a collection agency license effective after July 1, 2013, shall be granted an extension of its current license until December 31, 2014. If at any time prior to December 31, 2014, a licensee's license expires or otherwise terminates under this chapter, the applicant shall be required to pay licensing fees in accordance with section 13-05-04, and that license will expire on December 31, 2014.

SECTION 5. A new section to chapter 13-05 of the North Dakota Century Code is created and enacted as follows:

Confidentiality.

To promote more effective regulation and reduce regulatory burden through supervisory information sharing, the commissioner or commissioner's designee may furnish information to or receive information from a nationwide multistate licensing system for the purpose of regulation of the financial services industry. Information furnished by the commissioner to any third party which is confidential or privileged in

the commissioner's possession remains confidential or privileged in the possession of the third party. Information received by the commissioner from any third party which is confidential or privileged in the third-party's possession remains confidential or privileged in the commissioner's possession.

SECTION 6. AMENDMENT. Section 13-08-04 of the North Dakota Century Code is amended and reenacted as follows:

13-08-04. Application for license.

1. Each application for a license must be in the form prescribed by the commissioner and must include:
 - 1-a. The legal name of the applicant, residence of the applicant, business address of the applicant, and address at which deferred presentment service is provided if different from the business address and, if the applicant is a partnership, association, or corporation, the name and address of every member, officer, and director;
 - 2-b. The location at which the registered office of the applicant is located; and
 - 3-c. Other data and information the commissioner may require with respect to the applicant and the applicant's directors, officers, members, and shareholders.
2. To fulfill the purposes of this chapter, the commissioner may establish relationships or contracts with a nationwide multistate licensing system and registry or other entities designated by a nationwide multistate licensing system and registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to the chapter. The applicant shall pay directly to such nationwide multistate licensing system any additional fee relating to participation in such nationwide multistate licensing system.
3. In connection with an application for licensing as a deferred presentment service provider, or any license renewals, the applicant shall furnish to the nationwide multistate licensing system information concerning the applicant's identity, which may include:
 - a. Fingerprints for submission to the federal bureau of investigation and any governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check;
 - b. Personal history and experience in a form prescribed by the nationwide multistate licensing system, including the submission of authorization for the nationwide multistate licensing system and the commissioner to obtain:
 - (1) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and
 - (2) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction; and

- c. Any other documents, information, or evidence the commissioner deems relevant to the application regardless of the location, possession, control, or custody of such documents, information, or evidence.
4. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have to maintain for purposes of subsection 3, the commissioner may use the nationwide multistate licensing system and registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.
5. For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subsection 3, the commissioner may use the nationwide multistate licensing system and registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

SECTION 7. AMENDMENT. Section 13-08-09 of the North Dakota Century Code is amended and reenacted as follows:

13-08-09. Expiration of license - Renewal.

Licenses issued under this chapter expire as of ~~June thirtieth~~December thirty-first of each year. A license may be renewed for the ensuing twelve-month period upon application and the payment to the commissioner of the annual license fee, which is not subject to refund, before ~~June~~December first of each year. The form and content of renewal applications must be determined by the department of financial institutions and a renewal application may be denied upon the same grounds as would justify denial of an initial application. When a licensee has been delinquent in renewing the licensee's license, the department may charge an additional fee of fifty dollars for the renewal of such license.

SECTION 8. AMENDMENT. Subsection 6 of section 13-08-12 of the North Dakota Century Code is amended and reenacted as follows:

6. Each deferred presentment service transaction, including a renewal, must be documented by a written agreement signed or similarly authenticated by the customer. The original agreement must contain the name of the licensee; the transaction date; the amount of the obligation; a statement of the total amount of fees charged, expressed as a dollar amount and as an annual percentage rate; the name and signature of the individual who signs the agreement on behalf of the licensee; the name and address of the check maker; the transaction number assigned by the database; the date of negotiation of the check; the signature of the check maker; a statement that a licensee may not renew a transaction more than once; a statement that the renewal fee may not exceed twenty percent of the amount being renewed; a statement that the maximum term of the transaction, including a statement that the renewal, may not exceed sixty businesscalendar days; a statement that the term of the renewal period may not be less than fifteen ~~businesscalendar~~ days; and a statement containing the right of rescission printed immediately above the signature line of the written agreement in a minimum of ten-point font and providing a space for the check maker to initial that the notice to the right of rescission was received. The original agreement may not include a hold harmless clause; a confession of judgment clause; any assignment of or order for payment of wages or other compensation for services; a provision in which the check maker agrees not to assert any claim or defense arising out of the

agreement; a waiver of any provision of this chapter; any representation from the check maker as to the sufficiency of funds regarding any past deferred presentment service transactions; or any statement regarding criminal prosecution with respect to the agreement. A renewal agreement must be contained in a separate section, as part of the original written agreement or in other form as approved by the commissioner. The renewal agreement must restate the original transaction date, the renewal transaction date, the amount of the check paid to the check maker, the fee charged in dollars, and the maturity date. The agreement must authorize the licensee to defer presentment or negotiation of the check, or electronic debit of the customer's account, until a specified date. The maker of a check may redeem the check from the licensee at any time before the negotiation or presentment of the check by making payment to the licensee. A customer agreeing to an electronic deferred presentment service transaction may repay the obligation at any time before the agreed-upon date. A customer may rescind any transaction by the close of the business day following the day on which the customer receives payment from the licensee at no cost. If a customer agreeing to an electronic deferred presentment service transaction rescinds the transaction, the licensee must facilitate the repayment of the funds through the same electronic means the licensee used to deliver the funds to the customer.

SECTION 9. AMENDMENT. Subsection 7 of section 13-08-12 of the North Dakota Century Code is amended and reenacted as follows:

7. If a check or electronic debit is returned to the licensee from a payer financial institution due to insufficient funds, closed account, or a stop payment order, the licensee has the right to all civil remedies available to collect the obligation. The licensee may contract for and collect a returned check or electronic debit charge not to exceed ~~twenty dollars~~ the collection fees and costs authorized in subdivision c of subsection 2 of section 6-08-16. No other fee or charge may be collected as a result of a returned check or electronic debit or as a result of default by the customer in timely payment to the licensee.

SECTION 10. A new section to chapter 13-08 of the North Dakota Century Code is created and enacted as follows:

Automatic six-month extension of license during 2014 calendar year.

All current licensees who have made payment of a fee in accordance with section 13-08-05, for a deferred presentment service provider license effective after July 1, 2013, shall be granted an extension of their current license until December 31, 2014. If at any time prior to December 31, 2014, a licensee's license expires or otherwise terminates under this chapter, the applicant shall be required to pay licensing fees in accordance with section 13-08-05, and that license will expire on December 31, 2014.

SECTION 11. A new section to chapter 13-08 of the North Dakota Century Code is created and enacted as follows:

Confidentiality.

To promote more effective regulation and reduce regulatory burden through supervisory information sharing, the commissioner or commissioner's designee may furnish information to or receive information from a nationwide multistate licensing system for the purpose of regulation of the financial services industry. Information

furnished by the commissioner to any third party which is confidential or privileged in the commissioner's possession remains confidential or privileged in the possession of the third party. Information received by the commissioner from any third party which is confidential or privileged in the third-party's possession remains confidential or privileged in the commissioner's possession.

SECTION 12. AMENDMENT. Section 13-09-07 of the North Dakota Century Code is amended and reenacted as follows:

13-09-07. Application for license.

1. Each application for a license under this chapter must be ~~made in writing, and in the~~ form prescribed by the commissioner. Each application must state or contain:

1-a. For all applicants:

- ~~a.~~(1) The exact name of the applicant, the applicant's principal address, any fictitious or trade name used by the applicant in the conduct of its business, and the location of the applicant's business records.
- ~~b.~~(2) The history of the applicant's criminal convictions and material litigation for the five-year period before the date of the application.
- ~~c.~~(3) A description of the activities conducted by the applicant and a history of operations.
- ~~d.~~(4) A description of the business activities in which the applicant seeks to be engaged in the state.
- ~~e.~~(5) A list identifying the applicant's proposed authorized delegates in the state, if any, at the time of the filing of the license application.
- ~~f.~~(6) A sample authorized delegate contract, if applicable.
- ~~g.~~(7) A sample form of payment instrument, if applicable.
- ~~h.~~(8) The locations at which the applicant and its authorized delegates, if any, propose to conduct the licensed activities in the state.
- ~~i.~~(9) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which the payment instruments will be payable.

2-b. If the applicant is a corporation, the applicant must also provide:

- ~~a.~~(1) The date of the applicant's incorporation and state of incorporation.
- ~~b.~~(2) A certificate of good standing from the state in which the applicant was incorporated.
- ~~c.~~(3) A description of the corporate structure of the applicant, including the identity of any parent or subsidiary of the applicant, and the disclosure of whether any parent or subsidiary is publicly traded on any stock exchange.

- ~~d~~-(4) The name, business and residence address, and employment history for the past five years of the applicant's executive officers and the officers or managers who will be in charge of the applicant's activities to be licensed hereunder.
 - ~~e~~-(5) The name, business and residence address, and employment history for the period five years prior to the date of the application of any key shareholder of the applicant.
 - ~~f~~-(6) The history of criminal convictions and material litigation for the five-year period before the date of the application of every executive officer or key shareholder of the applicant.
 - ~~g~~-(7) A copy of the applicant's most recent audited financial statement including balance sheet, statement of income or loss, statement of changes in shareholder equity, and statement of changes in financial position and, if available, the applicant's audited financial statements for the immediately preceding two-year period. However, if the applicant is a wholly owned subsidiary of another corporation, the applicant may submit either the parent corporation's consolidated audited financial statements for the current year and for the immediately preceding two-year period or the parent corporation's form 10K reports filed with the United States securities and exchange commission for the prior three years in lieu of the applicant's financial statements. If the applicant is a wholly owned subsidiary of a corporation having its principal place of business outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted to satisfy this provision.
 - ~~h~~-(8) Copies of all filings, if any, made by the applicant with the United States securities and exchange commission, or with a similar regulator in a country other than the United States, within the year preceding the date of filing of the application.
- 3-c. If the applicant is not a corporation, the applicant must also provide:
- ~~a~~-(1) The name, business and residence address, personal financial statement, and employment history, for the past five years, of each principal of the applicant and the name, business and residence address, and employment history for the past five years of any other person or persons who will be in charge of the applicant's activities to be licensed under this chapter;
 - ~~b~~-(2) The place and date of the applicant's registration or qualification to do business in this state;
 - ~~e~~-(3) The history of criminal convictions and material litigation for the five-year period before the date of the application for each individual having any ownership interest in the applicant and each individual who exercises supervisory responsibility with respect to the applicant's activities; and
 - ~~d~~-(4) Copies of the applicant's audited financial statements including balance sheet, statement of income or loss, and statement of changes

in financial position for the current year and, if available, for the immediately preceding two-year period.

- 4-d. For good cause shown, the commissioner may waive any requirement of this section with respect to any license application or to permit a license applicant to submit substituted information in its license application in lieu of the information required by this section.
2. To fulfill the purposes of this chapter, the commissioner may establish relationships or contracts with a nationwide multistate licensing system and registry or other entities designated by a nationwide multistate licensing system and registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to the chapter. The applicant shall pay directly to such nationwide multistate licensing system any additional fee relating to participation in such nationwide multistate licensing system.
 3. In connection with an application for licensing as a money transmitter, or any license renewals, the applicant shall furnish to the nationwide multistate licensing system information concerning the applicant's identity, which may include:
 - a. Fingerprints for submission to the federal bureau of investigation, and any governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check, except that officers and directors of a publicly traded company and subsidiaries of the publicly traded company may not be required to submit fingerprints under this section;
 - b. Personal history and experience in a form prescribed by the nationwide multistate licensing system, including the submission of authorization for the nationwide multistate licensing system and the commissioner to obtain:
 - (1) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and
 - (2) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction; and
 - c. Any other documents, information, or evidence the commissioner deems relevant to the application regardless of the location, possession, control, or custody of such documents, information, or evidence.
 4. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have to maintain for purposes of subsection 3, the commissioner may use the nationwide multistate licensing system and registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.
 5. For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subsection 3, the commissioner may use the nationwide multistate licensing system and

registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

SECTION 13. AMENDMENT. Section 13-09-10 of the North Dakota Century Code is amended and reenacted as follows:

13-09-10. Renewal of license and annual report.

1. A licensee under this chapter shall pay an annual renewal fee of four hundred fifty dollars which is not subject to refund.
2. The renewal fee must be accompanied by a report, in a form prescribed by the commissioner, which must include:
 - a. A copy of its most recent audited consolidated annual financial statement including balance sheet, statement of income or loss, statement of changes in shareholder's equity, and statement of changes in financial position, or, in the case of a licensee that is a wholly owned subsidiary of another corporation, the consolidated audited annual financial statement of the parent corporation may be filed in lieu of the licensee's audited annual financial statement;
 - b. For the most recent quarter for which data is available before the date of the filing of the renewal application, but in no event more than one hundred twenty days before the renewal date, the licensee must provide the number of payment instruments sold by the licensee in the state, the dollar amount of those instruments, and the dollar amount of those instruments currently outstanding;
 - c. Any material changes to any of the information submitted by the licensee on its original application which have not previously been reported to the commissioner on any other report required to be filed under this chapter;
 - d. A list of the licensee's permissible investments; and
 - e. A list of the locations, if any, within this state at which business regulated by this chapter is being conducted by either the licensee or its authorized delegates.
3. All licenses issued pursuant to this chapter expire on ~~June thirtieth~~December thirty-first of each year. Applications for renewal must be submitted thirty days before expiration of the license. A licensee that has not filed a renewal report or paid its renewal fee by ~~June thirtieth~~December thirty-first and has not been granted an extension of time to do so by the commissioner must have its license suspended. The licensee in such case has thirty days after its license is suspended in which to file a renewal report and pay the renewal fee, plus fifty dollars for each business day after suspension that the commissioner does not receive the renewal report and the renewal fee. For good cause, the commissioner may grant an extension of the renewal date or reduce or suspend the fifty dollars per day late filing fee.

SECTION 14. A new section to chapter 13-09 of the North Dakota Century Code is created and enacted as follows:

Automatic six-month extension of license during 2014 calendar year.

All current licensees who have made payment of a fee in accordance with sections 13-09-08 and 13-09-10, for a money transmitter license effective after July 1, 2013, shall be granted an extension of their current license until December 31, 2014. If at any time prior to December 31, 2014, a licensee's license expires or otherwise terminates under this chapter, the applicant shall be required to pay licensing fees in accordance with section 13-09-08, and that license will expire on December 31, 2014.

SECTION 15. A new section to chapter 13-09 of the North Dakota Century Code is created and enacted as follows:

Confidentiality.

To promote more effective regulation and reduce regulatory burden through supervisory information sharing, the commissioner or commissioner's designee may furnish information to or receive information from a nationwide multistate licensing system for the purpose of regulation of the financial services industry. Information furnished by the commissioner to any third party which is confidential or privileged in the commissioner's possession remains confidential or privileged in the possession of the third party. Information received by the commissioner from any third party which is confidential or privileged in the third-party's possession remains confidential or privileged in the commissioner's possession.

SECTION 16. AMENDMENT. Section 13-11-03 of the North Dakota Century Code is amended and reenacted as follows:

13-11-03. Application for license.

1. Every application for a debt-settlement provider license, or for a renewal thereof, must be made upon forms designed and furnished in the form prescribed by the commissioner and must contain any information which the commissioner determines necessary and proper. The commissioner may require any application applicant to provide additional information that is not requested on the application form. The applicant must register with the secretary of state if so required.
2. To fulfill the purposes of this chapter, the commissioner may establish relationships or contracts with a nationwide multistate licensing system and registry or other entities designated by a nationwide multistate licensing system and registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to the chapter. The applicant shall pay directly to such nationwide multistate licensing system any additional fee relating to participation in such nationwide multistate licensing system.
3. In connection with an application for licensing as a debt-settlement provider, or any license renewals, the applicant shall furnish to the nationwide multistate licensing system information concerning the applicant's identity, which may include:
 - a. Fingerprints for submission to the federal bureau of investigation, and any governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check;

- b. Personal history and experience in a form prescribed by the nationwide multistate licensing system, including the submission of authorization for the nationwide multistate licensing system and the commissioner to obtain:
- (1) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and
 - (2) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction; and
- c. Any other documents, information, or evidence the commissioner deems relevant to the application regardless of the location, possession, control, or custody of such documents, information, or evidence.
4. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have to maintain for purposes of subsection 3, the commissioner may use the nationwide multistate licensing system and registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency.
5. For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subsection 3, the commissioner may use the nationwide multistate licensing system and registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

SECTION 17. A new section to chapter 13-11 of the North Dakota Century Code is created and enacted as follows:

Confidentiality.

To promote more effective regulation and reduce regulatory burden through supervisory information sharing, the commissioner or commissioner's designee may furnish information to or receive information from a nationwide multistate licensing system for the purpose of regulation of the financial services industry. Information furnished by the commissioner to any third party which is confidential or privileged in the commissioner's possession remains confidential or privileged in the possession of the third party. Information received by the commissioner from any third party which is confidential or privileged in the third-party's possession remains confidential or privileged in the commissioner's possession.

Approved April 8, 2013
Filed April 8, 2013

DOMESTIC RELATIONS AND PERSONS

CHAPTER 116

SENATE BILL NO. 2368

(Senators Miller, Campbell, Schaible)
(Representatives B. Koppelman, Larson, Rohr)

AN ACT to create and enact a new section to chapter 14-02.1 of the North Dakota Century Code, relating to limitations on and penalties for performing an abortion; to amend and reenact sections 14-02.1-01, 14-02.1-02, and 14-02.1-07 of the North Dakota Century Code, relating to definitions and reporting requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁴ **SECTION 1. AMENDMENT.** Section 14-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-01. Purpose.

~~The purpose of this chapter is to protect unborn human life and maternal health within present constitutional limits. It reaffirms the tradition of the state of North Dakota to protect every human life whether unborn or aged, healthy or sick.~~
The purpose of this section is to protect the state's compelling interest in the unborn human life from the time the unborn child is capable of feeling pain.

⁴⁵ **SECTION 2. AMENDMENT.** Section 14-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-02. Definitions.

As used in this chapter:

1. "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable intrauterine pregnancy of a woman, including the elimination of one or more unborn children in a multifetal pregnancy, with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:
 - a. Save the life or preserve the health of the unborn child;
 - b. Remove a dead unborn child caused by spontaneous abortion; or

⁴⁴ Section 14-02.1-01 was also amended by section 7 of Senate Bill No. 2004, chapter 35.

⁴⁵ Section 14-02.1-02 was also amended by section 1 of House Bill No. 1305, chapter 117.

- c. Treat a woman for an ectopic pregnancy.
2. "Abortion facility" means a clinic, ambulatory surgical center, physician's office, or any other place or facility in which abortions are performed or prescribed, other than a hospital.
 3. "Abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of causing an abortion.
 4. "Drug label" means the pamphlet accompanying an abortion-inducing drug which outlines the protocol tested and authorized by the federal food and drug administration and agreed upon by the drug company applying for the federal food and drug administration authorization of that drug. Also known as "final printing labeling instructions", drug label is the federal food and drug administration document that delineates how a drug is to be used according to the federal food and drug administration approval.
 5. "Fertilization" means the fusion of a human spermatozoon with a human ovum.
 6. "Hospital" means an institution licensed by the state department of health under chapter 23-16 and any hospital operated by the United States or this state.
 - ~~6-7.~~ "Human being" means an individual living member of the species of homo sapiens, including the unborn human being during the entire embryonic and fetal ages from fertilization to full gestation.
 - ~~7-8.~~ "Infant born alive" means a born child which exhibits either heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles or pulsation of the umbilical cord if still attached to the child.
 - ~~8-9.~~ "Informed consent" means voluntary consent to abortion by the woman upon whom the abortion is to be performed or induced provided that:
 - a. The woman is told the following by the physician who is to perform the abortion, by the referring physician, or by the physician's agent, at least twenty-four hours before the abortion:
 - (1) The name of the physician who will perform the abortion;
 - (2) The abortion will terminate the life of a whole, separate, unique, living human being;
 - (3) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, danger to subsequent pregnancies, and infertility;
 - (4) The probable gestational age of the unborn child at the time the abortion is to be performed; and
 - (5) The medical risks associated with carrying her child to term.

- b. The woman is informed, by the physician or the physician's agent, at least twenty-four hours before the abortion:
 - (1) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care and that more detailed information on the availability of that assistance is contained in the printed materials given to her as described in section 14-02.1-02.1;
 - (2) That the printed materials given to her and described in section 14-02.1-02.1 describe the unborn child and list agencies that offer alternatives to abortion;
 - (3) That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion; and
 - (4) That she is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.
- c. The woman certifies in writing, prior to the abortion, that the information described in subdivisions a and b has been furnished to her.
- d. Before the performance of the abortion, the physician who is to perform or induce the abortion or the physician's agent receives a copy of the written certification prescribed by subdivision c.
- e. The physician has not received or obtained payment for a service provided to a patient who has inquired about an abortion or has scheduled an abortion before the twenty-four-hour period required by this section.

9-10. "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates an immediate abortion of her pregnancy without first determining postfertilization age to avert her death or for which the ~~twenty-four-hour delay necessary to determine postfertilization age~~ will create serious risk of substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. A condition may not be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct that ~~would~~she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

40-11. "Physician" means an individual who is licensed to practice medicine or osteopathy under chapter 43-17 or a physician who practices in the armed services of the United States or in the employ of the United States.

44-12. "Postfertilization age" means the age of the unborn child as calculated from fertilization.

13. "Probable gestational age of the unborn child" means what, in reasonable medical judgment, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.

14. "Probable postfertilization age of the unborn child" means what, in reasonable medical judgment, will with reasonable probability be the postfertilization age

of the unborn child at the time the abortion is planned to be performed or induced.

- 42-15. "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.
- 43-16. "Unborn child" means the offspring of human beings from conception until birth.
- 44-17. "Viable" means the ability of an unborn child to live outside the mother's womb, albeit with artificial aid.

SECTION 3. A new section to chapter 14-02.1 of the North Dakota Century Code is created and enacted as follows:

Determination of postfertilization age - Abortion of unborn child of twenty or more weeks postfertilization age prohibited.

1. Except in the case of a medical emergency, an abortion may not be performed or induced or be attempted to be performed or induced unless the physician performing or inducing the abortion has first made a determination of the probable postfertilization age of the unborn child or relied upon such a determination made by another physician. In making the determination, the physician shall make those inquiries of the woman and perform or cause to be performed the medical examinations and tests as a reasonably prudent physician, knowledgeable about the case and the medical conditions involved, would consider necessary to perform in making an accurate diagnosis with respect to postfertilization age.
2. Except in the case of a medical emergency, a person may not perform or induce or attempt to perform or induce an abortion upon a woman when it has been determined, by the physician performing or inducing or attempting to perform or induce the abortion or by another physician upon whose determination that physician relies, that the probable postfertilization age of the woman's unborn child is twenty or more weeks.

SECTION 4. AMENDMENT. Section 14-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-07. Records required - Reporting of practice of abortion.

1. Records:
 - a. All abortion facilities and hospitals in which abortions are performed shall keep records, including admission and discharge notes, histories, results of tests and examinations, nurses' worksheets, social service records, and progress notes, and shall further keep a copy of all written certifications provided for in this chapter as well as a copy of the constructive notice forms, consent forms, court orders, abortion data reports, adverse event reports, abortion compliance reports, and complication reports. All abortion facilities shall keep the following records of the:
 - (1) The number of women who availed themselves of the opportunity to receive and view an ultrasound image of their unborn children pursuant to section 14-02.1-04, and the number who did not; and of

each of those numbers, the number who, to the best of the reporting abortion facility's information and belief, went on to obtain the abortion. Records must be maintained in the permanent files of the hospital or abortion facility for a period of not less than seven years.

(2) Postfertilization age:

(a) If a determination of probable postfertilization age was not made, the basis of the determination that a medical emergency existed.

(b) If the probable postfertilization age was determined to be twenty or more weeks and an abortion was performed, the basis of the determination that a medical emergency existed.

b. The medical records of abortion facilities and hospitals in which abortions are performed and all information contained therein must remain confidential and may be used by the state department of health only for gathering statistical data and ensuring compliance with the provisions of this chapter.

c. Records must be maintained in the permanent files of the hospital or abortion facility for a period of not less than seven years.

2. Reporting:

a. An individual abortion compliance report and an individual abortion data report for each abortion performed upon a woman must be completed by her attending physician. The abortion data report must be confidential and may not contain the name of the woman. The abortion data report must include the data called for in the United States standard report of induced termination of pregnancy as recommended by the national center for health statistics.

b. All abortion compliance reports must be signed by the attending physician within twenty-four hours and submitted to the state department of health within ten business days from the date of the abortion. All abortion data and complication reports must be signed by the attending physician and submitted to the state department of health within thirty days from the date of the abortion. If a physician provides an abortion-inducing drug to another for the purpose of inducing an abortion and the physician knows that the individual experiences during or after the use an adverse event, the physician shall provide a written report of the adverse event within thirty days of the event to the state department of health and the federal food and drug administration via the medwatch reporting system. For purposes of this section, "adverse event" is defined based upon the federal food and drug administration criteria given in the medwatch reporting system. If a determination of probable postfertilization age was not made, the abortion compliance report must state the basis of the determination that a medical emergency existed. If the probable postfertilization age was determined to be twenty or more weeks and an abortion was performed, the abortion compliance report must state the basis of the determination that a medical emergency existed.

c. A copy of the abortion report, any complication report, and any adverse event report must be made a part of the medical record of the patient at

the facility or hospital in which the abortion was performed. In cases when post-abortion complications are discovered, diagnosed, or treated by physicians not associated with the facility or hospital where the abortion was performed, the state department of health shall forward a copy of the report to that facility or hospital to be made a part of the patient's permanent record.

- d. The state department of health is responsible for collecting all abortion compliance reports, abortion data reports, complication reports, and adverse event reports and collating and evaluating all data gathered from these reports and shall annually publish a statistical report based on data from abortions performed in the previous calendar year. All abortion compliance reports received by the state department of health are public records. Except for disclosure to a law enforcement officer or state agency, the department may not disclose an abortion compliance report without first removing any individually identifiable health information and any other demographic information, including race, marital status, number of previous live births, and education regarding the woman upon whom the abortion was performed.
- e. The state department of health shall report to the attorney general any apparent violation of this chapter.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 117

HOUSE BILL NO. 1305

(Representatives Grande, Brabandt, K. Koppelman, Laning, Rohr, Steiner)
(Senators Berry, Burckhard, Campbell, Dever, Erbele, Hogue)

AN ACT to create and enact a new section to chapter 14-02.1 of the North Dakota Century Code, relating to the prohibition on abortions for sex selection or genetic abnormalities; to amend and reenact section 14-02.1-02 of the North Dakota Century Code, relating to definitions; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁶ **SECTION 1. AMENDMENT.** Section 14-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-02. Definitions.

As used in this chapter:

1. "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable intrauterine pregnancy of a woman, including the elimination of one or more unborn children in a multifetal pregnancy, with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:
 - a. Save the life or preserve the health of the unborn child;
 - b. Remove a dead unborn child caused by spontaneous abortion; or
 - c. Treat a woman for an ectopic pregnancy.
2. "Abortion facility" means a clinic, ambulatory surgical center, physician's office, or any other place or facility in which abortions are performed or prescribed, other than a hospital.
3. "Abortion-inducing drug" means a medicine, drug, or any other substance prescribed or dispensed with the intent of causing an abortion.
4. "Drug label" means the pamphlet accompanying an abortion-inducing drug which outlines the protocol tested and authorized by the federal food and drug administration and agreed upon by the drug company applying for the federal food and drug administration authorization of that drug. Also known as "final printing labeling instructions", drug label is the federal food and drug administration document that delineates how a drug is to be used according to the federal food and drug administration approval.

⁴⁶ Section 14-02.1-02 was also amended by section 2 of Senate Bill No. 2368, chapter 116.

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5. "Down syndrome" refers to a chromosome disorder associated with an extra chromosome twenty-one, in whole or in part, or an effective trisomy for chromosome twenty-one.
6. "Genetic abnormality" means any defect, disease, or disorder that is inherited genetically. The term includes any physical disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, or any other type of physical or mental disability, abnormality, or disease.
7. "Hospital" means an institution licensed by the state department of health under chapter 23-16 and any hospital operated by the United States or this state.
- 6-8. "Human being" means an individual living member of the species of homo sapiens, including the unborn human being during the entire embryonic and fetal ages from fertilization to full gestation.
- 7-9. "Infant born alive" means a born child which exhibits either heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles or pulsation of the umbilical cord if still attached to the child.
- 8-10. "Informed consent" means voluntary consent to abortion by the woman upon whom the abortion is to be performed or induced provided that:
- a. The woman is told the following by the physician who is to perform the abortion, by the referring physician, or by the physician's agent, at least twenty-four hours before the abortion:
 - (1) The name of the physician who will perform the abortion;
 - (2) The abortion will terminate the life of a whole, separate, unique, living human being;
 - (3) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, danger to subsequent pregnancies, and infertility;
 - (4) The probable gestational age of the unborn child at the time the abortion is to be performed; and
 - (5) The medical risks associated with carrying her child to term.
 - b. The woman is informed, by the physician or the physician's agent, at least twenty-four hours before the abortion:
 - (1) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care and that more detailed information on the availability of that assistance is contained in the printed materials given to her as described in section 14-02.1-02.1;
 - (2) That the printed materials given to her and described in section 14-02.1-02.1 describe the unborn child and list agencies that offer alternatives to abortion;

- (3) That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion; and
- (4) That she is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.
- c. The woman certifies in writing, prior to the abortion, that the information described in subdivisions a and b has been furnished to her.
- d. Before the performance of the abortion, the physician who is to perform or induce the abortion or the physician's agent receives a copy of the written certification prescribed by subdivision c.
- e. The physician has not received or obtained payment for a service provided to a patient who has inquired about an abortion or has scheduled an abortion before the twenty-four-hour period required by this section.
- 9-11. "Medical emergency" means a condition that, in reasonable medical judgment, so complicates the medical condition of the pregnant woman that it necessitates an immediate abortion to avert her death or for which the twenty-four-hour delay will create serious risk of substantial and irreversible physical impairment of a major bodily function. A condition may not be deemed a medical emergency if based on a claim or diagnosis that the woman will engage in conduct that would result in her death or in substantial and irreversible physical impairment of a major bodily function.
- 10-12. "Physician" means an individual who is licensed to practice medicine or osteopathy under chapter 43-17 or a physician who practices in the armed services of the United States or in the employ of the United States.
- 11-13. "Probable gestational age of the unborn child" means what, in reasonable medical judgment, will with reasonable probability be the gestational age of the unborn child at the time the abortion is planned to be performed.
- 12-14. "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.
- 13-15. "Unborn child" means the offspring of human beings from conception until birth.
- 14-16. "Viable" means the ability of an unborn child to live outside the mother's womb, albeit with artificial aid.

SECTION 2. A new section to chapter 14-02.1 of the North Dakota Century Code is created and enacted as follows:

Prohibition - Sex-selective abortion - Abortion for genetic abnormality - Penalty.

1. Notwithstanding any other provision of law, a physician may not intentionally perform or attempt to perform an abortion with knowledge that the pregnant woman is seeking the abortion solely:

- a. On account of the sex of the unborn child; or
 - b. Because the unborn child has been diagnosed with either a genetic abnormality or a potential for a genetic abnormality.
2. Any physician who performs an abortion in violation of this section is guilty of a class A misdemeanor.

Approved March 26, 2013
Filed March 26, 2013

CHAPTER 118

SENATE BILL NO. 2305

(Senators Berry, Campbell, Lyson)
(Representatives Grande, K. Koppelman, Weisz)

AN ACT to amend and reenact subsection 1 of section 14-02.1-04 of the North Dakota Century Code, relating to limitations on physicians and abortion facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 14-02.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~No~~An abortion may ~~not~~ be ~~done~~performed by any person other than a physician who is using applicable medical standards and who is licensed to practice in this state. All physicians performing abortion procedures must have admitting privileges at a hospital located within thirty miles [42.28 kilometers] of the abortion facility and staff privileges to replace hospital on-staff physicians at that hospital. These privileges must include the abortion procedures the physician will be performing at abortion facilities. An abortion facility must have a staff member trained in cardiopulmonary resuscitation present at all times when the abortion facility is open and abortions are scheduled to be performed.

Approved March 26, 2013

Filed March 26, 2013

CHAPTER 119

HOUSE BILL NO. 1456

(Representatives Grande, Brabandt, Heller, Hunskor, Rohr, Toman)
(Senators Berry, Burckhard, Kilzer, Laffen, Luick, Unruh)

AN ACT to create and enact two new sections to chapter 14-02.1 and a new subsection to section 43-17-31 of the North Dakota Century Code, relating to limitations on abortion after determination of detectable heartbeat in an unborn child and to grounds for disciplinary action for physicians; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-02.1 of the North Dakota Century Code is created and enacted as follows:

Determination of detectable heartbeat in unborn child before abortion - Exception.

1. Except when a medical emergency exists that prevents compliance with this subsection, an individual may not perform an abortion on a pregnant woman before determining, in accordance with standard medical practice, if the unborn child the pregnant woman is carrying has a detectable heartbeat. Any individual who performs an abortion on a pregnant woman based on the exception in this subsection shall note in the pregnant woman's medical records that a medical emergency necessitating the abortion existed.
2. If a physician performs an abortion on a pregnant woman before determining if the unborn child the pregnant woman is carrying has a detectable heartbeat, that physician is subject to disciplinary action under section 43-17-31.

SECTION 2. A new section to chapter 14-02.1 of the North Dakota Century Code is created and enacted as follows:

Abortion after detectable heartbeat in unborn child prohibited - Exception - Penalty.

1. Notwithstanding any other provision of law, an individual may not knowingly perform an abortion on a pregnant woman with the specific intent of causing or abetting the termination of the life of the unborn child the pregnant woman is carrying and whose heartbeat has been detected according to the requirements of section 1 of this Act.
2.
 - a. An individual is not in violation of subsection 1 if that individual performs a medical procedure designed to or intended, in that individual's reasonable medical judgment, to prevent the death of a pregnant woman, to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman, or to save the life of an unborn child.
 - b. Any individual who performs a medical procedure as described in subsection 1 shall declare in writing, under penalty of perjury, that the

medical procedure is necessary, to the best of that individual's reasonable medical judgment, to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman. That individual also shall provide in that written document, under penalty of perjury, the medical condition of that pregnant woman that the medical procedure performed as described in subdivision a assertedly will address, and the medical rationale for the conclusion that the medical procedure is necessary to prevent the death of the pregnant woman or to prevent a serious risk of the substantial and irreversible impairment of a major bodily function of the pregnant woman.

- c. The individual who performs a medical procedure as described in subdivision a shall place the written documentation required under subdivision b in the pregnant woman's medical records and shall maintain a copy of the written documentation in the individual's own records for at least seven years.
3. An individual is not in violation of subsection 1 if that individual has performed an examination for the presence of a heartbeat in the unborn child utilizing standard medical practice and that examination does not reveal a heartbeat in the unborn child or the individual has been informed by a physician who has performed the examination for the unborn child's heartbeat that the examination did not reveal a heartbeat in the unborn child.
4. It is a class C felony for an individual to willingly perform an abortion in violation of subsection 1. The pregnant woman upon whom the abortion is performed in violation of subsection 1 may not be prosecuted for a violation of subsection 1 or for conspiracy to violate subsection 1.
5. This section does not prohibit the sale, use, prescription, or administration of a measure, drug, or chemical designed for contraceptive purposes.

SECTION 3. A new subsection to section 43-17-31 of the North Dakota Century Code is created and enacted as follows:

The performance of an abortion on a pregnant woman prior to determining if the unborn child the pregnant woman is carrying has a detectable heartbeat, as provided in subsection 1 of section 1 of this Act.

Approved March 26, 2013

Filed March 26, 2013

CHAPTER 120

SENATE BILL NO. 2225

(Senators Robinson, Armstrong, Wardner)
(Representatives D. Johnson, J. Kelsh)

AN ACT to amend and reenact section 14-03-09 of the North Dakota Century Code, relating to the authority to solemnize marriages.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-03-09 of the North Dakota Century Code is amended and reenacted as follows:

14-03-09. Who may solemnize marriages.

Marriages may be solemnized at any location within the state by ~~all~~:

1. All judges of courts of record; ~~municipal~~
2. Municipal judges; ~~recorders~~
3. Recorders, unless the board of county commissioners designates a different official; ~~ordained~~
4. Ordained ministers of the gospel; priests, and clergy licensed, authorized by recognized denominations ~~pursuant to chapter 10-33~~; and ~~by~~
5. By any person individual authorized by the rituals and practices of any religious persuasion.

Approved April 26, 2013

Filed April 26, 2013

CHAPTER 121

HOUSE BILL NO. 1128

(Judiciary Committee)

(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact chapter 14-03.2 of the North Dakota Century Code, relating to the Uniform Premarital and Marital Agreements Act and the abrogation of common law regarding premarital and marital agreements; to repeal chapter 14-03.1 and section 30.1-05-07 of the North Dakota Century Code, relating to the Uniform Premarital Agreement Act and the waiver of right to elect of a surviving spouse; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁷ **SECTION 1.** Chapter 14-03.2 of the North Dakota Century Code is created and enacted as follows:

14-03.2-01. Definitions.

In this chapter:

1. "Amendment" means a modification or revocation of a premarital agreement or marital agreement.
2. "Marital agreement" means an agreement between spouses who intend to remain married which affirms, modifies, or waives a marital right or obligation during the marriage or at separation, marital dissolution, death of one of the spouses, or the occurrence or nonoccurrence of any other event. The term includes an amendment, signed after the spouses marry, of a premarital agreement or marital agreement.
3. "Marital dissolution" means the ending of a marriage by court decree. The term includes a divorce, dissolution, and annulment.
4. "Marital right or obligation" means any of the following rights or obligations arising between spouses because of their marital status:
 - a. Spousal support;
 - b. A right to property, including characterization, management, and ownership;
 - c. Responsibility for a liability;
 - d. A right to property and responsibility for liabilities at separation, marital dissolution, or death of a spouse; or
 - e. Award and allocation of attorney's fees and costs.

⁴⁷ Section 14-03.2-05 was amended by section 19 of House Bill No. 1015, chapter 15.

5. "Premarital agreement" means an agreement between individuals who intend to marry which affirms, modifies, or waives a marital right or obligation during the marriage or at separation, marital dissolution, death of one of the spouses, or the occurrence or nonoccurrence of any other event. The term includes an amendment, signed before the individuals marry, of a premarital agreement.
6. "Property" means anything that may be the subject of ownership, whether real or personal, tangible or intangible, legal or equitable, or any interest therein.
7. "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.
8. "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.
9. "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.

14-03.2-02. Scope.

1. This chapter applies to a premarital agreement or marital agreement signed after July 31, 2013.
2. This chapter does not affect any right, obligation, or liability arising under a premarital agreement or marital agreement signed before August 1, 2013.
3. This chapter does not apply to:
 - a. An agreement between spouses which affirms, modifies, or waives a marital right or obligation and requires court approval to become effective; or
 - b. An agreement between spouses who intend to obtain a marital dissolution or court-decreed separation which resolves their marital rights or obligations and is signed when a proceeding for marital dissolution or court-decreed separation is commenced.
4. This chapter does not affect adversely the rights of a bona fide purchaser for value to the extent that this chapter applies to a waiver of a marital right or obligation in a transfer or conveyance of property by a spouse to a third party.

14-03.2-03. Governing law.

The validity, enforceability, interpretation, and construction of a premarital agreement or marital agreement are determined:

1. By the law of the jurisdiction designated in the agreement if the jurisdiction has a significant relationship to the agreement or either party and the designated law is not contrary to a fundamental public policy of this state; or

2. Absent an effective designation described in subsection 1, by the law of this state, including the choice-of-law rules of this state.

14-03.2-04. Principles of law and equity.

Principles of law and equity may not:

1. Supplement an agreement executed in accordance with this chapter; or
2. Be used to alter a material term in an agreement executed in accordance with this chapter.

14-03.2-05. Formation requirements.

A premarital agreement or marital agreement must be in a record and signed by both parties. The agreement is enforceable without consideration. A marital agreement created pursuant to this chapter must be signed within the first one hundred twenty days of the marriage.

14-03.2-06. When agreement effective.

A premarital agreement is effective on marriage. A marital agreement is effective on signing by both parties.

14-03.2-07. Void marriage.

If a marriage is determined to be void, a premarital agreement or marital agreement is enforceable to the extent necessary to avoid an inequitable result.

14-03.2-08. Enforcement.

1. A premarital agreement or marital agreement is unenforceable if a party against whom enforcement is sought proves:
 - a. The party's consent to the agreement was involuntary or the result of duress;
 - b. The party did not have access to independent legal representation under subsection 2;
 - c. Unless the party had independent legal representation at the time the agreement was signed, the agreement did not include a notice of waiver of rights under subsection 3 or an explanation in plain language of the marital rights or obligations being modified or waived by the agreement; or
 - d. Before signing the agreement, the party did not receive adequate financial disclosure under subsection 4.
2. A party has access to independent legal representation if:
 - a. Before signing a premarital or marital agreement, the party has a reasonable time to:
 - (1) Decide whether to retain a lawyer to provide independent legal representation; and

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- (2) Locate a lawyer to provide independent legal representation, obtain the lawyer's advice, and consider the advice provided; and
- b. The other party is represented by a lawyer and the party has the financial ability to retain a lawyer or the other party agrees to pay the reasonable fees and expenses of independent legal representation.
3. A notice of waiver of rights under this section requires language, conspicuously displayed, substantially similar to the following, as applicable to the premarital agreement or marital agreement:
- "If you sign this agreement, you may be:
- Giving up your right to be supported by the person you are marrying or to whom you are married.
- Giving up your right to ownership or control of money and property.
- Agreeing to pay bills and debts of the person you are marrying or to whom you are married.
- Giving up your right to money and property if your marriage ends or the person to whom you are married dies.
- Giving up your right to have your legal fees paid."
4. A party has adequate financial disclosure under this section if the party:
- a. Receives a reasonably accurate description and good-faith estimate of value of the property, liabilities, and income of the other party;
- b. Expressly waives, in a separate signed record, the right to financial disclosure beyond the disclosure provided; or
- c. Has adequate knowledge or a reasonable basis for having adequate knowledge of the information described in subdivision a.
5. If a premarital agreement or marital agreement modifies or eliminates spousal support and the modification or elimination causes a party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, on request of that party, may require the other party to provide support to the extent necessary to avoid that eligibility.
6. A court may refuse to enforce a term of a premarital agreement or marital agreement if, in the context of the agreement taken as a whole:
- a. The term was unconscionable at the time of signing; or
- b. Enforcement of the term would result in substantial hardship for a party because of a material change in circumstances arising after the agreement was signed.
7. The court shall decide a question of unconscionability or substantial hardship under subsection 6 as a matter of law.

14-03.2-09. Unenforceable terms.

1. In this section, "parental rights and responsibilities" means all the rights and responsibilities a parent has concerning the parent's child.
2. A term in a premarital agreement or marital agreement is not enforceable to the extent that it:
 - a. Adversely affects a child's right to support;
 - b. Limits or restricts a remedy available to a victim of domestic violence under law of this state other than this chapter;
 - c. Purports to modify the grounds for a court-decreed separation or marital dissolution available under law of this state other than this chapter; or
 - d. Penalizes a party for initiating a legal proceeding leading to a court-decreed separation or marital dissolution.
3. A term in a premarital agreement or marital agreement which defines the rights or duties of the parties regarding parental rights and responsibilities is not binding on the court.

14-03.2-10. Limitation of action.

A statute of limitations applicable to an action asserting a claim for relief under a premarital agreement or marital agreement is tolled during the marriage of the parties to the agreement, but equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

14-03.2-11. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act [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 2. REPEAL. Chapter 14-03.1 and section 30.1-05-07 of the North Dakota Century Code are repealed.

SECTION 3. MARRIAGE AND MARITAL AGREEMENTS - LEGISLATIVE MANAGEMENT STUDY. During the 2013-14 interim, the legislative management shall consider studying marriage, including the positive influence of marriage on society, children, and government spending, and the use of and the need for marital agreements in the state. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fourth legislative assembly.

Approved May 2, 2013
Filed May 2, 2013

CHAPTER 122

SENATE BILL NO. 2175

(Senators Wardner, Lyson)
(Representatives K. Koppelman, Larson, Delmore)

AN ACT to amend and reenact section 14-07-08 of the North Dakota Century Code, relating to the liabilities of husband and wife.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-07-08 of the North Dakota Century Code is amended and reenacted as follows:

14-07-08. Separate and mutual rights and liabilities of husband and wife.

The separate and mutual rights and liabilities of a husband and a wife are as follows:

1. Neither the husband nor the wife as such is answerable for the acts of the other.
2. ~~The~~Except for necessary expenses as provided in subsection 3, the earnings of one spouse are not liable for the debts of the other spouse, and the earnings and accumulations of either spouse and of any minor children living with either spouse or in one spouse's custody, while the husband and wife are living separate from each other, are the separate property of each spouse.
3. The husband and wife are liable jointly and severally for any debts contracted by either, while living together, for necessary household supplies of food, clothing, and fuel, medical care, and for shelter for themselves and family, and for the education of their minor children.
4. The separate property of the husband or wife is not liable for the debts of the other spouse but each is liable for their own debts contracted before or after marriage.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 123

SENATE BILL NO. 2122

(Judiciary Committee)

(At the request of the Uniform Commission on State Laws)

AN ACT to create and enact chapter 14-09.3 of the North Dakota Century Code, relating to the Uniform Deployed Parents Custody and Visitation Act; to amend and reenact sections 14-09-06.2 and 14-09-06.6 of the North Dakota Century Code, relating to best interests and welfare of the child factors and limitation on postjudgment modifications; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-06.2 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.2. Best interests and welfare of child - Court consideration - Factors.

1. 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.
 - 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 any proceeding under this chapter, the court, at any stage of the proceedings after final judgment, may make orders about what security is to be given for the care, custody, and support of the unmarried minor children of

the marriage as from the circumstances of the parties and the nature of the case is equitable.

SECTION 2. AMENDMENT. Section 14-09-06.6 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.6. Limitations on postjudgment modifications of primary residential responsibility.

1. Unless agreed to in writing by the parties, or if included in the parenting plan, no motion for an order to modify primary residential responsibility may be made earlier than two years after the date of entry of an order establishing primary residential responsibility, except in accordance with subsection 3.
2. Unless agreed to in writing by the parties, or if included in the parenting plan, if a motion for modification has been disposed of upon its merits, no subsequent motion may be filed within two years of disposition of the prior motion, except in accordance with subsection 5.
3. The time limitation in subsections 1 and 2 does not apply if the court finds:
 - a. The persistent and willful denial or interference with parenting time;
 - b. The child's present environment may endanger the child's physical or emotional health or impair the child's emotional development; or
 - c. The primary residential responsibility for the child has changed to the other parent for longer than six months.
4. A party seeking modification of an order concerning primary residential responsibility shall serve and file moving papers and supporting affidavits and shall give notice to the other party to the proceeding who may serve and file a response and opposing affidavits. The court shall consider the motion on briefs and without oral argument or evidentiary hearing and shall deny the motion unless the court finds the moving party has established a prima facie case justifying a modification. The court shall set a date for an evidentiary hearing only if a prima facie case is established.
5. The court may not modify the primary residential responsibility within the two-year period following the date of entry of an order establishing primary residential responsibility unless the court finds the modification is necessary to serve the best ~~interest~~interests of the child and:
 - a. The persistent and willful denial or interference with parenting time;
 - b. The child's present environment may endanger the child's physical or emotional health or impair the child's emotional development; or
 - c. The residential responsibility for the child has changed to the other parent for longer than six months.
6. The court may modify the primary residential responsibility after the two-year period following the date of entry of an order establishing primary residential responsibility if the court finds:

- a. On the basis of facts that have arisen since the prior order or which were unknown to the court at the time of the prior order, a material change has occurred in the circumstances of the child or the parties; and
 - b. The modification is necessary to serve the best interestinterests of the child.
7. The court may modify a prior order concerning primary residential responsibility at any time if the court finds a stipulated agreement by the parties to modify the order is in the best interestinterests of the child.
 8. Upon a motion to modify primary residential responsibility under this section, the burden of proof is on the moving party.
 9. ~~If a motion for change of primary parental responsibility is filed during the time a parent is in active duty service, the court may not enter an order modifying or amending a previous judgment or order, or issue a new order, which changes the child's placement that existed on the date the parent was called to active duty service, except the court may enter a temporary order concerning residential responsibility which is in the best interest of the child. The temporary order must explicitly provide that residential responsibility must be restored to the service member upon the service member's release from active duty service, unless the court finds by clear and convincing evidence that restoration of residential responsibility would not be in the best interest of the child. If an original decision concerning primary residential responsibility is pending and the service member is alerted for active duty service, or is absent for active duty service, the court may not issue a permanent order until the return of the service member from active duty. The court may issue a temporary order concerning primary residential responsibility in the best interest of the child for the time period of the active duty service. This section does not prevent a service member from consenting to a modification that continues past discharge or release from active duty service or to agreeing to a permanent order before release from active duty service. For purposes of this section, "service member" means a member of the national guard or a reserve unit of the United States armed forces and "active duty service" means an order to active duty under United States Code title 10.~~

SECTION 3. Chapter 14-09.3 of the North Dakota Century Code is created and enacted as follows:

14-09.3-01. (102) Definitions.

1. "Adult" means an individual who has attained eighteen years of age or an emancipated minor.
2. "Caretaking authority" means the right to live with and care for a child on a day-to-day basis. The term includes physical custody, parenting time, right to access, and visitation.
3. "Child" means:
 - a. An unemancipated individual who has not attained eighteen years of age;
or

-
- b. An adult son or daughter by birth or adoption, or under law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.
 4. "Court" means a tribunal authorized under law of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.
 5. "Custodial responsibility" includes all powers and duties relating to caretaking authority and decisionmaking authority for a child. The term includes physical custody, legal custody, parenting time, right to access, visitation, and authority to grant limited contact with a child.
 6. "Decisionmaking authority" means the power to make important decisions regarding a child, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel. The term does not include the power to make decisions that necessarily accompany a grant of caretaking authority.
 7. "Deploying parent" means a servicemember, who is deployed or has been notified of impending deployment and is:
 - a. A parent of a child under law of this state other than this chapter; or
 - b. An individual who has custodial responsibility for a child under law of this state other than this chapter.
 8. "Deployment" means the movement or mobilization of a servicemember for more than ninety days but less than eighteen months pursuant to uniformed service orders that:
 - a. Are designated as unaccompanied;
 - b. Do not authorize dependent travel; or
 - c. Otherwise do not permit the movement of family members to the location to which the servicemember is deployed.
 9. "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a child or an individual recognized to be in a familial relationship with a child under law of this state other than this chapter.
 10. "Limited contact" means the authority of a nonparent to visit a child for a limited time. The term includes authority to take the child to a place other than the residence of the child.
 11. "Nonparent" means an individual other than a deploying parent or other parent.
 12. "Other parent" means an individual who, in common with a deploying parent, is:
 - a. A parent of a child under law of this state other than this chapter; or

- b. An individual who has custodial responsibility for a child under law of this state other than this chapter.
- 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.
- 14. "Return from deployment" means the conclusion of a servicemember's deployment as specified in uniformed service orders.
- 15. "Servicemember" means a member of a uniformed service.
- 16. "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.
- 17. "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.
- 18. "Uniformed service" means:
 - a. Active and reserve components of the army, navy, air force, marine corps, or coast guard of the United States;
 - b. The United States merchant marine;
 - c. The commissioned corps of the United States public health service;
 - d. The commissioned corps of the national oceanic and atmospheric administration of the United States; or
 - e. The national guard of a state.

14-09.3-02. (103) Remedies for noncompliance.

In addition to other remedies under law of this state other than this chapter, if a court finds that a party to a proceeding under this chapter has acted in bad faith or intentionally failed to comply with this chapter or a court order issued under this chapter, the court may assess reasonable attorney's fees and costs against the party and order other appropriate relief.

14-09.3-03. (104) Jurisdiction.

- 1. A court may issue an order regarding custodial responsibility under this chapter only if the court has jurisdiction under chapter 14-14.1.
- 2. If a court has issued a temporary order regarding custodial responsibility pursuant to sections 14-09.3-11 through 14-09.3-21, the residence of the deploying parent is not changed by reason of the deployment for the purposes of chapter 14-14.1 during the deployment.
- 3. If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by

agreement pursuant to sections 14-09.3-07 through 14-09.3-10, the residence of the deploying parent is not changed by reason of the deployment for the purposes of chapter 14-14.1.

4. If a court in another state has issued a temporary order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of chapter 14-14.1.
5. This section does not prevent a court from exercising temporary emergency jurisdiction under chapter 14-14.1.

14-09.3-04. (105) Notification required of deploying or redeploying parent.

1. Except as otherwise provided in subsection 4 and subject to subsection 3, a deploying parent shall notify in a record the other parent of a pending deployment or redeployment not later than seven days after receiving notice of deployment or redeployment unless reasonably prevented from doing so by the circumstances of service. If the circumstances of service prevent giving notification within the seven days, the deploying or redeploying parent shall give the notification as soon as reasonably possible.
2. Except as otherwise provided in subsection 4 and subject to subsection 3, each parent shall provide in a record the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment. Each parent shall provide the plan as soon as reasonably possible after notification of deployment is given under subsection 1.
3. If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under subsection 1, or notification of a plan for custodial responsibility during deployment under subsection 2, may be made only to the issuing court. If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent. The court shall keep confidential the address or contact information of the other parent.
4. Notification in a record under subsection 1 or 2 is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.
5. In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

14-09.3-05. (106) Duty to notify of change of address.

1. Except as otherwise provided in subsection 2, an individual to whom custodial responsibility has been granted during deployment pursuant to sections 14-09.3-07 through 14-09.3-10 or sections 14-09.3-11 through 14-09.3-21 shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated. The individual shall provide the notice to any court that has issued a custody or child support order concerning the child which is in effect.

2. If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under subsection 1 may be made only to the court that issued the order. The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.

14-09.3-06. (201) Form of agreement.

1. The parents of a child may enter into a temporary agreement under sections 14-09.3-07 through 14-09.3-10 granting custodial responsibility during deployment.
2. An agreement under subsection 1 must be:
 - a. In writing; and
 - b. Signed by both parents and any nonparent to whom custodial responsibility is granted.
3. Subject to subsection 4, an agreement under subsection 1, if feasible, must:
 - a. Identify the destination, duration, and conditions of the deployment that is the basis for the agreement;
 - b. Specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent;
 - c. Specify any decisionmaking authority that accompanies a grant of caretaking authority;
 - d. Specify any grant of limited contact to a nonparent;
 - e. If under the agreement custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;
 - f. Specify the frequency, duration, and means, including electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact;
 - g. Specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available;
 - h. Acknowledge that any party's child support obligation cannot be modified by the agreement, and that changing the terms of the obligation during deployment requires modification in the appropriate court;
 - i. Provide that the agreement will terminate according to the procedures under sections 14-09.3-22 through 14-09.3-25 after the deploying parent returns from deployment; and
 - j. If the agreement must be filed pursuant to section 14-09.3-10, specify which parent is required to file the agreement.

4. The omission of any of the items specified in subsection 3 does not invalidate an agreement under this section.

14-09.3-07. (202) Nature of authority created by agreement.

1. An agreement under sections 14-09.3-07 through 14-09.3-10 is temporary and terminates pursuant to sections 14-09.3-22 through 14-09.3-25 after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under section 14-09.3-08. The agreement does not create an independent, continuing right to caretaking authority, decisionmaking authority, or limited contact in an individual to whom custodial responsibility is given.
2. A nonparent who has caretaking authority, decisionmaking authority, or limited contact by an agreement under sections 14-09.3-07 through 14-09.3-10 has standing to enforce the agreement until it has been terminated by court order, by modification under section 14-09.3-08, or under sections 14-09.3-22 through 14-09.3-25.

14-09.3-08. (203) Modification of agreement.

1. By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made pursuant to sections 14-09.3-07 through 14-09.3-10.
2. If an agreement is modified under subsection 1 before deployment of a deploying parent, the modification must be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.
3. If an agreement is modified under subsection 1 during deployment of a deploying parent, the modification must be agreed to in a record by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

14-09.3-09. (204) Power of attorney.

A deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility under law of this state other than this chapter, or if a court order currently in effect prohibits contact between the child and the other parent. The deploying parent may revoke the power of attorney by signing a revocation of the power.

14-09.3-10. (205) Filing agreement or power of attorney with court.

An agreement or power of attorney under sections 14-09.3-07 through 14-09.3-10 must be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child who is the subject of the agreement or power. The case number and heading of the pending case concerning custodial responsibility or child support must be provided to the court with the agreement or power.

14-09.3-11. (301) Definition.

In sections 14-09.3-11 through 14-09.3-21, "close and substantial relationship" means a relationship in which a significant bond exists between a child and a nonparent.

14-09.3-12. (302) Proceeding for temporary custody order.

1. After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue a temporary order granting custodial responsibility unless prohibited by the federal Servicemembers Civil Relief Act [50 U.S.C. appendix sections 521 and 522]. A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.
2. At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion must be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under section 14-09.3-03 or, if there is no pending proceeding in a court with jurisdiction under section 14-09.3-03, in a new action for granting custodial responsibility during deployment.

14-09.3-13. (303) Expedited hearing.

If a motion to grant custodial responsibility is filed under subsection 2 of section 14-09.3-12 before a deploying parent deploys, the court shall conduct an expedited hearing.

14-09.3-14. (304) Testimony by electronic means.

In a proceeding under sections 14-09.3-11 through 14-09.3-21, a party or witness who is not reasonably available to appear personally may appear, provide testimony, and present evidence by electronic means unless the court finds good cause to require a personal appearance.

14-09.3-15. (305) Effect of prior judicial order or agreement.

In a proceeding for a grant of custodial responsibility pursuant to sections 14-09.3-11 through 14-09.3-21, the following rules apply:

1. A prior judicial order designating custodial responsibility in the event of deployment is binding on the court unless the circumstances meet the requirements of law of this state other than this chapter for modifying a judicial order regarding custodial responsibility.
2. The court shall enforce a prior written agreement between the parents for designating custodial responsibility in the event of deployment, including an agreement executed under sections 14-09.3-07 through 14-09.3-10, unless the court finds that the agreement is contrary to the best interests of the child.

14-09.3-16. (306) Grant of caretaking or decisionmaking authority to nonparent.

1. On motion of a deploying parent and in accordance with the laws of this state other than this chapter, if it is in the best interests of the child, a court may

grant caretaking authority to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship.

2. Unless a grant of caretaking authority to a nonparent under subsection 1 is agreed to by the other parent, the grant is limited to an amount of time not greater than:
 - a. The amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child; or
 - b. In the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.
3. A court may grant part of a deploying parent's decisionmaking authority, if the deploying parent is unable to exercise that authority, to a nonparent who is an adult family member of the child or an adult with whom the child has a close and substantial relationship. If a court grants the authority to a nonparent, the court shall specify the decisionmaking powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel.

14-09.3-17. (307) Grant of limited contact.

On motion of a deploying parent, and in accordance with the laws of this state other than this chapter, unless the court finds that the contact would be contrary to the best interests of the child, a court shall grant limited contact to a nonparent who is a family member of the child or an individual with whom the child has a close and substantial relationship.

14-09.3-18. (308) Nature of authority created by temporary custody order.

1. A grant of authority under sections 14-09.3-11 through 14-09.3-21 is temporary and terminates under sections 14-09.3-22 through 14-09.3-25 after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order. The grant does not create an independent, continuing right to caretaking authority, decisionmaking authority, or limited contact in an individual to whom it is granted.
2. A nonparent granted caretaking authority, decisionmaking authority, or limited contact under sections 14-09.3-11 through 14-09.3-21 has standing to enforce the grant until it is terminated by court order or under sections 14-09.3-22 through 14-09.3-25.

14-09.3-19. (309) Content of temporary custody order.

1. An order granting custodial responsibility under sections 14-09.3-11 through 14-09.3-21 must:
 - a. Designate the order as temporary; and
 - b. Identify to the extent feasible, the destination, duration, and conditions of the deployment.

2. If applicable, an order for custodial responsibility under sections 14-09.3-11 through 14-09.3-21 must:
 - a. Specify the allocation of caretaking authority, decisionmaking authority, or limited contact among the deploying parent, the other parent, and any nonparent;
 - b. If the order divides caretaking or decisionmaking authority between individuals, or grants caretaking authority to one individual and limited contact to another, provide a process to resolve any dispute that may arise;
 - c. Provide for liberal communication between the deploying parent and the child during deployment, including through electronic means, unless contrary to the best interests of the child, and allocate any costs of communications;
 - d. Provide for liberal contact between the deploying parent and the child during the time the deploying parent is on leave or otherwise available, unless contrary to the best interests of the child;
 - e. Provide for reasonable contact between the deploying parent and the child after return from deployment until the temporary order is terminated, even if the time of contact exceeds the time the deploying parent spent with the child before entry of the temporary order; and
 - f. Provide that the order will terminate pursuant to sections 14-09.3-22 through 14-09.3-25 after the deploying parent returns from deployment.

14-09.3-20. (310) Order for child support.

If a court has issued an order granting caretaking authority under sections 14-09.3-11 through 14-09.3-21, or an agreement granting caretaking authority has been executed under sections 14-09.3-07 through 14-09.3-10, the court may enter a temporary order for child support consistent with the laws of this state other than this chapter if the court has jurisdiction under chapter 14-12.2.

14-09.3-21. (311) Modifying or terminating grant of custodial responsibility to nonparent.

1. Except for an order under section 14-09.3-15, except as otherwise provided in subsection 2, and consistent with the federal Servicemembers Civil Relief Act, [50 U.S.C. appendix sections 521 and 522], on motion of a deploying or other parent or any nonparent to whom caretaking authority, decisionmaking authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with sections 14-09.3-11 through 14-09.3-21 and it is in the best interests of the child. A modification is temporary and terminates pursuant to sections 14-09.3-22 through 14-09.3-25 after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.
2. On motion of a deploying parent, the court shall terminate a grant of limited contact.

14-09.3-22. (401) Procedure for terminating temporary grant of custodial responsibility established by agreement.

1. At any time after return from deployment, a temporary agreement granting custodial responsibility under sections 14-09.3-07 through 14-09.3-10 may be terminated by an agreement to terminate signed by the deploying parent and the other parent.
2. A temporary agreement under sections 14-09.3-07 through 14-09.3-10 granting custodial responsibility terminates:
 - a. If an agreement to terminate under subsection 1 specifies a date for termination, on that date; or
 - b. If the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by the deploying parent and the other parent.
3. In the absence of an agreement under subsection 1 to terminate, a temporary agreement granting custodial responsibility terminates under sections 14-09.3-07 through 14-09.3-10 sixty days after the deploying parent gives notice to the other parent that the deploying parent returned from deployment.
4. If a temporary agreement granting custodial responsibility was filed with a court pursuant to section 14-09.3-10, an agreement to terminate the temporary agreement also must be filed with that court within a reasonable time after the signing of the agreement. The case number and heading of the case concerning custodial responsibility or child support must be provided to the court with the agreement to terminate.

14-09.3-23. (402) Consent procedure for terminating temporary grant of custodial responsibility established by court order.

At any time after a deploying parent returns from deployment, the deploying parent and the other parent may file with the court an agreement to terminate a temporary order for custodial responsibility issued under sections 14-09.3-11 through 14-09.3-21. After an agreement has been filed, the court shall issue an order terminating the temporary order effective on the date specified in the agreement. If a date is not specified, the order is effective immediately.

14-09.3-24. (403) Visitation before termination of temporary grant of custodial responsibility.

After a deploying parent returns from deployment until a temporary agreement or order for custodial responsibility established under sections 14-09.3-07 through 14-09.3-10 or sections 14-09.3-11 through 14-09.3-21 is terminated, the court shall issue a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interests of the child, even if the time of contact exceeds the time the deploying parent spent with the child before deployment.

14-09.3-25. (404) Termination by operation of law of temporary grant of custodial responsibility established by court order.

1. If an agreement between the parties to terminate a temporary order for custodial responsibility under sections 14-09.3-11 through 14-09.3-21 has not been filed, the order terminates sixty days after the deploying parent gives

notice to the other parent and any nonparent granted custodial responsibility that the deploying parent has returned from deployment.

2. A proceeding seeking to prevent termination of a temporary order for custodial responsibility is governed by law of this state other than this chapter.

14-09.3-26. (502) Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act [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 4. APPLICATION. Chapter 14-09.3 does not affect the validity of a temporary court order concerning custodial responsibility during deployment which was entered before August 1, 2013.

Approved March 21, 2013
Filed March 21, 2013

CHAPTER 124

SENATE BILL NO. 2107

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 14-09-08.10, 14-09-09.26, and 14-09-09.33, subsection 1 of section 14-09-09.34, sections 14-20-18 and 34-15-01, subsection 1 of section 34-15-03, and section 34-15-04 of the North Dakota Century Code, relating to child support and paternity; to repeal section 14-09-08.15 of the North Dakota Century Code, relating to medical support; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-08.10 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.10. (Contingent effective date - See note) Order.

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 include a provision for health insurance coverage for that child.

1. Except as provided in subsection 2, the order must require the obligor to provide satisfactory health insurance coverage whenever that coverage is available at reasonable cost or becomes available at reasonable cost.
2. If the obligee is an individual with physical custody of the child, the obligee must be required to provide satisfactory health insurance whenever that coverage is available at no or nominal cost.

(Contingent effective date - See note) Order. 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 include a provision for the child's health insurance coverage or other medical support. Responsibility for the child's health insurance coverage or other medical support must be established according to rules adopted by the child support agency. To the extent permitted by federal law and rules promulgated by the secretary of the United States department of health and human services, the rules adopted under this section must be based on include a reasonable cost standard which considers the income of the obligated parent and include a limitation on the obligation of a low-income parent to provide medical support unless the cost of health insurance coverage is available to the parent at no or nominal cost. The order must require the obligated party to provide satisfactory health insurance coverage whenever that coverage is accessible to the child, as defined by the child support agency, and available at reasonable cost or becomes accessible and available at reasonable cost. To assist a court in identifying appropriate health insurance coverage under this section, the child support agency may publish a list of child-only health insurance policies for children who are not eligible for public health coverage under chapter 50-29. To the extent permitted by federal law and rules promulgated by the secretary of the United States department of health and human services, the rules

adopted by the child support agency under this section may not impair a child's ability to apply for and receive public health coverage under chapter 50-29.

SECTION 2. AMENDMENT. Section 14-09-09.26 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.26. State is real party in interest.

The state is a real party in interest for purposes of establishing paternity and securing repayment of benefits paid, future support, and costs in action brought to establish, modify, or enforce an order for support of a child in any of the following circumstances:

1. Whenever aid under chapter 50-09 or 50-24.1 is provided to a dependent child.
2. Whenever application is made and accepted ~~under section 14-09-08.9 or 14-09-08.13~~ for services provided by the child support agency.
3. Whenever duties are imposed on the state or its public officials under chapter 14-12.2.

SECTION 3. AMENDMENT. Section 14-09-09.33 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.33. Offsets of child support.

1. Notwithstanding section 14-09-09.31, a court may order that a specific amount of ~~past due~~ child support owed by an obligor to an obligee be offset by an equal amount of ~~past due~~ child support or other debts owed to the obligor by the obligee. An order for an offset is permitted under this subsection ~~only if:~~
 - a. ~~The as long as the~~ proposed offset is limited to ~~past due~~ child support and does not apply to child support owed in the current month or owed in any future month;
 - b. ~~The, except as authorized in subsection 4, and the~~ proposed offset does not include any ~~past due~~ child support that has been assigned;
 - c. ~~Neither party whose past due child support obligation will be reduced or eliminated by the proposed offset owes past due child support to another obligee; and~~
 - d. ~~The opportunity to offset past due child support under this section has not been used by either party as an incentive to avoid paying child support in the month in which it is due.~~
2. ~~The order must include a specific finding that the proposed offset serves the best interests of the children to whom the obligor and obligee owe a duty of support.~~
- ~~3.2.~~ The child support agency may issue an order offsetting ~~past due~~ offset child support if neither party objects after being notified of the proposed offset.

- ~~4.3. Past due child~~Child support owed by an obligor to an obligee may not be offset by ~~past due child support owed to the obligor by the obligee~~ except as permitted in this section.
- ~~5.4. Notwithstanding anything to the contrary in section 14-09-09.24 or 14-09-09.30, an obligor's child support obligation for the current month or for a future month may not be offset by past due child support or other debts owed to the obligor by an obligee unless the court orders the offset as a method of satisfying an overpayment of child support that results from the establishment or reduction of a child support obligation, or as authorized by the child support agency under subsection 2, or as permitted in the child support guidelines established under section 14-09-09.7.~~
- ~~6.5. An offset of child support under this section is considered a payment of child support by both the obligor and the obligee. A copy of the order for an offset must be provided to the state disbursement unit.~~
- ~~7. As used in this section, "child support" does not include spousal support.~~

SECTION 4. AMENDMENT. Subsection 1 of section 14-09-09.34 of the North Dakota Century Code is amended and reenacted as follows:

1. An income payer who has been served with an income withholding order issued under section 14-09-09.15 for an obligor which includes an amount for past-due support shall notify the child support agency before making any lump sum payment of one thousand dollars or more to the obligor and may report a lump sum payment of an amount less than one thousand dollars or of an amount yet to be determined. "Lump sum payment" includes pay in lieu of vacation or other leave, bonus, commission, and any other payment to an obligor but does not include periodic payments made on regular paydays as compensation for services, severance pay, or advances, and does not include reimbursement for expenses incurred by the obligor on behalf of the income payer.

SECTION 5. AMENDMENT. Section 14-20-18 of the North Dakota Century Code is amended and reenacted as follows:

14-20-18. (308) Challenge after expiration of period for rescission.

1. After the period for rescission under section 14-20-17 has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:
 - a. On the basis of fraud, duress, or material mistake of fact; and
 - b. Within ~~one year~~two years after the acknowledgment or denial is filed with the state department of health.
2. A party challenging an acknowledgment of paternity or denial of paternity has the burden of proof.

SECTION 6. AMENDMENT. Section 34-15-01 of the North Dakota Century Code is amended and reenacted as follows:

34-15-01. Definitions.

As used in this chapter:

1. "Date of hire" means the date services for remuneration were first performed by the employee.
2. "Department" means the department of human services.
- 2-3. "Employee" means an individual who would be determined to be an employee under chapter 24 of the Internal Revenue Code of 1986, as amended [2 U.S.C. 3401 et seq.], but does not include an employee of a federal or state agency performing intelligence or counterintelligence functions, if the head of the agency has determined that reporting under this chapter, with respect to that employee, could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.
4. "Employee newly hired" means an employee who has not previously been employed by the employer or was previously employed by that employer but has been separated from such prior employment for at least sixty consecutive days.
- 3-5. "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.
- 4-6. "Labor organization" means an organization treated as a labor organization under section 2(5) of the National Labor Relations Act, as amended [29 U.S.C. 152(5)], and includes any entity, including a "hiring hall", which is used by the organization and an employer to carry out requirements, described in section 8(f)(3) of the National Labor Relations Act, as amended [29 U.S.C. 158(f)(3)], of an agreement between the organization and the employer.

SECTION 7. AMENDMENT. Subsection 1 of section 34-15-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsections 2 and 3, each employer shall furnish to the directory of new hires a report that contains the name, address, and social security number of each employee newly hired for work within this state, the date of hire, whether the employer offers health insurance to the employee, and the employer's name and address and the identifying number assigned under section 6109 of the Internal Revenue Code of 1986, as amended [26 U.S.C. 6109], to the employer.

SECTION 8. AMENDMENT. Section 34-15-04 of the North Dakota Century Code is amended and reenacted as follows:

34-15-04. Reporting format.

1. Each employer report required by this chapter must be made, to the extent practicable, on a W-4 form or an equivalent form prescribed by the state directory of new hires.
2. Except as provided in subsection 3, the report may be transmitted by first-class mail or by any magnetic or electronic means readable by the

department, including facsimile transmission, electronic mail, modem transmission, or other means of electronic communication.

3. An employer that employs more than twenty-four employees at any time must report new hires through an ~~internet-based~~electronic method provided by the department. An employer that does not comply with this subsection is deemed to have failed to report new hires under section 34-15-05. The department may waive, upon a showing of good cause, the requirement to report new hires electronically.

SECTION 9. REPEAL. Section 14-09-08.15 of the North Dakota Century Code is repealed.

SECTION 10. EFFECTIVE DATE. Sections 1 and 9 of this Act become effective on the date the department of human services certifies to the legislative council as the effective date of rules adopted to implement this Act. Sections 6, 7, and 8 of this Act become effective on October 1, 2013.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 125

SENATE BILL NO. 2125

(Senators Axness, Lyson, Mathern)
(Representatives Maragos, Gruchalla, Hogan)

AN ACT to create and enact two new sections to chapter 14-09 of the North Dakota Century Code, relating to the duty to report a missing child or the death of a child; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

Missing child - Duty to report - Penalty.

1. For purposes of this section and section 2 of this Act, "caretaker" means the individual who is responsible for the physical control of a child and who is the child's biological or adoptive parent, the spouse of the child's biological or adoptive parent, or an individual acting in the stead of a child's parent at the request of the parent or another with authority to make the request. "Caretaker" does not include an individual who is charged with the enforcement of compulsory attendance provisions under section 15.1-20-03.
2. A caretaker who is responsible at that time for the care of a child under the age of thirteen years and who is unable to make contact with or otherwise verify the whereabouts and safety of that child for a period of twenty-four hours after the caretaker knows or reasonably should have known the child is missing is guilty of a class C felony if the caretaker willfully fails to report the child as missing to law enforcement within a reasonable time after this twenty-four-hour period expires.
3. A caretaker who is responsible at that time for the care of a child at least thirteen years of age but under the age of seventeen years and who is unable to make contact with or otherwise verify the whereabouts and safety of that child for a period of forty-eight hours after the caretaker knows or reasonably should have known the child is missing is guilty of a class B misdemeanor if the caretaker willfully fails to report the child as missing to law enforcement within a reasonable time after the forty-eight-hour period expires.

SECTION 2. A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

Death of a child - Duty to report - Penalty.

1. A caretaker of a child in the caretaker's care is guilty of a class C felony if the caretaker willfully fails to:
 - a. Report the child's death to a law enforcement agency within two hours after learning about the child's death; or

- b. Report the location of the child's corpse to a law enforcement agency within two hours after learning the location of the corpse.
2. This section does not apply to the death of a child which occurs while the child is under the care of a health care professional or emergency medical personnel.

Approved April 15, 2013

Filed April 16, 2013

CHAPTER 126

HOUSE BILL NO. 1214

(Representatives Monson, Damschen, Klemin, Kretschmar, Maragos, Trottier, Boe)
(Senators Hogue, Nelson)

AN ACT to repeal section 14 of chapter 149 of the 2009 Session Laws, relating to the parenting coordinator program and elimination of the expiration date for chapter 14-09.2 of the North Dakota Century Code; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 14 of chapter 149 of the 2009 Session Laws is repealed.

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

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 127

SENATE BILL NO. 2159

(Senators J. Lee, Sitte, Axness)
(Representatives Weisz, Hogan)

AN ACT to amend and reenact section 14-15-12 of the North Dakota Century Code, relating to the required residence of the minor before a final decree of adoption.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-15-12 of the North Dakota Century Code is amended and reenacted as follows:

14-15-12. Required residence of minor.

1. A final decree of adoption may not be issued and an interlocutory decree of adoption does not become final, until the minor to be adopted, other than a stepchild of the petitioner, has lived in the adoptive home:
 1. a. For at least six months after placement by an agency;
 2. b. For six months after placement by a parent in accordance with an identified relinquishment under chapter 14-15.1;
 3. c. As a foster child for at least six months and has been placed for adoption by an agency; or
 4. d. For at least six months after the department or the court has been informed of the custody of the minor by the petitioner, and the department or court has had an opportunity to observe or investigate the adoptive home.
2. If a child who has been placed for adoption dies before the six-month residency requirement of subsection 1 is met, the court may grant the final decree of adoption upon a finding that a proper and legitimate reason exists for granting the final decree.

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 128

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 14-18 of the North Dakota Century Code, relating to payment of pregnancy-related services for a surrogate or gestational carrier.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-18 of the North Dakota Century Code is created and enacted as follows:

Responsibility of intended parents for pregnancy-related costs.

The costs of pregnancy-related services, including labor and delivery services, incurred by a surrogate or gestational carrier as defined by section 14-18-01 are the responsibility of the intended parents.

Approved March 14, 2013

Filed March 15, 2013

EDUCATION

CHAPTER 129

HOUSE BILL NO. 1338

(Representatives Brandenburg, Froseth, Heller, Kasper,
Kreidt, Kretschmar, Rohr, Schmidt, Onstad)
(Senators Schaible, Unruh, Warner)

AN ACT to provide for a board of university and school lands study of private lands owned adjacent to lands under the control of the United States army corps of engineers and a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. STUDY BY BOARD OF UNIVERSITY AND SCHOOL LANDS - REPORT TO LEGISLATIVE MANAGEMENT. During the 2013-14 interim, the board of university and school lands shall study options to address the concerns of landowners adjacent to land under the control of the United States army corps of engineers surrounding Lake Sakakawea and Lake Oahe. The study must include consideration of control of noxious weeds, protecting public access for hunting and fishing, the costs of possible transition of land from the United States army corps of engineers, and the costs associated with maintaining any property that may become a responsibility of the state. The study must also include consideration of the interests of North Dakota Indian tribes. The board may establish a task force consisting of landowners, hunting and fishing organizations, the game and fish department, the parks and recreation department, the North Dakota national guard, and other parties that utilize the land for access. Before October 1, 2014, the board shall provide to the legislative management a report on the outcome of this study.

Approved April 24, 2013

Filed April 24, 2013

CHAPTER 130

SENATE BILL NO. 2312

(Senators Anderson, Hogue, Klein, Triplett)
(Representatives Heller, Laning)

AN ACT to amend and reenact section 15-05-01 of the North Dakota Century Code, relating to coal leases on state land.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-05-01 of the North Dakota Century Code is amended and reenacted as follows:

15-05-01. Coal lands or coal in tracts - Leases - Term.

The board of university and school lands may lease any lands or coal in tracts that may be contained in lands sold with a reservation of coal deposits under its control for coal mining purposes. Any lease made under this chapter must be for ~~such~~ a period of time as the board may determine. Lands or coal in tracts that may be contained in lands sold with a reservation of coal deposits must be leased for coal mining purposes for ~~such~~ a royalty upon the coal as the board may deem fair and in the best interest of the state; ~~provided, that the minimum royalty may not be less than fifteen cents per ton [907.18 kilograms], or six percent of the price per ton [907.18 kilograms] of coal, whichever is greater.~~ The royalty applies only to coal actually mined and saved from the leased premises. If the board owns or controls a smaller interest than the entire and undivided coal estate, the royalty must be paid to it only in proportion to which its interest bears to the entire undivided fee. The board may lease land or coal in tracts for the purpose of prospecting for and mining coal for an annual rental of not less than one dollar per acre [.40 hectare] per year. The rental paid for any year may not be deducted from the royalties as they accrue. The board may adjust the royalty of existing coal leases as the board determines fair and in the best interest of the state.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 131

SENATE BILL NO. 2160

(Senators J. Lee, Grindberg, Heckaman)
(Representatives Heilman, J. Nelson, Sanford)

AN ACT to provide for a North Dakota university system study of professional student exchange programs; and to provide for a report to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. STUDY OF PROFESSIONAL STUDENT EXCHANGE PROGRAMS - REPORT TO THE LEGISLATIVE MANAGEMENT. The North Dakota university system shall study the out-of-state programs in veterinary medicine, optometry, and dentistry, and in particular the accessibility of North Dakota students to the programs; the provision of state funding for students attending the programs; the amount of debt incurred by students attending the programs; and the state's short-term and long-term needs for dentists, optometrists, and veterinarians. Before November 15, 2013, the North Dakota university system shall report its findings to the legislative management.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 132

HOUSE BILL NO. 1219

(Representatives Brandenburg, Froseth, Thoreson, Trottier, Wieland)
(Senators Hogue, Lyson)

AN ACT to amend and reenact section 15-10-18.3 of the North Dakota Century Code, relating to tuition for dependents of disabled veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-18.3 of the North Dakota Century Code is amended and reenacted as follows:

15-10-18.3. Free tuition in North Dakota institutions of higher education.

Any dependent, as defined in section 15-10-18.2 upon being duly accepted for enrollment into any undergraduate degree or certificate program of a North Dakota state institution of higher education, must be allowed to obtain a bachelor's degree or certificate of completion, for so long as the dependent is eligible, free of any tuition and fee charges; ~~provided, however, that~~ if the bachelor's degree or certificate of completion is earned within a forty-five-month or ten-semester period or its equivalent; and ~~further provided that~~ if tuition and fee charges ~~shall~~ do not include costs for aviation flight charges or expenses. Once a ~~person~~ an individual qualifies as a dependent under sections 15-10-18.2 and 15-10-18.3, the dependent may not be disqualified from the benefits of this section ~~due to such an occurrence as:~~

1. Due to the return of the prisoner of war or person;
2. Due to the return of the individual missing in action; or
3. Because the veteran through whom the benefit was obtained had a one hundred percent service-connected disability at the time of death.

Approved April 30, 2013
Filed April 30, 2013

CHAPTER 133

HOUSE BILL NO. 1272

(Representatives Mock, Amerman, Beadle, Fehr, Gruchalla)
(Senator Dever)

AN ACT to amend and reenact section 15-10-19.1 of the North Dakota Century Code, relating to resident tuition for spouses and dependents of veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁸ **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. ~~A person~~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. ~~A person~~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. ~~A person~~An individual who graduated from a North Dakota high school;
 - d. ~~(1) A full-time active duty member of the armed forces; a;~~
~~(2) A member of a~~the North Dakota national guard ~~unit, or a;~~
~~(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 or dependent of a:
 - (1) ~~A~~ full-time active duty member of the armed forces ~~or a;~~

⁴⁸ Section 15-10-19.1 was also amended by section 1 of House Bill No. 1104, chapter 134.

- (2) A member of the North Dakota national guard unit or of an;
- (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 any institution of higher education in this state, and a spouse of any the North Dakota university system; or
- (6) Any other individual who is a resident for tuition purposes;

f.g. A person 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

g.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.

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.

Approved April 29, 2013
 Filed April 29, 2013

CHAPTER 134

HOUSE BILL NO. 1104

(Education Committee)

(At the request of the North Dakota University System)

AN ACT to amend and reenact subsection 2 of section 15-10-19.1 of the North Dakota Century Code, relating to the definition of nonresident and resident student for tuition purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁴⁹ **SECTION 1. AMENDMENT.** Subsection 2 of section 15-10-19.1 of the North Dakota Century Code is amended and reenacted as follows:

2. A "resident student" for tuition purposes means:
 - a. A person 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. A person 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. A person who graduated from a North Dakota high school;
 - d. A full-time active duty member of the armed forces, a member of a North Dakota national guard unit, or a veteran as defined in section 37-01-40;
 - e. ~~A spouse or dependent of a full-time active duty member of the armed forces or a member of a North Dakota national guard unit or of an employee of any institution of higher education in this state, and a spouse of any other resident for tuition purposes~~A benefited employee of the North Dakota university system;
 - f. The spouse of:
 - (1) A full-time active duty member of the armed forces;
 - (2) A member of a North Dakota national guard unit;
 - (3) A benefited employee of the North Dakota university system; or
 - (4) Any other individual deemed a resident for tuition purposes;

⁴⁹ Section 15-10-19.1 was also amended by section 1 of House Bill No. 1272, chapter 133.

g. A dependent of:

(1) A full-time active duty member of the armed forces;

(2) A member of a North Dakota national guard unit; or

(3) A benefited employee of the North Dakota university system;

f-h. A person 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

g-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.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 135

HOUSE BILL NO. 1281

(Representatives Heilman, Beadle, Dockter,
Looyen, Mock, Porter, Thoreson, Vigesaa)
(Senators Grindberg, J. Lee, Sorvaag)

AN ACT to create and enact a new section to chapter 15-10 of the North Dakota Century Code, relating to the assessment of institutions of higher education; and to provide an expiration date.

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:

Assessment of institutions.

1. Before the state board of higher education may impose an assessment on or otherwise require that individual institutions of higher education pay for any goods or services provided by or through the university system office, the state board must seek approval from the budget section of the legislative management.
2. This section does not apply to any assessments or payment obligations for goods or services in effect before the effective date of this Act.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2015, and after that date is ineffective.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 136**SENATE BILL NO. 2094**

(Education Committee)

(At the request of the North Dakota University System)

AN ACT to amend and reenact section 15-10.3-03 of the North Dakota Century Code, relating to mandatory fees assessed by institutions of higher education; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10.3-03 of the North Dakota Century Code is amended and reenacted as follows:

15-10.3-03. (~~Effective through June 30, 2013~~) Mandatory fees - Limitation on increases - Exemption.

1. The total amount of mandatory fees, other than program-specific fees, which an institution under the control of the state board of higher education assesses each full-time and part-time student, may not increase from one academic year to the ensuing academic year by more than one percent of the latest available average full-time, resident, on-campus, undergraduate tuition rate at that institution, unless the state board determines that an exemption from the requirements of this section is necessitated as a result of:
 1. ~~Documented extraordinary circumstances; or~~
 2. ~~Student student~~ demand, as evidenced by a campuswide student election or formal action by an institution's student governing board or committee.
 2. a. Before mandatory fees on students may be increased to support the construction or renovation of a campus building valued at more than one million dollars, the use must be approved by a majority of the students voting on the question at a campuswide election.
 - b. This subsection does not apply to any construction or renovation for which the use of mandatory fees was authorized before July 1, 2013.

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

Approved April 29, 2013

Filed April 29, 2013

CHAPTER 137

HOUSE BILL NO. 1103

(Education Committee)

(At the request of the Department of Career and Technical Education)

AN ACT to create and enact chapter 15-18.1 of the North Dakota Century Code, relating to authority of the state board of higher education to provide authorizations to operate postsecondary educational institutions offering instruction at the associate in arts level or higher and to false academic degrees and accreditation mills; to amend and reenact subsections 1, 4, 7, and 10 of section 15-20.4-01, sections 15-20.4-02 and 15-20.4-02.1, subsections 1, 2, 3, 4, 5, and 8 of section 15-20.4-03, sections 15-20.4-03.1 and 15-20.4-04, subsections 1 and 2 of section 15-20.4-05, sections 15-20.4-06, 15-20.4-08, 15-20.4-09, and 15-20.4-13, and subsection 1 of section 15-20.4-14 of the North Dakota Century Code, relating to authority of the state board for career and technical education to provide authorizations to operate private postsecondary career schools offering instruction at the level of no higher than the associate of applied science level; to repeal sections 15-20.4-15, 15-20.4-16, 15-20.4-17, and 15-20.4-18 of the North Dakota Century Code, relating to false academic degrees and accreditation mills; to require reports to the legislative management; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 15-18.1 of the North Dakota Century Code is created and enacted as follows:

15-18.1-01. Definitions.

As used in this chapter:

1. "Authorization to operate" or like term means approval of the board to operate or to contract to operate a postsecondary educational institution in this state.
2. "Board" means the state board of higher education.
3. "Education" or "educational services" or like term includes any class, course, or program of training, instruction, or study.
4. "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution operating in this state.
5. "Postsecondary educational institution" means an academic, technical, home study, business, professional or other school, college, or university, or other person, operating in this state, offering educational credentials or offering instruction or educational services, primarily to any individual who has completed or terminated secondary education or who is beyond the age of

compulsory high school attendance, for attainment of educational, or professional objectives at the associate in arts level or higher.

6. "To grant" includes awarding, selling, conferring, bestowing, or giving.
7. "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any individual, directly or indirectly, in any form, to perform the act described.
8. "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person to perform any such act.

15-18.1-02. Exemptions.

The following education and educational schools or institutions are exempted from the provisions of this chapter:

1. Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis.
2. Education offered by charitable institutions, organizations, or agencies, so recognized by the board, provided the education is not advertised or promoted as leading toward educational credentials.
3. Postsecondary educational institutions established, operated, and governed by this or any other state or its political subdivisions, as determined by the board and any educational consortium that includes one or more of the institutions.
4. Private four-year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as the institutions retain accreditation by national or regional accrediting agencies recognized by the United States office of education.
5. Schools of nursing regulated under chapter 43-12.1.
6. Native American colleges operating in this state, established by federally recognized Indian tribes.
7. Postsecondary educational institutions not operating in this state.
8. Institutions whose only physical presence in this state consists of students enrolled in practicums, internships, clinicals, or student teaching in this state.
9. Postsecondary career schools regulated under chapter 15-20.4.

15-18.1-03. Voluntary application for authorization to operate.

Although a postsecondary educational institution not operating in this state is exempt from this chapter by section 15-18.1-02, the institution may subject itself to the requirements of this chapter by applying for and being awarded an authorization to operate by the board. An authorization to operate, as applied to a postsecondary

educational institution not operating in this state, means approval of the board to offer to students in this state educational services leading to educational credentials.

15-18.1-04. Board powers and duties.

The board shall:

1. Establish and require compliance with minimum standards and criteria for postsecondary educational institutions under this chapter. The standards and criteria must include quality of education, ethical and business practices, health and safety and fiscal responsibility, which applicants for authorization to operate shall meet:
 - a. Before such authorization may be issued; and
 - b. To continue such authorization in effect.
2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary educational institutions.
3. Maintain a list of postsecondary educational institutions authorized to operate in this state.
4. Consider entering interstate reciprocity agreements with similar agencies in other states.
5. Receive and maintain a permanent file, copies of academic records specified by the board in the event any postsecondary educational institution required to have an authorization to operate under this chapter proposes to discontinue its operation.
6. Adopt policies for the conduct of its work and the implementation of this chapter.
7. Adopt policies to investigate on its own initiative or in response to any complaint lodged with it, any person subject to, or reasonably believed by the board to be subject to, the jurisdiction of this chapter. The board may, after hearing, revoke or suspend authorizations to operate.
8. Require fees or bonds from postsecondary educational institutions in such sums and under such conditions as it may establish.
9. Apply fees received under this chapter to implement and manage its duties under this chapter.
10. Take any action necessary to carry out the provisions of this chapter.

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.

15-18.1-06. Prohibition - Penalty.

1. A person may not:
 - a. Operate, in this state, a postsecondary educational institution not exempted from the provisions of this chapter, unless the institution has a currently valid authorization to operate issued under this chapter.
 - b. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, at a facility or location in this state unless such person, group, or entity observes and is in compliance with the minimum standards and criteria established by the board and the policies adopted by the board.
 - c. Use the term "university", "institute", or "college" without authorization to do so from the board.
 - d. Grant, or offer to grant, educational credentials, without authorization to do so from the board.
2. A person who violates this section, or who fails or refuses to deposit with the board the records required by the board under this chapter, is subject to a civil penalty not to exceed one hundred dollars for each violation. Each day's failure to comply with these provisions is a separate violation. The fine may be imposed by the board in an administrative proceeding or by any court of competent jurisdiction.
3. A person who willfully violates this section, or who willfully fails or refuses to deposit with the board the records required by the board under this chapter, is guilty of a class B misdemeanor. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state or a state's attorney pursuant to section 15-18.1-12.

15-18.1-07. Refund of tuition fees.

Postsecondary educational institutions shall refund tuition and other charges, other than a reasonable application fee, in accordance with the schedule determined by the board.

15-18.1-08. Cancellation of contract for instrument.

A person has the right for any cause to rescind, revoke, or cancel a contract for educational services at any postsecondary educational institution within seven days after entering the contract without incurring any tort or contract liability.

15-18.1-09. Remedy of defrauded student - Treble damages.

A person defrauded by an advertisement or circular issued by a postsecondary educational institution, or by a person who sells textbooks to the institution or to the pupils thereof, may recover from the institution or person three times the amount paid.

15-18.1-10. Board review.

A person aggrieved by a decision of the board respecting denial or revocation of an authorization to operate, or the placing of conditions thereon, whether on initial application or on application for renewal may appeal to the board in the manner provided by the board.

15-18.1-11. Jurisdiction of courts - Service of process.

A postsecondary educational institution not exempt from this chapter, which has a place of business in this state, and which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, or contracts or offers to contract, to provide instructional or educational services in this state, whether the instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards educational credentials to a resident of this state, submits the institution, and if an individual, the individual's personal representative, to the jurisdiction of the courts of this state, concerning any claim for relief arising therefrom, and for the purpose of enforcement of this chapter by injunction pursuant to section 15-18.1-12. Service of process upon the institution subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by the North Dakota Rules of Civil Procedure, with the same force and effect as if the summons had been personally served within this state.

15-18.1-12. Enforcement - Injunction.

1. The attorney general of this state, or the state's attorney of any county in which a postsecondary educational institution is found, at the request of the board or on the attorney general's own motion, may bring any appropriate action or proceeding, including injunctive proceedings or criminal proceedings, in any court of competent jurisdiction for the enforcement of the provisions of this chapter.
2. Whenever it appears to the board that a person is about to, or has been violating any of the provisions of this chapter or any policies or orders of the board, the board may, on its own motion or on the written complaint of any individual, file a petition for injunction in the name of the board in any court in this state against a person, for the purpose of enjoining such violation or for an order directing compliance with this chapter, and any policies or orders issued by the board. It is not necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the board has, and is in addition to any right of criminal prosecution provided by law; provided, however, the board may not obtain a temporary restraining order without notice to the person affected.

15-18.1-13. Unlawful to issue, manufacture, or use false academic degrees - Penalty.

1. It is unlawful for a person to knowingly advertise to sell, issue, or manufacture a false academic degree. A person that violates this subsection is guilty of a class C felony. This subsection does not apply to a newspaper, television or radio station, or other commercial medium that is not the source of the advertisement.
2. a. It is unlawful for an individual to knowingly use or claim to have a false academic degree:
 - (1) To obtain employment;
 - (2) To obtain a promotion or higher compensation in employment;
 - (3) To obtain admission to an institution of higher learning; or
 - (4) In connection with any business, trade, profession, or occupation.
- b. An individual who violates this subsection is guilty of a class A misdemeanor.
3. As used in this section, "false academic degree" means a document such as a degree or certification of completion of a degree, coursework, or degree credit, including a transcript, that provides evidence or demonstrates completion of a course of instruction or coursework that results in the attainment of a rank or level of associate or higher which is issued by a person that is not a duly authorized institution of higher learning.
4. As used in this section, "duly authorized institution of higher learning" means an institution that:
 - a. Has accreditation recognized by the United States secretary of education or has the foreign equivalent of such accreditation;
 - b. Has an authorization to operate under this chapter or under chapter 15-20.4;
 - c. Operates in this state, and is exempt from this chapter under section 15-18.1-02 or is exempt from chapter 15-20.4 under section 15-20.4-02;
 - d. Does not operate in this state and is:
 - (1) Licensed by the appropriate state agency; and
 - (2) An active applicant for accreditation by an accrediting body recognized by the United States secretary of education; or
 - e. Has been found by the state board of higher education or the state board for career and technical education to meet standards of academic quality comparable to those of an institution located in the United States that has accreditation recognized by the United States secretary of education to offer degrees of the type and level claimed.

15-18.1-14. Unlawful to use degree or certificate when coursework not completed - Penalty.

1. An individual may not knowingly use a degree, certificate, diploma, transcript, or other document purporting to indicate that the individual has completed an organized program of study or completed courses when the individual has not completed the organized program of study or the courses as indicated on the degree, certificate, diploma, transcript, or document:
 - a. To obtain employment;
 - b. To obtain a promotion or higher compensation in employment;
 - c. To obtain admission to an institution of higher learning; or
 - d. In connection with any business, trade, profession, or occupation.
2. An individual who violates this section is guilty of a class A misdemeanor.

15-18.1-15. Consumer protection - False academic degrees.

The North Dakota university system, in collaboration with the state board for career and technical education, shall provide via internet websites, information to protect students, businesses, and others from persons that issue, manufacture, or use false academic degrees.

15-18.1-16. Unlawful to operate accreditation mill - Penalty.

1. A person may not operate an accreditation mill in North Dakota.
2. As used in this section:
 - a. "Accreditation mill" means an accrediting entity that is not recognized by the United States department of education, the state board of higher education, or the state board for career and technical education.
 - b. "Operate" includes to use an address, telephone number, facsimile number, or other contact point located in North Dakota.
3. A person that violates this section is guilty of a class C felony.

SECTION 2. AMENDMENT. Subsections 1, 4, 7, and 10 of section 15-20.4-01 of the North Dakota Century Code are amended and reenacted as follows:

1. "Authorization to operate" or like term means approval of the board to operate or to contract to operate a private postsecondary educational institution~~career school~~ in this state.
4. "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution~~career school~~ operating in this state.

7. "Postsecondary educational institution career school" includes ~~an academi~~means a private, vocational, technical, home study, business, professional, or other private school; ~~or college, or university, or other private~~ organization or person, operating in this state, offering educational credentials, or offering instruction or educational services (, primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance), for attainment of educational, professional, or vocational objectives at a level no higher than the associate of applied science level.
10. "To operate" ~~an educational institution~~a career school, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.

SECTION 3. AMENDMENT. Section 15-20.4-02 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-02. Exemptions.

The following education and educational schools or institutions are exempted from the provisions of this chapter:

1. ~~Institutions~~Schools or institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade.
2. Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis.
3. Education solely avocational or recreational in nature, as determined by the board, and schools or institutions offering such education exclusively.
4. Certain education provided through short-term programs as determined by the board.
5. Education offered by charitable schools or institutions, organizations, or agencies, so recognized by the board, provided the education is not advertised or promoted as leading toward educational credentials.
6. ~~Postsecondary educational institutions established, operated, and governed by this or any other state or its political subdivisions, as determined by the board and any educational consortium that includes one or more of the institutions.~~
7. ~~Private four-year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as the institutions retain accreditation by national or regional accrediting agencies recognized by the United States office of education.~~
8. Schools of barbering regulated under chapter 43-04.
- 9.7. Schools of cosmetology regulated under chapter 43-11.
10. Schools of nursing regulated under chapter 43-12.1.

- ~~14-8.~~ Native American colleges operating in this state, established by federally recognized Indian tribes.
- ~~14-9.~~ Postsecondary educational institutions career schools not operating in this state.
- ~~14-10.~~ ~~Institutions~~ Postsecondary career schools whose only physical presence in this state consists of students enrolled in practicums; or internships; ~~clinical~~, ~~or~~ student teaching in this state.
11. Postsecondary educational institutions regulated under chapter 15-18.1.

SECTION 4. AMENDMENT. Section 15-20.4-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-02.1. Voluntary application for authorization to operate.

Although a postsecondary educational institution ~~career school~~ not operating in this state is exempt from this chapter by section 15-20.4-02, the ~~institution~~ school may subject itself to the requirements of this chapter by applying for and being awarded an authorization to operate by the board. An authorization to operate, as applied to a postsecondary educational institution ~~career school~~ not operating in this state, means approval of the board to offer to students in this state educational services leading to educational credentials.

SECTION 5. AMENDMENT. Subsections 1, 2, 3, 4, 5, and 8 of section 15-20.4-03 of the North Dakota Century Code are amended and reenacted as follows:

1. Establish and require compliance with minimum standards and criteria for postsecondary educational institutions career schools under this chapter. The standards and criteria must include quality of education, ethical and business practices, health and safety and fiscal responsibility, which applicants for authorization to operate shall meet:
 - a. Before such authorization may be issued; and
 - b. To continue such authorization in effect.

The criteria and standards developed will effectuate the purposes of this chapter, but will not unreasonably hinder legitimate educational innovation.

2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary educational institutions. ~~Authorization to operate an academic or professional postsecondary educational institution offering educational credentials may be issued only upon approval of the executive officer and the commissioner of the state board of higher education or the commissioner's designee career schools.~~
3. Maintain a list of postsecondary educational institutions career schools authorized to operate in this state under the provisions of this chapter. The list must be available for the information of the public.
4. Negotiate and enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the board such agreements are or will be helpful in effectuating the purposes of this chapter; provided, however, that nothing contained in any such reciprocity agreement may be construed as limiting the board's powers, duties, and responsibilities with

respect to independently investigating or acting upon any application for authorization to operate, or any application for renewal of such authorization to operate, a postsecondary ~~educational institution~~career school, or with respect to the enforcement of any provision of this chapter, or any of the rules or regulations promulgated hereunder.

5. Receive and cause to be maintained as a permanent file, copies of academic records specified by the board in the event any postsecondary ~~educational institution~~career school required to have an authorization to operate under this chapter proposes to discontinue its operation.
8. Require fees and bonds from postsecondary ~~educational institutions~~career schools in such sums and under such conditions as it may establish; provided, that fees established may not exceed the reasonable cost of the service being provided.

SECTION 6. AMENDMENT. Section 15-20.4-03.1 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-03.1. Authorization Career school fee fund.

There is created an ~~authorization~~career school fee fund into which fees provided to the board upon application for authorization to operate a postsecondary ~~educational institution~~career school under section 15-20.4-03 must be deposited. The fund and interest earned on the fund may be spent by the board pursuant to legislative appropriation exclusively to carry out the intent and purpose of this chapter. This fund is not subject to section 54-44.1-11.

SECTION 7. 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 ~~educational institutions~~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 ~~educational institution~~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 ~~institution~~school becomes eligible for accreditation by a recognized accrediting agency. ~~Institutions~~Schools issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon accreditation shall an ~~institution~~school become eligible for a regular authorization to operate.
2. This section does not apply to postsecondary ~~educational institutions~~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 8. AMENDMENT. Subsections 1 and 2 of section 15-20.4-05 of the North Dakota Century Code are amended and reenacted as follows:

1. Operate, in this state, a postsecondary ~~educational institution~~career school not exempted from the provisions of this chapter, unless said ~~institutionschool~~ has a currently valid authorization to operate issued pursuant to the provisions of this chapter.
2. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any ~~institutionschool~~ or party to perform any such act, at a facility or location in this state unless such person, group, or entity observes and is in compliance with the minimum standards and criteria established by the board pursuant to subsection 1 of section 15-20.4-03, and the rules and regulations adopted by the board pursuant to subsection 6 of section 15-20.4-03.

SECTION 9. AMENDMENT. Section 15-20.4-06 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-06. Refund of tuition fees.

1. Postsecondary ~~educational institutions~~career schools shall refund tuition and other charges, other than a reasonable application fee, when written notice of cancellation is given by the student in accordance with the following schedule:
 - a. When notice is received prior to, or within seven days after completion of the first day of instruction, or after receipt of the first correspondence lesson by the ~~institutionschool~~, all tuition and other charges must be refunded to the student.
 - b. When notice is received prior to, or within thirty days after completion of the first day of instruction, or prior to the completion of one-fourth of the educational services, all tuition and other charges except twenty-five percent thereof must be refunded to the student.
 - c. When notice is received upon or after completion of one-fourth of the educational services, but prior to the completion of one-half of the educational services, all tuition and other charges except fifty percent thereof must be refunded to the student.
 - d. When notice is received upon or after the completion of fifty percent of the educational services, no tuition or other charges may be refunded to the student.
2. The provisions of this section do not prejudice the right of any student to recovery in an action against any postsecondary ~~educational institution~~career school for breach of contract or fraud.
3. A postsecondary ~~educational institution~~career school may implement a refund schedule that deviates from subsection 1 if the proposed refund schedule is more favorable to the student than the schedule described in subsection 1.

SECTION 10. AMENDMENT. Section 15-20.4-08 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-08. Cancellation of contract for instrument.

Any person has the right for any cause to rescind, revoke, or cancel a contract for educational services at any postsecondary ~~educational institution~~career school within seven days after entering into such contract without incurring any tort or contract

liability. In such event, the postsecondary educational institution ~~career school~~ may retain the amount of tuition and other charges as set forth in subsection 1 of section 15-20.4-06.

SECTION 11. AMENDMENT. Section 15-20.4-09 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-09. Remedy of defrauded student - Treble damages.

Any person defrauded by any advertisement or circular issued by a postsecondary educational institution ~~career school~~, or by any person who sells textbooks to the institutions ~~school~~ or to the pupils thereof, may recover from such institutions ~~school~~ or person three times the amount paid.

SECTION 12. AMENDMENT. Section 15-20.4-13 of the North Dakota Century Code is amended and reenacted as follows:

15-20.4-13. Jurisdiction of courts - Service of process.

Any postsecondary educational institution ~~career school~~ not exempt from this chapter, which has a place of business in this state, and which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, or contracts or offers to contract, to provide instructional or educational services in this state, whether such instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards any educational credentials to a resident of this state, submits such institutions ~~school~~, and if a natural person, the person's personal representative, to the jurisdiction of the courts of this state, concerning any claim for relief arising therefrom, and for the purpose of enforcement of this chapter by injunction pursuant to section 15-20.4-14. Service of process upon any such institutions ~~school~~ subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by the North Dakota Rules of Civil Procedure, with the same force and effect as if the summons had been personally served within this state. Nothing contained in this section limits or affects the right to serve any process as prescribed by the North Dakota Rules of Civil Procedure.

SECTION 13. AMENDMENT. Subsection 1 of section 15-20.4-14 of the North Dakota Century Code is amended and reenacted as follows:

1. The attorney general of this state, or the state's attorney of any county in which a postsecondary educational institution ~~career school~~ is found, at the request of the board or on the attorney general's own motion, may bring any appropriate action or proceeding (including injunctive proceedings, or criminal proceedings pursuant to section 15-20.4-12), in any court of competent jurisdiction for the enforcement of the provisions of this chapter.

SECTION 14. REPEAL. Sections 15-20.4-15, 15-20.4-16, 15-20.4-17, and 15-20.4-18 of the North Dakota Century Code are repealed.

SECTION 15. REPORTS TO LEGISLATIVE MANAGEMENT. During the 2013-14 interim, the state board of higher education shall provide periodic reports to an interim committee designated by the legislative management which provide status updates on the progress of the board in implementing and administering the provisions of section 1 of this Act.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 138

SENATE BILL NO. 2200

(Senators Flakoll, Holmberg, O'Connell)
(Representatives Nathe, Sanford, Boe)

AN ACT to create and enact chapter 15-18.1 of the North Dakota Century Code, relating to the determination of funding for institutions of higher education; to provide an appropriation; to provide for a legislative management study; to provide for legislative intent; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 15-18.1 of the North Dakota Century Code is created and enacted as follows:

15-18.1-01. Credit-hours - Determination.

1. For each institution under its control, the state board of higher education shall determine the number of credit-hours completed by students during the two-year period ending June thirtieth of each odd-numbered year.
2. For purposes of this section, a completed credit-hour is one for which a student met all institutional requirements and obtained a passing grade.

15-18.1-02. 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 15-18.1-01, 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 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;
 - (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 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.

15-18.1-03. Credit completion factor - Determination.

- 1. For each institution under its control, the state board of higher education shall multiply the product determined under section 15-18.1-02 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.
2. 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 15-18.1-01.

15-18.1-04. Institutional size factor - Determination.

1. For each institution under its control, the state board of higher education shall multiply the product determined under section 15-18.1-03 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. 1.8 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.

15-18.1-05. 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 15-18.1-04 by a base amount of:

1. \$66.35 in the case of North Dakota state university and the university of North Dakota;
2. \$95.57 in the case of Dickinson state university, Mayville state university, and Valley City state university;
3. \$98.75 in the case of Minot state university;
4. \$101.73 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.

15-18.1-06. Base funding - Minimum amount payable.

Notwithstanding any calculations required by this chapter, during each fiscal year, beginning with 2014-15, an institution may not receive less than ninety-six percent of the state aid to which the institution was entitled under this chapter during the previous fiscal year.

15-18.1-07. Funding - Distribution.

The state aid to which each institution is entitled under this chapter must be forwarded at the time and in the manner agreed to by the institution and the office of management and budget.

SECTION 2. LEGISLATIVE INTENT. In order to maintain the integrity of the funding formula established under this chapter, it is the intent of the legislative assembly that any proposed increases in the funding of institutions be achieved through the amendment of section 15-18.1-05.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - HIGHER EDUCATION FUNDING. During the 2013-14 interim, the legislative management shall appoint an interim committee to study higher education funding methods.

1. The committee shall review higher education funding methods and recommend for the North Dakota university system a new funding method that is not based on existing levels of funding.
2. The committee shall consult with representatives of the state board of higher education, the North Dakota university system office, higher education institutions, and other appropriate entities.
3. The committee shall consider:
 - a. The inclusion of tuition revenue as a component of the funding method;
 - b. The level of nonresident tuition rates, including whether the rates charged should provide for the entire cost of a student's education and whether

- state funding should be provided to offset the educational costs of nonresident students;
- c. Options to address unique institution needs due to program facility requirements, local costs of goods and labor, and other extraordinary needs;
 - d. The appropriateness of including remedial education and dual-credit course completions in the funding method and which entity should be responsible for paying course costs;
 - e. Facilities required to meet an institution's mission, including the utilization of existing institution facilities and additional facilities needs as identified in the university system campus master plan and space utilization study;
 - f. Administrative costs at institutions, including the appropriateness of providing separate funding allocations to institutions for instructional and administrative costs;
 - g. Options to provide enhanced funding for programs that address state priorities and workforce needs;
 - h. Options to provide performance funding distributions to campuses for meeting specified goals such as on-time graduation rates and job placements; and
 - i. Any other issues the committee deems appropriate.
4. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 4. APPROPRIATION. 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 legislative council for the purpose of defraying expenses associated with the study of higher education funding as provided for in section 3 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 5. EXPIRATION DATE. Section 15-18.1-06 of this Act is effective through June 30, 2017, and after that date is ineffective.

Approved May 14, 2013
Filed May 15, 2013

CHAPTER 139

HOUSE BILL NO. 1228

(Representatives Meier, Dosch, Monson, Schatz, Steiner)
(Senators Flakoll, Grindberg, Heckaman, Robinson)

AN ACT to create and enact a new section to chapter 15-20.1 of the North Dakota Century Code, relating to science, technology, engineering, and mathematics advancement grants; to provide an appropriation; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-20.1 of the North Dakota Century Code is created and enacted as follows:

Science - Technology - Engineering - Mathematics - Grants - Continuing appropriation - Report.

1. The department of career and technical education may accept gifts, grants, and donations for the purpose of providing science, technology, engineering, and mathematics advancement grants.
2. Grant recipients shall focus on facilitating, coordinating, and advancing science, technology, engineering, and mathematics initiatives in this state, and shall work with representatives of elementary and secondary education, tribal schools, higher education, and private sector industries to strengthen educational opportunities, align the educational opportunities with economic development and workforce needs, and ensure the existence of a creative and productive workforce with the skills and knowledge to be globally competitive.
3. All moneys received under this section are appropriated on a continuing basis to the department of career and technical education for the purpose of providing science, technology, engineering, and mathematics advancement grants. The department of career and technical education shall report to the appropriations committees of each legislative assembly on funds received and the use of the funds.

SECTION 2. 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 career and technical education for the purpose of providing a science, technology, engineering, and mathematics advancement grant, for the biennium beginning July 1, 2013, and ending June 30, 2015. The grant recipient must focus on facilitating, coordinating, and advancing science, technology, engineering, and mathematics initiatives in this state, and must work with representatives of elementary and secondary education, tribal schools, higher education, and private sector industries to strengthen educational opportunities, align the educational opportunities with economic development and workforce needs, and ensure the existence of a creative and productive workforce with the skills and knowledge to be globally competitive.

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 140

HOUSE BILL NO. 1229

(Representatives Meier, Rohr, Rust)
(Senator Heckaman)

AN ACT to amend and reenact section 15-20.1-23 of the North Dakota Century Code, relating to the North Dakota elementary student entrepreneurship program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-20.1-23 of the North Dakota Century Code is amended and reenacted as follows:

15-20.1-23. North Dakota elementary student entrepreneurship program.

1. There is created a North Dakota elementary student entrepreneurship program under the authority of the state board. The state board shall adopt policies to create a program of grants to support entrepreneurship education that is coordinated with classroom curriculum, standards, and activities encouraging and showcasing entrepreneurial activities at the elementary education level.
2. The grants must be ~~administered through local~~ awarded to school districts and require matching funds of up to fifty percent of the curriculum and activity costs.
3. At the request of a school district, the state board may forward the district's grant directly to an entity providing services in accordance with this section.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 141

SENATE BILL NO. 2061

(Government and Veterans Affairs Committee)
(At the request of the Teachers' Fund for Retirement)

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to plan modifications to the teachers' fund for retirement required to maintain compliance with federal statutes or rules; and to amend and reenact section 15-39.1-04, subsection 4 of section 15-39.1-10, and sections 15-39.1-10.6 and 15-39.1-11 of the North Dakota Century Code, relating to the definition of normal retirement age and revising the definitions of actuarial equivalent and salary, incorporation of federal law changes, and modification of vesting of rights provisions under the teachers' fund for retirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-39.1-04 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-04. Definitions.

For purposes of this chapter, unless the context or subject matter otherwise requires:

1. "Actuarial equivalent" means the ~~annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age~~calculated to be of equal actuarial value to the benefit otherwise payable when computed on the basis of actuarial assumptions and methods adopted by the board.
2. "Beneficiary" means a person, estate, trust, or organization designated in writing by a participating member to receive benefits provided by this plan, in receipt of benefits, or otherwise provided under section 15-39.1-17.
3. "Board" means the board of trustees of the teachers' fund for retirement.
4. "Contract" means a written agreement with a school board or other governing body of a school district or special education unit of this state or a letter of appointment by a state institution, state agency, or other employer participating in the fund.
5. "Fund" means the teachers' fund for retirement.
6. "Interest" as applied to member assessments is an annual rate of six percent compounded monthly and as applied to the repurchase of credit for withdrawn years is six percent compounded annually.
7. "Normal retirement age" means the age at which a member becomes eligible for monthly lifetime normal unreduced retirement benefits as provided in subsection 1 of section 15-39.1-10.

8. "Retirement" means cessation of covered employment and acceptance of a benefit under former chapter 15-39, or chapter 15-39.1 or 15-39.2.
- 8-9. "Retirement annuity" means the payments made by the fund to a member after retirement, these payments beginning on the first or fifteenth day of the month following eligibility for a benefit.
- 9-10. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a school 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, ~~2011~~2013. "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, ~~2011~~2013, 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, ~~2011~~2013. 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.
- 10-11. "State institution" includes North Dakota vision services - school for the blind, the school for the deaf, and the North Dakota youth correctional center.

44-12. "Teacher" means:

- a. All persons licensed by the education standards and practices board who are contractually employed in teaching, supervisory, administrative, or extracurricular services by a state institution, multidistrict special education unit, area career and technology center, regional education association, school board, or other governing body of a school district of this state, including superintendents, assistant superintendents, business managers, principals, assistant principals, and special teachers. For purposes of this subdivision, "teacher" includes persons contractually employed by one of the above employers to provide teaching, supervisory, administrative, or extracurricular services to a separate state institution, state agency, multidistrict special education unit, area career and technology center, regional education association, school board, or other governing body of a school district of this state under a third-party contract.
- b. The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, the professional staff of the department of career and technical education, the professional staff of the center for distance education, the executive director and professional staff of the North Dakota education association who are members of the fund on July 1, 1995, the professional staff of an interim school district, and the professional staff of the North Dakota high school activities association who are members of the fund on July 1, 1995.
- c. The executive director and professional staff of the North Dakota council of school administrators who are members of the fund on July 1, 1995, and licensed staff of teachers centers, but only if the person was previously a member of and has credits in the fund.
- d. Employees of institutions under the control and administration of the state board of higher education who are members of the fund on July 16, 1989.

42-13. "Tier one grandfathered member" for purposes of sections 15-39.1-10 and 15-39.1-12 means a tier one member who, as of June 30, 2013, is vested as a tier one member in accordance with section 15-39.1-11; and

- a. Is at least fifty-five years of age; or
- b. Has a combined total of years of service credit in the plan and years of age which equals or exceeds sixty-five.

43-14. "Tier one member" means a teacher who has credit in the system on July 1, 2008, and has not taken a refund pursuant to section 15-39.1-20 after June 30, 2008.

44-15. "Tier one nongrandfathered member" for purposes of sections 15-39.1-10 and 15-39.1-12 means a tier one member who does not qualify as a tier one grandfathered member.

45-16. "Tier two member" means a teacher who is not a tier one member.

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, 2011~~2013~~, 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, 2011~~2013~~, 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, 2011~~2013~~. 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 15-39.1-11 of the North Dakota Century Code is amended and reenacted as follows:

15-39.1-11. Vesting of rights.

When a tier one member has ~~paid assessments and~~ earned three years of service credit in this state, that member has a vested right to a retirement annuity but is not entitled to payments under this chapter until the member meets the requirements set forth in section 15-39.1-10 or 15-39.1-12. When a tier two member has ~~paid assessments and~~ earned five years of service credit in this state, that member has a vested right to a retirement annuity but is not entitled to payments under this chapter until the member meets the requirements set forth in section 15-39.1-10 or 15-39.1-12. When a tier one or tier two member has attained normal retirement age that member has a vested right to a retirement annuity under this chapter.

SECTION 5. A new section to chapter 15-39.1 of the North Dakota Century Code is created and enacted as follows:

Savings clause - Plan modifications.

If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

Approved March 19, 2013

Filed March 19, 2013

CHAPTER 142

HOUSE BILL NO. 1230

(Representatives Louser, Boehning, Brabandt, Steiner)
(Senator Dever)

AN ACT to amend and reenact subsection 1 of section 15-39.1-09 of the North Dakota Century Code, relating to expiration of the increase in teachers' fund for retirement member and employer contributions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15-39.1-09 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided by law, every teacher is a member of the fund and must be assessed upon the teacher's salary seven and seventy-five hundredths percent per annum, which must be deducted, certified, and paid monthly to the fund by the disbursing official of the governmental body by which the teacher is employed. Member contributions increase to nine and seventy-five hundredths percent per annum beginning July 1, 2012, and increase thereafter to eleven and seventy-five hundredths percent per annum beginning July 1, 2014. Except as otherwise provided by law, every governmental body employing a teacher shall pay to the fund eight and seventy-five hundredths percent per annum of the salary of each teacher employed by it. Contributions to be paid by a governmental body employing a teacher increase to ten and seventy-five hundredths percent per annum beginning July 1, 2012, and increase thereafter to twelve and seventy-five hundredths percent per annum beginning July 1, 2014. The required amount of member and employer contributions must be reduced to seven and seventy-five hundredths percent per annum effective on the July first that follows the first valuation showing a ratio of the actuarial value of assets to the actuarial accrued liability of the teachers' fund for retirement that is equal to or greater than ninetyone hundred percent. The disbursing official of the governmental body shall certify the governmental body payments and remit the payments monthly to the fund.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 143

SENATE BILL NO. 2361

(Senators Schneider, Poolman, Sinner)
(Representatives Beadle, Heilman, Oversen)

AN ACT to create and enact a new section to chapter 15-62.1 of the North Dakota Century Code, relating to a student loan consolidation program at the Bank of North Dakota; and to provide for a report.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-62.1 of the North Dakota Century Code is created and enacted as follows:

Student loan consolidation program - Requirements - Authority to expand.

1. The agency shall develop and administer a student loan consolidation program under which the agency may refinance state, federal, and alternative education loans for eligible physicians. In order to be eligible under this subsection, a physician must:
 - a. Be licensed in accordance with chapter 43-17; and
 - b. Be a resident of and practice in a North Dakota city having a population that does not exceed four thousand five hundred.
2. The agency may expand the student loan consolidation program to serve individuals other than those referenced in subsection 1.

SECTION 2. STUDENT LOAN CONSOLIDATION PROGRAM - REPORT. The Bank of North Dakota shall provide a written report regarding the implementation of the student loan consolidation program to the legislative management at the biennial meeting during which interim committee reports are presented.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 144

HOUSE BILL NO. 1102

(Education Committee)

(At the request of the North Dakota University System)

AN ACT to amend and reenact section 15-62.2-01 of the North Dakota Century Code, relating to the student financial assistance and scholars program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-62.2-01 of the North Dakota Century Code is amended and reenacted as follows:

15-62.2-01. Student financial assistance and scholars programs - Establishment - Administrative responsibility.

1. The North Dakota student financial assistance and scholars programs are established to provide grants or scholarships, or both, to assist the following students:
 - a. Resident undergraduate students pursuant to section 15-10-19.1.
 - b. North Dakota resident students who have attended and graduated from a high school in a bordering state pursuant to chapter 15.1-29 and who are attending qualified institutions of postsecondary education within North Dakota.
 - c. North Dakota resident students who, because of a physical or mental disability certified by a physician, are attending postsecondary institutions out of state due to the lack of special services or facilities necessary to meet the postsecondary educational needs of disabled students within North Dakota.
 - d. Scholars who qualify and are selected for scholarships pursuant to sections 15-62.2-00.1 and 15-62.2-03.1 through 15-62.2-03.5.
2. A student must be in substantial need of financial assistance to receive grants under the student financial assistance program. A grant must be paid directly to an eligible institution on behalf of a student.
3. The state board of higher education shall administer the student financial assistance program and the scholars program.
4. ~~At least twenty-three and one-half percent of the funds appropriated for the student financial assistance program must be allocated to students at private baccalaureate degree-granting institutions with the remaining funds allocated to students at public and American Indian institutions.~~

Approved April 24, 2013

Filed April 24, 2013

CHAPTER 145

SENATE BILL NO. 2095

(Education Committee)

(At the request of the North Dakota University System)

AN ACT to repeal section 15-62.2-04 of the North Dakota Century Code, relating to state board of higher education deposits and expenditures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 15-62.2-04 of the North Dakota Century Code is repealed.

Approved April 24, 2013
Filed April 24, 2013

ELEMENTARY AND SECONDARY EDUCATION

CHAPTER 146

HOUSE BILL NO. 1293

(Representatives K. Koppelman, Heilman, Karls, Nathe,
Rohr, Ruby, Sanford, Thoreson, Hunskor)
(Senators Luick, Schaible, Nelson)

AN ACT to amend and reenact sections 15.1-04.1-01, 15.1-04.1-02, 15.1-04.1-03, 15.1-04.1-04, 15.1-06-01, 15.1-21-02.1, 15.1-29-13, and 37-03-16 of the North Dakota Century Code, relating to the compact on educational opportunity for military children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-04.1-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-01. (~~Effective through July 31, 2013~~) Compact on educational opportunity for military children.

The compact on educational opportunity for military children is entered with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I - PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from a sending to a receiving school district or variations in entrance or age requirements;
2. Facilitating the student placement process to ensure that children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. Facilitating the qualification and eligibility of children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. Facilitating the on-time graduation of children of military families;
5. Providing for the promulgation and enforcement of administrative rules implementing this compact;

6. Providing for the uniform collection and sharing of information among member states, school districts, and military families under this compact;
7. Promoting coordination between this compact and other compacts affecting the children of military families; and
8. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the children of military families.

ARTICLE II - DEFINITIONS

As used in this compact, unless the context otherwise requires:

1. "Active duty" means full-time duty status in the active uniformed services of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.
2. "Children of military families" means school-aged children, enrolled in kindergarten through grade twelve, in the household of an active duty member.
3. "Commission" means the commission that is created under article IX of this compact.
4. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.
5. "Deployment" means the period one month before the service member's departure from the home station on military orders through six months after return to the home station.
6. "Educational records" means official records, files, and data directly related to a student and maintained by the student's school or school district, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
7. "Extracurricular activities" means a voluntary activity sponsored by the school or school district or an organization sanctioned by the school district, including preparation for involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
8. "Member state" means a state that has enacted this compact.
9. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility that is located within a state. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
10. "Nonmember state" means a state that has not enacted this compact.

11. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
12. "Rule" means a written statement by the commission promulgated pursuant to article XII of this compact which:
 - a. Is of general applicability;
 - b. Implements, interprets, or prescribes a policy or provision of the compact;
 - c. Is an organizational, procedural, or practice requirement of the commission;
 - d. Has the force and effect of law in a member state; and
 - e. Includes the amendment, repeal, or suspension of an existing rule.
13. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.
15. "Student" means the child of a military family who is formally enrolled in kindergarten through grade twelve and for whom a school district receives public funding.
16. "Transition" means:
 - a. The formal and physical process of transferring from one school to another; or
 - b. The period of time during which a student moves from one school in the sending state to another school in the receiving state.
17. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, and the commissioned corps of the national oceanic and atmospheric administration and public health services.
18. "Veteran" means an individual who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III - APPLICABILITY

1. Except as otherwise provided in subsection 2, this compact applies to the children of:
 - a. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;

- b. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - c. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after the member's death.
2. This compact only applies to school districts as defined in this compact.
 3. This compact does not apply to the children of:
 - a. Inactive members of the national guard and military reserves;
 - b. Members of the uniformed services now retired, except as provided in subsection 1;
 - c. Veterans of the uniformed services, except as provided in subsection 1; and
 - d. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV - EDUCATIONAL RECORDS AND ENROLLMENT

1. If official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten days or within the time determined to be reasonable under the rules promulgated by the commission.
3. Compacting states shall give thirty days from the date of enrollment, or the time determined to be reasonable under the rules promulgated by the commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within the time determined to be reasonable under the rules promulgated by the commission.
4. Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level in the sending state at the time of transition, regardless of age. A student who satisfactorily has completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school calendar in the

receiving state shall enter the school in the receiving state on the validated level from the school in the sending state.

ARTICLE V - PLACEMENT AND ATTENDANCE

1. When a student transfers before or during the regular school calendar, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the school in the sending state, if the courses are offered. Course placement includes honors, international baccalaureate, advanced placement, and career and technical education courses. Continuing the student's academic program from the sending school and promoting placement in challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.
2.
 - a. The receiving school initially shall honor placement of the student in educational programs based on current educational assessments conducted at the sending school or based on placement in like programs in the sending school. Such programs include gifted and talented programs and English language learner programs. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
 - b. This subsection does not require a school district to create programs or offer services that were not in place before the enrollment of the student unless the programs or services are required by federal law.
3.
 - a. In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.], the receiving school initially shall provide comparable services to a student with disabilities based on the student's current individualized education program; and
 - b. In compliance with the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131 et seq.], the receiving school shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
4. School district administrators have flexibility in waiving course or program prerequisites and other preconditions for placement in courses or programs offered by the district.
5. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or a combat support posting must be granted additional excused absences by the school district superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or guardian.

ARTICLE VI - ELIGIBILITY

1. Eligibility for enrollment:
 - a. A special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law is sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.
 - b. A school district may not charge tuition to a transitioning military child placed in the care of a noncustodial parent or other individual standing in loco parentis who lives in a school district other than that of the custodial parent.
 - c. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a school district other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.
2. The superintendent of public instruction, school districts, and the North Dakota high school activities association shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII - GRADUATION

To facilitate the on-time graduation of children of military families, the superintendent of public instruction and school district administrators shall incorporate the following procedures:

1. School district administrators shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another school district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the receiving school district shall provide an alternative means of acquiring required coursework so that graduation may occur on time.
2. States must accept exit or end-of-course examinations required for graduation from the sending state, national norm-referenced achievement tests, or alternative testing in lieu of testing requirements for graduation in the receiving state. If these alternatives cannot be accommodated by the receiving state for a student transferring in the student's senior year, then subsection 3 applies.
3. Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving school districts shall ensure the receipt of a diploma from the sending school district if the student meets the graduation requirements of the sending school district. If one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

ARTICLE VIII - STATE COORDINATION

1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies,

school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent of public instruction, a gubernatorial appointee who is the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly appointed by the chairman of the legislative management, a gubernatorial appointee who represents the executive branch of government, and any other individuals or group representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.

2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact; provided, however, in North Dakota, the appointment shall be made by the adjutant general of the national guard.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.
4. The compact commissioner and the military family education liaison are ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX - INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.
 - b. A majority of the total member states constitutes a quorum for the transaction of business unless a larger quorum is required by the bylaws of the commission.
 - c. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the commission,

- the governor or state council may delegate voting authority to another person from the state for a specified meeting.
- d. The bylaws may provide for meetings of the commission to be conducted by telecommunications or electronic communication.
5. The commission consists of ex officio, nonvoting representatives who are members of interested organizations. Ex officio members, as defined in the bylaws, may include members of the representative organizations of military family advocates, school district officials, parent and teacher groups, the department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members.
 6. The commission shall meet at least once each calendar year. The chairman may call additional meetings and, upon the request of a majority of the member states, shall call additional meetings.
 7. The commission shall establish an executive committee, whose members must include the officers of the commission and any other members of the commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee are entitled to one vote each. The executive committee may act on behalf of the commission, with the exception of rulemaking, during periods when the commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the compact, its bylaws and rules, and other such duties as determined necessary. The department of defense is an ex officio nonvoting member of the executive committee.
 8. The commission shall establish bylaws and rules that provide for conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
 9. The commission shall give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:
 - a. Relate solely to the commission's internal personnel practices and procedures;
 - b. Disclose matters specifically exempted from disclosure by federal and state statute;
 - c. Disclose trade secrets or commercial or financial information that is privileged or confidential;
 - d. Involve accusing a person of a crime or formally censuring a person;

- e. Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - f. Disclose investigative records compiled for law enforcement purposes; or
 - g. Specifically relate to the commission's participation in a civil action or other legal proceeding.
10. The commission shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.
 11. The commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules, which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. The methods of data collection, exchange, and reporting, insofar as is reasonably possible, must conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
 12. The commission shall create a process that permits military officials, education officials, and parents to inform the commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This subsection does not create a private right of action against the commission, any member state, or any school district.

ARTICLE X - POWERS AND DUTIES OF THE COMMISSION

The commission may:

1. Provide for dispute resolution among member states;
2. Adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
3. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;
4. Monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;
5. Establish and maintain offices within one or more of the member states;
6. Purchase and maintain insurance and bonds;

7. Borrow, accept, hire, or contract for services of personnel;
8. Establish and appoint committees, including an executive committee as required by article IX, which may act on behalf of the commission in carrying out its powers and duties;
9. Elect or appoint officers, attorneys, employees, agents, and consultants and fix their compensation; define their duties; determine their qualifications; and establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
10. Accept, receive, use, and dispose of donations and grants of money, equipment, supplies, materials, and services;
11. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;
12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property;
13. Establish a budget and make expenditures;
14. Adopt a seal and bylaws governing the management and operation of the commission;
15. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the commission during the preceding year and include any recommendations that were adopted by the commission;
16. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;
17. Establish uniform standards for the reporting, collecting, and exchanging of data;
18. Maintain corporate books and records in accordance with the bylaws;
19. Perform such functions as may be necessary or appropriate to achieve the purpose of this compact; and
20. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI - ORGANIZATION AND OPERATION OF THE COMMISSION

1. The commission, by a majority of the members present and voting, within twelve months after the first commission meeting, shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:
 - a. Establishing the fiscal year of the commission;

- b. Establishing an executive committee and such other committees as may be necessary;
 - c. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the commission;
 - d. Providing reasonable procedures for calling and conducting meetings of the commission and ensuring reasonable notice of each meeting;
 - e. Establishing the titles and responsibilities of the officers and staff of the commission;
 - f. Providing a mechanism for concluding the operations of the commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all its debts and obligations; and
 - g. Providing startup rules for initial administration of the compact.
2. The commission, by a majority of the members, shall elect annually from among its members a chairman, a vice chairman, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice chairman shall preside at all meetings of the commission. The officers so elected serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the commission.
3.
 - a. The executive committee has the authority and duties set forth in the bylaws, including:
 - (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - (2) Overseeing an organizational structure and appropriate procedures for the commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (3) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.
 - b. The executive committee, subject to the approval of the commission, may appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission determines appropriate. The executive director shall serve as secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.
4. The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred,

or that such person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided, those individuals are not protected from suit or liability for damage, loss, injury, or liability caused by their intentional or willful and wanton misconduct.

- a. The liability of the commission's executive director and employees or commission representatives, acting within the scope of that individual's employment or duties for acts, errors, or omissions occurring within that individual's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect an individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the individual.
- b. The commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by a commission representative, shall defend a commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the individual.
- c. To the extent not covered by the state involved, member state, or the commission, the representatives or employees of the commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the individuals arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that those individuals had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of those individuals.

ARTICLE XII - RULEMAKING FUNCTIONS OF THE COMMISSION

1. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.
2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.
3. Within thirty days after a rule is adopted, any person may file a petition for judicial review of the rule; provided, that the filing of the petition does not stay or otherwise prevent the rule from becoming effective unless the court finds

that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.

4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

ARTICLE XIII - OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1. a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in the event of a default by this state, its total financial responsibility is limited to the amount of its most recent annual assessment.
4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.
5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by

the number of years that the state has been a member of the compact. In the event that this state is suspended or terminated, its total financial responsibility is limited to the amount of its most recent annual assessment.

6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV - FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - d. This state may not be held liable for the payment of any special assessment or any assessment other than the annual assessment in the amount established by this subsection.
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.
4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV - MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.
3. The commission may propose amendments to the compact for enactment by the member states. No amendment may become effective and binding upon the commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI - WITHDRAWAL AND DISSOLUTION

1.
 - a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - b. Withdrawal from this compact must be by the enactment of a statute repealing the compact, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state, except that if this state elects to withdraw from the compact by statutorily allowing for the expiration of this Act, this state shall notify the chairman of the commission when it becomes evident that the expiration will take effect. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
 - d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.
2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII - SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact are severable and if any phrase, clause, sentence, or provision is determined unenforceable, the remaining provisions of the compact are enforceable.
2. This compact must be liberally construed to effectuate its purposes.
3. Nothing in this compact prohibits the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII - BINDING EFFECT OF COMPACT AND OTHER LAWS

1. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent of the conflict.
2.
 - a. All lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.
 - b. All agreements between the commission and the member states are binding in accordance with their terms.
 - c. If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

SECTION 2. AMENDMENT. Section 15.1-04.1-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-02. (~~Effective through July 31, 2013~~) Compact on educational opportunity for military children - State council - Appointment.

The state council on educational opportunity for military children consists of:

1. The following voting members:
 - a. The superintendent of public instruction, who shall serve as the chairman;
 - b. The superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - c. A representative of a military installation, appointed by the governor;
 - d. One legislator, appointed by the chairman of the legislative management;
 - e. One representative of the executive branch of government, appointed by the governor; and
 - f. Any other individuals recommended by the members of the state council listed in subdivisions a through e; and
2. The following nonvoting members:
 - a. The compact commissioner appointed under section 15.1-04.1-03; and

- b. The military family education liaison, appointed under section 15.1-04.1-04.

SECTION 3. AMENDMENT. Section 15.1-04.1-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-03. (~~Effective through July 31, 2013~~) Compact commissioner - Appointment - Duties.

The governor shall appoint a compact commissioner who shall be responsible for the administration and management of the state's participation in the compact on educational opportunity for military children.

SECTION 4. AMENDMENT. Section 15.1-04.1-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-04. (~~Effective through July 31, 2013~~) Military family education liaison - Appointment - Duties.

The state council on educational opportunity for military children shall appoint a military family education liaison to assist military families and the state in facilitating the implementation of the compact on educational opportunity for military children.

SECTION 5. AMENDMENT. Section 15.1-06-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-01. (~~Effective through July 31, 2013~~) Schools free and accessible - School ages.

1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.
3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public

instruction and administered by the school district, can demonstrate superior academic talents or abilities and social and emotional readiness.

4. The requirements of this section are not applicable to the children of military families, to the extent that the requirements conflict with enrollment provisions otherwise agreed to by the state in the compact on educational opportunity for military children.

(Effective after July 31, 2013) Schools free and accessible--School ages.

1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. ~~The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;~~
 - b. ~~The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and~~
 - c. ~~The child has not reached the age of twenty-one before August first of the year of enrollment.~~
2. ~~Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:~~
 - a. ~~The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or~~
 - b. ~~The child has completed an approved kindergarten program.~~
3. ~~Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate superior academic talents or abilities and social and emotional readiness.~~

SECTION 6. AMENDMENT. Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.1. (Effective through July 31, 2013) High school diploma - Minimum units.

Except as provided in section 15.1-21-02.3 or as otherwise agreed to in the compact on educational opportunity for military children, before a school district, a nonpublic high school, or the center for distance education issues a high school diploma to a student, the student must have successfully completed:

1. The twenty-two units of high school coursework set forth in section 15.1-21-25; and

2. Any additional units of high school coursework required by the issuing entity, two of which may be theological studies if taught in a nonpublic school by an approved theological studies instructor.

(Effective after July 31, 2013) High school diploma – Minimum units.

Except as provided in section 15.1-21-02.3, before a school district, a nonpublic high school, or the center for distance education issues a high school diploma to a student, the student must have successfully completed:

1. ~~The twenty-two units of high school coursework set forth in section 15.1-21-25; and~~
2. ~~Any additional units of high school coursework required by the issuing entity, two of which may be theological studies if taught in a nonpublic school by an approved theological studies instructor.~~

SECTION 7. AMENDMENT. Section 15.1-29-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-13. (Effective through July 31, 2013) Tuition payments - Nonresident students.

1. a. Except as provided in this subsection or as otherwise agreed to in the compact on educational opportunity for military children, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.
- b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.
- c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any state aid otherwise payable for the nonresident student.
2. a. The board of a school district may admit a nonresident student from another district in this state offering the same grade level as that in which the student is enrolled without a charge and collection of tuition if the sending and admitting districts have entered into a written contract regarding the student's admission.
- b. For purposes of determining whether the same grade level is offered, two or more school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district.
- c. The contract must specify whether transportation is to be provided and, if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.

- d. A contract is not necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.
 - e. A school district may admit a nonresident student described in section 15.1-31-07 from another school district in this state without a charge and collection of tuition and without a written agreement.
3. A school district may not charge or collect from a nonresident student, the student's parent, or the student's district of residence any fees or charges not otherwise assessed to all resident students.

(Effective after July 31, 2013) Tuition payments – Nonresident students.

1.
 - a. ~~Except as provided in this subsection, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.~~
 - b. ~~A board may charge tuition for nonresident students enrolled in an approved alternative education program.~~
 - c. ~~Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any state aid otherwise payable for the nonresident student.~~
2.
 - a. ~~The board of a school district may admit a nonresident student from another district in this state offering the same grade level as that in which the student is enrolled without a charge and collection of tuition if the sending and admitting districts have entered into a written contract regarding the student's admission.~~
 - b. ~~For purposes of determining whether the same grade level is offered, two or more school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district.~~
 - c. ~~The contract must specify whether transportation is to be provided and, if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.~~
 - d. ~~A contract is not necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.~~
 - e. ~~A school district may admit a nonresident student described in section 15.1-31-07 from another school district in this state without a charge and collection of tuition and without a written agreement.~~
3. ~~A school district may not charge or collect from a nonresident student, the student's parent, or the student's district of residence any fees or charges not otherwise assessed to all resident students.~~

SECTION 8. AMENDMENT. Section 37-03-16 of the North Dakota Century Code is amended and reenacted as follows:

37-03-16. ~~(Effective through July 31, 2013)~~ Adjutant general - Provision of funding - Source.

The adjutant general shall pay all expenses incurred by the state to participate in the compact on educational opportunity for military children, including the reimbursement of actual and necessary expenses incurred by members of the state council, from the operating expenses line item in the appropriation bill for the adjutant general, as approved by the legislative assembly.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 147

SENATE BILL NO. 2216

(Senators Schaible, Luick, Marcellais)
(Representatives Brandenburg, Rust, Sanford)

AN ACT to amend and reenact section 15.1-09-05 of the North Dakota Century Code, relating to causes of vacancy for school board positions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-05. School board - Vacancies - Appointments.

1. The business manager of a school district shall notify the county superintendent that a vacancy exists on the school board.
2. The board of a school district shall fill by appointment or special election any vacant seat on the board. The term of an individual selected by appointment or special election to fill a vacancy extends until a successor is elected and qualified at the next annual election. If a school board fails to fill a vacancy by appointment or fails to call a special election to fill a vacancy within sixty days from the time the vacancy occurred, the county superintendent shall call a special election to fill the vacancy. The election must be conducted in the same manner as the annual school district election.
3. If a vacancy reduces the membership of a school board to less than a quorum, the state board of public school education shall appoint to the school board as many individuals as necessary to achieve a quorum. The school board then shall fill the remaining vacancies. After the vacancies have been filled, any individual appointed by the state board shall resign and the school board shall fill the vacancy in accordance with this section. After resigning, the individual who had been appointed by the state board may be reappointed by the school board to fill the vacancy.
4. ~~The causes for which a~~ vacancy may be declared ~~include a member's death, refusal to serve, failure to qualify for the office, resignation, removal from office by a court of competent jurisdiction, and relocation to a residence outside the school district~~ for any reason set forth in section 44-02-01.
5. The business manager shall certify any appointment made under this section to the county superintendent of schools.

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 148

HOUSE BILL NO. 1401

(Representatives Looyesen, Dockter)

AN ACT to amend and reenact sections 15.1-09-14, 15.1-09-15, 15.1-09-16, 15.1-09-17, and 16.1-15-17 of the North Dakota Century Code, relating to the date for the canvass of an election.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-14. School district election - Vote tally.

Upon the closing of the polls, the judges shall count and canvass the votes for each office. ~~Within forty-eight hours after the closing of the polls~~ At the conclusion of the canvass of votes on election night, the judges and clerks of the election shall sign the returns and file them with the business manager of the school district. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement.

SECTION 2. AMENDMENT. Section 15.1-09-15 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-15. School district election - Declaration of winner.

~~The~~ On the sixth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election within three days of the election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election.

SECTION 3. AMENDMENT. Section 15.1-09-16 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-16. School district election - Tie breaker.

If the election results in a tie, the business manager of the district shall notify, in writing, the candidates between whom the tie exists. Within three days after the canvass of the election by the school board, at a time agreed upon by the candidates, the election must be decided in the presence of the judges and clerks of the election, by a drawing of names. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules of filling an office

when a vacancy exists. The school district business manager shall make and keep a record of the proceedings.

SECTION 4. AMENDMENT. Section 15.1-09-17 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-17. Notification of elected individuals - Notice to county superintendent of schools.

Within ~~five~~three days after the canvass by the school board for a school district election, the business manager of the school district shall provide to each elected individual written notice of the individual's election and of the duty to take an affirmation or oath of office. Within ten days after the ~~election~~canvass by the school board, the business manager shall certify the individuals elected and their terms to the county superintendent of schools.

SECTION 5. AMENDMENT. Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass.

~~Not earlier than the third~~On the sixth day following each election, ~~but not later than six days after each election~~, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results.

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 149

HOUSE BILL NO. 1429

(Representatives Heilman, Hawken, D. Johnson, N. Johnson, J. Nelson)
(Senators Berry, J. Lee, Murphy, Nelson, Poolman, Sorvaag)

AN ACT to amend and reenact section 15.1-09-58 of the North Dakota Century Code, relating to early childhood education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁰ **SECTION 1. AMENDMENT.** Section 15.1-09-58 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-58. ~~Prekindergarten~~ ~~program~~ Early childhood education - Authorization - Support.

The board of a school district may establish a ~~prekindergarten~~ early childhood education program and, provided the program is approved by the superintendent of public instruction in accordance with chapter 15.1-37, may ~~receive and expend any state~~ support that program with:

1. Local tax revenues, other than those necessary to support the district's kindergarten program and the provision of elementary and high school educational services;
2. State moneys specifically appropriated for the program, ~~any federal;~~
3. Federal funds specifically appropriated or approved for the program, ~~and any gifts; and~~
4. Gifts, grants, and donations specifically given for the program.

Approved April 18, 2013
Filed April 18, 2013

⁵⁰ Section 15.1-09-58 was also amended by section 1 of Senate Bill No. 2229, chapter 150.

CHAPTER 150

SENATE BILL NO. 2229

(Senators Poolman, J. Lee, Murphy)
(Representatives Hawken, N. Johnson, Hogan)

AN ACT to amend and reenact section 15.1-09-58 of the North Dakota Century Code, relating to early childhood education; and to provide for a superintendent of public instruction study of early childhood care and early childhood education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵¹ **SECTION 1. AMENDMENT.** Section 15.1-09-58 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-58. ~~Prekindergarten~~ ~~program~~ Early childhood education - Authorization - Support.

The board of a school district may establish a ~~prekindergarten~~ early childhood education program and may ~~receive and expend any state~~ support that program with:

1. Local tax revenues, other than those necessary to support the district's kindergarten program and the provision of elementary and high school educational services;
2. State moneys specifically appropriated for the program, ~~any federal;~~
3. Federal funds specifically appropriated or approved for the program, ~~and any gifts; and~~
4. Gifts, grants, and donations specifically given for the program.

SECTION 2. EARLY CHILDHOOD CARE AND EARLY CHILDHOOD EDUCATION - STUDY BY SUPERINTENDENT OF PUBLIC INSTRUCTION - REPORT TO LEGISLATIVE MANAGEMENT.

1. The superintendent of public instruction shall study the development, delivery, and administration of comprehensive early childhood care and early childhood education in this state. The study must include an examination of the availability, quality, and cost of services offered by existing public and private sector providers, the projected need for services during the coming ten to twenty years, and the ability of public and private sector providers to address the expansion of facilities or the creation of additional facilities.
2. The superintendent of public instruction may appoint a committee, work groups, task forces, and subcommittees, as necessary, to provide or obtain information required in conjunction with this study.

⁵¹ Section 15.1-09-58 was also amended by section 1 of House Bill No. 1429, chapter 149.

3. Before June 1, 2014, the superintendent of public instruction shall provide a final report, together with recommendations, to the legislative management.

Approved April 15, 2013

Filed April 16, 2013

CHAPTER 151

HOUSE BILL NO. 1146

(Representatives Rust, Sanford)

AN ACT to amend and reenact sections 15.1-01-01, 15.1-12-05, 15.1-12-09.1, 15.1-12-10, and 15.1-12-27 of the North Dakota Century Code, relating to the state board of public school education and school district annexation, reorganization, and dissolution proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-01-01. State board of public school education - Composition.

1. The state board of public school education consists of the superintendent of public instruction and:
 - a. An individual representing Barnes, Cass, Grand Forks, Griggs, Nelson, Steele, and Traill Counties;
 - b. An individual representing Benson, Bottineau, Cavalier, McHenry, Pembina, Pierce, Ramsey, Renville, Rolette, Towner, and Walsh Counties;
 - c. An individual representing Dickey, Emmons, LaMoure, Logan, McIntosh, Ransom, Richland, and Sargent Counties;
 - d. An individual representing Burleigh, Eddy, Foster, Kidder, McLean, Sheridan, Stutsman, and Wells Counties;
 - e. An individual representing Burke, Divide, McKenzie, Mountrail, Ward, and Williams Counties; and
 - f. An individual representing Adams, Billings, Bowman, Dunn, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, and Stark Counties.
2. All board members other than the superintendent of public instruction must be qualified electors and must reside in one of the counties they represent.
3. The governor shall appoint new board members from a list of three names submitted by a committee consisting of the president of the North Dakota education association, the president of the North Dakota council of educational leaders, and the president of the North Dakota school boards association. Two of the state board members must be members of the North Dakota school boards association.
4. Appointees serve for six-year terms, staggered so that the terms of two members expire on June thirtieth of each even-numbered year.

5. If a vacancy occurs, the governor shall appoint an individual to serve for the duration of the unexpired term.
- 4-6. ~~Board members are~~Each member of the board is entitled to receive, from the biennial appropriation for the superintendent of public instruction, compensation at the ~~rate~~in the amount of sixty-two dollars and fifty cents per day and reimbursement for expenses, from the biennial appropriation for the superintendent of public instruction, as provided by law for state officers, if ~~they are~~the member is attending board meetings or performing duties directed by the board. ~~No~~The compensation may be paid underprovided for in this section may not be paid to any member who receives compensation or a salary as a state employee or official a salary or other compensation as an employee or official of this state if the individual is serving on the board by virtue of the individual's state office or state employment.
- 5-7. The superintendent of public instruction shall serve as the executive director and secretary of the board. The superintendent shall call meetings as necessary, carry out the policies of the board, and employ personnel necessary to perform the board's duties.
8. The board shall annually elect one member to serve as the chairman.

SECTION 2. AMENDMENT. Section 15.1-12-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-05. Annexation of property to school district - Hearing.

1. Upon receiving a petition for the annexation of property to a school district, the county superintendent shall schedule and give notice of a public hearing regarding the annexation.
2. The county superintendent shall publish notice of the public hearing in the official newspaper of the county in which the major portion of each affected school district's real property is situated, at least fourteen days before the date of the hearing. If no newspaper is published in the county, the county superintendent shall publish the notice in a newspaper in an adjoining county in this state.
3. Before the hearing, the county committee shall:
 - a. Determine the number of qualified electors residing on the property to be annexed;
 - b. Ensure that two-thirds of such qualified electors have signed the petition; and
 - c. Ensure that all other statutory requirements regarding the petition have been met.
4. At the hearing, the county committee shall accept testimony and documentary evidence regarding:
 - a. The value and amount of property held by each affected school district;
 - b. The amount of all outstanding bonded and other indebtedness of each affected district;

- c. The levies for bonded indebtedness to which the property will be subjected or from which the property will be exempted, as provided for in section 15.1-12-08;
 - d. The taxable valuation of each affected district and the taxable valuation under the proposed annexation;
 - e. The size, geographical features, and boundaries of each affected district;
 - f. The number of students enrolled in each affected district;
 - g. ~~The general population of each affected district;~~
 - h. Each school in the district, including its name, location, condition, the grade levels it offers, and the distance that students living in the petitioned area would have to travel to attend school;
 - i-h. The location and condition of roads, highways, and natural barriers in each affected district;
 - j-i. Conditions affecting the welfare of students residing on the property to be annexed;
 - k-j. The boundaries of other governmental entities;
 - l-k. The educational needs of communities in each affected district;
 - m-l. Potential savings in school district transportation and administrative services;
 - n-m. The potential for a reduction in per student valuation disparity between the affected districts;
 - o-n. The potential to equalize or increase the educational opportunities for students in each affected district; and
 - p-o. All other relevant factors.
5. Following consideration of the testimony and documentary evidence presented at the hearing, the committee shall make specific findings of fact and approve or deny the annexation. If the annexation is approved, the county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the proceeding and the county committee's decision to the state board for final approval of the annexation.
 6.
 - a. Except as provided in this subsection, the state board shall conduct a hearing after publication of a notice in the manner required in subsection 2, accept and consider testimony and documentary evidence regarding the proposed annexation, make specific findings, and approve or deny the annexation.
 - b. If no opposition is presented to the county committee at the hearing and the county committee approves the annexation, the state board may review the record of the county committee and give final approval to the annexation without holding its own hearing.

7. If the school districts involved in a proposed annexation include property in more than one county, but the major portion of each district's property is in the same county, the county committee of that county shall consider the annexation petition.
8. If the school districts involved in a proposed annexation are situated in more than one county and the major portion of each district's property is not in the same county, the county committees of those counties encompassing the major portion of each school district shall jointly consider the annexation petition. The county committees shall vote separately on whether to approve the annexation.
9. If the state board denies the annexation, another petition involving any of the same property may not be submitted to the county committee for a period of three months after the state board's denial. A petition involving any of the same property cited in the original petition may not be considered by the state board more than twice in a twelve-month period.
10. Regardless of how many county committees consider the annexation, the decision may be appealed to the state board.
11. Each annexation must receive final approval from the state board.
12. The county superintendent with whom the petition has been filed shall forward all minutes, records, documentary evidence, and other information regarding the annexation, and the county committee's decision to the state board for final approval or for consideration of an appeal.
13. A decision of the state board with respect to an annexation petition may be appealed to the district court of the judicial district in which the property to be annexed is located.

SECTION 3. AMENDMENT. Section 15.1-12-09.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-09.1. Reorganization plan - ~~Interim fund balance~~General fund mill levy.

~~1. The reorganization plan must specify whether the balance in the interim fund of each district participating in the reorganization is to be wholly or partially allocated to the general fund of the newly reorganized district.~~

~~2. If the reorganization plan provides that the balance in the interim fund of each district participating in the reorganization is to be wholly allocated to the general fund of the newly reorganized district, the~~ A reorganization plan may also provide that the general fund mill levy applicable to property in those participating districts having a general fund mill levy that is lower than the proposed general fund mill levy for the reorganized district may be raised incrementally, over a period of ~~not to exceed~~ five years, to the level proposed for the reorganized district.

3. a. ~~If the reorganization plan provides that the balance in the interim fund of each district participating in the reorganization is to be partially allocated to the general fund of the newly reorganized district, then each participating district shall divide the amount of its interim fund balance on the day preceding the effective date of the reorganization by the number of~~

students in average daily membership in the district during the school year concluding on the day preceding the effective date of the reorganization.

- ~~b. The participating district having the lowest per student interim fund balance must contribute the total amount of its interim fund balance to the general fund of the newly reorganized district.~~
- ~~c. Each of the other participating districts shall multiply the lowest district's per student interim fund amount by the number of students in average daily membership in their respective districts during the school year concluding on the day preceding the effective date of the reorganization. Each of the other participating districts must contribute the lesser of the amount arrived at under this subdivision or the total amount in its interim fund to the general fund of the newly reorganized district.~~
- ~~d. If after complying with the requirements of subdivision c, a participating district has a balance available in its interim fund, the reorganization plan must allow that balance to be used by or on behalf of property owners residing within the boundaries of that participating district, as a proportionate credit against any property taxes owed by the property owners. The reorganization plan must determine the manner in which the proportionate credit must be used. The credit may be used either in its entirety on a single occasion or applied to several taxable years. The credit may not be used beyond the fifth taxable year.~~

SECTION 4. AMENDMENT. Section 15.1-12-10 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-10. School district reorganization - Contents of plan - Public hearing - Testimony and evidence.

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 demographic characteristics of each participating district, including the population per age group;~~
 - e. Include the number of students enrolled in each participating district during the current school year and during the ten preceding school years;
 - ~~d.c.~~ Include projected student enrollments for the ensuing ten years;
 - ~~e.d.~~ Include the location and condition of all school buildings and facilities in each participating district and intended uses for the buildings and facilities;
 - ~~f.e.~~ Address planned construction, modification, or improvement of school buildings and facilities located within the boundaries of the new district;
 - ~~g.f.~~ Address planned course offerings by the new district;
 - ~~h.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;

- i-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;
 - j-i. Address plans regarding student transportation;
 - k-j. Identify other governmental entities, including multidistrict special education units and area career and technology centers, which may provide services to the new district;
 - l-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;
 - m-l. Include the amount of all bonded and other indebtedness incurred by each participating district;
 - n-m. Address the planned disposition of all property, assets, debts, and liabilities of each participating district, taking into consideration section 15.1-12-18;
 - o-n. 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;
 - p-o. 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; and
 - p. Include the number of the new district, as assigned by the superintendent of public instruction; and
 - q. Include any other information that the participating school districts wish to have considered by the county committee or the state board.
2. Upon receiving a reorganization plan, the county superintendent shall schedule and give notice of a public hearing regarding the plan. If the school districts involved in a reorganization plan include property in more than one county, but the major portion of each district's property is in the same county, the county committee of that county shall consider the reorganization plan. If the school districts involved in a reorganization plan are situated in more than one county and the major portion of each district's property is not in the same county, the county committees of those counties encompassing the major portion of each school district shall jointly consider the reorganization plan.
 3. The county superintendent shall publish the notice in the official newspaper of the county at least fourteen days before the date of the hearing.
 4. If no newspaper is published in the county, the county superintendent shall publish the notice in the official newspaper of an adjoining county in this state.
 5. Before the hearing, the county committee shall review the reorganization plan and ensure that all statutory requirements have been met.

6. At the hearing, the county committee shall accept testimony and documentary evidence regarding the reorganization plan.
7. Following consideration of the testimony and documentary evidence presented at the hearing, the committee shall approve or deny the reorganization plan.
8. If the plan is approved by at least one county committee, the county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the proceeding, and the county committee's decision, to the state board for final approval. The state board shall publish notice of its meeting at which it will consider the reorganization plan in the official newspaper of the county at least fourteen days before the date of the meeting. If no newspaper is published in the county, the state board shall publish the notice in the official newspaper of an adjoining county in this state.
9. To become effective, a reorganization plan must meet all statutory requirements and must receive approval by both the state board and a majority of electors residing within each school district.

SECTION 5. AMENDMENT. Section 15.1-12-27 of the North Dakota Century Code is amended and reenacted as follows:

15.1-12-27. Dissolution of school district - Notice - Hearing - Order of attachment.

1. The county superintendent shall schedule and give notice of a public hearing regarding the dissolution of the district and the subsequent attachment of the property to other high school districts. The county superintendent shall publish the notice in the official newspaper of each county that encompasses property in the dissolving district and in the official newspaper of each county that encompasses property in a high school district adjacent to the dissolving district, at least fourteen days before the date of the hearing. The county superintendent shall provide notice of the public hearing to the business manager of each high school district adjacent to the dissolving district.
2. At the hearing, the board of the dissolving district may propose a particular manner of dissolution.
3. The county committee shall consider testimony and documentary evidence regarding:
 - a. The value and amount of property held by the dissolving school district;
 - b. The amount of all outstanding bonded and other indebtedness;
 - c. The distribution of property and assets among the high school districts to which the dissolved district is attached;
 - d. The taxable valuation of the dissolving district and adjacent high school districts and the taxable valuation of adjacent high school districts under the proposed manner of dissolution;
 - e. The size, geographical features, and boundaries of the dissolving district and of adjacent high school districts;

- f. The number of students enrolled in the dissolving district and in adjacent high school districts;
 - ~~g. The general population of the dissolving district and adjacent high school districts;~~
 - h. Each school in the dissolving district and in adjacent high school districts, including its name, location, condition, accessibility, and the grade levels it offers;
 - ~~i-h.~~ The location and condition of roads, highways, and natural barriers in the dissolving district and in adjacent high school districts;
 - ~~j-i.~~ Conditions affecting the welfare of students in the dissolving district and in adjacent high school districts;
 - ~~k-j.~~ The boundaries of other governmental entities;
 - ~~l-k.~~ The educational needs of communities in the dissolving district and in adjacent high school districts;
 - ~~m-l.~~ Potential savings in school district transportation and administrative services;
 - ~~n-m.~~ The anticipated future use of the dissolving districts' buildings, sites, and playfields;
 - ~~o-n.~~ The potential for a reduction in per student valuation disparities between the high school districts to which the dissolved district is attached;
 - ~~p-o.~~ The potential to equalize or increase the educational opportunities for students from the dissolving district and for students in adjacent high school districts; and
 - ~~q-p.~~ All other relevant factors.
4. After the hearing, the county committee shall make findings of fact. Subject to final approval by the state board, the county committee may order the district dissolved and its real property attached to one or more contiguous, operating high school districts.
 5. Any property ordered attached under this section must have at least one minor residing within its boundaries.
 6. The county superintendent shall forward all minutes, records, documentary evidence, and other information regarding the dissolution proceeding together with a copy of the county committee's order to the state board for final approval of the dissolution. The state board shall publish notice of its meeting at which it will consider the dissolution, in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the meeting.
 7. The order of dissolution becomes effective July first following approval by the state board, unless the county committee provides for a different effective date.

8. If the boundaries of the dissolving school district cross county lines, the proceeding to dissolve the district must be conducted jointly by the county committees representing counties containing twenty-five percent or more of the dissolving district's taxable valuation. If, after the hearing, a majority of the county committees are unable to agree upon an order of dissolution and attachment, the county superintendent of the county in which the administrative headquarters of the dissolving school district is located shall notify the state board. The state board shall conduct a public hearing, as required in this section, and order the dissolution of the district and the attachment of its real property to adjacent high school districts in the manner it deems appropriate. The state board shall publish notice of the public hearing in the official newspapers of the counties required for publication under subsection 1, at least fourteen days before the date of the hearing.
9. If any portion of the order providing for the attachment of real property is suspended or voided, the order of dissolution is likewise suspended or voided.
10. The state board shall provide a copy of its final findings of fact, conclusions of law, and order regarding the dissolution to job service North Dakota. If not otherwise included in the findings of fact, the state board shall also provide job service North Dakota with information on the distribution and valuation of property from the dissolving district to the receiving districts.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 152

HOUSE BILL NO. 1296

(Representatives K. Koppelman, Hatlestad,
Karls, Nathe, Rohr, Sanford, Wall, Hunskor)
(Senators Andrist, Schaible, Nelson)

AN ACT to amend and reenact section 15.1-13-20 of the North Dakota Century Code, relating to teachers licensed in other states.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-13-20 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-20. Applicants licensed in other states.

1. The board shall grant a teaching license to an applicant who holds a regular teaching license or certificate from another state, provided:
 - a. The applicant's licensure or certification is based upon a minimum of a bachelor's degree with a major that meets the issuing state's requirements in early childhood education, elementary education, middle level education, or a content area taught at a public high school;
 - b. The applicant's licensure or certification is based upon the completion of a professional education sequence from a state-approved teacher education program and includes supervised student teaching;
 - c. The applicant submits the required fee and a criminal history record check, as required of initial applicants by this chapter; and
 - d. The criminal history record check reveals nothing for which a North Dakota applicant would be denied initial licensure.
2.
 - a. A license granted under this section is valid for two years if the applicant has not been licensed in another state for at least eighteen months.
 - b. Notwithstanding subdivision a, if the individual received a teaching license or certificate from another state on or after January 1, 2002, and if the issuing state did not require that the individual pass a state test as a condition of licensure or certification, the board shall require that the individual, within two years from the date of licensure, pass all state licensure tests normally required of applicants from this state.
 - c. In all other cases, a license granted under this section is valid for five years and is renewable if the licenseholder meets the reeducation requirements established for all five-year license renewals.
3. A license granted under this section must include all of the applicant's endorsements issued or recognized by the applicant's other state of licensure.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 153

HOUSE BILL NO. 1028

(Legislative Management)
(Education Funding and Taxation Committee)

AN ACT to amend and reenact section 15.1-18.2-04 of the North Dakota Century Code, relating to concussion management program requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-18.2-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-18.2-04. Student athletics - Concussion management program - Requirements.

1. Each school district and nonpublic school that sponsors or sanctions any athletic activity in this state and requires a participating student to regularly practice or train, and compete, is subject to the terms of a concussion management program.
2. The concussion management program must set forth in clear and readily comprehensible language the signs and symptoms of a concussion.
3. a. ~~The concussion management program must require that an official remove a student from competition and that a student's coach or a student's athletic trainer remove the~~ student be removed from practice, training, or competition if:
 - a. (1) The student reports any sign or symptom of a concussion, as set forth in accordance with this section;
 - b. (2) The official, ~~coach, or athletic trainer determines that the student exhibits any sign or symptom of a concussion, as set forth in accordance with this section; or~~
 - c. (3) ~~The official, coach, or athletic trainer is notified that the student has reported or exhibited any sign or symptom of a concussion by a~~ licensed, registered, or certified health care provider whose scope of practice includes the recognition of concussion signs and symptoms determines, after observing the student, that the student may have a concussion.
- b. The duty to remove a student under the conditions set forth in this subsection extends to:
 - (1) Each official;
 - (2) The coach of a student; and

- (3) Any other individual designated by the school district or nonpublic school as having direct responsibility for the student during practice, training, or competition.
4. The concussion management program must require that any student who is removed in accordance with subsection 3 must be ~~examined~~evaluated as soon as practicable by a licensed, registered, or certified health care provider ~~whose who is acting within the provider's scope of practice includes and trained in the diagnosis and treatment~~evaluation and management of concussion, as determined by the provider's licensing board.
5. a. A student who is ~~removed~~evaluated in accordance with subsection ~~34~~ and believed to have suffered a concussion may not be allowed to return to practice, training, or competition until the student or the student's parent obtains written authorization from a licensed, registered, or certified health care provider ~~whose scope of practice includes the diagnosis and treatment of concussion and provides that authorization to the student's coach or athletic trainer~~student's return is authorized by a licensed health care provider who meets the criteria set forth in subsection 4.
- b. The authorization required by this subsection must be:
- (1) In writing;
- (2) Presented or forwarded to the individual designated by the student's school district or nonpublic school for receipt of such authorizations; and
- (3) Retained by the student's school district or school for a period of seven years after conclusion of the student's enrollment.
- c. Any health care provider who signs an authorization in accordance with this section is acknowledging that the provider is acting within the provider's scope of practice and is trained in the evaluation and management of concussion, as determined by the provider's licensing board.
6. The concussion management program must require that each official, coach, and athletic trainer ~~individual designated by the school district or nonpublic school as having direct responsibility for the student during practice, training, or competition~~ receive biennial training regarding the nature and risk of concussion.
7. The student's school district or nonpublic school shall ensure that before a student is allowed to participate in the athletic activity described in subsection 1, the student and the student's parent shall document that they have viewed information regarding concussions incurred by students participating in athletic activities. The required information must be provided by the student's school district or nonpublic school and must be made available in printed form or in a verifiable electronic format.
8. This section does not create any liability for, or create a cause of action against:
- a. A school district, its officers, or its employees; or

- b. A nonpublic school, its officers, or its employees; or
 - c. An official.
9. A school district or a nonpublic school may contract for and accept gifts, grants, and donations from any public or nonpublic source, in order to meet the requirements of this section.
 10. For the purposes of this section, "official" means an umpire, a referee, a judge, or any other individual formally officiating at an athletic event.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 154

HOUSE BILL NO. 1276

(Representatives Porter, Rohr, Toman)
(Senators Berry, Poolman)

AN ACT to create and enact sections 15.1-19-23 and 23-44-03 and a new subdivision to subsection 9 of section 43-12.1-04 of the North Dakota Century Code, relating to medication administration in primary or secondary schools, exemptions from the Nurse Practices Act, and the exemption of medication administration in primary or secondary schools from the nurse aide registry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 15.1-19-23 of the North Dakota Century Code is created and enacted as follows:

15.1-19-23. Medication program - Establishment - Opt-out - Liability - Immunity from liability.

1. The board of a school district or the governing body of a nonpublic school may establish a program for providing medication to students that includes authorizing individuals to provide medication to a student if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian.
2. A teacher or classified staff member, who is not employed as a licensed health care provider to provide medication, may choose to not provide medication under the program established under subsection 1.
3. An individual authorized to provide medication under subsection 1, or a school district, the board of a school district, or the governing body of a nonpublic school that establishes a program for providing medication to students is not civilly or criminally liable for any act or omission of that individual when acting in good faith while providing medication to a student, except when the conduct amounts to gross negligence.

SECTION 2. Section 23-44-03 of the North Dakota Century Code is created and enacted as follows:

23-44-03. Exemption.

Medication administration by an individual within a primary or secondary school under a program established under section 15.1-19-23 is exempt from the requirements of this chapter, if the individual has received education and training in medication administration and has received written consent of the student's parents or guardian.

⁵² **SECTION 3.** A new subdivision to subsection 9 of section 43-12.1-04 of the North Dakota Century Code is created and enacted as follows:

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.

Approved April 10, 2013
Filed April 10, 2013

⁵² Section 43-12.1-04 was also amended by section 1 of Senate Bill No. 2069, chapter 226.

CHAPTER 155**SENATE BILL NO. 2306**

(Senators Heckaman, Axness, Flakoll, Marcellais, Triplett)
(Representative Wieland)

AN ACT to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to youth suicide prevention.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Youth suicide prevention - Training.

1. Once every two years, each school district shall provide to middle school and high school 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 11, 2013
Filed April 11, 2013

CHAPTER 156

HOUSE BILL NO. 1291

(Representatives K. Koppelman, Karls, Kasper, B. Koppelman, Rohr, Thoreson)
(Senators Larsen, Schaible, Sitte)

AN ACT to amend and reenact sections 15.1-21-02.4, 15.1-21-02.5, and 15.1-21-02.6 of the North Dakota Century Code, relating to the provision of North Dakota scholarships to students who receive home education; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-21-02.4 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.4. North Dakota career and technical education 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 career and technical education 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. Two units of any other mathematics;
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. Completed:
 - a. One unit selected from:
 - (1) Foreign languages;
 - (2) Native American languages;
 - (3) American sign language;
 - (4) Fine arts; or
 - (5) Career and technical education courses; and
 - b. Two units of a coordinated plan of study recommended by the department of career and technical education and approved by the superintendent of public instruction;
7. Completed any five additional units, two of which must be in the area of career and technical education;
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; and
9. Received:
 - a. A composite score of at least twenty-four on an ACT; or
 - b. A score of at least five on each of three WorkKeys assessments recommended by the department of career and technical education and approved by the superintendent of public instruction.

⁵³ **SECTION 2. AMENDMENT.** Section 15.1-21-02.5 of the North Dakota Century Code is amended and reenacted as follows:

⁵³ Section 15.1-21-02.5 was also amended by section 1 of House Bill No. 1258, chapter 157.

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:
 - (1) Two units of the same foreign or native American language; or
 - (2) Two units of American sign language; 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, one of which must be in the area of fine arts or career and technical education;
- 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; or
- b. Fulfilled any one-half unit requirement set forth in subsections 1 through 7 by means of a dual-credit course.

⁵⁴ **SECTION 3. 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.

⁵⁴ Section 15.1-21-02.6 was also amended by section 2 of House Bill No. 1258, chapter 157.

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.
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 ~~graduates from~~:
 - a. A Graduates from a high school in this state;
 - b. A Graduates from a high school in a bordering state under chapter 15.1-29; ~~or~~
 - c. A 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. 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.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 30, 2013
Filed April 30, 2013

CHAPTER 157

HOUSE BILL NO. 1258

(Representatives Thoreson, Dosch, J. Kelsh, Skarphol)
(Senators Hogue, Robinson, Wardner)

AN ACT to amend and reenact section 15.1-21-02.5 and subsection 7 of section 15.1-21-02.6 of the North Dakota Century Code, relating to eligibility requirements for the North Dakota academic scholarship.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁵ **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 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

⁵⁵ Section 15.1-21-02.5 was also amended by section 2 of House Bill No. 1291, chapter 156.

-
- (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) ~~Two units of the~~The same foreign or native American 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, ~~one of which must be in the area of fine arts or career and technical education;~~
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; or

- b. Fulfilled any one-half unit requirement set forth in subsections 1 through 7 by means of a dual-credit course.

⁵⁶ **SECTION 2. AMENDMENT.** Subsection 7 of section 15.1-21-02.6 of the North Dakota Century Code is amended and reenacted as follows:

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 May 3, 2013
Filed May 7, 2013

⁵⁶ Section 15.1-21-02.6 was also amended by section 3 of House Bill No. 1291, chapter 156.

CHAPTER 158

SENATE BILL NO. 2102

(Education Committee)

(At the request of the Department of Public Instruction)

AN ACT to amend and reenact section 15.1-21-08 of the North Dakota Century Code, relating to the annual administration of state academic achievement tests.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-21-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-08. Reading, mathematics, and science - Administration of test.

1. The superintendent of public instruction shall administer to public school students a test that is aligned to the state content and achievement standards in reading and mathematics. This test must be administered annually to all public school students in grades three, four, five, six, seven, eight, and in at least one grade level selected from nine through eleven.
2. The superintendent of public instruction shall administer a test that is aligned to the state content and achievement standards in science. This test must be administered to all public school students in at least one grade level selected from three through five; ~~in at least one grade level selected from six through nine;~~ and in at least one grade level selected from ten and eleven. ~~The superintendent of public instruction may not administer the grade eleven test after December first of each school year.~~

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 159

HOUSE BILL NO. 1268

(Representatives Mock, Beadle, Heilman, Monson)
(Senators Murphy, Sinner)

AN ACT to create and enact a new section to chapter 15.1-21 of the North Dakota Century Code, relating to the driver education curriculum.

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:

Driver education curriculum - Content - Anatomical gift.

1. Beginning July 1, 2014, each school district shall ensure that its curriculum for driver education includes information regarding the manner in which a student obtaining a driver's license may make an anatomical gift, as provided for in section 23-06.6-04.
2. The school district shall provide notification of the curricular requirement set forth in subsection 1 to the parent of each student enrolled in driver education. The notification may be provided electronically or in written form.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 160

SENATE BILL NO. 2329

(Senators Unruh, Larsen, Miller)
(Representatives Grande, B. Koppelman, Thoreson)

AN ACT to amend and reenact section 15.1-23-09 of the North Dakota Century Code, relating to home education.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-23-09 of the North Dakota Century Code is amended and reenacted as follows:

15.1-23-09. Home education - Standardized achievement test - Exemption.

1. a. While in grades four, six, eight, and ten, each child receiving home education shall take a:
 - (1) A standardized achievement test used by the school district in which the child resides; or, if requested by the parent, shall take a
 - (2) A nationally normed standardized achievement test if requested by the child's parent.
- b. The child shall take the test in the child's learning environment or, if requested by the child's parent, in a public school. An individual licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board shall administer the test.
2. a. The requirement of subsection 1 does not apply if the parent notifies the school district in which the child resides that the parent has a philosophical, moral, or religious objection to the use of standardized achievement tests and the parent:
 - (1) Is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
 - (2) Holds a baccalaureate degree; or
 - (3) Has met or exceeded the cutoff score of a national teacher examination given in this state or in any other state if this state does not offer such an examination.
- b. The parent shall file the notification and necessary documentation required by this subsection with the school district at the same time that the parent files the statement of intent to supervise home education required by section 15.1-23-02.

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 161

SENATE BILL NO. 2214

(Senators Heckaman, Erbele, Klein)
(Representatives Brandenburg, Kretschmar, Hunsakor)

AN ACT to create and enact a new section to chapter 15.1-27 of the North Dakota Century Code, relating to transition payments for isolated school districts; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

Isolated school districts - Transition payments.

If during the 2010-11 school year, a school district received payments as a result of section 15.1-27-15, as the section existed on June 30, 2011, and if that district is not eligible for the factor established under subdivision j of subsection 1 of section 15.1-27-03.1, the district is entitled to the following transition payments:

1. For the 2013-14 school year, an amount equal to that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011;
2. For the 2014-15 school year, an amount equal to seventy-five percent of that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011;
3. For the 2015-16 school year, an amount equal to fifty percent of that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011; and
4. For the 2016-17 school year, an amount equal to twenty-five percent of that which the district would have received under section 15.1-27-15, as the section existed on June 30, 2011.

SECTION 2. EFFECTIVE DATE. This Act is effective on July 1, 2013.

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

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 162

HOUSE BILL NO. 1095

(Finance and Taxation Committee)
(At the request of the State Treasurer)

AN ACT to amend and reenact section 15.1-27-24 of the North Dakota Century Code, relating to the distribution of certain federal funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-27-24 of the North Dakota Century Code is amended and reenacted as follows:

15.1-27-24. Taylor Grazing Act funds - Disposition.

The state treasurer shall apportion payments from the federal government to this state under the provisions of 43 United States Code 315i (the Taylor Grazing Act) among the counties in the state in the proportion that the number of acres [hectares] of Taylor Grazing Act land in each county bears to the total amount of Taylor Grazing Act land in the state. The state treasurer shall ~~calculate each county's apportioned payment and~~ provide the payment to the county treasurer of each county receiving payments as directed by the United States bureau of land management. Each county treasurer receiving payments shall distribute the funds to school districts in that county on the basis of average daily membership of all students residing within the county.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 163

HOUSE BILL NO. 1301

(Representatives D. Johnson, Hofstad, Pollert)
(Senators Wanzek, Heckaman)

AN ACT to amend and reenact sections 15.1-29-14 and 15.1-32-19 of the North Dakota Century Code, relating to the reimbursement of school districts for boarding care costs; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-29-14 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-14. (~~Effective through June 30, 2013~~) Student placement for noneducational purposes - Residency determination - Payment of tuition and tutoring charges.

1. a. Except as provided in subdivision b, for purposes of applying this chapter, a student's school district of residence is the district in which the student's custodial parent or legal guardian resides:
 - (1) At the time that a state court, tribal court, director of juvenile court, or the division of juvenile services issues an order requiring the student to stay for a prescribed period at a state-licensed foster home or at a state-licensed child care home or facility;
 - (2) At the time a county or state social service agency places the student, with the consent of the student's parent or legal guardian, at a state-licensed foster home or at a state-licensed child care home or facility;
 - (3) At the time the student is initially placed in a state-operated institution, even if the student is later placed at a state-licensed foster home or at a state-licensed child care home or facility; or
 - (4) At the time the student is placed voluntarily, by a parent or legal guardian, in a state-operated institution or in a state-licensed child care home, facility, or program, located either within or outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1.
- b. A determination regarding the student's school district of residence made under subdivision a is valid until the September fifteenth following the determination. On that date and each September fifteenth thereafter, the placing agency or the entity funding the student's placement shall determine the district in which the student's custodial parent or legal guardian resides and shall notify the district that it is deemed to be the student's district of residence for purposes of this chapter. If, however, the student is placed in accordance with paragraph 4 of subdivision a and the placement is privately funded, the administrator of the facility or program in

which the student is placed shall determine the student's school district of residence and provide the notification required by this subdivision.

2. The student's school district of residence is obligated to pay:
 - a. All charges for tuition upon claim of the admitting district; and
 - b. All charges for tutoring services upon claim of an admitting facility, provided that the tutoring services are delivered by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
3. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for state aid to schools if, on the September fifteenth after a student placement is made as provided for under subsection 1:
 - a. The student's custodial parent or legal guardian establishes residency outside this state;
 - b. A court orders a termination of parental rights with respect to the student's parents;
 - c. The student no longer has a custodial parent; or
 - d. The superintendent of public instruction has determined that all reasonable efforts to locate a parent or legal guardian have been unsuccessful.
4. If the student is voluntarily admitted to a state-licensed child care home or facility, or to a state-operated institution, the student's parent or, if one has been appointed, the student's legal guardian may appeal a determination under section 15.1-29-05 regarding the payment of tuition by filing a petition with the county superintendent of schools. Within fifteen days of receiving the petition, the three-member committee established under section 15.1-29-06 shall consult with the boards of the affected school districts and with the student's parent or legal guardian and render a decision regarding responsibility for the payment of tuition charges.
5. If the student's district of residence does not pay the required tuition and tutoring charges, the admitting district or facility shall notify the superintendent of public instruction. Upon verification that tuition and tutoring charges are due and unpaid, the superintendent shall withhold all state aid otherwise payable to the student's school district of residence until the total amount due has been fully paid.
6.
 - a. An amount equal to the state average per student elementary or high school cost, depending on the student's grade of enrollment, is payable to the admitting district or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual per student cost incurred by the admitting district or facility.
 - b. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state, within the limits of legislative appropriations, from funds appropriated for the payment of

special education contract charges in the case of a student with disabilities or from state aid payments to schools in all other cases. For purposes of this subdivision, "actual costs" includes the cost of a summer program if the program is a condition of placement at a residential facility that has been determined by a placing agency or entity to be an appropriate placement for a student.

7. If a student with disabilities placed in accordance with this section reaches age eighteen and continues to receive special education and related services, the student's school district of residence is deemed to be the same as that of the student's custodial parent until the special education services are concluded. The obligations of the student's school district of residence as provided in subsection 2 and the obligations of the state as provided in subsection 3 are applicable to all students described in this subsection.
8. a. The placing agency or entity funding the student's placement shall provide written or electronic notice regarding an initial placement and all subsequent placements of a student to the superintendent of the student's school district of residence and to the superintendent of the admitting district:
 - (1) Within five working days after a placement is made under court order;
 - (2) Within five working days after an emergency placement is made; or
 - (3) At least ten working days prior to any other placement.
- b. If, however, the student's parent or legal guardian voluntarily places the student in a state-operated institution or in a state-licensed child care home, facility, or program, located outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1, and if the placement is privately funded, the administrator of the facility or program in which the student is placed shall determine the student's school district of residence and provide the notification required by this section.
- c. The notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.
- d. The placing agency shall afford the student's school district of residence reasonable opportunity to participate in permanency planning for the student.
9. Notwithstanding this section, educational services provided to a student by the youth correctional center are not subject to the payment of tuition and tutoring charges by either the student's school district of residence or the superintendent of public instruction.
10. For purposes of this section, "custodial parent" means the parent who has been awarded sole legal and physical custody of the student in a legal proceeding or, if there is currently no operative custody order, the parent with whom the student resides. If the student resides with both parents, then both are custodial parents.

~~(Effective after June 30, 2013) Student placement for noneducational purposes – Residency determination – Payment of tuition and tutoring charges.~~

1. ~~a. Except as provided in subdivision b, for purposes of applying this chapter, a student's school district of residence is the district in which the student's custodial parent or legal guardian resides:

 - ~~(1) At the time that a state court, tribal court, director of juvenile court, or the division of juvenile services issues an order requiring the student to stay for a prescribed period at a state-licensed foster home or at a state-licensed child care home or facility;~~
 - ~~(2) At the time a county or state social service agency places the student, with the consent of the student's parent or legal guardian, at a state-licensed foster home or at a state-licensed child care home or facility;~~
 - ~~(3) At the time the student is initially placed in a state-operated institution, even if the student is later placed at a state-licensed foster home or at a state-licensed child care home or facility; or~~
 - ~~(4) At the time the student is placed voluntarily, by a parent or legal guardian, in a state-operated institution or in a state-licensed child care home, facility, or program, located outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1.~~~~
- ~~b. A determination regarding the student's school district of residence made under subdivision a is valid until the September fifteenth following the determination. On that date and each September fifteenth thereafter, the placing agency or the entity funding the student's placement shall determine the district in which the student's custodial parent or legal guardian resides and shall notify the district that it is deemed to be the student's district of residence for purposes of this chapter. If, however, the student is placed in accordance with paragraph 4 of subdivision a and the placement is privately funded, the administrator of the facility or program in which the student is placed shall determine the student's school district of residence and provide the notification required by this subdivision.~~
2. The student's school district of residence is obligated to pay:
 - a. All charges for tuition upon claim of the admitting district; and
 - b. All charges for tutoring services upon claim of an admitting facility, provided that the tutoring services are delivered by an individual who is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board.
3. The state shall pay the tuition and tutoring charges under subsection 2 from funds appropriated by the legislative assembly for state aid to schools if, on the September fifteenth after a student placement is made as provided for under subsection 1:
 - a. The student's custodial parent or legal guardian establishes residency outside this state;

- ~~b. A court orders a termination of parental rights with respect to the student's parents;~~
 - ~~c. The student no longer has a custodial parent; or~~
 - ~~d. The superintendent of public instruction has determined that all reasonable efforts to locate a parent or legal guardian have been unsuccessful.~~
- ~~4. If the student is voluntarily admitted to a state-licensed child care home or facility, or to a state-operated institution, the student's parent or, if one has been appointed, the student's legal guardian may appeal a determination under section 15.1-29-05 regarding the payment of tuition by filing a petition with the county superintendent of schools. Within fifteen days of receiving the petition, the three member committee established under section 15.1-29-06 shall consult with the boards of the affected school districts and with the student's parent or legal guardian and render a decision regarding responsibility for the payment of tuition charges.~~
- ~~5. If the student's district of residence does not pay the required tuition and tutoring charges, the admitting district or facility shall notify the superintendent of public instruction. Upon verification that tuition and tutoring charges are due and unpaid, the superintendent shall withhold all state aid otherwise payable to the student's school district of residence until the total amount due has been fully paid.~~
- ~~6. a. An amount equal to the state average per student elementary or high school cost, depending on the student's grade of enrollment, is payable to the admitting district or facility as part of the cost of educating the student for the school year. The payment may not exceed the actual per student cost incurred by the admitting district or facility.~~
 - ~~b. The remainder of the actual cost of educating the student not covered by other payments or credits must be paid by the state, within the limits of legislative appropriations, from funds appropriated for the payment of special education contract charges in the case of a student with disabilities or from state aid payments to schools in all other cases. For purposes of this subdivision, "actual costs" includes the cost of a summer program if the program is a condition of placement at a residential facility that has been determined by a placing agency or entity to be an appropriate placement for a student.~~
- ~~7. If a student with disabilities placed in accordance with this section reaches age eighteen and continues to receive special education and related services, the student's school district of residence is deemed to be the same as that of the student's custodial parent until the special education services are concluded. The obligations of the student's school district of residence as provided in subsection 2 and the obligations of the state as provided in subsection 3 are applicable to all students described in this subsection.~~
- ~~8. a. The placing agency or entity funding the student's placement shall provide written or electronic notice regarding an initial placement and all subsequent placements of a student to the superintendent of the student's school district of residence and to the superintendent of the admitting district:~~

- (1) Within five working days after a placement is made under court order;
 - (2) Within five working days after an emergency placement is made; or
 - (3) At least ten working days prior to any other placement.
- b. ~~If, however, the student's parent or legal guardian voluntarily places the student in a state-operated institution or in a state-licensed child care home, facility, or program, located outside the student's school district of residence, including those defined in sections 25-01.2-01 and 50-11-00.1, and if the placement is privately funded, the administrator of the facility or program in which the student is placed shall determine the student's school district of residence and provide the notification required by this section.~~
 - e. ~~The notice must include any information requested by the superintendent of public instruction for purposes of determining payment responsibility.~~
 - d. ~~The placing agency shall afford the student's school district of residence reasonable opportunity to participate in permanency planning for the student.~~
9. ~~Notwithstanding this section, educational services provided to a student by the youth correctional center are not subject to the payment of tuition and tutoring charges by either the student's school district of residence or the superintendent of public instruction.~~
 10. ~~For purposes of this section, "custodial parent" means the parent who has been awarded sole legal and physical custody of the student in a legal proceeding or, if there is currently no operative custody order, the parent with whom the student resides. If the student resides with both parents, then both are custodial parents.~~

SECTION 2. AMENDMENT. Section 15.1-32-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-19. ~~(Effective through June 30, 2013) Boarding care costs - Reimbursement of school district.~~

The superintendent of public instruction shall reimburse a student's school district of residence an amount equal to eighty percent of the room and board costs paid by the district for a student with disabilities who is placed in a facility that is located either within or outside of the student's school district of residence in order to receive special education services. The student's school district of residence is liable for any room and board costs in excess of those reimbursed as provided in this section. The placement of a student with disabilities in a public or private facility will be made by a school district. The placement of a student with disabilities in congregate care will be made in a facility designated by the department of human services.

~~(Effective after June 30, 2013) Boarding care costs - Reimbursement of school district.~~ The superintendent of public instruction, within the limits of legislative appropriation, shall reimburse a student's school district of residence an amount equal to eighty percent of the room and board costs paid for a student with disabilities who is placed in a facility located outside of the student's school district of residence in order to receive special education services not available within the student's school district of residence. The student's school district of residence is liable for any room

~~and board costs in excess of those reimbursed as provided in this section. The placement of a student with disabilities in a public or private facility will be made by a school district. The placement of a student with disabilities in congregate care will be made in a facility designated by the department of human services.~~

SECTION 3. EFFECTIVE DATE. This Act becomes effective on July 1, 2013.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 8, 2013

Filed April 8, 2013

ELECTIONS

CHAPTER 164

HOUSE BILL NO. 1402

(Representatives Boehning, Beadle, Klein, Larson)
(Senators Dotzenrod, J. Lee, Poolman, Sorvaag)

AN ACT to amend and reenact subsection 2 of section 16.1-01-09 and subsection 2 of section 16.1-01-09.1 of the North Dakota Century Code, relating to the requirements for initiated, referendum, and recall petitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁷ **SECTION 1. AMENDMENT.** Subsection 2 of section 16.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

2. An individual may not sign any initiative or referendum petition circulated pursuant to article III of the Constitution of North Dakota unless the individual is a qualified elector. An individual may not sign any petition more than once, and each signer shall ~~add~~also legibly print the signer's name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition shall do so in the presence of the individual circulating the petition. A referendum or initiative petition must be on a form prescribed by the secretary of state containing the following information:

REFERENDUM [INITIATIVE] PETITION

TO THE SECRETARY OF STATE,

STATE OF NORTH DAKOTA

We, the undersigned, being qualified electors request [House (Senate) Bill _____ passed by the _____ Legislative Assembly] [the following initiated law] be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

⁵⁷ Section 16.1-01-09 was also amended by section 1 of House Bill No. 1372, chapter 165.

Name	Address
	(Chairman/Chairperson)

PETITION TITLE

(To be drafted by the secretary of state, approved by the attorney general, and attached to the petition before circulation.)

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

[The full text of the measure must be inserted here.]

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 thirty days, and you are a United States citizen. All signers ~~must add~~ shall also legibly print their name, complete residential address or 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.

QUALIFIED ELECTORS

	<u>Signed</u>			
Month, Day, Year	Name of Qualified Elector	<u>Printed</u> <u>Name of</u> <u>Qualified</u> <u>Elector</u>	Residential Address or Complete Rural Route or General Delivery Address	<u>City</u> <u>State</u> , <u>Zip Code</u>
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. In this section for referral petitions "full text of the measure" means the bill as passed by the legislative assembly excluding the session and sponsor identification. In this section for initiative petitions "full text of the measure" means an enacting clause which must be: "BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA" and the body of the bill. If the measure amends the law, all new statutory material must be underscored and all statutory material to be deleted must be overstruck by dashes. When repealing portions of the law, the measure must contain a repealer clause and, in brackets, the text of the law being repealed.

⁵⁸ **SECTION 2. AMENDMENT.** Subsection 2 of section 16.1-01-09.1 of the North Dakota Century Code is amended and reenacted as follows:

- 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 ~~add~~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:

	Complete Residential, Rural Route, or General Delivery Address
1.	_____ (ChairmanChairperson)
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 ~~must add~~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.

⁵⁸ Section 16.1-01-09.1 was also amended by section 2 of House Bill No. 1372, chapter 165, and section 3 of Senate Bill No. 2374, chapter 176.

QUALIFIED ELECTORS

Month, Day, Year	<u>Signed</u> Name of Qualified Elector	<u>Printed</u> <u>Name of</u> <u>Qualified</u> <u>Elector</u>	Complete Residential, Rural Route, or General Delivery Address	<u>City</u> <u>State</u> , <u>Zip Code</u>
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.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 165

HOUSE BILL NO. 1372

(Representatives Maragos, Heilman, N. Johnson)
(Senators Carlisle, Hogue)

AN ACT to amend and reenact subsection 5 of section 16.1-01-09 and subsections 1, 5, and 7 of section 16.1-01-09.1 of the North Dakota Century Code, relating to requirements for initiative, referendum, and recall petitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁵⁹ **SECTION 1. AMENDMENT.** Subsection 5 of section 16.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

5. When signed petitions are delivered to the secretary of state, the chairperson of the sponsoring committee shall submit to the secretary of state 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 secretary of state, the petitions are considered filed and may not be returned to 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 petition that has been submitted to and received by the secretary of state.

⁶⁰ **SECTION 2. AMENDMENT.** Subsections 1, 5, and 7 of section 16.1-01-09.1 of the North Dakota Century Code are amended and reenacted as follows:

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.
5. CirculatorsFor 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.
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

⁵⁹ Section 16.1-01-09 was also amended by section 1 of House Bill No. 1402, chapter 164.

⁶⁰ Section 16.1-01-09.1 was also amended by section 2 of House Bill No. 1402, chapter 164, and section 3 of Senate Bill No. 2374, chapter 176.

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.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 166

HOUSE BILL NO. 1397

(Representatives Hatlestad, N. Johnson, Klemin)
(Senators Cook, Nelson)

AN ACT to amend and reenact section 16.1-01-12 of the North Dakota Century Code, relating to election offenses; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-01-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-12. Election offenses - Penalty.

1. It is unlawful for a ~~person~~an individual or organization to:
 1. a. Fraudulently alter another ~~person's~~individual's ballot or substitute one ballot for another or to otherwise defraud a voter of that voter's vote.
 2. b. Obstruct a qualified elector on the way to a polling place.
 3. c. Vote or offer to vote more than once in any election.
 4. d. Knowingly vote in the wrong election precinct or district.
 5. e. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
 6. f. Knowingly exclude a qualified elector from voting or knowingly allow an unqualified person to vote.
 7. g. Knowingly vote when not qualified to do so.
 8. h. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
 9. ~~Sign a name other than that person's own name to an initiative, referendum, recall, or any other election petition.~~
10. 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.
11. j. Pay or offer to pay any ~~person~~individual or 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 ~~persons~~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.

12. 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.
13. l. Willfully violate any rule adopted by the secretary of state pursuant to this title.
14. 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 ~~person's~~individual's or organization's care.
15. 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.
2. a. ~~A violation of subsections 1 subdivisions a through 44l of subsection 1 is a class A misdemeanor. Any signature obtained in violation of subsection 11 is void and may not be counted.~~
- b. A violation of subdivision m of subsection 1 is a class C felony.
- c. A violation of subdivision n of subsection 151 occurring after an election but before the final canvass, or during an election, is a class C felony, and in other cases is a class A misdemeanor.
- d. A violation of subdivision o of subsection 1 is a class A misdemeanor if an individual signs one or two names other than the individual's own name to a petition and is a class C felony if an individual signs more than two names other than the individual's own name to a petition.
- e. An organization, as defined in section 12.1-03-04, that violates this section is subject to the organizational fines in section 12.1-32-01.1. The court in which the conviction is entered shall notify the secretary of state of the conviction and shall order the secretary of state to revoke the certificate of authority of any convicted organization or limited liability company. The organization may not reapply to the secretary of state for authorization to do business under any name for one year upon conviction of a class A misdemeanor and for five years upon conviction of a class C felony under this section.
- f. An individual who is a member of an organization may be convicted of a violation as an accomplice under section 12.1-03-01.

3. Every act which by this chapter is made criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to qualified electors to be decided by votes cast at an election.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 167

HOUSE BILL NO. 1332

(Representatives Boehning, Grande, Nathe, Streyle, Thoreson, Wieland)
(Senator Berry)

AN ACT to amend and reenact section 16.1-02-05, subsection 9 of section 16.1-02-12, and sections 16.1-02-13, 16.1-05-04, 16.1-05-07, 16.1-07-06, and 39-06-03.1 of the North Dakota Century Code, relating to eligibility to vote; and to repeal sections 16.1-05-06 and 58-04-09 of the North Dakota Century Code, relating to eligibility to vote.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - Challenges - Postelection verification.

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
4. ~~Within forty-five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

SECTION 2. AMENDMENT. Subsection 9 of section 16.1-02-12 of the North Dakota Century Code is amended and reenacted as follows:

9. ~~The individual's driver's license or nondriver identification card number and state of any state issued identification regardless of the state in which the identification was issued, if available issued by the department of transportation.~~

SECTION 3. AMENDMENT. Section 16.1-02-13 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-13. Information contained in pollbooks generated from the central voter file.

The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the day before an election. With the exception of a record designated "secured active" and the voter's birth date and ~~driver's license or nondriver identification card number of any state issued identification regardless of the state in which the identification was issued by the department of transportation,~~ which are exempt records, the precinct pollbooks are open records under section 44-04-18. The secretary of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks to the election judges for use on election day. Pollbooks generated from the central voter file must contain the following information for each individual contained therein:

1. The complete legal name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.
5. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides. A ballot-style code identifying this information may be used in place of the information required by this subsection.
6. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the pollbook.

SECTION 4. AMENDMENT. Section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-04. Duties of the members of the election board during polling hours.

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the

pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.

4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~
5. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
- ~~6-5.~~ All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
- ~~7-6.~~ Each member of the election board shall maintain order in the polling place.

SECTION 5. 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 ~~request~~require the individual to show identification, which includes the individual's residential address and date of birth. The identification may include:
 - a. ~~An~~A 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~~A form of identification 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 c.
- ~~2. If an individual offering to vote does not have or refuses to show an appropriate form of identification, the individual may be allowed to vote without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct.~~
- ~~3. If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~

4. 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.
- 5-3. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

SECTION 6. 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 information:
 - 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, if available or tribal identification number 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.

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".
- 2-3. If the applicant does not possess an approved form of identification as provided for under subsection 1 of section 16.1-05-07, 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.
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.
- 3-5. 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.

⁶¹ **SECTION 7. AMENDMENT.** Section 39-06-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-03.1. Nondriver photo identification card issued by director - Release of information - Penalty - Public awareness.

1. The director shall issue a nondriver color photo identification card to any North Dakota resident who fulfills the requirements of this section. An application for an identification card must be made on a form furnished by the director. Within thirty days from receipt of a complete application that includes the applicant's social security number, unless the applicant is a nonimmigrant who is not eligible for a social security number, the director shall determine whether to issue and, if appropriate, issue a nondriver photo identification card to an applicant. If the person is under the age of eighteen or at least the age of eighteen and under the age of twenty-one, the photo must be against the same color background required on a motor vehicle operator's license for an operator of that age. Subject to subsection 1 of section 39-06-19, identification cards expire eight years from the date of issue and may be renewed. The

⁶¹ Section 39-06-03.1 was also amended by section 8 of Senate Bill No. 2039, chapter 291.

application must contain such other information as the director may require to improve identity security. The director may require an applicant for an identification card to provide a social security card and proof of residence address.

2. To confirm the identity, date of birth, and legal presence of the applicant, the director or examining officer shall require satisfactory evidence be provided by the applicant. Satisfactory evidence includes a certified copy of the applicant's birth certificate or other evidence reasonably calculated to permit the determination of the date of birth, identification, and legal presence of the applicant by the director or examining officer.
3. ~~The fee is eight dollars. Fees collected pursuant to this section must be paid monthly into the highway fund in the state treasury. Except as provided in subsections 9 and 11, the director may not charge a fee to provide a nondriver photo identification card to an eligible applicant.~~
4. Any information obtained by the director from an applicant for the issuance, renewal, or replacement of an identification card issuable pursuant to this chapter may only be released in accordance with the provisions of section 39-16-03.
5. It is a class B misdemeanor for any person, except the director or the director's authorized agent, to print or otherwise produce or reproduce cards or their components, which may be utilized as identification cards issued pursuant to this section.
6. The director may advertise the availability and the use of the card.
7. Identification cards issued pursuant to this section are sufficient identification for all identification purposes.
8. The director shall cancel any card upon determining that the holder is not entitled to the issuance of the card under the laws of this state, or the holder has failed to give the required or correct information to the director, or has committed fraud in making the application, or the fee was in the form of an insufficient or no-account check. Upon cancellation, the holder shall surrender the card to the director. When a cancellation is in effect, any law enforcement officer may take custody of the card.
9. A duplicate card may be obtained by making an application and paying an eight dollar fee. For a cardholder who has reached the age of eighteen or twenty-one, a replacement card may be obtained by making an application and paying an eight dollar fee.
10. The director may not withhold the issuance of a nondriver color photo identification card without reasonable cause.
11. An individual who possesses a driver's license may obtain a nondriver photo identification card. The fee is eight dollars.

SECTION 8. REPEAL. Sections 16.1-05-06 and 58-04-09 of the North Dakota Century Code are repealed.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 168

SENATE BILL NO. 2369

(Senators Dever, Schaible)

AN ACT to create and enact a new section to chapter 16.1-03 of the North Dakota Century Code, relating to political party organization; to amend and reenact sections 16.1-03-01, 16.1-03-02, 16.1-03-03, 16.1-03-05, 16.1-03-07, 16.1-03-08, 16.1-03-11, 16.1-03-14, 16.1-03-17, 16.1-04-01, 16.1-06-04, 16.1-11-22, 16.1-11-30, and 16.1-12-02 of the North Dakota Century Code, relating to political party organization, voting precincts, and primary election ballot access; and to repeal sections 16.1-03-12 and 16.1-03-19 of the North Dakota Century Code, relating to political party organization.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 16.1-03 of the North Dakota Century Code is created and enacted as follows:

Organizations allowed to nominate statewide and legislative candidates.

A political organization may not endorse candidates or have candidates petition for president, vice president, Congress, statewide office, or legislative office as set forth in chapter 16.1-11, unless the organization:

1. Organized according to all requirements of this chapter;
2. Had printed on the ballot at the last preceding general election the names of a set of presidential electors pledged to the election of the party's candidate for president and vice president, a candidate for governor, a candidate for attorney general, or a candidate for secretary of state and those candidates for presidential electors, governor, attorney general, or secretary of state received at least five percent of the total vote cast for presidential electors, the office of governor, attorney general, or secretary of state within this state at that election and organized according to all requirements of this chapter; or
3. Filed a petition with the secretary of state signed by the number of electors required under section 16.1-11-30 to qualify to endorse candidates or to have candidates petition to be included on the primary election ballot in a consolidated column or on a special election ballot.

SECTION 2. AMENDMENT. Section 16.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-01. Precinct caucus to elect precinct committeemen - Time and manner of holding - Caucus call - Notice.

1. Each legislative district party shall organize in conformance with the state legislative district boundaries as established by the legislative assembly and as set forth under chapter 54-03.

2. On or before May fifteenth following the last preceding general election, a party caucus must be held by every election precinct at a site within or reasonably close to the precinct in the manner provided in sections 16.1-03-01 through 16.1-03-03.
- 2-3. ~~The legislative district chairman of each party shall issue the call~~set the date and time for the precinct caucus at least twenty days before the time set for holding the caucus and the. ~~If there is not a district chairman in a legislative district, the state party executive committee may issue the call for the precinct caucus. The call must contain the following:~~
- a. Name of party.
 - b. ~~Precinct~~Legislative district and precinct number or name.
 - c. Date of caucus.
 - d. Place of caucus.
 - e. Hours of caucus.
 - f. A statement of the business to be conducted, including the election of precinct committeemen and such other ~~persons~~individuals as may be provided by state law and ~~district party rules~~bylaws.
 - g. The name of the district chairman or, if there is not a district chairman, the member of the state party executive committee issuing the call.
- 3-4. ~~The district chairman or, if there is not a district chairman, the state party executive committee shall provide ten days' published notice in the official newspaper in circulation within each precinct in the district. The notices must contain that information set forth in subsection 23. The district chairman may include the information required by this section for all precincts in the district may be included in one notice for publishing purposes.~~

SECTION 3. 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 ~~persons~~individuals who are qualified electors ~~pursuant to~~under section 16.1-01-04 may vote or be elected as committeemen or officers at the precinct caucus.
2. Only those ~~persons~~individuals who either voted or affiliated with the party at the last general election or intend to ~~vote or~~ affiliate with the party and vote with the party at the next general election may vote at the precinct caucus.
3. In case the right of a ~~person~~an individual to participate at the caucus is challenged, the question of the ~~person's~~individual's right to participate must be decided by a vote of the whole caucus. ~~A person~~An individual so challenged may not vote on the question of the ~~person's~~individual's right to participate in the caucus, and a two-thirds vote of the whole caucus is required to exclude a ~~person~~an individual from participation.

4. ~~No person~~An individual may not vote or participate at more than one precinct caucus in any one year.

SECTION 4. AMENDMENT. Section 16.1-03-03 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-03. ~~Caucus business and elections~~ – Political parties entitled to elect committeemen.

1. ~~Each precinct caucus shall elect a chairman, committeemen as provided in subsection 3, and other officers as may be provided by party rules. The caucus may also discuss party policies, candidates, and any other business as prescribed by party rules.~~
2. ~~No~~A political organization is entitled to elect a precinct committeeman at its precinct caucus ~~unless~~if:
 - a. The organization nominated and had printed on the ballot at the last preceding general election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor, attorney general, or secretary of state; and
 - b. The candidates provided for in subdivision a received at least five percent of the total vote cast for presidential electors or for governor, attorney general, or secretary of state within this state at that election.
- 3-2. Each political party in each voting precinct of this state, otherwise qualifying under subsection 2~~1~~, is entitled to elect one precinct committeeman for each two hundred fifty votes, or majority of a fraction thereof, cast for the party's presidential electors, governor, attorney general, or secretary of state in the precinct in the last general election. Each precinct is entitled to at least one precinct committeeman for each party which qualifies under subsection 2~~1~~. Each precinct committeeman must be an elector of the precinct in which the committeeman resides and must be elected for a two-year term.
3. If a political organization desires to organize under this chapter but has not qualified as provided in subsection 1, the organization may elect one precinct committeeman for each precinct in the district.

SECTION 5. 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, ~~must~~may be filled by appointment from the precinct by the district executive committee of the party. ~~Notice of the appointment must be given to the county auditor.~~

SECTION 6. AMENDMENT. Section 16.1-03-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-07. Meeting of district committee - Organization.

1. In every odd-numbered year, the district committee of each party shall meet within fifteen days after the precinct caucus provided for in section 16.1-03-01. The day, hour, and site must be set by the existing district committee chairman. ~~The~~Any incumbent members of the legislative assembly from the party, the precinct committeemen of a party, selected as provided by this chapter, withand any other persons~~individual~~ provided for by the district committee's bylaws and ~~as the district committee designates,~~ constitute the district committee of the party. The district committee of a party must be organized to coincide with the geographical boundary lines of state legislative districts. Each member of any committee provided for in this chapter must be a qualified elector ~~and must retain the office the member was elected to until a successor is chosen.~~

2. ~~The district committee shall organize by:~~
 - a. ~~Selecting a chairman, vice chairman, secretary, and treasurer chosen by precinct committeemen and the party's incumbent members of the legislative assembly from the district shall select the officers of the district committee. The officers selected, as provided by the district party bylaws, need not be precinct committeemen; however, all the officers must be voting members of the district committee. The district committee shall forward to the state committee the name and contact information of the district committee chairman.~~
 - b. ~~Adopting rules and modes of procedure not in conflict with law.~~
 - c. ~~Filling any vacancies in the office of precinct committeeman pursuant to section 16.1-03-05.~~
 - d. ~~Selecting~~The district committee may appoint an executive committee consisting of five or more persons chosen from the district committee. The chairman, vice chairman, treasurer, and secretary of the district committee ~~must be members and the officers of the executive committee consistent with the bylaws of the district committee. That party's nominees for and members of the legislative assembly may also be~~shall serve as members of the executive committee.

- 2.3. ~~If the office of chairman becomes vacant, the vice chairman shall hold the office until the next regular election for the office or until a new chairman is selected by the district committee for the balance of the term, whichever occurs first~~vacancy may be filled as provided by the district party bylaws.

4. ~~The bylaws of the state committee or state party may not include any requirement providing directives or procedures for the method of the organization of district committees nor may the state committee or state party take any action or impose any requirement regarding district party organization which is not consistent with this chapter.~~

SECTION 7. AMENDMENT. Section 16.1-03-08 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-08. State committee - Membership.

The state committee of each party consists of the chairman of each of the district committees of the party and any ~~person~~individual provided for in the bylaws of the state committee.

SECTION 8. AMENDMENT. Section 16.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-11. State committee - Meetings - Organization –Vacancies.

The state committee shall meet on or before July first of each odd-numbered year. The committee shall organize by selecting a ~~chairman, vice chairman, secretary, and treasurer~~officers as provided for by the state committee bylaws and by adopting rules and modes of procedure, including rules and procedures regarding the selection of state convention delegates. ~~The party's bylaws must be filed with the secretary of state. The officers elected need not be members of the committee, but they shall become voting members of the committee after their election. Within thirty days following the state committee's organization, the newly elected chairman shall notify the secretary of state of the names of the party officers selected. These officers, with any other persons provided for by the party's bylaws and as the state committee designates, constitute the executive committee of the state committee. If the office of chairman becomes vacant, the vice chairman holds the office until the next regular election for the office or until a new chairman is selected by the state committee for the balance of the term, whichever occurs first. A vacancy in an office of the state committee, other than chairman and a party district chairman, must be filled upon a majority vote of the state committee. The chairman of the state committee may temporarily fill any vacancy existing on the state committee until the state committee convenes to fill the vacancy. The secretary of state must be notified of any changes in membership of the state's committee officers.~~

⁶² **SECTION 9. AMENDMENT.** Section 16.1-03-14 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-14. ~~When state party convention held and duties of state~~State party convention.

1. ~~The state party conventions must be held in each presidential election year at a place and time designated by the party state committee shall set the place and time of the state party convention to be held in each general election year. The state party convention provided for in this chapter shall~~Subject to party rules and bylaws, the state party convention may:
 1. ~~a.~~ a. Nominate the legal number of ~~candidates~~qualified electors for its party for the offices of presidential electors.
 2. ~~b.~~ b. Elect the required number of delegates and alternates to the national party convention ~~as provided by the party's bylaws or national party rules.~~
 3. ~~Conduct other business as shall come before the convention.~~
 - c. Endorse candidates as provided under subsection 2.

⁶² Section 16.1-03-14 was also amended by section 5 of Senate Bill No. 2374, chapter 176.

2. The candidate or candidates for endorsement or election must be declared endorsed or elected pursuant to under the rules of the party involved, and the chairman and secretary of the convention shall issue certificates of endorsement as provided in section 16.1-11-06 or certificates of election. The names of the candidates qualified electors nominated for presidential electors with the surname of the presidential candidate the party wishes to place on the general election ballot must be certified by the chairman and secretary of the convention to the secretary of state by four p.m. on the sixtieth day before the general election to be placed upon the general election ballot as provided in section 16.1-06-07.1.

SECTION 10. AMENDMENT. Section 16.1-03-17 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-17. Political party reorganization after apportionmentredistricting.

If apportionmentredistricting of the legislative assembly becomes effective after the organization of political parties as provided in this chapter and before the primary or the general election, the ~~secretary of state shall establish a timetable for the reorganization of the parties as rapidly as possible before the ensuing election. When the timetable is established, the secretary of state shall notify all the county auditors of the timetable and of the details of the legislative apportionment as it affects each county. The secretary of state or county auditor may not require reorganization of precincts in which boundaries are unchanged after apportionment by the board of county commissioners or the governing body of the city pursuant to chapter 16.1-04. Each county auditor shall publish a notice in the official county newspaper containing:~~

1. A statement that legislative apportionment has occurred.
2. A description and a map of the new legislative districts and the precincts as established by the governing bodies of the counties and cities in the county, pursuant to section 16.1-04-01.
3. The date, time, and places of the precinct caucuses and district committee meetings determined by the secretary of state and the county auditor to be necessary according to the new districts and precincts established.

The political parties, in the newly established precincts and districts, shall then proceed to reorganize as closely as possible in conformance with this chapter and in conformance with the timetable established by the secretary of state to assure compliance with primary election filing deadlines.

SECTION 11. AMENDMENT. Section 16.1-04-01 of the North Dakota Century Code is amended and reenacted as follows:

16.1-04-01. Precincts - Duties and responsibilities of the board of county commissioners or the governing body of the city.

1. The board of county commissioners of each county:
 4. a. Shall divide the county into precincts and establish the precinct boundaries, except that within the boundaries of any incorporated city, the governing body of the city shall divide the city into precincts and establish their boundaries pursuant to title 40. Any number of townships or parts of townships may be joined into a single precinct provided that no precinct may encompass more than one legislative district.

2. b. May alter the number and size of precincts within the county by combining or dividing precincts. However, the governing body of any incorporated city has the authority to alter the number and size of precincts located within its boundaries. The board of county commissioners may relinquish the jurisdiction provided under ~~subsection 1~~ subdivision a over all or any portion of a township or townships under its jurisdiction to a city for the purpose of establishing a voting precinct if a majority of the governing body of the city agrees to assume such jurisdiction. The governing body of a city, by majority vote, may return jurisdiction granted herein to the county and the county shall accept that jurisdiction.
2. When establishing precincts under subsection 1, a board of county commissioners, in cooperation with the county auditor, or a city governing body shall consult with and seek input regarding the size, number, and proposed boundaries of the precincts from representatives of the political parties organized within the county. Upon the request of the district chairman of a political party, a board of county commissioners, in consultation with the county auditor, or the governing body of a city shall consider proposals to change precinct boundaries.

SECTION 12. AMENDMENT. Section 16.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-06-04. Form and quality of ballots generally.

All official ballots prepared under this title must:

1. Be printed on uniform quality and color of paper in an ink color suitable to make the ballot clearly legible and compatible with the electronic voting system requirements necessary to tabulate the votes.
2. Be of sufficient length to contain the names of all candidates to be voted for at that election.
3. Have the language "Vote for no more than _____ name (or names)" placed immediately under the name of each office.
4. Have printed thereon "To vote for the candidate of your choice, you must darken the oval ~~opposite~~ next to the name of ~~the~~ that candidate. To vote for a person whose name is not printed on the ballot, you must darken the oval next to the blank line provided and write that person's name ~~in~~ on the blank space ~~provided for that purpose and darken the oval opposite the space provided~~ line."
5. Leave sufficient space for each office to write a name, or names, as the case may be, in lieu of those printed on the ballot.
6. Immediately preceding and on the same line as the name of each candidate must be printed an oval in which the voter is to mark the voter's choice by darkening the oval next to the name of the candidate chosen.
7. Provide ~~two text boxes in~~ at the bottom ~~right-hand corner of the first side of the~~ first side of the ballot. The first text box at the bottom of the first column is to contain the words "All ballots, other than those used to vote absentee, must first be ~~initialed by appropriate election officials in order to be counted~~ Official Ballot, the name of the county, the name or number of the precinct, and the date of

~~the election." The second text box is to contain the words "Official Ballot~~
~~ballots, other than those used to vote absentee, must first be initialed by~~
~~appropriate election officials in order to be counted", the name of the county,~~
~~the name or number of the precinct, the date of the election, and. The text box~~
~~at the bottom of the third column is to contain the word "initials"~~
~~preceding~~preceded by a blank line where the judge or inspector shall initial the ballot.

All ballots, other than those used to vote absentee, must first be initialed by appropriate election officials in order to be counted	_____ Official Ballot _____ County _____ Precinct _____ (Date of the Election) Initials _____
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Any precinct that uses an electronic counting machine may require the use of a particular writing instrument to mark the ballot so the ballots may be properly counted.

The ballot must contain the names of all candidates, the contents of measures as required by section 16.1-06-09, and the statements of questions to be submitted to the voters. The ballot must be arranged in a manner and form approximating as far as possible the requirements of this section.

SECTION 13. AMENDMENT. Section 16.1-11-22 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only one political party.

At the primary election there may be only one ballot for all parties or principles. The ballot must be in the following form:

1. The ballot must be entitled the "consolidated primary election ballot".
2. Each political party or principle having candidates at the primary election must have a separate ~~column~~section on the ballot.
3. At the head of each column must be printed the name of the political party or principle which it represents.
4. ~~In each column below~~Spanning the columns containing the political party ballot and prior to the party names or principle titles must be printed: ~~You~~In a Political Party Primary Election, you may only vote for the candidates of only one political party at the primary election. This ballot contains the number of political parties or principles and a description of where the political parties or principles are to be found in the columns below. If you cast votes~~vote~~ in more than one party column and vote for candidates of more than one political party~~political party's section, your political party ballot~~Political Party Ballot will be rejected; however, all votes on the No Party and Measure Ballots will still be counted."
5. Immediately below the warning against voting for candidates of more than one political party must be printed: "To vote for the candidate of your choice, you must darken the oval ~~opposite~~next to the name of ~~the~~that candidate. To vote for a person whose name is not printed on the ballot, you must darken the oval next to the blank line provided and write that person's name in on the

blank space provided for that purpose and darken the oval opposite the space provided line."

6. The offices specified in section 16.1-11-26 must be arranged in each columnsection with the name of each office in the center of each political party columnsection at the head of the names of all the aspirants for the office.
7. Immediately under the name of each office must be printed: "Vote for no more than _____ name (or names)."
8. Immediately preceding and on the same line as the name of each aspirant must be printed an oval in which the voter is to mark the voter's choice by darkening the oval next to the name of the candidate chosen.
9. The political party or principle which cast the largest vote for governor at the most recent primary election at which the office of governor was voted upon must have the ~~left-hand column~~first section, and the political party or principle casting the next largest vote must have the ~~next column~~second section, and so on.

The judges and the inspector of elections shall inform each elector at the primary, before voting, that if the voter votes for candidates of more than one political party the voter's political party ballot will be rejected.

⁶³ **SECTION 14. AMENDMENT.** Section 16.1-11-30 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-30. Separate columnsection on primary election ballot required for each political party.

Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election; any party that had printed on the ballot at the last preceding nonpresidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election; or any party that has organized according to all the requirements of chapter 16.1-03 must be provided with a separate columnsection on primary election ballots.

Any other political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a ~~consolidated column or on a special~~separate section of the consolidated primary election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixtieth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a ~~consolidated column.~~separate section. Political organizations that are granted ballot access under this section are allowed ballot access only for those offices for which the organization has identified candidates. Regardless of the means by which the petition is mailed, delivered, the original must be in the possession of

⁶³ Section 16.1-11-30 was also amended by section 14 of Senate Bill No. 2374, chapter 176.

the secretary of state before four p.m. on the sixtieth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election, and any political organization that has printed on the ballot at the last preceding nonpresidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election are entitled to organize according to the requirements of chapter 16.1-03.

⁶⁴ **SECTION 15. AMENDMENT.** Section 16.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02. Certificates of nomination by petition - Form and contents.

Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. Except for nominees for president of the United States, names of nominees so nominated must appear on the ballot as independent nominations. The names of nominees for president of the United States may appear on the ballot with a designation, not to exceed five words, that names the organization or political party to which the presidential candidate affiliates. The designation may not falsely indicate an affiliation with or the support of any political party organized in accordance with this title or include any substantive word or phrase that is profane or that is already included in or resembles the name of a political party entitled to a separate column under section 16.1-11-30. Except for candidates for the office of president of the United States, each certificate of nomination by petition must meet the specifications for nominating petitions set forth in section 16.1-11-16. A political party or organization desiring to submit to the secretary of state the name of a qualified candidate for the office of the president of the United States may begin gathering the signatures for the certificate of nomination on the first day of January of a presidential election year and shall submit the petition to the secretary of state before four p.m. on the sixtieth day before the general election. The signatures on the petition must be in the following number:

1. Except as provided in subsection 3, if the nomination is for an office to be filled by the qualified electors of the entire state, there must be no fewer than one thousand signatures.
2. If the nomination is for an office to be filled by the qualified electors of a district less than the entire state, the number of signatures must be at least two percent of the resident population of the district as determined by the most recent federal decennial census, but in no case may more than three hundred signatures be required.
3. If the nomination is for the office of president, there must be no fewer than four thousand signatures and the petition must contain the names of the

⁶⁴ Section 16.1-12-02 was also amended by section 15 of Senate Bill No. 2374, chapter 176.

presidential and vice presidential candidates along with the names of the North Dakota presidential electors selected from the qualified electors of North Dakota.

4. If the petition is for the office of governor or lieutenant governor, it must contain the names and other required information of candidates for both those offices.

⁶⁵ **SECTION 16. REPEAL.** Sections 16.1-03-12 and 16.1-03-19 of the North Dakota Century Code are repealed.

Approved May 2, 2013
Filed May 2, 2013

⁶⁵ Section 16.1-03-12 was amended by section 4 of Senate Bill No. 2374, chapter 176.

CHAPTER 169

HOUSE BILL NO. 1361

(Representatives Klemin, Kretschmar, Maragos, Muscha)
(Senators Hogue, Triplett)

AN ACT to amend and reenact sections 15.1-09-13, 16.1-04-02, 16.1-07-09, 16.1-07-10, 16.1-07-11, 16.1-07-12, and 21-03-11, subsection 4 of section 40-21-02, and section 40-21-16 of the North Dakota Century Code, relating to election precincts and voting places.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-13. Election precincts - Polling places - Election officials.

1. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible.
2. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more polling places for ~~the election~~each precinct. The board shall locate the polling places as conveniently as possible for the voters in the precinct. Once established by the board, a polling place must remain ~~the~~a polling place for a precinct until it is changed by subsequent action of the board.
3. For school board elections not held in conjunction with county elections, the board shall appoint two election judges and two election clerks for each ~~precinct~~polling place. Before opening the polls, the judges and clerks shall take an affirmation or oath to perform their duties according to law and to the best of their ability. The affirmation or oath may be administered by any officer authorized to administer oaths or by any of the judges or clerks.
4. For school board elections held in conjunction with county elections, the county election boards shall administer the election in the same manner as the county or state election.

SECTION 2. AMENDMENT. Section 16.1-04-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-04-02. Voting places - Duties and responsibilities of the board of county commissioners or the governing body of the city.

The board of county commissioners of each county:

1. Shall designate ~~a one or more~~ one or more voting ~~place~~places for each precinct and may alter the voting places when there is a good and sufficient reason. However, the voting places for precincts located within the boundaries of any

incorporated city must be designated, and altered if required, by the governing body of the city.

2. Shall provide that all voting places are accessible to the elderly and the physically disabled.
3. May utilize vote centers that contain all of the precincts in a county so that any qualified elector of the county may choose to cast a ballot in that polling location. Qualified electors may vote early at early voting precincts, by absentee ballot, at the polling location of their residential precinct, or at a county vote center. Vote center polling places must serve as the designated polling place for at least one precinct in the county in addition to serving as the site where any county voter may cast a ballot. An individual voting or attempting to vote more than once in any single election is guilty of a class A misdemeanor.

SECTION 3. AMENDMENT. Section 16.1-07-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-09. Canvassing of mailed absent voter's ballots received late.

In the case of congressional, state, county, city, or school district elections, if an envelope postmarked or otherwise officially marked by the United States postal service or other mail delivery system before the date of election and containing an absent voter's ballot is received by the officer too late to be forwarded to a polling place of the proper voting precinct in time to be tabulated, the ballot must be tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at the time the returns are canvassed. Any envelope without a postmark or other official marking by the United States postal service or other mail delivery system or with an illegible postmark or other official marking and containing an absentee voter's ballot must be received by mail by the proper officer prior to the meeting of the canvassing board. An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day before the election. Any envelope containing an absent voter's ballot with a postmark or official date stamp on the day of election or thereafter may not be tallied with the ballots timely submitted for the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding the ballot shall print the date of receipt on the envelope. Upon receipt, the canvassing board shall determine that the elector was qualified to vote in that precinct, that the elector did not previously vote in that precinct on the date of the election, and that the signatures on the absentee ballot application and the voter's affidavit were signed by the same person before allowing the ballot to be tallied.

SECTION 4. 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.

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. 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 5. AMENDMENT. Section 16.1-07-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-11. Submitting ballot to inspector of elections.

If the envelope containing the absent voter's ballot is received by the county auditor, auditor or clerk of the city, or business manager of the school district, as the case may be, prior to that person's individual's delivery of the sealed package containing the official ballots to the inspector of elections of a polling place of the precinct in which such the absent voter resides, such the ballot, after having been enclosed with the application in an envelope as required by section 16.1-07-10, must be enclosed in such the package and delivered therewith to the inspector of the precinct polling place. If the official ballots for the precinct have been delivered to the election inspector at the time of receipt by the proper officer of the absent voter's ballot, ~~then~~ the officer or the officer's designee shall personally deliver it to the inspector prior to the close of the polls on election day. Any absent voter's ballot sent to the wrong precinct polling place by the official whose duty it is to forward such the ballots to the precincts, or any absent voter's ballot received by the inspector from the appropriate officer too late to be counted at the precinct polling place, must be returned to the official by the election inspector, and must be tallied by the county canvassing board, the governing body of the city, or the school board, as the case may be, with other absent voters' ballots received too late to be counted on election day.

SECTION 6. AMENDMENT. Section 16.1-07-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-12. Opening ballot - Voting or rejecting - Depositing in ballot box - Preserving.

At any time beginning on the day before election day and the closing of the polls on election day, the election clerks and board members of the relevant precinct polling place first shall compare the signature on the application for an absent voter's ballot with the signature on the voter's affidavit provided for in section 16.1-07-08 to ensure the signatures correspond. If the applicant is then a duly qualified elector of the precinct and has not voted at the election, they shall open the absent voter's envelope in a manner as not to destroy the affidavit thereon. They shall take out the secrecy envelope with the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined and indicate in the pollbook of the election that the elector has voted. The election board members not participating in the comparing of signatures and entering voters into the pollbook shall remove the ballot or ballots from the secrecy envelope, unfold and initial the same, and deposit in the proper ballot box for tabulation. The votes from these cast ballots may not be tallied and the tabulation reports may not be generated until the polls have closed on election day. If the affidavit on the outer envelope of a returned absentee ballot is found to be insufficient, or that the signatures on the application and affidavit do not correspond, or that the applicant is not then a duly qualified elector of the precinct, the vote may not be allowed, but without opening the absent voter's envelope, the election inspector or election judge shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be. These rejected ballots are then turned over to the county canvassing board for final determination of eligibility. The subsequent death of an absentee voter after having voted by absentee ballot does not constitute grounds for rejecting the ballot.

SECTION 7. AMENDMENT. Section 21-03-11 of the North Dakota Century Code is amended and reenacted as follows:

21-03-11. Elections - When and how called and held.

Upon or after the adoption of an initial resolution by the governing body, or at the first meeting of the governing body held after the filing of a petition and proposed initial resolution by the qualified electors as specified in subsection 2 of section 21-03-10, the governing body by resolution shall provide for submitting to the qualified electors of the municipality the question whether ~~such~~the initial resolution shall be approved. The date of ~~such~~the election must be not less than twenty days after the passage of ~~such~~the initial resolution by the governing body or in the filing of a sufficient petition therefor by the qualified electors. The governing body shall designate the date of ~~such~~the election, the polling hours, and polling place ~~thereof~~, which must be the same as for municipal elections therein, and shall appoint an inspector, two judges, and two clerks of election for each polling place. In case of the absence of any ~~such~~election official ~~of election~~, or the official's inability to act at the opening of the polls, the remaining election officials for the ~~precinct~~polling place shall appoint a qualified elector to fill ~~such~~the vacancy. ~~Such~~The election must be conducted and the returns thereof made and canvassed as in the case of elections of members of the governing body of ~~such~~the municipality.

⁶⁶ **SECTION 8. AMENDMENT.** Subsection 4 of section 40-21-02 of the North Dakota Century Code is amended and reenacted as follows:

4. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector and two judges of election for each ~~precinct~~polling place in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, the governing body may appoint two election clerks ~~may be appointed by the governing body for each polling place~~. For a city election that is not held under an agreement with any county in a precinct in which seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge for each polling place.

SECTION 9. AMENDMENT. Section 40-21-16 of the North Dakota Century Code is amended and reenacted as follows:

40-21-16. Special elections conducted in same manner as general elections.

Special municipal elections to fill vacancies or for any other purpose ~~shall~~must be held and conducted by the inspectors and judges of election of the several ~~precincts~~polling places in the same manner and the returns ~~shall~~must be made in the same form and manner as at regular municipal elections.

Approved April 12, 2013

Filed April 12, 2013

⁶⁶ Section 40-21-02 was also amended by section 21 of Senate Bill No. 2374, chapter 176.

CHAPTER 170

SENATE BILL NO. 2347

(Senators Schaible, Dever, Sorvaag)
(Representatives Meier, Rohr)

AN ACT to create and enact a new section to chapter 16.1-07 of the North Dakota Century Code, relating to emergency authority of the secretary of state for the administration of elections.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

Emergency procedures to facilitate absentee voting.

If an international, national, state, or local disaster or emergency or other situation arises which makes substantial compliance with the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff et seq.] impossible or impracticable, as confirmed by the existence of armed conflict involving the armed forces of the United States or the mobilization of those forces, including national guard and reserve component members of this state, by the occurrence of a natural disaster or the existence of a state of emergency, civil unrest, war, or other exigency in a foreign country, or by an official declaration by the governor that a state of disaster or emergency exists, the secretary of state may prescribe special procedures or requirements as may be necessary to facilitate absentee voting by those absent uniformed services voters or overseas voters directly affected and who are eligible to vote in this state.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 171

SENATE BILL NO. 2255

(Senators Dever, Dotzenrod, Hogue)
(Representatives J. Nelson, M. Nelson, Thoreson)

AN ACT to amend and reenact section 16.1-08.1-01 and subsection 2 of section 16.1-08.1-03.3 of the North Dakota Century Code, relating to campaign contributions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁷ **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.
- 2.3. "Candidate" means an individual who seeks nomination for election or election to public office, and includes:
 - a. A person holding public office;
 - b. A person who has publicly declared that person's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;
 - c. A person who has formed a campaign or other committee for that person's candidacy for public office;

⁶⁷ Section 16.1-08.1-01 was also amended by section 1 of Senate Bill No. 2299, chapter 172.

- d. A person who has circulated a nominating petition to have that person's name placed on the ballot; and
 - e. A person who has, in any manner, solicited or received a contribution for that person's candidacy for public office, whether before or after the election for that office.
- 3-4. "Contribution" means a gift, a transfer, a conveyance, a provision, a receipt, a subscription, a loan, an advance, a 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, a promise, or an 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. 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.
- 4-5. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code, and for purposes of this chapter "corporations" includes nonprofit corporations.
- 5-6. "Direct expenditure" means an expenditure made by a corporation, a cooperative corporation, a limited liability company, or an association for the specific purpose of promoting passage or defeat of an initiated or a referred measure without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of a measure committee.
- 6-7. "Expenditure" means a gift, a transfer, a conveyance, a provision, a loan, an advance, a payment, a distribution, a disbursement, an outlay, or a 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 the direct purpose of influencing the passage or defeat of a measure or the nomination

for election, or election, of any individual to office. The term also means a contract, a promise, or an agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the transfer of funds by a political committee to another political committee.

- 7-8. "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.
- 8-9. "Person" means an individual, a partnership, a political committee, an association, a corporation, a cooperative corporation, a limited liability company, or other organization or group of persons.
- 9-10. "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, a cooperative corporation, a limited liability company, or an association that is prohibited from making direct contributions for political purposes under section 16.1-08.1-03.3, 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. An organization governed by section 527 of the Internal Revenue Code [26 U.S.C. 527], 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; and
 - 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.
- 40-11. "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.
- 44-12. "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.

42-13. "Public office" means every office to which persons can be elected by vote of the people under the laws of this state.

14. "Subsidiary" means an affiliate of a corporation under the control of the corporation directly or indirectly through one or more intermediaries.

⁶⁸ **SECTION 2. AMENDMENT.** Subsection 2 of section 16.1-08.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

2. This section does not prohibit the establishment, administration, and solicitation of contributions to a separate and segregated fund to be utilized for political purposes by a corporation, a cooperative corporation, a limited liability company, or an association. It is unlawful for:
 - a. The person or persons controlling the fund to make contributions or expenditures utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of them; or utilize money from dues, fees, treasury funds, or other money required as a condition of membership in an association, or as a condition of employment; or utilize money obtained in any commercial transaction. Moneys from fees, dues, treasury funds, or money obtained in a commercial transaction may, however, be used to pay costs of administration of the fund.
 - b. Any person soliciting an employee, a stockholder, a patron, a board member, or a member for a contribution to the fund to fail to inform the employee or member of the political purposes of the fund at the time of the solicitation or of the general political philosophy intended to be advanced through committee activities.
 - c. Any person soliciting an employee or a member for a contribution to the fund to fail to inform the employee or member at the time of the solicitation of the right to refuse to contribute without any reprisal.
 - d. Any contribution to be accepted without keeping an accurate record of the contributor and amount contributed and of amounts expended for political purposes.
 - e. Any contribution to be accepted from any person who is not an employee, a stockholder, a patron, a board member or a member of the corporation, cooperative corporation, limited liability company, or association maintaining the political action committee, except a corporation may accept a contribution from an employee, a stockholder, a patron, a board member, or a member of an affiliate or a subsidiary of the corporation.
 - f. Any expenditure made for political purposes to be reported under this section before control of the expenditure has been released by the political action committee except if there is a contract, a promise, or an agreement, expressed or implied, to make such expenditure.

Approved April 19, 2013
Filed April 19, 2013

⁶⁸ Section 16.1-08.1-03.3 was also amended by section 6 of Senate Bill No. 2299, chapter 172.

CHAPTER 172

SENATE BILL NO. 2299

(Senators Luick, Nelson, Wardner)
(Representatives Karls, Paur, Thoreson)

AN ACT to create and enact section 16.1-08.1-03.13 of the North Dakota Century Code, relating to campaign contribution statements required of initiated petition sponsoring committees; to amend and reenact section 16.1-08.1-01, subsection 3 of section 16.1-08.1-02, subsection 2 of section 16.1-08.1-03, sections 16.1-08.1-03.1, 16.1-08.1-03.2, 16.1-08.1-03.3, 16.1-08.1-03.5, and 16.1-08.1-03.7, subsection 3 of section 16.1-08.1-03.8, subsection 2 of section 16.1-08.1-03.9, subsection 2 of section 16.1-08.1-03.10, subsection 2 of section 16.1-08.1-03.11, and sections 16.1-08.1-03.12, 16.1-08.1-04, 16.1-08.1-05, 16.1-08.1-06, 16.1-08.1-06.1, and 16.1-08.1-07 of the North Dakota Century Code, relating to campaign finance; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁶⁹ **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. "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.
2. "Candidate" means an individual who seeks nomination for election or election to public office, and includes:
 - a. ~~A person~~An individual holding public office;
 - b. ~~A person~~An individual who has publicly declared that ~~person's~~individual's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;
 - c. ~~A person~~An individual who has formed a campaign or other committee for that ~~person's~~individual's candidacy for public office;

⁶⁹ Section 16.1-08.1-01 was also amended by section 1 of Senate Bill No. 2255, chapter 171.

- d. ~~A person~~An individual who has circulated a nominating petition to have that ~~person's~~individual's name placed on the ballot; and
 - e. ~~A person~~An individual who has, in any manner, solicited or received a contribution for that ~~person's~~individual's candidacy for public office, whether before or after the election for that office.
3. "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. 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.
4. "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.
5. ~~"Direct expenditure" means an expenditure made by a corporation, cooperative corporation, limited liability company, or association for the specific purpose of promoting passage or defeat of an initiated or referred measure without the express or implied consent, authorization, or cooperation~~

of, and not in concert with or at the request or suggestion of a measure committee.

6. "Expenditure" means a:

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 direct purpose of influencing the passage or defeat of a measure or the nomination for election, or election, of any individual to office. The term also means a

b. A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the

c. The transfer of funds by a political committee to another political committee.

d. An independent expenditure.

7-6. "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.

7. "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.

8. "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.

8-9. "Person" means an individual, partnership, political committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.

9-10. "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 ~~direct contributions~~ a contribution for political purposes under section ~~16-1-08.1-03-316.1-08.1-03.5~~, 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. ~~An~~ political organization governed by ~~section 527 of~~ the Internal Revenue Code [~~26 U.S.C. 527~~] 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; and
- 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.

40-11. "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.

44-12. "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.

42-13. "Public office" means every office to which ~~persons~~ an individual can be elected by vote of the people under the laws of this state.

SECTION 2. AMENDMENT. Subsection 3 of section 16.1-08.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. The candidate committee, or candidate for statewide office who does not have a candidate committee, and any candidate for legislative office shall file the statement in the office of the secretary of state no later than the ~~twelfth~~ 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 complete from the beginning of that calendar year through the ~~twentieth~~ fortieth day before the date of the election. Every candidate committee, or candidate for statewide office who does not have a candidate committee, and every candidate for legislative office shall file a complete statement for each calendar year no later than the thirty-first day of January of the following year, regardless of whether the candidate sought election during that calendar year.

SECTION 3. AMENDMENT. Subsection 2 of section 16.1-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

2. A year-end statement covering the entire calendar year must be filed with the secretary of state no later than the thirty-first day of January of the following year. A preelection statement must be filed no later than the ~~twelfth~~thirty-second day before any election at which the party has endorsed or will nominate a candidate and must be complete from the beginning of that calendar year through the ~~twentieth~~fortieth day before the election.

⁷⁰ **SECTION 4. 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.

1. ~~At the time the sponsoring committee for an initiated measure petition submits signed petitions to the secretary of state, the committee also shall submit a statement disclosing the total amount of contributions received by the committee to aid the committee in drafting and circulating the petition, the name and mailing address of each person that contributed more than one hundred dollars in the aggregate to the sponsoring committee, the date each such contribution was received, and the total amount of expenditures made by the committee to aid in the drafting and circulation of the petition.~~
2. 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.
- ~~3.~~2. A person or measure committee 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 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

⁷⁰ Section 16.1-08.1-03.1 was also amended by section 1 of House Bill No. 1451, chapter 174.

shall include this statement with the contribution statement required to be filed under subsection 21.

4-3. The statement required of a person or measure committee under subsection 21 must be filed with the secretary of state no later than the ~~twelfth~~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 ~~twentieth~~fortieth day before the date of the election. A complete statement for the entire calendar year for each statement required to be filed under ~~subsections 2 and 3~~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 ~~subsections 2 and 3~~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.

SECTION 5. 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 registration.

A statewide, judicial, or legislative candidate or political committee as defined in section 16.1-08.1-01 shall register its name, and address, and its agent's name and address, 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 in which it receives any contribution. The registration must be completed within fifteen business days of the receipt of any contribution or expenditure made and must be submitted with a registration fee of twenty-five dollars. 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. 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. Registration under this section does not reserve the name for exclusive use nor does it constitute registration of a trade name under chapter 47-25.

⁷¹ **SECTION 6. AMENDMENT.** Section 16.1-08.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

⁷¹ Section 16.1-08.1-03.3 was also amended by section 2 of Senate Bill No. 2255, chapter 171.

16.1-08.1-03.3. Campaign contributions by corporations, cooperative corporations, limited liability companies, and associations prohibited - Violation - Penalty - Political action committees authorized.

1. ~~A corporation, cooperative corporation, limited liability company, or association may not make a direct contribution:~~
 - a. ~~To aid any political party, political committee, or organization except that a direct contribution may be made to a measure committee as provided in section 16.1-08.1-03.5.~~
 - b. ~~To aid any corporation, limited liability company, or association organized or maintained for political purposes as defined in this chapter.~~
 - c. ~~To aid any candidate for public office or for nomination to public office.~~
 - d. ~~For any political purpose or the reimbursement or indemnification of any person for money or property so used.~~
 - e. ~~For the influencing of any measure before the legislative assembly, except in accordance with chapter 54-05.1.~~
2. ~~This section does not prohibit the establishment, administration, and solicitation of~~A corporation, cooperative corporation, limited liability company, or association may establish, administer, and solicit contributions to a separate and segregated fund to be utilized for political purposes by a corporation, cooperative corporation, limited liability company, or association. It is unlawful for:
 - a. The person or persons controlling the fund to make contributions or expenditures utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of them; or utilize money from dues, fees, treasury funds, or other money required as a condition of membership in an association, or as a condition of employment; or utilize money obtained in any commercial transaction. Moneys from fees, dues, treasury funds, or money obtained in a commercial transaction may, however, be used to pay costs of administration of the fund.
 - b. Any person soliciting an employee, stockholder, patron, or member for a contribution to the fund to fail to inform the employee or member of the political purposes of the fund at the time of the solicitation or of the general political philosophy intended to be advanced through committee activities.
 - c. Any person soliciting an employee or member for a contribution to the fund to fail to inform the employee or member at the time of the solicitation of the right to refuse to contribute without any reprisal.
 - d. Any contribution to be accepted without keeping an accurate record of the contributor and amount contributed and of amounts expended for political purposes.
 - e. Any contribution to be accepted from any person who is not an employee, stockholder, patron, or member of the corporation, cooperative

corporation, limited liability company, or association maintaining the political action committee.

- f. Any expenditure made for political purposes to be reported under this section before control of the expenditure has been released by the political action committee except if there is a contract, promise, or agreement, expressed or implied, to make such expenditure.
- 3-2. All political action committees, as described in section 16.1-08.1-01, formed for the purpose of administering the segregated fund provided for in this section shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the reporting period and a listing of all expenditures of an amount in excess of two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date it was received and the amount of each reportable expenditure and the date it was made. A year-end statement covering the entire calendar year must be filed no later than the thirty-first day of January of the following year. A preelection statement must be filed no later than the ~~twelfth~~thirty-second day before any primary, special, or general election and must be complete from the beginning of the calendar year through the ~~twentieth~~fortieth day before the election. Even if a political action committee has not received any contributions or made any expenditures in excess of two hundred dollars during the reporting period, the political action committee 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 two hundred dollars;
 - b. The gross total of all contributions received and expenditures made of two hundred dollars, or less; and
 - c. The cash on hand in the filer's account at the start and close of the reporting period.
- 4-3. A political action committee shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, who contributed five thousand dollars or more in the aggregate during the reporting period.
- 5-4. A person may not make a payment of that person's money or of another person's money to any other person for a political purpose in any name other than that of the person who supplies the money and a person may not knowingly receive the payment nor enter nor cause the payment to be entered in that person's account or record in any name other than that of the person by whom it actually was furnished.
- 6-5. If an officer, employee, agent, attorney, or other representative of a corporation, cooperative corporation, limited liability company, or association makes any contribution prohibited by this section out of corporate, cooperative corporation, limited liability company, or association funds or otherwise violates this section, it is prima facie evidence of a violation by the corporation, cooperative corporation, limited liability company, or association.

- ~~7-6.~~ A violation of this section may be prosecuted in the county where the contribution is made or in any county in which it has been paid or distributed.
- ~~8-7.~~ It is a class A misdemeanor for an officer, director, stockholder, manager, governor, member, attorney, agent, or representative of any corporation, cooperative corporation, limited liability company, or association to violate this section or to counsel or consent to any violation. Any person who solicits or knowingly receives any contribution in violation of this section is guilty of a class A misdemeanor.
- ~~9-8.~~ Any officer, director, stockholder, manager, governor, member, attorney, agent, or representative who makes, counsels, or consents to the making of a contribution in violation of this section is liable to the company, corporation, limited liability company, or association for the amount so contributed.

SECTION 7. AMENDMENT. Section 16.1-08.1-03.5 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.5. Allowable ~~corporate~~Corporate contributions and expenditures - Report required.

1. ~~Corporations, cooperative corporations, limited liability companies, and associations may make contributions to a measure committee, as described in section 16.1-08.1-01, for the purpose of promoting passage or defeat of initiated or referred measures. Corporations, cooperative corporations, limited liability companies, and associations may make expenditures and contributions for promoting any general political philosophy or belief deemed in the best interest of the employees, stockholders, patrons, or members of the corporation, cooperative corporation, limited liability company, or association other than a "political purpose" as defined by this chapter. A corporation, cooperative corporation, limited liability company, or association may not make a contribution for a political purpose.~~
2. A corporation, cooperative corporation, limited liability company, or association may make a donation of property or money to a state political party or nonprofit entity affiliated with or under the control of a state political party for deposit in a separate and segregated fund. Money in the fund must be used exclusively by the state political party or nonprofit entity affiliated with or under the control of a state political party for purchasing, maintaining, or renovating a building and for the purchase of fixtures for the building. A state political party or nonprofit entity affiliated with or under the control of a state political party receiving a donation under this subsection shall file a statement with the secretary of state no later than the thirty-first day of January of each calendar year. The statement must include the name and mailing address of each donor, the amount of each donation, the date each donation was received, all expenditures made from the fund during the previous calendar year, and cash on hand in the fund at the start and close of the reporting period. Any income and financial gain generated from a building purchased, maintained, or renovated from donations authorized under this subsection and not otherwise authorized by law must be deposited in the building fund and must be reported when the political party or nonprofit entity files the statement required under this subsection.
3. A corporation, cooperative corporation, limited liability company, or association may make a contribution to a measure committee for the purpose of promoting the passage or defeat of an initiated or referred measure or make a

contribution to any other person that makes an independent expenditure. A corporation, cooperative corporation, limited liability company, or association may make a direct an independent expenditure for a political purpose or for the purpose of promoting passage or defeat of initiated or referred measures. A direct expenditure. The corporation, cooperative corporation, limited liability company, or association shall file a statement must be filed disclosing a contribution or an independent 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 and telephone number of the person completing the report of the recipient of the contribution or independent expenditure;~~
- d. ~~The contribution or independent expenditure is related to a measure, the title of the measure and whether the contribution or independent expenditure is made in support of or opposition to the measure;~~
- e. ~~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 in support of or opposition to the measure which are required to be reported under this subsection;
- h. The telephone number and the printed name and signature of the person individual completing the report, attesting to the report being true, complete, and correct; and
- i. The date on which the report was signed.

SECTION 8. AMENDMENT. Section 16.1-08.1-03.7 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.7. Political committees that organize and register according to federal law that make independent expenditures or disbursements to nonfederal candidates, political parties, and political committees.

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 or to a political party or political committee in this state shall file a copy of that portion of the committee's federal report detailing the independent expenditure or the disbursement made ~~to the candidate~~. The political committee shall file a copy of the committee's federal report with the secretary of state at the time of filing the report with the applicable federal agency. The report must include:

1. The name, mailing address, and treasurer of the political committee;
2. The recipient's name and mailing address; and
3. The date and amount of the independent expenditure or disbursement made.

SECTION 9. AMENDMENT. Subsection 3 of section 16.1-08.1-03.8 of the North Dakota Century Code is amended and reenacted as follows:

3. A multicandidate political committee required to file a statement under this section shall file the statement in the office of the secretary of state no later than the ~~twelfth~~thirtieth day before the date of any primary, special, or general election. The statement must be complete from the beginning of that calendar year through the ~~twentieth~~fortieth day before the date of the primary, special, or general election. The political committee shall file a complete statement for the entire calendar year no later than the thirty-first day of January of the following year in which the political committee received a reportable contribution.

SECTION 10. AMENDMENT. Subsection 2 of section 16.1-08.1-03.9 of the North Dakota Century Code is amended and reenacted as follows:

2. A candidate or a candidate committee described in this section shall file a statement with the secretary of state no later than the ~~twelfth~~thirtieth 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 ~~twentieth~~fortieth day before the date of the election.

SECTION 11. AMENDMENT. Subsection 2 of section 16.1-08.1-03.10 of the North Dakota Century Code is amended and reenacted as follows:

2. A candidate or a candidate committee described in this section shall file a statement with the county auditor no later than the ~~twelfth~~thirtieth 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 ~~twentieth~~fortieth day before the date of the election.

SECTION 12. AMENDMENT. Subsection 2 of section 16.1-08.1-03.11 of the North Dakota Century Code is amended and reenacted as follows:

2. A candidate or a candidate committee described in this section shall file a statement with the city auditor no later than the ~~twelfth~~thirtieth day before the date of any 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 ~~twentieth~~fortieth day before the date of the election.

SECTION 13. AMENDMENT. Section 16.1-08.1-03.12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-03.12. Contribution statements of political organizations incidental committees and other political committees.

1. An organization governed by section 527 of the Internal Revenue Code [26 U.S.C. 527], which solicits or receives contributions or makes expenditures for political purposes, shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the reporting period and a listing of all expenditures of an amount in excess of two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date the contribution was received. The statement must also include the amount of each reportable expenditure and the date the expenditure was made.
2. A pre-election statement must be filed no later than the twelfth day before a primary, special, or general election and must be complete from the beginning of the calendar year through the twentieth day before the election.
3. A year-end statement covering the entire calendar year must be filed no later than the thirty-first day of January of the following year.
4. Even if such an organization has not received any contributions or made any expenditure in excess of two hundred dollars during the reporting period, the organization shall file a statement as required by this chapter.
5. 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 two hundred dollars;
 - b. The gross total of all contributions received and expenditures made of two hundred dollars or less; and
 - c. The cash on hand in the filer's account at the start and close of the reporting period.
6. The organization shall report the occupation, employer, and principal place of business of each person, or the political committee if not already registered according to state or federal law, that contributed five thousand dollars or more in the aggregate during the reporting period.
1. An incidental committee or political committee not otherwise covered by another section of this chapter may make a contribution to a measure committee for the purpose of promoting the passage or defeat of an initiated or referred measure or make a contribution 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. The incidental committee or political committee shall file a statement disclosing a contribution 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 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, the title of the measure and whether the contribution or independent expenditure is made in support of or opposition to the measure;
 - 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, attesting to the report being true, complete, and correct; and
 - i. The date on which the report was signed.
2. An incidental committee that solicits or accepts contributions for any political purpose shall file a statement in the office of the secretary of state no later than the thirty-second day before the date of any primary, special, or general election. The statement must be complete from the beginning of that calendar year through the fortieth day before the date of the primary, special, or general election. The committee shall file a complete statement for the entire calendar year no later than the thirty-first day of January of the following year in which the committee received a reportable contribution. Even if an incidental committee has not received any contributions in excess of two hundred dollars during the reporting period, the committee shall file a statement as required under this chapter. A statement filed under this subsection during the reporting period must show the following:
- a. The gross total of all contributions received in excess of two hundred dollars;
 - b. The name and mailing address of each contributor that contributed in excess of two hundred dollars in the aggregate to the committee during a reporting period;
 - c. The gross total of all contributions received of two hundred dollars or less;
 - d. The date the last reportable contribution was received;
 - e. The cash on hand in the filer's account at the start and close of the reporting period; and
 - f. The occupation, employer, and principal place of business of each person, 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 the reporting period.

SECTION 14. Section 16.1-08.1-03.13 of the North Dakota Century Code is created and enacted as follows:

16.1-08.1-03.13. Contribution statements required of initiated petition sponsoring committees.

1. At the time the sponsoring committee for an initiated 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 the petition.
2. At the time the sponsoring committee for an initiated petition submits signed petitions to the secretary of state, the committee also shall submit a statement disclosing the contributions received and expenditures made for the purpose of circulating 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 appeared or was to appear on the ballot. 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 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.

SECTION 15. AMENDMENT. Section 16.1-08.1-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-04. Supplemental statement required on large contributions received after original statement - Filing time.

If any candidate, political party, or political committee receives contributions in excess of five hundred dollars in the aggregate ~~in the twenty-day period before~~within the thirty-nine days immediately preceding any election from any individual contributor, that candidate, political party, political committee, or person shall make and file a supplemental statement in the same form as required by section 16.1-08.1-02, 16.1-08.1-03, 16.1-08.1-03.1, 16.1-08.1-03.3, 16.1-08.1-03.8, 16.1-08.1-03.9, 16.1-08.1-03.10, ~~or~~ 16.1-08.1-03.11, or 16.1-08.1-03.12 stating the name and street address of the contributor and the aggregated amount of the contribution and file the statement in the appropriate office within forty-eight hours of the receipt of the contribution.

SECTION 16. AMENDMENT. Section 16.1-08.1-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-05. Audit by secretary of state - Requested audits - Reports.

1. If a substantial irregularity is evident or reasonably alleged, the secretary of state may arrange an audit of any statement filed pursuant to this chapter, to be performed by a certified public accountant of the filer's choice, subject to approval by the secretary of state. If an audit of a statement arranged by the secretary of state under this subsection reveals a violation of this chapter, the candidate, political party, ~~or political committee,~~ or other person filing the statement shall pay a fine to the secretary of state equal to ~~five~~two hundred percent of the aggregate of contributions and expenditures found to be in violation or an amount sufficient to pay the cost of the audit, whichever is greater. If an audit of a statement arranged by the secretary of state under this subsection does not reveal a violation of this chapter, the cost of the audit must be paid for by the secretary of state.
2. If a substantial irregularity is reasonably alleged, the secretary of state may arrange an audit of any statement filed pursuant to this chapter, performed by a certified public accountant of the filer's choice, subject to approval by the secretary of state, upon written request by any interested party made to the secretary of state within thirty days following receipt of a statement by the secretary of state. The request must be made in writing, recite a substantial irregularity and a lawful reason for requesting an audit, and be accompanied by a bond in an amount established by the secretary of state sufficient to pay the cost of the audit. If an audit of a statement arranged by the secretary of state under this subsection reveals a violation of this chapter, the candidate, political party, or political committee filing the statement shall pay a fine to the secretary of state equal to ~~five~~two hundred percent of the aggregate of

contributions and expenditures found to be in violation or an amount sufficient to pay the cost of the audit, whichever is greater, and the bond shall be returned to the person submitting it. If an audit of a statement arranged by the secretary of state under this subsection does not reveal a violation of this chapter, the cost of the audit must be satisfied from the bond filed with the secretary of state.

3. An audit may not be made or requested of a statement for the sole reason that it was not timely filed with the secretary of state. An audit made or arranged according to this section must audit only those items required to be included in any statement, registration, or report filed with the secretary of state according to this chapter. The secretary of state may collect any payment obligation arising out of this section by civil action or by assignment to a collection agency, with any costs of collection to be added to the amount owed and to be paid by the delinquent filer. Any remaining moneys collected by the secretary of state after an audit is paid for under this section must be deposited in the state's general fund. This section does not apply to statements filed according to sections 16.1-08.1-03.10 and 16.1-08.1-03.11.

SECTION 17. 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 ~~deposited with or~~electronically delivered to the secretary of state within the prescribed time and in the format established by the secretary of state. ~~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. 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 ~~four~~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. ~~If the filing date falls on a Saturday or Sunday or a holiday on which the office of the secretary of state is closed, the statement must be filed on the next available day on which the office of the secretary of state is open.~~ 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 must be made available on the internet to the public free of charge within twenty-four hours after filing.
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 18. AMENDMENT. Section 16.1-08.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-06.1. Filing officer to charge and collect fees for late filing.

1. If a statement, ~~registration,~~ or report required to be filed according to this chapter is not filed within the prescribed time, the filing officer to whom the report was to be filed is authorized to charge and collect a late fee as follows:
 - a. Within six days after the prescribed time, twenty-five dollars;
 - b. Within eleven days after the prescribed time, fifty dollars; and
 - c. Thereafter, one hundred dollars.
2. A filing officer may require an amendment to be filed for any statement, ~~registration,~~ or report that is incorrect or incomplete. The amendment must be filed with the filing officer within ten business days after the amendment has been requested in writing. If an amendment is not filed within the prescribed time, the filing officer is authorized to charge and collect a late fee as follows:
 - a. Within six days after the date the amendment was due, fifty dollars;
 - b. Within eleven days after the date the amendment was due, one hundred dollars; and
 - c. Thereafter, two hundred dollars.
3. The filing officer may collect any payment obligation arising out of this section by civil action or by assignment to a collection agency, with any costs of collection to be added to the amount owed and to be paid by the delinquent filer.

SECTION 19. AMENDMENT. Section 16.1-08.1-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-07. Penalty.

Except as otherwise provided, any person who willfully violates any provision of this chapter is guilty of an ~~infraction~~ class A misdemeanor.

SECTION 20. EFFECTIVE DATE. Section 17 of this Act becomes effective on May 1, 2014.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 173

SENATE BILL NO. 2213

(Senators Miller, Armstrong, Axness)
(Representatives Kasper, Thoreson, Strinden)

AN ACT to amend and reenact sections 1-08-09, 16.1-10-06, and 16.1-10-06.2 of the North Dakota Century Code, relating to the restricted area around polling places for certain activities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1-08-09 of the North Dakota Century Code is amended and reenacted as follows:

1-08-09. Service of civil process on election day within boundary of an open polling location.

~~During the day on which~~ any primary, general, or special election is held in this state, or in any district, county, city, or precinct, civil process may not be served on any person entitled to vote at the election within one hundred feet [30.48 meters] from the outermost entrance leading into the building or facility in which a polling place is located and open for voting.

SECTION 2. AMENDMENT. Section 16.1-10-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-06. Electioneering on election day – Penalty within boundary of an open polling location.

~~Any person asking, soliciting~~

1. An individual may not ask, solicit, or in any manner trying to induce or persuade, any voter on an election day within a polling place or within one hundred feet [30.48 meters] from the entrance to the room containing a polling place while it is open for voting to vote or refrain from voting for any candidate or the candidates or ticket of any political party or organization, or any measure submitted to the people, is guilty of an infraction. The display upon motor vehicles of adhesive signs which are not readily removable and which promote the candidacy of any individual, any political party, or a vote upon any measure, and political advertisements promoting the candidacy of any individual, political party, or a vote upon any measure which are displayed on fixed permanent billboards, may not, however, be deemed a violation of this section.
2. A vehicle or movable sign of any type containing a political message as described in subsection 1 may be allowed to remain within the restricted area only for the period of time necessary for the owner or operator of the vehicle or sign to complete the act of voting.
3. Except as provided in subsection 1, a sign placed on private property which displays a political message may not be restricted by a political subdivision.

including a home rule city or county, unless the political subdivision demonstrates a burden to the public safety.

SECTION 3. AMENDMENT. Section 16.1-10-06.2 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-06.2. Sale or distribution at polling place.

A person may not approach a person attempting to enter a polling place, or who is in a polling place, for the purpose of selling, soliciting for sale, advertising for sale, or distributing any merchandise, product, literature, or service. A person may not approach a person attempting to enter a polling place, who is in a polling place, or who is leaving a polling place for the purpose of gathering signatures for any reason. These prohibitions apply in any polling place or within one hundred feet [30.48 meters] from any entrance leading into a polling place ~~on election day~~ while it is open for voting.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 174

HOUSE BILL NO. 1451

(Representatives Kasper, Beadle, Becker, Dosch,
Monson, Nathe, Owens, Streyle, Thoreson)
(Senators Berry, Klein, Wardner)

AN ACT to amend and reenact sections 16.1-08.1-03.1, 29-10.1-02, 29-10.1-21, and 29-10.1-22 of the North Dakota Century Code, relating to disclosure requirements for petition sponsors and the requirements for calling and the duties of a grand jury.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷² **SECTION 1. 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. At the time the sponsoring committee for an initiated measure petition submits signed petitions to the secretary of state, the committee also shall submit a statement disclosing the total amount of contributions received by the committee to aid the committee in drafting and circulating the petition, the name and mailing address of each person that contributed more than one hundred dollars in the aggregate to the sponsoring committee, the date each such contribution was received, and the total amount of expenditures made by the committee to aid in the drafting and circulation of the petition.
2. 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.
3. A person or measure committee 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 may not accept a contribution of more than one hundred dollars from an out-of-state person or political committee unless

⁷² Section 16.1-08.1-03.1 was also amended by section 4 of Senate Bill No. 2299, chapter 172.

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 2.

4. The statement required of a person or measure committee under subsection 2 must be filed with the secretary of state no later than the twelfth 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 twentieth day before the date of the election. A complete statement for the entire calendar year for each statement required to be filed under subsections 2 and 3 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 subsections 2 and 3 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.
5. 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 2. AMENDMENT. Section 29-10.1-02 of the North Dakota Century Code is amended and reenacted as follows:

29-10.1-02. When grand jury may be called.

No grand jury may be drawn, summoned, or convened in any county within this state unless the district judge thereof shall so direct by a written order filed with the clerk of the court in the county wherein the said grand jury is required to attend. Any judge of the district court for any county must direct, in the manner herein provided, that a grand jury be drawn and summoned to attend whenever:

1. The judge deems the attendance of a grand jury necessary for the due enforcement of the laws of the state;
2. The ~~board of county commissioners~~state's attorney of the county wherein the court is to be held, in writing, requests the judge so to do; or
3. A petition in writing requesting the same is presented to the judge, signed by qualified electors of the county equal in number to at least ~~twenty-five~~twenty-five percent of the total vote cast in the county for the office of governor of the state at the last general election, but the number of signatures required may not be fewer than two hundred twenty-five nor exceed five thousand.

SECTION 3. AMENDMENT. Section 29-10.1-21 of the North Dakota Century Code is amended and reenacted as follows:

29-10.1-21. General duties of grand jury.

~~The grand jury shall inquire into the cause of detention of every person imprisoned in the jail of the county against whom neither a criminal complaint nor information has been filed, or who has not had or waived a preliminary examination, and into all public offenses committed or triable in the county, and if the evidence so warrants, shall present them to the court by written indictment. Each grand jury impaneled within any county shall inquire into offenses against the criminal laws of the state alleged to have been committed within that county. The alleged offenses may be brought to the attention of the grand jury by the court or by any state's attorney or the state's attorney's designee. The state's attorney or the state's attorney's designee shall inform the grand jury of the alleged offense, the identity of the alleged offender, and the state's attorney or state's attorney's designee's action or recommendation.~~ As to any offense committed while the grand jury is in session, the state's attorney or prosecutor may proceed with a preliminary examination or the filing of an information, as provided for by law, and prosecute the charge, and, under such conditions, the grand jury is not required to inquire into such offense. The presentment of an indictment against a person does not preclude the prosecution of such person for the same offense upon a criminal complaint or information previously filed with the court.

SECTION 4. AMENDMENT. Section 29-10.1-22 of the North Dakota Century Code is amended and reenacted as follows:

29-10.1-22. Subjects of grand jury inquiry.

Whenever directed by the district court, the grand jury shall inquire into:

1. The condition and management of the public prisons in the county; and
2. Willful and corrupt felonious misconduct in office of public officials of every description in the county.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 175

SENATE BILL NO. 2318

(Senators Unruh, Cook, Dever, Heckaman)
(Representatives Heller, Rohr)

AN ACT to amend and reenact sections 16.1-11-06, 16.1-11-10, 16.1-11-11, and 16.1-11-16, subsection 5 of section 16.1-11-18, section 16.1-12-02.1, subsection 4 of section 16.1-12-02.2, subsection 2 of section 16.1-12-04, and sections 16.1-12-06 and 44-05-04 of the North Dakota Century Code, relating to candidate filing papers; and to repeal section 16.1-11-13 of the North Dakota Century Code, relating to legislative candidate filings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁷³ **SECTION 1. AMENDMENT.** Section 16.1-11-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-06. State candidate's petition or political party certificate of endorsement required to get name on ballot - Contents - Filing.

1. Every candidate for United States senator, United States representative, a state office except, including the office of state senator or state representative, and judges of the supreme and district courts shall present to the secretary of state, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixtieth day before any primary election, either:
 - a. The certificate of endorsement signed by the state chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party which the candidate represents; or
 - b. The nominating petition containing the following:
 - (1) The candidate's name, post-office address, and telephone number, and the title of the office to which the candidate aspires, the appropriate district judgeship number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
 - (2) The name of the party the candidate represents if the petition is for an office under party designation.
 - (3) The signatures of qualified electors, the number of which must be determined as follows:
 - (a) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with

⁷³ Section 16.1-11-06 was also amended by section 8 of Senate Bill No. 2374, chapter 176.

Subscribed and sworn to before me on _____, _____.

NOTARY SEAL

Notary Public

My Commission Expires _____

⁷⁴ **SECTION 3. AMENDMENT.** Section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-11. County and legislative district candidates' petitions - Filing - Contents.

Every candidate for a county or legislative district office shall present, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the sixtieth day before any primary election, to the county auditor of the county in which the candidate resides either:

1. ~~A certificate of endorsement signed by the district chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party that the candidate represents; or~~
2. A a petition containing the following:
 - a. 1. The candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, the appropriate district number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
 - b. 2. ~~The name of the party the candidate represents, only if it is a petition for an office that is under party designation.~~
 - e. The signatures of qualified electors, the number of which must be determined as follows:
 - (1) 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.
 - (2) 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.
 - (3) 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.

⁷⁴ Section 16.1-11-11 was also amended by section 9 of Senate Bill No. 2374, chapter 176.

~~(4)d.~~ If the office is a legislative office, the signatures of at least one percent of the total resident population of the legislative district as determined by the most recent federal decennial census.

(5) In no case may more than three hundred signatures be required.

~~d.3.~~ The residential address, mailing address (if different from residential address), and date of signing for each signer. A post office box does not qualify as a residential address. In those areas of the state where street addresses are not available, a description of where the residential address is located shall be used.

If the petition or certificate of endorsement is mailed, it must be in the possession of the county auditor before four p.m. on the sixtieth day before the primary election.

SECTION 4. AMENDMENT. Section 16.1-11-16 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-16. Form of nominating petitions.

1. Each nominating petition circulated by candidates for any state, district, county, or other political subdivision office must include or have attached the following information, which must be made available to each signer at the time of signing:
 - a. The candidate's name, address, and telephone number and the title of the office to which the candidate aspires, including the appropriate district number if applicable, or whether the petition is intended for an unexpired term of office if applicable.
 - b. The name of the party the candidate represents if the petition is for an office under party designation.
 - c. The date of the election at which the candidate is seeking nomination or election.
2. Only qualified electors of the state, district, county, or other political subdivision, as the case may be, may sign nominating petitions. In addition to signing the person's name, petition signers shall include the following information:
 - a. The date of signing.
 - b. Their completeComplete residential address, rural route, or general delivery. A post office box does not qualify as a residential address. In those areas of the state where street addresses are not available, a description of where the residential address is located shall be used.
 - c. Either the North Dakota city or its corresponding zip codeComplete mailing address if different from residential address.
3. Incomplete signatures or accompanying information of petition signers which do not meet the requirements of this section invalidate such signatures. The use of ditto marks to indicate that the information contained on the previous signature line carries over does not invalidate a signature. Signatures that are not accompanied by a complete date are not invalid if the signatures are

preceded and followed by a signature that is accompanied by a complete date.

⁷⁵ **SECTION 5. AMENDMENT.** Subsection 5 of section 16.1-11-18 of the North Dakota Century Code is amended and reenacted as follows:

5. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the ~~county auditor of the new nominee's county of residence~~ secretary of state. The chairman and secretary of the committee shall make and file with the ~~county auditor of the new nominee's county of residence~~ secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When the certificate is filed, the ~~county auditor of the new nominee's county of residence~~ secretary of state shall certify the new nomination to the various county auditors affected by the change and to the ~~secretary of state~~ by forwarding to them the name of the person who has been nominated to fill the vacancy in place of the original nominee. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.

SECTION 6. AMENDMENT. Section 16.1-12-02.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02.1. Applicant's name placed upon ballot - Affidavit to accompany petition.

Upon receipt by the secretary of state of the certificate of nomination provided for in section 16.1-12-02 accompanied by the following affidavit, the secretary of state shall place the applicant's name upon the general election ballot. The affidavit must be substantially as follows:

State of North Dakota)
) ss.
County of _____)

I, _____, being sworn, say that I reside at _____, in the city of _____, in the county of _____, state of North Dakota; and zip code of _____; that I am a candidate for nomination to the office of _____ to be chosen at the general election to be held on _____, _____, and I request that my name be printed upon the general election ballot as provided by law, as a candidate of _____ party for said office. I am requesting that my name be listed on the ballot as I have identified my ballot name below. I understand that nicknames are allowed as part of my ballot name, but titles and campaign slogans are not permissible. I have reviewed the requirements to hold office and I certify that I am qualified to serve if elected.

⁷⁵ Section 16.1-11-18 was also amended by section 12 of Senate Bill No. 2374, chapter 176.

Ballot name requested _____
 Date _____ Candidate's signature _____

Subscribed and sworn to before me on _____, _____.

Notary Public

NOTARY SEAL My Commission Expires _____

SECTION 7. AMENDMENT. Subsection 4 of section 16.1-12-02.2 of the North Dakota Century Code is amended and reenacted as follows:

- 4. 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 ~~election officer with whom the candidate would otherwise file to have the candidate's name placed on the ballot~~ 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.

⁷⁶ **SECTION 8. AMENDMENT.** Subsection 2 of section 16.1-12-04 of the North Dakota Century Code is amended and reenacted as follows:

- 2. Certificates of nomination for nominees for county offices ~~and legislative offices~~ must be filed with the county auditor of the county in which the candidate resides. ~~The county auditor shall certify the names and addresses of legislative candidates filing certificates of nomination according to this chapter to the secretary of state. When a legislative district is composed of more than one county, the county auditor shall certify to the county auditors of the other counties comprising the legislative district the names and addresses of the candidates filing certificates of nomination.~~

SECTION 9. AMENDMENT. Section 16.1-12-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-06. Person nominated by more than one party - Column in which name placed.

When one person has been nominated for the same office by more than one body of electors qualified to make nominations for public office, the nominee shall file with the ~~proper officer designated in this chapter, on~~ secretary of state or before the last day fixed by law for filing certificates of nomination for the office, a signed statement designating the column on the official ballot in which the nominee desires the nominee's name to appear. The column so designated must be the column allotted to one of the bodies of electors by whom the person was nominated. In the absence of a timely written designation as provided by this section, the ~~appropriate officer~~ secretary of state shall place the person's name in the column allotted to the body of electors from which was first received notice of the person's nomination.

⁷⁶ Section 16.1-12-04 was also amended by section 17 of Senate Bill No. 2374, chapter 176.

SECTION 10. AMENDMENT. Section 44-05-04 of the North Dakota Century Code is amended and reenacted as follows:

44-05-04. Place of filing oath of office.

Unless otherwise provided by law, any civil or public officer required by section 44-01-05 or any other provision of law to take an oath of office must file the original oath as follows:

1. If a state official or member of a state board, with the secretary of state.
2. If a county official or member of a county board, with the county auditor.
3. If a city official or member of a city board, with the city auditor.
4. If a member of a district or political subdivision that is larger than a county, with the secretary of state.

SECTION 11. REPEAL. Section 16.1-11-13 of the North Dakota Century Code is repealed.

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 176

SENATE BILL NO. 2374

(Senators Dever, Marcellais, Schaible)

AN ACT to amend and reenact sections 15.1-09-08 and 15.1-09-24, subsection 10 of section 16.1-01-09.1, sections 16.1-03-12 and 16.1-03-14, subsection 1 of section 16.1-07-15, sections 16.1-09-02, 16.1-11-06, 16.1-11-11, 16.1-11-11.1, 16.1-11-15, 16.1-11-18, 16.1-11-19, 16.1-11-30, 16.1-12-02, and 16.1-12-02.3, subsection 3 of section 16.1-12-04, sections 16.1-12-07, 16.1-12-09, 27-25-04, 40-21-02, 40-21-07, 40-21-08, and 40-57.3-01.1, subsection 4 of section 44-08-21, and sections 46-06-03, 61-24-03, 61-24.5-06, and 61-24.5-07 of the North Dakota Century Code, relating to election and recall filing requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-08 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-08. School district elections - Candidate filings.

An individual seeking election to the board of a school district shall prepare and sign a document stating the individual's name and the position for which that individual is a candidate. A candidate shall also file a statement of interests as required by section 16.1-09-02. ~~If whether or not~~ the election is held in conjunction with a statewide election, these documents must be filed with the school district business manager, or mailed to and in the possession of the business manager, by four p.m. of the ~~sixtieth~~sixty-fourth day before the election. ~~If the election is not held in conjunction with a statewide election, the document must be filed with the school district business manager, or mailed to and in the possession of the business manager, by four p.m. of the sixtieth day before the election.~~

SECTION 2. AMENDMENT. Section 15.1-09-24 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-24. School boards - Sharing of election expenses.

If a school district election is held in conjunction with a primary election, the board of the school district may agree with the governing body of the county or counties in which the district is located to share election costs and responsibilities, including those associated with a canvassing board, election personnel, the printing of election materials, the publishing of legal notices, and the use of poll books. Each board of a school district that enters into an agreement with the county must notify the county auditor, in writing, at least ~~fifty-five~~sixty-four days before the election of the offices to be filled at the election and any measures to appear on the ballot.

⁷⁷ **SECTION 3. AMENDMENT.** Subsection 10 of section 16.1-01-09.1 of the North Dakota Century Code is amended and reenacted as follows:

⁷⁷ Section 16.1-01-09.1 was also amended by section 2 of House Bill No. 1372, chapter 165, and section 2 of House Bill No. 1402, chapter 164.

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 ~~sixtieth~~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.

⁷⁸ **SECTION 4. AMENDMENT.** Section 16.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-12. Meeting of district committee to elect delegates to state party convention - Optional precinct caucus - Proxies.

Prior to the ~~sixtieth~~sixty-fourth day before the primary election in each election year and upon the call of the chairman, the district committee of each state legislative district shall meet at a place designated by the chairman to elect delegates to a state party convention to be held as provided in this chapter. If the bylaws of the state legislative district so provide, precinct committeemen may call a precinct caucus prior to the district meeting to elect additional delegates to attend the district meeting. Delegates to the state convention must be elected as provided by the state party's bylaws. Delegates to the state convention must be electors of their district.

⁷⁹ **SECTION 5. AMENDMENT.** Section 16.1-03-14 of the North Dakota Century Code is amended and reenacted as follows:

16.1-03-14. When state party convention held and duties of state party convention.

The state party conventions must be held in each presidential election year at a place and time designated by the party state committee. The state party convention provided for in this chapter shall:

1. Nominate the legal number of candidates for its party for the offices of presidential electors.
2. Elect the required number of delegates and alternates to the national party convention as provided by the party's bylaws or national party rules.
3. Conduct other business as shall come before the convention.

The candidate or candidates for endorsement or election must be declared endorsed or elected pursuant to the rules of the party involved, and the chairman and secretary of the convention shall issue certificates of endorsement as provided in section 16.1-11-06 or certificates of election. The names of the candidates nominated for presidential electors with the surname of the presidential candidate the party wishes to place on the general election ballot must be certified by the chairman and secretary of the convention to the secretary of state by four p.m. on the ~~sixtieth~~sixty-fourth day before the general election to be placed upon the general election ballot as provided in section 16.1-06-07.1.

SECTION 6. AMENDMENT. Subsection 1 of section 16.1-07-15 of the North Dakota Century Code is amended and reenacted as follows:

⁷⁸ Section 16.1-03-12 was repealed by section 16 of Senate Bill No. 2369, chapter 168.

⁷⁹ Section 16.1-03-14 was also amended by section 9 of Senate Bill No. 2369, chapter 168.

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may, before the ~~sixtieth~~sixty-fourth day before the day of the election, create a special precinct, known as an early voting precinct, to facilitate the conduct of early voting in that county according to chapters 16.1-13 and 16.1-15. At the determination of the county auditor, more than one voting location may be utilized for the purposes of operating the early voting precinct. The election board of the early voting precinct must be known as the early voting precinct election board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.

SECTION 7. AMENDMENT. Section 16.1-09-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-09-02. Statement of interests to be filed.

Every candidate for elective office shall sign and file the statement of interests as required by this chapter. In a year when a president and vice president of the United States are to be chosen, presidential and vice presidential candidates shall file with the secretary of state either a statement of interests as required by this chapter or a copy of the personal disclosure statement that is required by the federal election commission. Candidates for elective office who are required to file such statements shall do so with the filing officer for that election at the time of filing a certificate of nomination, a certificate of endorsement, a petition of nomination, or a certificate of write-in candidacy, pursuant to chapter 16.1-11, 16.1-12, or 40-21, as is appropriate. An individual who has filed a statement as the result of candidacy in a primary election need not refile before running in the following general election. A write-in candidate who is not required to file a certificate of write-in candidacy shall file the statement of interests after the candidate's election at the time of filing the required oath of office. Every individual who is appointed by the governor to a state agency, board, bureau, commission, department, or occupational or professional licensing board shall file a statement of interests as required by this chapter with the secretary of state simultaneously with announcement of the appointment. A filing officer may not include a candidate's name on the ballot if an error is discovered on the statement and the candidate is unable to or refuses to make the necessary correction before the ~~sixtieth~~sixty-fourth day before the election.

⁸⁰ **SECTION 8. AMENDMENT.** Section 16.1-11-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-06. State candidate's petition or political party certificate of endorsement required to get name on ballot - Contents - Filing.

1. Every candidate for United States senator, United States representative, a state office except the office of state senator or state representative, and judges of the supreme and district courts shall present to the secretary of state, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the ~~sixtieth~~sixty-fourth day before any primary election, either:
 - a. The certificate of endorsement signed by the state chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party which the candidate represents; or

⁸⁰ Section 16.1-11-06 was also amended by section 1 of Senate Bill No. 2318, chapter 175.

- b. The nominating petition containing the following:
- (1) The candidate's name, post-office address, and telephone number, and the title of the office to which the candidate aspires, the appropriate district judgeship number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
 - (2) The name of the party the candidate represents if the petition is for an office under party designation.
 - (3) The signatures of qualified electors, the number of which must be determined as follows:
 - (a) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with which the candidate affiliates for the same position at the last general election. However, no more than three hundred signatures may be required.
 - (b) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.
 - (c) If the office is under the no-party designation, at least three hundred signatures.
 - (4) The mailing address and the date of signing for each signer.
2. If the petition or certificate of endorsement is for the office of governor or lieutenant governor, the petition or certificate must contain the names and other information required of candidates for both those offices. If the petition or certificate of endorsement is mailed, it must be in the possession of the secretary of state before four p.m. of the ~~sixtieth~~sixty-fourth day before the primary election.

⁸¹ **SECTION 9. AMENDMENT.** Section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-11. County and legislative district candidates' petitions - Filing - Contents.

Every candidate for a county or legislative district office shall present, between the first date candidates may begin circulating nominating petitions according to this chapter and before four p.m. of the ~~sixtieth~~sixty-fourth day before any primary election, to the county auditor of the county in which the candidate resides either:

1. A certificate of endorsement signed by the district chairman of any legally recognized political party containing the candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, and the party that the candidate represents; or

⁸¹ Section 16.1-11-11 was also amended by section 3 of Senate Bill No. 2318, chapter 175.

2. A petition containing the following:
 - a. The candidate's name, post-office address, and telephone number, the title of the office to which the candidate aspires, the appropriate district number if applicable, and whether the petition is intended for nomination for an unexpired term of office if applicable.
 - b. The name of the party the candidate represents, only if it is a petition for an office that is under party designation.
 - c. The signatures of qualified electors, the number of which must be determined as follows:
 - (1) 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.
 - (2) 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.
 - (3) 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.
 - (4) If the office is a legislative office, the signatures of at least one percent of the total resident population of the legislative district as determined by the most recent federal decennial census.
 - (5) In no case may more than three hundred signatures be required.
 - d. The mailing address and date of signing for each signer.

If the petition or certificate of endorsement is mailed, it must be in the possession of the county auditor before four p.m. on the ~~sixtieth~~sixty-fourth day before the primary election.

SECTION 10. AMENDMENT. Section 16.1-11-11.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-11.1. Deadline for placing county and city measures on primary, general, or special election ballots.

Notwithstanding any other provision of law, a county may not submit a measure for consideration of the voters at a primary, general, or special statewide, district, or county election after four p.m. on the ~~sixtieth~~sixty-fourth day before the election. A city that has combined its regular or a special election with a primary, general, or special county election, according to the provisions set forth in section 40-21-02, may not

submit a measure for consideration of the voters at that election after four p.m. on the ~~sixtieth~~sixty-fourth day before the election.

SECTION 11. AMENDMENT. Section 16.1-11-15 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-15. Nominating petition not to be circulated ~~more than ninety days~~ prior to filing time ~~January first~~ - Special election.

No nominating petition provided for in sections 16.1-11-06 and 16.1-11-11 may be circulated or signed ~~more than ninety days previous to the time when any petition must be filed under the provisions of this chapter~~prior to January first preceding the primary election. Any signatures to a petition secured ~~more than ninety days~~ before that time may not be counted. A nominating petition for a special election may not be circulated or signed more than thirty days before the time when a petition for the special election must be filed.

⁸² **SECTION 12. AMENDMENT.** Section 16.1-11-18 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-18. Party committees to fill vacancy occurring in nomination for party office.

1. If a vacancy occurs in any party certificate of endorsement at the primary election for any state or legislative district office, the proper state or district executive committee of the political party may fill the vacancy by filing another certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
2. If no party endorsement has been made by certificate and a vacancy occurs in a slate of candidates seeking party nomination by petition at the primary election, the proper state or district executive committee may fill the vacancy by filing a certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
3. If party endorsements by certificate have been made for any state or district office and a vacancy occurs in the slate of persons seeking nomination at the primary election because of the unavailability of the person who is seeking nomination by petition, that vacancy may not be filled except by petition.
4. If a vacancy occurs in a slate of statewide candidates after the candidates have been nominated at the primary election, the proper state executive committee may fill any vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When such a certificate is filed, the secretary of state shall certify the new nomination and the name of the person who has been nominated to fill the vacancy in place of the original nominee to the various auditors. If the secretary of state already has forwarded the certificate, the secretary of state forthwith shall certify to the auditors the name and address

⁸² Section 16.1-11-18 was also amended by section 5 of Senate Bill No. 2318, chapter 175.

of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.

5. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the county auditor of the new nominee's county of residence. The chairman and secretary of the committee shall make and file with the county auditor of the new nominee's county of residence a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When the certificate is filed, the county auditor of the new nominee's county of residence shall certify the new nomination to the various auditors affected by the change and to the secretary of state by forwarding to them the name of the person who has been nominated to fill the vacancy in place of the original nominee. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.
6. A vacancy in a nomination following a primary election may not be filled according to subsection 4 or 5 unless the nominated candidate:
 - a. Dies;
 - b. Would be unable to serve, if elected, as a result of a debilitating illness;
 - c. Ceases to be a resident of the state or an individual nominated for legislative office will not be a resident of the legislative district at the time of the election; or
 - d. Ceases to be qualified to serve, if elected, as otherwise provided by law.

Vacancies to be filled according to the provisions of this section may be filled not later than ~~sixty days~~the sixty-fourth day prior to the election.

SECTION 13. AMENDMENT. Section 16.1-11-19 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-19. Filling vacancy existing on no-party ballot - Petition required - Time of filing.

If a vacancy exists on a no-party ballot for a state office or for judge of a district court, the vacancy may be filled by filing with the secretary of state, before four p.m. on the ~~sixtieth~~sixty-fourth day prior to the primary election, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the ~~sixtieth~~sixty-fourth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general

election in the state or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.

If a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor, before four p.m. of the ~~sixtieth~~sixty-fourth day prior to the primary election, a written petition as provided in section 16.1-11-11, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the county auditor before four p.m. on the ~~sixtieth~~sixty-fourth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors as provided in subdivision c of subsection 2 of section 16.1-11-11. A vacancy in the no-party ballot must be deemed to exist when a candidate who was qualified by filing a petition pursuant to section 16.1-11-06 or 16.1-11-11 dies, resigns, or otherwise becomes disqualified to have the candidate's name printed on the ballot.

⁸³ **SECTION 14. AMENDMENT.** Section 16.1-11-30 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-30. Separate column on primary election ballot required for each political party.

Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election; any party that had printed on the ballot at the last preceding nonpresidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election; or any party that has organized according to all the requirements of chapter 16.1-03 must be provided with a separate column on primary election ballots.

Any other political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a consolidated column or on a special election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the ~~sixtieth~~sixty-fourth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a consolidated column. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the ~~sixtieth~~sixty-fourth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within

⁸³ Section 16.1-11-30 was also amended by section 14 of Senate Bill No. 2369, chapter 168.

this state at that election are entitled to organize according to the requirements of chapter 16.1-03.

⁸⁴ **SECTION 15. AMENDMENT.** Section 16.1-12-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02. Certificates of nomination by petition - Form and contents.

Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. Except for nominees for president of the United States, names of nominees so nominated must appear on the ballot as independent nominations. The names of nominees for president of the United States may appear on the ballot with a designation, not to exceed five words, that names the organization or political party to which the presidential candidate affiliates. The designation may not falsely indicate an affiliation with or the support of any political party organized in accordance with this title or include any substantive word or phrase that is profane or that is already included in or resembles the name of a political party entitled to a separate column under section 16.1-11-30. Except for candidates for the office of president of the United States, each certificate of nomination by petition must meet the specifications for nominating petitions set forth in section 16.1-11-16. A candidate for the office of the president of the United States may begin gathering the signatures for the certificate of nomination on the first day of January of a presidential election year and shall submit the petition to the secretary of state before four p.m. on the ~~sixtieth~~sixty-fourth day before the general election. The signatures on the petition must be in the following number:

1. Except as provided in subsection 3, if the nomination is for an office to be filled by the qualified electors of the entire state, there must be no fewer than one thousand signatures.
2. If the nomination is for an office to be filled by the qualified electors of a district less than the entire state, the number of signatures must be at least two percent of the resident population of the district as determined by the most recent federal decennial census, but in no case may more than three hundred signatures be required.
3. If the nomination is for the office of president, there must be no fewer than four thousand signatures.
4. If the petition is for the office of governor or lieutenant governor, it must contain the names and other required information of candidates for both those offices.

SECTION 16. AMENDMENT. Section 16.1-12-02.3 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-02.3. Nominating petition for an independent candidate not to be circulated more than one hundred fifty days before filing time - Special election.

A petition provided for in this chapter may not be circulated or signed more than one hundred fifty days before the date when any petition must be filed under this chapter. Any signatures to a petition obtained more than one hundred fifty days before

⁸⁴ Section 16.1-12-02 was also amended by section 15 of Senate Bill No. 2369, chapter 168.

that date may not be counted. A nominating petition for a special election may not be circulated or signed more than thirty days before the date when the petition must be filed.

⁸⁵ **SECTION 17. AMENDMENT.** Subsection 3 of section 16.1-12-04 of the North Dakota Century Code is amended and reenacted as follows:

3. Certificates of nomination must, without regard to the means of delivery, be filed and in the actual possession of the appropriate officer not later than four p.m. on the ~~sixtieth~~sixty-fourth day prior to the day of election.

SECTION 18. AMENDMENT. Section 16.1-12-07 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-07. If nominee declines - Certificate void.

Any person intending to decline a nomination shall do so by filing written notice of that intention with the officer with whom the certificate nominating the person is filed. If the written notice is filed with the appropriate officer ~~at least sixty days, and before four p.m. on the sixtieth~~sixty-fourth day before the election, the nomination is void. If written notice is mailed, it must be in the physical possession of the appropriate officer before four p.m. on the ~~sixtieth~~sixty-fourth day before the election.

SECTION 19. AMENDMENT. Section 16.1-12-09 of the North Dakota Century Code is amended and reenacted as follows:

16.1-12-09. Filling vacancy existing on no-party ballot - Petition required - Time of filing.

Whenever a vacancy exists on a no-party ballot for a state office or for judge of a district court, such vacancy may be filled by filing with the secretary of state, ~~at least sixty days prior to the general election and before four p.m. on the sixtieth~~sixty-fourth day, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. If the petition is mailed, it must be in the physical possession of the secretary of state before four p.m. on the ~~sixtieth~~sixty-fourth day prior to the general election. The petition for the nomination of any person to fill such vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for the office of governor in the state or district, at the most recent general election at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.

Whenever a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor ~~at least sixty days prior to the general election and before four p.m. of the sixtieth~~sixty-fourth day a written petition as provided in section 16.1-11-11, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. If such petition is mailed or otherwise delivered, it must be in the possession of the county auditor before four p.m. on the ~~sixtieth~~sixty-fourth day prior to the general election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors equal in number to at least thirty percent of the total vote cast for the office of governor at the most recent general election in the county or district at which

⁸⁵ Section 16.1-12-04 was also amended by section 8 of Senate Bill No. 2318, chapter 175.

the office of governor was voted upon, but in no case may more than three hundred signatures be required.

A vacancy in the no-party ballot must be deemed to exist when:

1. A candidate nominated at the primary election dies, resigns, or otherwise becomes disqualified to have the candidate's name printed on the ballot at the general election.
2. No candidates were nominated at the primary election because the office did not yet exist.
3. The timing of the vacancy in an office makes it impossible to have it placed on the primary ballot.

SECTION 20. AMENDMENT. Section 27-25-04 of the North Dakota Century Code is amended and reenacted as follows:

27-25-04. Governor to appoint or call special election.

Within thirty days after receipt of the list of nominees, the governor shall do any of the following:

1. Fill the vacancy by appointment from the list of nominees submitted by the committee.
2. Return the list of nominees and direct the committee to reconvene.
3. Call a special election to fill the vacancy for the remainder of the term.

If the governor determines to call a special election to fill the vacancy, the governor shall issue a writ of election to the auditors of the counties in the district in which the district vacancy occurs commanding them to notify the boards of election in the counties to hold a special election at a time designated by the governor. If the governor determines to call a special election within ~~sixty-eighty-one~~ days of the time of the next general election, the special election must be held at the same time as the general election.

⁸⁶ **SECTION 21. AMENDMENT.** Section 40-21-02 of the North Dakota Century Code is amended and reenacted as follows:

40-21-02. City elections - When held - Notice - Polls - Agreements with counties - Judges and inspectors.

Biennial municipal elections must be held on the second Tuesday in June in each even-numbered year.

1. Thirty days before the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline along with a list of the offices to appear on the ballot must be published in the official newspaper of the city as provided by section 40-01-09.

⁸⁶ Section 40-21-02 was also amended by section 8 of House Bill No. 1361, chapter 169.

2. Ten days' notice of the time and place of the election and of the offices to be filled at the election must be given by the city auditor by publication in the official newspaper of the city as provided by section 40-01-09.
3. The governing body of a city shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses.
4. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector and two judges of election for each precinct in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, two election clerks may be appointed by the governing body. For a city election that is not held under an agreement with any county in a precinct in which seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge.
5. When a city enters into an agreement with the county to hold the city election in conjunction with the county election, the deadline for giving notice of the city election along with the offices to be filled at the election may be adjusted in order to meet the publishing requirements of the county. Each city governing body that enters into an agreement with the county must notify the county auditor, in writing, at least fifty five days immediately after the candidate filing deadline on the sixty-fourth day before the election of the offices to be filled at the election and any measures to appear on the ballot.

SECTION 22. AMENDMENT. Section 40-21-07 of the North Dakota Century Code is amended and reenacted as follows:

40-21-07. Petition for nomination of elective official in cities - Signatures required - Withdrawal of petition - Contents.

A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, ~~at least sixty days and~~ before four p.m. on the ~~sixtieth~~sixty-fourth day before the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. A candidate shall also file a statement of interests as required by section 16.1-09-02. If multiple candidates were elected to the office at the preceding city election at which the office was voted upon, the number of signatures must equal at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. Qualified electors who sign a petition must reside within the ward or precinct in and for which that officer is to be elected, if the election is by wards, or within the corporate limits of the city, if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the qualified electors at large residing within the city. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the ~~sixtieth~~sixty-fourth day before the holding of the election. However, no more than three hundred signatures may be required and the signatures may be on separate sheets of paper. Petitions must meet the specifications of nominating petitions pursuant to section 16.1-11-16. If a city election is not combined with a state or county election according to section 40-21-02, a candidate may be nominated by

filing the required petition with the city auditor ~~at least sixty days and~~ before four p.m. on the ~~sixtieth~~sixty-fourth day before the holding of the election. A candidate may withdraw the candidate's nominating petition at any time before the applicable deadlines for filing nominating petitions provided for in this section. Nominating petitions required by this section may not be circulated or signed ~~more than ninety days before the date when nominating petitions must be filed under this section~~prior to January first preceding the election. Any signatures to a nominating petition obtained ~~more than ninety days before that date~~ may not be counted. A nominating petition for a special election may not be circulated or signed more than thirty days before the time when a petition for a special election must be filed. A candidate for city council may run for either the office of mayor or council member but not both in the same election. A candidate for the city commission may run for either the office of city commissioner or the office of president of the board of city commissioners but not both in the same election. A candidate may run for only one office in a city at any given election.

SECTION 23. AMENDMENT. Section 40-21-08 of the North Dakota Century Code is amended and reenacted as follows:

40-21-08. Ballots in municipalities - Arrangement.

The auditor of the city shall place only the names of the persons nominated upon the ballot. The auditor shall arrange the offices upon the ballot in the order in which they are named in the statutes. The auditor shall determine the arrangement of the names of the candidates upon the ballot by conducting a drawing ~~within five days following the last day for the filing of the nomination papers~~immediately after the candidate filing deadline on the sixty-fourth day before the election. The city auditor shall set the date, time, and location for conducting the drawing and shall give advance notice of the drawing to the candidates involved.

SECTION 24. AMENDMENT. Section 40-57.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

40-57.3-01.1. City lodging and restaurant tax - Imposition - Amount - Disposition - Referral.

In addition to the tax under section 40-57.3-01, the governing body of any city may, by ordinance, impose a city tax, at a rate not to exceed one percent, upon the gross receipts of retailers on the leasing or renting of hotel, motel, or tourist court accommodations within the city for periods of less than thirty consecutive calendar days or one month and upon the gross receipts of a restaurant from any sales of prepared food or beverages, not including alcoholic beverages for consumption off the premises where purchased, which are subject to state sales taxes. For purposes of this section, "restaurant" means any place where food is prepared and intended for individual portion service for consumption on or off the premises and "prepared" includes heating prepackaged food. Accommodations, food, and beverages may all, each, or in any combination be subjected to the tax under this section, if all items in any category which are taxable under state law are taxable, except as otherwise provided in this section. The tax imposed under this section is in addition to state sales taxes on rental accommodations and restaurant sales and any city which imposes the tax under this section shall deposit all proceeds in the city visitors' promotion capital construction fund. Moneys deposited in the city visitors' promotion capital construction fund shall be spent only as provided in this chapter. An ordinance adopted under this section may not become effective sooner than sixty days after it is adopted by the governing body of the city. The provisions of chapter 40-12 with regard to referral of ordinances apply to an ordinance adopted under this section

except that a petition to refer an ordinance adopted under this section must be presented to the governing body of the municipality before four p.m. on the ~~sixtieth~~sixty-fourth day after the ordinance described in the petition was adopted by the governing body of the municipality. Revenues from a tax imposed under this section may not be pledged under section 40-57.3-03 to payment of bonds or evidences of indebtedness until after the time has passed for filing a referral petition against an ordinance under this section or, if a referral petition is filed, until after the referral petition has been submitted to the vote of the electors of the municipality.

SECTION 25. AMENDMENT. Subsection 4 of section 44-08-21 of the North Dakota Century Code is amended and reenacted as follows:

4. The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing officer certifies the petition is valid and sufficient. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate filing officer by the ~~sixtieth~~sixty-fourth day before the scheduled recall election. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint an individual to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected. An official whose office is on the ballot at a regularly scheduled election occurring within one year is not subject to recall.

SECTION 26. AMENDMENT. Section 46-06-03 of the North Dakota Century Code is amended and reenacted as follows:

46-06-03. Application to place name on ballot at primary election.

The county auditor shall place the name of a newspaper upon the primary election ballot if the newspaper is qualified to serve as the official newspaper within the county and if, ~~not more than seventy days nor less than sixty days~~ and before four p.m. of the ~~sixtieth~~sixty-fourth day prior to the primary election, an application asking that the name of the newspaper be placed upon the ballot to be voted upon for nomination as official newspaper of the county and an affidavit indicating the newspaper meets all of the requirements of an official newspaper pursuant to sections 46-05-01 and 46-06-02 are filed with the county auditor by a person, partnership, corporation, or limited liability company owning or operating the newspaper. The county auditor shall endorse upon the application the name of the newspaper and the date upon which the application is filed.

SECTION 27. AMENDMENT. Section 61-24-03 of the North Dakota Century Code is amended and reenacted as follows:

61-24-03. Election of directors of the Garrison Diversion Conservancy District.

A director of the Garrison Diversion Conservancy District must be nominated and elected in each county in the district. Any person who is a resident and qualified elector of the county who aspires to the office of director of the Garrison Diversion Conservancy District shall, ~~not more than seventy days or less than sixty days~~ and before four p.m. of the ~~sixtieth~~sixty-fourth day before any primary election preceding a general election at which a director of the district is to be elected, present to the county auditor a petition giving that person's name, post-office address, the title of the office "Director of the Garrison Diversion Conservancy District", and containing the

signatures of not less than fifty nor more than three hundred qualified electors of the county to which each signer has added the signer's residence with street number, if any, and the date of signing.

The petition must be accompanied by an affidavit substantially as follows:

State of North Dakota)
) ss.
County of _____)

I, _____, being sworn, say that I reside in the county of _____ and State of North Dakota; that I am a qualified elector therein; that I am a candidate for nomination to the office of director of the Garrison Diversion Conservancy District to be chosen at the primary election to be held on _____, _____, and I request that my name be printed upon the no-party primary election ballot as provided by law, as a candidate for the office.

Subscribed and sworn to before me on _____, _____.

Notary Public

Upon receipt of the petition, the county auditor shall without fee place the name of the aspirant on the no-party primary election ballot as a candidate for the aforesaid office of director. The two candidates receiving the highest number of votes if more than two are running are nominated.

The names of the candidates so nominated at the primary election must be placed on the no-party ballot at the ensuing general election and the candidate receiving the highest number of votes is elected.

At the primary and general elections, votes must be canvassed, returned certified, and certificates of nomination and election issued in the manner provided by law for the nomination and election of county officers.

SECTION 28. AMENDMENT. Section 61-24.5-06 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-06. Election of county directors of the southwest water authority.

Any person who is a resident and qualified elector of the county, who aspires to the office of director of the southwest water authority, shall, ~~not more than seventy nor less than sixty days~~ and before four p.m. of the ~~sixtieth~~sixty-fourth day before any primary election preceding a general election at which a director of the authority is to be elected, present to the county auditor a petition giving that person's name, post-office address, and the title of the office of the southwest water authority to which that person is seeking election. The petition must contain the signatures of not less than two percent of the qualified electors of the county as determined by the number of votes cast in the county for the office of director of the southwest water authority at the most recent preceding election at which the office of director of the southwest water authority was voted upon. Each signer of the petition shall include with that signer's name that signer's mailing address.

The petition must be accompanied by an affidavit substantially as follows:

State of North Dakota)
) ss.
 County of _____)

I _____, being sworn, say that I reside in the county of _____ and State of North Dakota; that I am a qualified elector therein; that I am a candidate for the office of director of the Southwest Water Authority to be elected at the primary election to be held on _____, _____, and I request that my name be printed upon the no-party primary election ballot as provided by law, as a candidate for the office.

 Subscribed and sworn to before me on _____, _____.

 Notary Public

Upon receipt of the petition, the county auditor shall without fee place the name of the aspirant on the no-party primary election ballot as a candidate for the office of director. The candidate receiving the highest number of votes is elected.

At the primary election, votes must be canvassed, returned certified, and certificates of election issued in the manner provided by law for the election of county officers.

SECTION 29. AMENDMENT. Section 61-24.5-07 of the North Dakota Century Code is amended and reenacted as follows:

61-24.5-07. Election of city directors of the southwest water authority.

Any person who is a resident and qualified elector of the city of Dickinson or Mandan who aspires to the office of director of the southwest water authority shall, at least sixty days and before five p.m. on the ~~sixtieth~~sixty-fourth day before the election, file with the city auditor a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election, except that the petition for the first election must be signed by not less than two hundred qualified electors. Signers of a petition must reside within the corporate limits of the city, and each signer of the petition shall include with the signer's name the signer's mailing address. The petition must include the candidate's name, post-office address, and the title of the office of the southwest water authority for which the candidate is seeking election.

The petition must be accompanied by an affidavit substantially as follows:

State of North Dakota)
) ss.
 City of _____)

I _____, being sworn, say that I reside in the city of _____ and State of North Dakota; that I am a qualified elector therein; that I am a candidate for the office of director of the Southwest Water Authority to be elected at the municipal election to be held on _____, _____, and I request that my name be printed upon the election ballot as provided by law, as a candidate for the office.

Subscribed and sworn to before me on _____, _____.

Notary Public

Upon receipt of the petition, the city auditor shall without fee place the name of the aspirant on the election ballot as a candidate for the office of director. The candidate or candidates, depending on whether one or two directors are being elected, receiving the highest number of votes are elected. The provisions of chapter 40-21 govern the election of directors from the city of Dickinson or Mandan for the southwest water authority.

Approved April 1, 2013
Filed April 1, 2013

ENERGY

CHAPTER 177

HOUSE BILL NO. 1113

(Industry, Business and Labor Committee)
(At the request of the Department of Commerce)

AN ACT to create and enact section 17-02-01.1 of the North Dakota Century Code, relating to the definition of eligible facility for ethanol production incentives; to amend and reenact sections 10-30.5-02 and 52-02.1-04 of the North Dakota Century Code, relating to the North Dakota development fund, incorporated, and new jobs training; and to repeal sections 17-02-01 and 54-62-03 of the North Dakota Century Code, relating to ethanol production incentives and the advisory commission on faith-based and community initiatives.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 10-30.5-02 of the North Dakota Century Code is amended and reenacted as follows:

10-30.5-02. (~~Effective through July 31, 2013~~) Purpose and fund uses.

1. It is the purpose of this chapter to create a statewide nonprofit development corporation that will have the authority to take equity positions in, to provide loans to, or to use other innovative financing mechanisms to provide capital for new or expanding businesses in this state, or relocating businesses to this state. The corporation's principal mission is the development and expansion of primary sector business in this state. The corporation may form additional corporations, limited liability companies, partnerships, or other forms of business associations in order to further its mission of primary sector economic development.
2. The exclusive focus of this corporation is business development in this state; however, it is not excluded from participation with other states or organizations in projects that have a clear economic benefit to state residents in the creation of jobs or secondary business. Emphasis should be to develop jobs that provide an income adequate to support a family above the poverty level.
3. Moneys in the development fund may be used to provide working capital or for financing the purchase of fixed assets but not to refinance existing debt. Moneys may also be used to make matching grants to county-authorized or city-authorized development corporations for the acquisition, leasing, or remodeling of real estate facilities for locating a prospective new primary sector business. A grant must be made as part of a package of financing in which the state is a participant.
4. The commissioner of commerce shall adopt rules, subject to the approval of the board of directors, necessary to implement the administration of the fund.

The rules to implement the grant program must be developed to encourage local fundraising initiatives for developing locations for businesses financed by the corporation.

5. Moneys in the development fund may be used to provide financing to early childhood facilities licensed under chapter 50-11.1. Moneys also may be used to make grants or loans to match grants or loans made by county-authorized or city-authorized development corporations, job development authorities created under chapter 11-11.1 or 40-57.4, and regional planning councils for acquiring, leasing, or remodeling of real estate facilities or for acquiring equipment for establishing or expanding a licensed early childhood facility. In providing financing under this subsection, the corporation shall ensure funds are distributed fairly among for-profit early childhood facilities, nonprofit early childhood facilities, and public early childhood facilities. An award under this subsection may not exceed one hundred thousand dollars per award.

(Effective after July 31, 2013) Purpose and fund uses.

1. ~~It is the purpose of this chapter to create a statewide nonprofit development corporation that will have the authority to take equity positions in, to provide loans to, or to use other innovative financing mechanisms to provide capital for new or expanding businesses in this state, or relocating businesses to this state. The corporation's principal mission is the development and expansion of primary sector business in this state. The corporation may form additional corporations, limited liability companies, partnerships, or other forms of business associations in order to further its mission of primary sector economic development.~~
2. ~~The exclusive focus of this corporation is business development in this state; however, it is not excluded from participation with other states or organizations in projects that have a clear economic benefit to state residents in the creation of jobs or secondary business. Emphasis should be to develop jobs that provide an income adequate to support a family above the poverty level.~~
3. ~~Moneys in the development fund may be used to provide working capital or for financing the purchase of fixed assets but not to refinance existing debt. Moneys may also be used to make matching grants to county-authorized or city-authorized development corporations for the acquisition, leasing, or remodeling of real estate facilities for locating a prospective new primary sector business. A grant must be made as part of a package of financing in which the state is a participant.~~
4. ~~The commissioner of commerce shall adopt rules, subject to the approval of the board of directors, necessary to implement the administration of the fund. The rules to implement the grant program must be developed to encourage local fundraising initiatives for developing locations for businesses financed by the corporation.~~

SECTION 2. Section 17-02-01.1 of the North Dakota Century Code is created and enacted as follows:

17-02-01.1. Definition.

In this chapter "eligible facility" means an ethanol production plant constructed in this state after July 31, 2003.

SECTION 3. AMENDMENT. Section 52-02.1-04 of the North Dakota Century Code is amended and reenacted as follows:

52-02.1-04. Fund - Administration.

Funding for programs must be through loans or grants as stated under this section. Loans may be made by the department from the North Dakota ~~future development~~ fund, ~~incorporated~~, a community, or the department and a community cooperatively. A community may provide loans directly or through any financial institution currently qualified to participate in a loan with the Bank of North Dakota. The Bank of North Dakota may participate in loans under such credit standards and lending policies it determines are necessary and applicable. A community may alternatively fund a program through a grant without use of new jobs credit from withholding.

1. Loans must be secured and payable from a sufficient portion of the future receipts of payments authorized by the agreement, with such other security as the lender may determine is justified. The state treasurer shall transfer the moneys from the special fund created in section 52-02.1-03 to a special fund set up for this purpose by the department or community. The receipts must be pledged to the payment of principal of and interest on the loan.
2. The department may adopt rules to implement this chapter.

SECTION 4. REPEAL. Sections 17-02-01 and 54-62-03 of the North Dakota Century Code are repealed.

Approved April 10, 2013
Filed April 10, 2013

FIRES

CHAPTER 178

HOUSE BILL NO. 1145

(Representatives D. Johnson, Steiner, Guggisberg)
(Senators Oehlke, Wanzek, Robinson)

AN ACT to amend and reenact sections 18-04-02, 18-04-05, 23-46-05, 26.1-01-07.5, and 26.1-03-17 of the North Dakota Century Code, relating to use of insurance premium tax collections for firefighting; to provide a continuing appropriation; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-04-02 of the North Dakota Century Code is amended and reenacted as follows:

18-04-02. City auditor or secretary of rural fire department to file certificate with state fire marshal and insurance commissioner - Report to budget section.

1. On or before the thirty-first day of October in each year, the auditor or secretary of any city or rural fire department that has an organized fire department shall file with the state fire marshal and with the insurance commissioner the auditor's or secretary's certificate stating the existence of the fire department, the date of its organization, the number of fire engines, hook and ladder trucks, and the system of water supply in use by the department, with such other facts as the state fire marshal or commissioner may require.
2. A certified city fire department, certified rural fire department, or certified fire protection district receiving funds under section 18-04-05 shall file an annual report with the state fire marshal detailing the expenditure of the funds and its committed and uncommitted reserve balances. The report must identify the purpose of any committed reserve balance and the anticipated time period for spending the committed reserves. The state fire marshal shall present a biennial report to the budget section of the legislative management summarizing the expenditures by certified city fire departments, certified rural fire departments, and certified fire protection districts of funds received under section 18-04-05 and the information on committed and uncommitted reserve fund balances of these entities.

SECTION 2. AMENDMENT. Section 18-04-05 of the North Dakota Century Code is amended and reenacted as follows:

18-04-05. Amount due cities, rural fire protection districts, or rural fire departments - Transfer to firefighters death benefit fund - Disbursement to North Dakota firefighter's association - Payments by insurance commissioner.

1. The insurance commissioner shall disburse funds in the insurance tax distribution fund as provided under this section.
2. The insurance commissioner shall transfer an amount of up to fifty thousand dollars per biennium, as may be necessary, to the firefighters death benefit fund for distribution under chapter 18-05.1.
3. The insurance commissioner shall disburse funds to the North Dakota firefighter's association for uses authorized under chapter 18-03, subject to legislative appropriations.
4. The insurance commissioner shall compute the amounts due to the certified city fire departments, certified rural fire departments, or certified fire protection districts entitled to benefits under this chapter on or before ~~October~~December first of each year. The insurance commissioner shall allocate one-half of the biennial legislative appropriation which must be based on an amount equal to one hundred percent of the total premium tax collected for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, and crop hail insurance, less the amount transferred to the firefighters death benefit fund and the amount distributed to the North Dakota firefighter's association for distribution under this section~~subsection~~, to each eligible city not within a certified fire protection district, each certified rural fire protection district organized under this title, and each rural fire department certified by the state fire marshal, and pay the amount allocated in ~~September~~December of each year. The allocation must be made in proportion to the amount of insurance company premiums received by insurance companies pursuant to section 26.1-03-17 for policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, and crop hail insurance on property within the city, certified rural fire protection district, or area served by the certified rural fire department to the total of those premiums for those policies in the state.

⁸⁷ **SECTION 3. AMENDMENT.** Section 23-46-05 of the North Dakota Century Code is amended and reenacted as follows:

23-46-05. State financial assistance for emergency medical services - Distribution limit.

During the first year of the biennium, the state department of health may not distribute more than ~~one million two hundred fifty thousand dollars~~one-half of the biennial legislative appropriation for state financial assistance for emergency medical services.

SECTION 4. AMENDMENT. Section 26.1-01-07.5 of the North Dakota Century Code is amended and reenacted as follows:

⁸⁷ Section 23-46-05 was repealed by section 10 of Senate Bill No. 2004, chapter 35.

26.1-01-07.5. Fire district maps - Insurance applications to show fire district in which property is located - Penalty.

Before December first of each year, the insurance commissioner shall publish maps of the fire districts of the state for use by insurers under this section for the following calendar year. The state firefighter's association and the state fire marshal shall assist the insurance commissioner in preparing the maps. After December 31, 1993, no insurer may issue or renew a policy for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, or crop hail insurance coverage for property in this state unless the application identifies each fire district in which the insured property is located. The application must identify the property and insured value of the property located within each fire district if the policy provides coverage for property that is not all within a single district. For purposes of this section, "fire district" means rural fire protection district, city, or area served by a certified rural fire department. An insurer that is found by the commissioner to be in violation of this section is subject to a penalty of one hundred dollars for each violation to be deposited in the fire insurance tax distribution fund. The insurance commissioner may adopt rules necessary for administration of this section, including rules governing preparation, charges for, and use of maps under this section.

SECTION 5. AMENDMENT. Section 26.1-03-17 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03-17. Commissioner to collect premium tax - Insurance companies generally - Computation - Credits - Penalty - Estimated tax.

1. Before issuing the annual certificate required by law, the commissioner shall collect from every stock and mutual insurance company, nonprofit health service corporation, health maintenance organization, and prepaid legal service organization, except fraternal benefit and benevolent societies, doing business in this state, a tax on the gross amount of premiums, assessments, membership fees, subscriber fees, policy fees, service fees collected by any third-party administrator providing administrative services to a group that is self-insured for health care benefits, and finance and service charges received in this state during the preceding calendar year, at the rate of two percent with respect to life insurance, one and three-fourths percent with respect to accident and health insurance, and one and three-fourths percent with respect to all other lines of insurance. This tax does not apply to considerations for annuities. The total tax is payable on or before March first following the year for which the tax is assessable. If the due date falls on a Saturday or legal holiday, the tax is payable on the next succeeding business day. Collections from this tax, ~~except for collections deposited in the firefighters death benefit fund,~~ must be deposited in the insurance tax distribution fund under section 18-04-04.1 but not in an amount exceeding one-half of the biennial amount appropriated for distribution under ~~sections~~section 18-04-05 and ~~23-46-04~~chapter 23-46 in any fiscal year. Collections from this tax exceeding the sum of the amount deposited in the insurance tax distribution fund ~~and the amount deposited in the firefighters death benefit fund each fiscal year~~ must be deposited in the general fund in the state treasury. ~~If the due date falls on a Saturday or legal holiday, the tax is payable on the next succeeding business day.~~
2. An insurance company, nonprofit health service corporation, health maintenance organization, or prepaid legal service organization subject to the tax imposed by subsection 1 is entitled to a credit against the tax due for the amount of any assessment paid as a member of a comprehensive health

association under subsection 3 of section 26.1-08-09 for which the member may be liable for the year in which the assessment was paid, a credit as provided under section 26.1-38.1-10, a credit against the tax due for an amount equal to the examination fees paid to the commissioner under sections 26.1-01-07, 26.1-02-02, 26.1-03-19.6, 26.1-03-22, 26.1-17-32, and 26.1-18.1-18, and a credit against the tax due for an amount equal to the ad valorem taxes, whether direct or in the form of rent, on that proportion of premises occupied as the principal office in this state for over one-half of the year for which the tax is paid. The credits under this subsection must be prorated on a quarterly basis and may not exceed the total tax liability under subsection 1.

3. Any company failing to pay the tax imposed by subsection 1, within the time required, is subject to a penalty of one hundred dollars plus twenty-five dollars per day, excepting the first day after the tax became due. Any company failing to file the appropriate tax statement required by rule if the tax is zero is subject to a penalty of twenty-five dollars per day for each day's neglect not to exceed five hundred dollars. The commissioner, if satisfied that the delay was excusable, may waive, and if paid, issue a premium tax credit for all or any part of the penalty and interest.
4. Every stock and mutual insurance company, nonprofit health service corporation, health maintenance organization, and prepaid legal service organization, except fraternal benefit or benevolent societies, doing business in this state required to pay premium taxes in this state shall make and file a statement of estimated premium taxes. The statement and payment must be made on a quarterly basis as prescribed by the commissioner. Failure of a company to make payments of at least one-fourth of the total tax paid during the previous calendar year, or eighty percent of the actual tax for the quarter being reported of the current calendar year, shall subject the company to the penalty and interest provided in subsection 3.
5. If an amount of tax, penalty, or interest has been paid which was not due under the provisions of this section, a refund may be issued to the taxpayer who made the erroneous payment. The refund is allowed as a credit against any tax due or to become due under this section or as a cash refund, at the discretion of the commissioner. The taxpayer who made the erroneous payment shall present a claim for refund to the commissioner not later than two years after the due date of the return for the period for which the erroneous payment was made.
6. In lieu of the tax required by subsection 1, the commissioner shall collect from each entity subject to this section an annual filing fee in the amount of two hundred dollars, provided the total tax liability of the entity pursuant to subsection 1 is less than two hundred dollars. No annual filing fee is due or may be collected from an entity if its total tax liability pursuant to subsection 1 is in excess of two hundred dollars. The annual filing fee may be reduced by any credits available pursuant to subsections 2 and 5. Failure of a company to pay the two hundred dollar filing fee subjects the company to the penalty as provided in subsection 3.

SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the insurance tax distribution fund in the state treasury, not otherwise appropriated, the sum of \$15,336,386 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 \$14,536,386 and payments to the North Dakota firefighter's association in the amount of \$800,000, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 18, 2013
Filed April 18, 2013

FOODS, DRUGS, OILS, AND COMPOUNDS

CHAPTER 179

HOUSE BILL NO. 1087

(Human Services Committee)
(At the request of the State Department of Health)

AN ACT to amend and reenact section 19-01-07 of the North Dakota Century Code, relating to fees collected by the state department of health for providing inspections; and to repeal sections 19-01-05 and 19-01-18 of the North Dakota Century Code, relating to inspections performed by the sheriff and by the state department of health.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-01-07 of the North Dakota Century Code is amended and reenacted as follows:

19-01-07. Fees – ~~Disposition~~Contract services.

~~All revenues received and fees and charges collected under this title must be properly accounted for daily by the department and recorded by counties from which the fees and charges are received. The department shall forward all moneys so collected to the state treasurer monthly and the treasurer shall place the same in the state general fund. Funds may be accepted by the department from cities, counties, states, federal agencies, and private organizations for contract services of analytical and inspection work. Such funds must be remitted by the department to the state treasurer and deposited in the operating fund of the state department of health.~~

SECTION 2. REPEAL. Sections 19-01-05 and 19-01-18 of the North Dakota Century Code are repealed.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 180

HOUSE BILL NO. 1363

(Representatives Keiser, N. Johnson, Kasper, Pollert, Weisz, Mock, M. Nelson)
(Senators Klein, J. Lee, Heckaman)

AN ACT to create and enact a new section to chapter 19-02.1 of the North Dakota Century Code, relating to maximum allowable cost lists for pharmaceuticals; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 19-02.1 of the North Dakota Century Code is created and enacted as follows:

Maximum allowable cost lists for pharmaceuticals - Pharmacy benefits managers - Penalty.

1. For the purposes of this section:
 - a. "Determination" means a decision that settles and ends a controversy or the resolution of a question through appeal.
 - b. "Maximum allowable cost price" means a maximum reimbursement amount for a group of therapeutically equivalent and pharmaceutically equivalent multiple source drugs.
 - c. "Multiple source drug" means a therapeutically equivalent drug that is available from at least two manufacturers.
 - d. "Pharmacy benefits manager" has the same meaning as in section 19-03.6-01.
2. With respect to each contract between a pharmacy benefits manager and a pharmacy, each pharmacy benefits manager shall:
 - a. Provide to the pharmacy, at the beginning of each contract and contract renewal, the sources utilized to determine the maximum allowable cost pricing of the pharmacy benefits manager.
 - b. Update any maximum allowable cost price list at least every seven business days, and provide prompt notification of the pricing changes to network pharmacies.
 - c. Disclose the sources utilized for setting maximum allowable cost price rates on each maximum allowable cost price list included under the contract and identify each maximum allowable cost price list that applies to the contracted pharmacy. A pharmacy benefits manager shall make the list of the maximum allowable costs available to a contracted pharmacy in a format that is readily accessible and usable to the contracted pharmacy.

- d. Ensure maximum allowable cost prices are not set below sources utilized by the pharmacy benefits manager.
 - e. Provide a reasonable administrative appeals procedure to allow a dispensing pharmacy provider to contest a listed maximum allowable price rate. The pharmacy benefits manager shall provide a determination to a provider that has contested a maximum allowable price rate within seven business days. If an update to the maximum allowable price rate for an appealed drug is warranted, the pharmacy benefits manager shall make the change based on the date of the determination and make the adjustment effective for all similarly situated pharmacy providers in this state within the network.
 - f. Ensure dispensing fees are not included in the calculation of maximum allowable cost price reimbursement to pharmacy providers.
3. A pharmacy benefits manager may not place a prescription drug on a maximum allowable price list unless:
 - a. The drug has at least two nationally available, therapeutically equivalent, multiple source drugs or a generic drug is available only from one manufacturer;
 - b. The drug is listed as therapeutically equivalent and pharmaceutically equivalent or "A" or "B" rated in the United States food and drug administration's most recent version of the "Orange Book" or the drug is "Z" rated; and
 - c. The drug is generally available for purchase by pharmacies in the state from national or regional wholesalers and not obsolete.
 4. This section does not apply to state medicaid programs.
 5. A pharmacy benefits manager that violates this section is guilty of a class B misdemeanor.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 181

SENATE BILL NO. 2190

(Senators Dever, Berry, J. Lee)
(Representatives Damschen, Devlin, Rohr)

AN ACT to create and enact a new section to chapter 19-02.1 of the North Dakota Century Code, relating to biosimilar biological products.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 19-02.1 of the North Dakota Century Code is created and enacted as follows:

Biosimilar biological products.

1. In this section:
 - a. "Biological product", "biosimilar", "interchangeable", "interchangeable biological product", "license", and "reference product" mean the same as these terms mean under section 351 of the Public Health Service Act [42 U.S.C. 262].
 - b. "Prescription" means a product that is subject to section 503(b) of the federal Food, Drug, and Cosmetic Act [21 U.S.C. 353(b)].
2. A pharmacy may substitute a prescription biosimilar product for a prescribed product only if:
 - a. The biosimilar product has been determined by the United States food and drug administration to be interchangeable with the prescribed product;
 - b. The prescribing practitioner does not specifically indicate in the practitioner's own handwriting "brand medically necessary" on a written prescription, does not expressly indicate that an oral prescription is to be dispensed as communicated, or has not taken a specific overt action to include the "brand medically necessary" language with an electronically transmitted prescription;
 - c. The pharmacist informs the individual receiving the biological product that the biological product may be substituted with a biosimilar product and that the individual has a right to refuse the biosimilar product selected by the pharmacist and the individual chooses not to refuse;
 - d. The pharmacist notifies the prescribing practitioner orally, in writing, or by electronic transmission within twenty-four hours of the substitution; and
 - e. The pharmacy and the prescribing practitioner retain a record of the interchangeable biosimilar substitution for a period of no less than five years.

3. The board of pharmacy shall maintain on its public website a current list, or an internet link to a United States food and drug administration-approved list, of biosimilar biological products determined to be interchangeable under subdivision a of subsection 2.

Approved March 28, 2013

Filed March 28, 2013

CHAPTER 182

HOUSE BILL NO. 1072

(Judiciary Committee)

(At the request of the State Board of Pharmacy)

AN ACT to amend and reenact section 19-02.1-15.1 of the North Dakota Century Code, relating to a criminal penalty for serving as an agent, intermediary, or other entity causing use of the internet to bring together a buyer and seller for dispensing a controlled substance or other specified drug.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-02.1-15.1 of the North Dakota Century Code is amended and reenacted as follows:

19-02.1-15.1. Requirements for dispensing controlled substances and specified drugs - Penalty.

1. As used in this section:

- a. "Controlled substance" has the meaning set forth in section 19-03.1-01.
- b. "Deliver, distribute, or dispense by means of the internet" refers, respectively, to delivery, distribution, or dispensing of a controlled substance or specified drug that is caused or facilitated by means of the internet.
- c. "In-person medical evaluation" means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other practitioners, and must include one of the following actions:
 - (1) The prescribing practitioner examines the patient at the time the prescription or drug order is issued;
 - (2) The prescribing practitioner has performed a prior examination of the patient within twelve months;
 - (3) Another prescribing practitioner practicing within the same health system, group, or clinic as the prescribing practitioner has examined the patient within twelve months;
 - (4) A consulting practitioner to whom the prescribing practitioner has referred the patient has examined the patient within twelve months; or
 - (5) The referring practitioner has performed an examination in the case of a consultant practitioner issuing a prescription or drug order when providing services by means of telemedicine.

- d. "Internet" and "practice of telemedicine" have the meanings set forth in the Ryan Haight Online Pharmacy Consumer Protection Act of 2008 [Pub. L. 110-425; 21 U.S.C. 802-803].
 - e. "Specified drugs" mean:
 - (1) A skeletal muscle relaxant containing carisoprodol, chlorphenesin, chlorzoxazone, metaxalone, or methocarbamol;
 - (2) A centrally acting analgesic with opioid activity such as tapentadol or tramadol;
 - (3) A drug containing butalbital; and
 - (4) Phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction.
 - f. "Valid prescription" means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by a practitioner who has conducted an in-person medical evaluation of the patient.
2. A controlled substance or specified drug may not be delivered, distributed, or dispensed without a valid prescription. It is also unlawful for a person to knowingly or intentionally aid or abet in these activities. An example of such an activity includes knowingly or intentionally serving as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the dispensing of a controlled substance or specified drug.
 3. This section applies to the delivery, distribution, and dispensing of a controlled substance or specified drug by means of the internet or any other electronic means from a location whether within or outside this state to a person or an address in this state.
 4. Nothing in this section may be construed:
 - a. To apply to the delivery, distribution, or dispensing of a controlled substance or specified drug by a practitioner engaged in the practice of telemedicine in accordance with applicable federal and state laws;
 - b. To prohibit or limit the use of electronic prescriptions for a controlled substance or any other drug;
 - c. To prohibit a physician from prescribing a controlled substance or specified drug through the use of a guideline or protocol established with an allied health professional, resident, or medical student under the direction and supervision of the physician;
 - d. To prohibit a practitioner from issuing a prescription or dispensing a controlled substance or specified drug in accordance with administrative rules adopted by a state agency authorizing expedited partner therapy in the management of a sexually transmitted disease; or

- e. To limit prescription, administration, or dispensing of a controlled substance or specified drug through a distribution mechanism approved by the state health officer in order to prevent, mitigate, or treat a pandemic illness, infectious disease outbreak, or intentional or accidental release of a biological, chemical, or radiological agent.

5. A person who violates this section is guilty of a class C felony.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 183

HOUSE BILL NO. 1133

(Representatives Larson, Porter, Delmore)
(Senators Anderson, Berry, Nelson)

A BILL to create and enact a new section to chapter 19-03.1 of the North Dakota Century Code, relating to controlled substance analogs; to amend and reenact subsection 7 of section 12-44.1-21, subsection 5 of section 12-46-24, subsection 7 of section 12-47-21, section 19-03.1-01, subdivision b of subsection 1 of section 19-03.1-23, and subsection 7 of section 19-03.1-23 of the North Dakota Century Code, relating to controlled substance analogs; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 12-44.1-21 of the North Dakota Century Code is amended and reenacted as follows:

7. As used in this section, "controlled substance" is as defined in ~~subsection 6 of section 19-03.1-01~~ and includes counterfeit substances as defined in ~~subsection 7 of section 19-03.1-01~~. As used in this section, "willfully" is as defined in section 12.1-02-02. As used in this section, "alcohol" and "alcoholic beverage" are as defined in section 5-01-01. As used in this section, "tobacco" means any form of tobacco, including cigarettes, cigars, snuff, or tobacco in any form in which it may be used for smoking or chewing. As used in this section, a wireless electronic communication device includes a cellular telephone, personal digital assistant, pager, mobile broadband card, internet router, digital camera, two-way radio, modem, or any other electronic device capable of wireless transmission, reception, interception, or storage of oral communications, text, e-mail, video or photograph images, data signals, or radio communications, and also includes a component of a wireless electronic device, regardless whether the component itself is able to transmit, store, or receive oral communications, text, e-mail, video or photograph images, data signals, or radio communications. A wireless electronic communications device does not include a medically prescribed device or any other device approved by the department.

SECTION 2. AMENDMENT. Subsection 5 of section 12-46-24 of the North Dakota Century Code is amended and reenacted as follows:

5. As used in this section, "controlled substance" is as defined in ~~subsection 6 of section 19-03.1-01~~ and includes counterfeit substances as defined in ~~subsection 7 of section 19-03.1-01~~.

SECTION 3. AMENDMENT. Subsection 7 of section 12-47-21 of the North Dakota Century Code is amended and reenacted as follows:

7. As used in this section, "controlled substance" is as defined in ~~subsection 6 of section 19-03.1-01~~ and includes counterfeit substances as defined in ~~subsection 7 of section 19-03.1-01~~. As used in this section, "willfully" is as defined in section 12.1-02-02. As used in this section, "alcohol" and "alcoholic

beverage" are as defined in section 5-01-01. As used in this section, "tobacco" means any form of tobacco, including cigarettes, cigars, snuff, or tobacco in any form in which it may be used for smoking or chewing. As used in this section, a wireless electronic communications device includes a cellular telephone, personal digital assistant, pager, mobile broadband card, internet router, digital camera, two-way radio, modem, or any other electronic device capable of wireless transmission, reception, interception, or storage of oral communications, text, electronic mail, video or photograph images, data signals, or radio communications, and also includes a component of a wireless electronic device, regardless whether the component itself is able to transmit, store, or receive oral communications, text, electronic mail, video or photograph images, data signals, or radio communications. A wireless electronic communications device does not include a medically prescribed device or any other device approved by the department.

SECTION 4. AMENDMENT. Section 19-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-01. Definitions.

As used in this chapter and in chapters 19-03.2 and 19-03.4, unless the context otherwise requires:

1. "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:
 - a. A practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or
 - b. The patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.
3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.
4. "Board" means the state board of pharmacy.
5. "Bureau" means the drug enforcement administration in the United States department of justice or its successor agency.
6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.
7. "Controlled substance analog":
 - a. Means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in a schedule I or II and:

- (1) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system which is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or
- (2) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

b. Does not include:

- (1) A controlled substance;
- (2) Any substance for which there is an approved new drug application; or
- (3) With respect to a particular individual, any substance, if an exemption is in effect for investigational use, for that individual, under section 505 of the federal Food, Drug and Cosmetic Act [21 U.S.C. 355] to the extent conduct with respect to the substance is pursuant to the exemption.

8. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

8-9. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.

9-10. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

10-11. "Dispenser" means a practitioner who dispenses.

11-12. "Distribute" means to deliver other than by administering or dispensing a controlled substance.

12-13. "Distributor" means a person who distributes.

13-14. "Drug" means:

- a. Substances recognized as drugs in the official United States pharmacopeia national formulary, or the official homeopathic pharmacopeia of the United States, or any supplement to any of them;
- b. Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;

- c. Substances, other than food, intended to affect the structure or any function of the body of individuals or animals; and
 - d. Substances intended for use as a component of any article specified in subdivision a, b, or c. The term does not include devices or their components, parts, or accessories.
- 14-15. "Hashish" means the resin extracted from any part of the plant cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.
- 15-16. "Immediate precursor" means a substance:
- a. That the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use in the manufacture of a controlled substance;
 - b. That is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and
 - c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.
- 16-17. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging, or labeling of a controlled substance:
- a. By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or
 - b. By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.
- 17-18. "Marijuana" means all parts of the plant cannabis whether growing or not; the seeds thereof; the resinous product of the combustion of the plant cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- 18-19. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- a. Opium and opiate and any salt, compound, derivative, or preparation of opium or opiate.
- b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
- c. Opium poppy and poppy straw.
- d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

19-20. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes its racemic and levorotatory forms.

20-21. "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.

21-22. "Over-the-counter sale" means a retail sale of a drug or product other than a controlled, or imitation controlled, substance.

22-23. "Person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

23-24. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

24-25. "Practitioner" means:

- a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted by the jurisdiction in which the individual is practicing to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research.
- b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state.

25-26. "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

26-27. "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by a person, whether as principal, proprietor, agent, servant, or employee.

27-28. "Scheduled listed chemical product" means a product that contains ephedrine, pseudoephedrin, or phenylpropanolamine, or each of the salts, optical isomers, and salts of optical isomers of each chemical, and that may be marketed or distributed in the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug unless prescribed by a licensed physician.

28-29. "State" when applied to a part of the United States includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States.

29-30. "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

88 SECTION 5. AMENDMENT. Subdivision b of subsection 1 of section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

- b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony. Except for a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana, any person found guilty under this subdivision must be sentenced:

- (1) For a second offense, to imprisonment for at least three years.

- (2) For a third or subsequent offense, to imprisonment for ten years.

89 SECTION 6. AMENDMENT. Subsection 7 of section 19-03.1-23 of the North Dakota Century Code is 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. Any person who violates this subsection regarding possession of one-half ounce [14.175 grams] to one ounce [28.35 grams] of marijuana is guilty of a class A 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

⁸⁸ Section 19-03.1-23 was also amended by section 6 of House Bill No. 1133, chapter 183.

⁸⁹ Section 19-03.1-23 was also amended by section 5 of House Bill No. 1133, chapter 183.

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.

SECTION 7. A new section to chapter 19-03.1 of the North Dakota Century Code is created and enacted as follows:

Controlled substance analog use - Venue for violation - Penalty.

1. The use of controlled substance analog includes the ingestion, inhalation, absorption, or any other method of taking the controlled substance analog into the body. An individual who intentionally uses a controlled substance analog is guilty of a class C felony, unless the individual obtains the analog directly from a practitioner or pursuant to a valid prescription or order of a practitioner.
2. The venue for a violation under this section exists in the jurisdiction in which the substance was used or in which the substance was detected.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 184

HOUSE BILL NO. 1070

(Judiciary Committee)

(At the request of the State Board of Pharmacy)

AN ACT to amend and reenact sections 19-03.1-05, 19-03.1-09, 19-03.1-11, and 19-03.1-13 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. Acetylmethadol.
 - c. Allylprodine.
 - d. Alphacetylmethadol.
 - e. Alphameprodine.
 - f. Alphamethadol.
 - g. 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. Alpha-methylthiofentanyl (also known as N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
 - i. Benzethidine.
 - j. Betacetylmethadol.

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- k. Beta-hydroxyfentanyl (also known as N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide).
 - l. Beta-hydroxy-3-methylfentanyl (also known as N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide).
 - m. Betameprodine.
 - n. Betamethadol.
 - o. Betaprodine.
 - p. Clonitazene.
 - q. Dextromoramide.
 - r. Diampromide.
 - s. Diethylthiambutene.
 - t. Difenoxin.
 - u. Dimenoxadol.
 - v. Dimepheptanol.
 - w. Dimethylthiambutene.
 - x. Dioxaphetyl butyrate.
 - y. Dipipanone.
 - z. Ethylmethylthiambutene.
 - aa. Etonitazene.
 - bb. Etoxidine.
 - cc. Furethidine.
 - dd. Hydroxypethidine.
 - ee. Ketobemidone.
 - ff. Levomoramide.
 - gg. Levophenacymorphan.
 - hh. 3-Methylfentanyl (also known as N-[3-methyl-1-(2-phenylethyl) 4-piperidyl]-N-phenylpropanamide).
 - ii. 3-Methylthiofentanyl (also known as N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
 - jj. Morpheridine.

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- kk. MPPP (also known as 1-methyl-4-phenyl-4-propionoxypiperidine).
 - ll. Noracymethadol.
 - mm. Norlevorphanol.
 - nn. Normethadone.
 - oo. Norpipanone.
 - pp. Para-fluorofentanyl (also known as N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide).
 - qq. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-acetoxypiperidine).
 - rr. Phenadoxone.
 - ss. Phenampromide.
 - tt. Phenomorphan.
 - uu. Phenoperidine.
 - vv. Piritramide.
 - ww. Proheptazine.
 - xx. Properidine.
 - yy. Propiram.
 - zz. Racemoramide.
 - aaa. Thiofentanyl (also known as N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide).
 - bbb. Tilidine.
 - ccc. 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:
- a. Acetorphine.
 - b. Acetyldihydrocodeine.
 - c. Benzylmorphine.
 - d. Codeine methylbromide.
 - e. Codeine-N-Oxide.
 - f. Cyprenorphine.

- 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; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
 - b. Alpha-methyltryptamine.
 - c. ~~4-bromo-2, 5-dimethoxy amphetamine (also known as 4-bromo-2, 5-dimethoxy a-methylphenethylamine; 4-bromo-2, 5-DMA).~~
 - d. ~~4-bromo-2, 5-dimethoxyphenethylamine (also known as 4-bromo-2, 5-DMPEA).~~
 - e. ~~2,5-dimethoxy amphetamine (also known as 2, 5-dimethoxy a-methylphenethylamine; 2, 5-DMA).~~

- f. 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).
- g. 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T-7).
- h. 4-methoxyamphetamine (also known as 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA).
- i. 5-methoxy-3,4-methylenedioxy-amphetamine.
- j. 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; DOM and STP).
- k. 5-Methoxy-N,N-Dimethyltryptamine.
- l. 3,4-methylenedioxy-amphetamine.
- m. 3,4-methylenedioxymethamphetamine (also known as MDMA).
- n. 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl, MDA, MDE, MDEA).
- o-d. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA).
- p. 3,4,5-trimethoxy-amphetamine.
- q. Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine).
- r. 5-methoxy-N,N-diisopropyltryptamine.
- s. Diethyltryptamine (also known as N, N-Diethyltryptamine; DET).
- t. Dimethyltryptamine (also known as DMT).
- u-e. Hashish.
- v-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).
- w-g. Lysergic acid diethylamide.
- x-h. Marijuana.
- y. Mescaline.
- z-i. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl).
- aa-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).

~~bb.k.~~ N-ethyl-3-piperidyl benzilate.

~~ee.l.~~ N-methyl-3-piperidyl benzilate.

~~dd.m.~~ Psilocybin.

~~ee.~~ Psilocybn.

~~ff.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.

(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.)

~~gg.o.~~ Cannabinoids, synthetic. ~~This subdivision contains the synthetic chemicals which have similar effects on the cannabinoid receptors.~~ 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, cianoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 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.
- (2) Naphthylmethyliindoles. 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, cianoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or, 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) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cianoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or, 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) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cianoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or, 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, cianoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or, 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) 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 or 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 or 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) 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-oyl)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-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.

(i) Naphthalen-1-yl-(4-pentyloxynaphthalen-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:

(a) By substitution of phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups;

- (b) By substitution at the 2-position by any alkyl groups; or
- (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.

(2) Examples include:

- (a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).
- (b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).
- (c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).
- (d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).
- (e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).
- (f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).
- (g) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).
- (h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).
- (i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).
- (j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).
- (k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).
- (l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).
- (m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).
- (n) 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-a-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-alpha-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 alpha-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).

- hh-v. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
- ii-w. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
- jj-x. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl)cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TPCP, TCP).
- kk-y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
- ll-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:
- Flunitrazepam.
 - Gamma-hydroxybutyric acid.
 - Mecloqualone.
 - 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:
- Aminorex (also known as 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine).
 - Cathinone (~~also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone~~).
 - 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:
 - 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;
 - 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-alpha-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 Pentedrone).

(g) 2-Fluoromethcathinone.

(h) 3-Fluoromethcathinone.

(i) 4-Methylethcathinone (also known as 4-MEC).

(j) 4-Fluoromethcathinone (also known as Flephedrone).

(k) 4-Methoxy-alpha-pyrrolidinopropiophenone (also known as MOPPP).

(l) 4-Methoxymethcathinone (also known as Methedrone; bk-PMMA).

(m) 4'-Methyl-alpha-pyrrolidinobutiophenone (also known as MPBP).

(n) Alpha-methylamino-butyrophenone (also known as Buphedrone or MABP).

(o) Alpha-pyrrolidinobutiophenone (also known as alpha-PBP).

(p) Alpha-pyrrolidinopropiophenone (also known as alpha-PPP).

(q) Alpha-pyrrolidinopentiophenone (also known as Alpha-pyrrolidinovalerophenone or alpha-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. Fenethylline.
- e. Fluoroamphetamine.
- f. Fluoromethamphetamine.
- ~~d. Mephedrone (2-methylamino-1-p-tolylpropan-1-one) also known as 4-methylmethcathinone (4-MMC), 4-methylephedrone.~~
- e.g. (\pm)cis-4-methylaminorex (also known as (\pm)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).
- f. ~~3,4-Methylenedioxypropylvalerone (MDPV).~~
- g. ~~Methcathinone (also known as (2-methylamino-1-phenylpropan-1-one).~~
- 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. Sulfondiethylmethane.
 - l. Sulfonethylmethane.
 - m. Sulfonmethane.
 - n. 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, flupyzapon.

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) 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) 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) 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);
- gg-hh. 17alpha-methyl-3beta,17beta-dihydroxy-5a-androstane;
- hh-ii. 17alpha-methyl-3alpha,17beta-dihydroxy-5a-androstane;
- ii-jj. 17alpha-methyl-3beta,17beta-dihydroxyandrost-4-ene;
- jj-kk. 17alpha-methyl-4-hydroxynandrolone (17alpha-methyl-4-hydroxy-17beta-hydroxyestr-4-en-3-one);
- kk-ll. Methyldienolone (17alpha-methyl-17beta-hydroxyestra-4,9(10)-dien-3-one);
- ll-mm. Methyltrienolone (17alpha-methyl-17beta-hydroxyestra-4,9(11)-trien-3-one);
- mm-nn. Methyltestosterone (17alpha-methyl-17beta-hydroxyandrost-4-en-3-one);
- nn-oo. Mibolerone (7alpha,17alpha-dimethyl-17beta-hydroxyestr-4-en-3-one);
- oo-pp. 17alpha-methyl-delta1-dihydrotestosterone (17beta-hydroxy-17alpha-methyl-5alpha-androst-1-en-3-one) (also known as '17-alpha-methyl-1-testosterone');
- pp-qq. Nandrolone (17beta-hydroxyestr-4-en-3-one);
- qq-rr. 19-nor-4-androstenediol (3beta,17beta-dihydroxyestr-4-ene);
- rr-ss. 19-nor-4-androstenediol (3alpha,17beta-dihydroxyestr-4-ene);
- ss-tt. 19-nor-5-androstenediol (3beta,17beta-dihydroxyestr-5-ene);
- tt-uu. 19-nor-5-androstenediol (3alpha,17beta-dihydroxyester-5-ene);
- uu-vv. 19-nor-4-androstenedione (estr-4-en-3,17-dione);
- vv-ww. 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione);
- ww-xx. 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- xx-yy. Norbolethone (13beta,17alpha-diethyl-17beta-hydroxygon-4-en-3-one);
- yy-zz. Norclostebol (4-chloro-17beta-hydroxyestr-4-en-3-one);

- zz-aaa. Norethandrolone (17alpha-ethyl-17beta-hydroxyestr-4-en-3-one);
- aaa-bbb. Normethandrolone (17alpha-methyl-17beta-hydroxyestr-4-en-3-one);
- bbb-ccc. Oxandrolone (17alpha-methyl-17beta-hydroxy-2-oxa-[5alpha]-androstan-3-one);
- eee-ddd. Oxymesterone (17alpha-methyl-4-17beta-dihydroxyandrost-4-en-3-one);
- ddd-eee. Oxymetholone (17alpha-methyl-2-hydroxymethylene-17beta-hydroxy[5alpha]-androstan-3-one);
- eee-fff. Stanozolol (17alpha-methyl-17beta-hydroxy[5alpha]-androst-2-eno[3,2-c]-pyrazole);
- fff-ggg. Stenbolone (17beta-hydroxy-2-methyl-[5alpha]-androst-1-en-3-one);
- ggg-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);
- hhh-jjj. Testosterone (17beta-hydroxyandrost-4-en-3-one);
- iii-kkk. Tetrahydrogestrinone (13beta,17alpha-diethyl-17beta-hydroxygon-4,9,11-trien-3-one);
- jjj-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. Barbital.
 - c. Bromazepam.
 - d. Camazepam.
 - e. Carisoprodol.
 - f. Chloral betaine.
 - g. Chloral hydrate.
 - h. Chlordiazepoxide.
 - i. Clobazam.
 - j. Clonazepam.

- k. Clorazepate.
- l. Clotiazepam.
- m. Cloxazolam.
- n. Delorazepam.
- o. Diazepam.
- p. Dichloralphenazone.
- q. Estazolam.
- r. Ethchlorvynol.
- s. Ethinamate.
- t. Ethyl loflazepate.
- u. Fludiazepam.
- v. Flurazepam.
- w. Fospropofol.
- x. Halazepam.
- y. Haloxazolam.
- z. Indiplon.
- aa. Ketazolam.
- bb. Loprazolam.
- cc. Lorazepam.
- dd. Lorcaserin.
- ee. Lormetazepam.
- ee-ff. Mebutamate.
- ff-gg. Medazepam.
- gg-hh. Meprobamate.
- hh-ii. Methohexital.
- ii-ji. Methylphenobarbital (also known as mephobarbital).
- jj-kk. Midazolam.
- kk-ll. Nimetazepam.

- ll-mm. Nitrazepam.
- mm-nn. Nordiazepam.
- nn-oo. Oxazepam.
- oo-pp. Oxazolam.
- pp-qq. Paraldehyde.
- qq-rr. Petrichloral.
- rr-ss. Phenobarbital.
- ss-tt. Pinazepam.
- tt-uu. Propofol.
- uu-vv. Prazepam.
- vv-ww. Quazepam.
- ww-xx. Temazepam.
- xx-yy. Tetrazepam.
- yy-zz. Triazolam.
- zz-aaa. Zaleplon.
- aaa-bbb. Zolpidem.
- bbb-ccc. 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. AMENDMENT. Section 19-03.1-13 of the North Dakota Century Code is amended and reenacted as follows:

19-03.1-13. Schedule V.

- 1. The controlled substances listed in this section are included in schedule V.
- 2. Schedule V 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 and their salts.
- 4. Narcotic drugs containing nonnarcotic active medicinal ingredients. Any 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, which includes one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone.
 - a. Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

- b. Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
 - c. Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
 - d. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
 - e. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
 - f. Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
5. Depressants. Unless specifically exempted or excluded 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, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible:
- a. Ezogabine N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester.
 - b. Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide].
 - b.c. Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].
6. Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers: Pyrovalerone.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 185

SENATE BILL NO. 2089

(Human Services Committee)
(At the request of the State Board of Pharmacy)

AN ACT to amend and reenact section 19-03.5-02 and subdivision e of subsection 3 of section 19-03.5-03 of the North Dakota Century Code, relating to state board of pharmacy prescription monitoring programs and access to prescription drug information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.5-02 of the North Dakota Century Code is amended and reenacted as follows:

19-03.5-02. Requirements for prescription drug monitoring program.

1. The board shall establish and maintain a program for the monitoring of prescribing and dispensing of all controlled substances.
2. Each dispenser shall submit to the board by electronic means information regarding each prescription dispensed for a controlled substance. ~~The information submitted for each prescription must include all of the data elements in the American Society for Automation in Pharmacy Rules-Based Standard Implementation Guide for Prescription Monitoring Programs issued August 31, 2005, version 003, release 000.~~ The board shall establish and update rules to direct dispensers on the version of the American Society for Automation in Pharmacy Rules-Based Standard Implementation Guide for Prescription Monitoring Programs in which the dispensing history must be submitted to the central repository.
3. Each dispenser shall submit the information in accordance with transmission methods and frequency established by the board.
4. The board may issue an extension of time to a dispenser that is unable to submit prescription information by electronic means.

SECTION 2. AMENDMENT. Subdivision e of subsection 3 of section 19-03.5-03 of the North Dakota Century Code is amended and reenacted as follows:

- e. The department of human services for purposes regarding the utilization of controlled substances by a medicaid recipient or establishment and enforcement of child support and medical support;

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 186

HOUSE BILL NO. 1326

(Representatives Pollert, D. Johnson, Haak)
(Senators Klein, Wanzek, Heckaman)

AN ACT to create and enact six new sections to chapter 19-13.1 and sections 19-13.1-06.1 and 19-13.1-06.2 of the North Dakota Century Code, relating to the manufacturing and distribution of commercial feed; to amend and reenact sections 19-13.1-02, 19-13.1-04, 19-13.1-06, 19-13.1-07, 19-13.1-08, 19-13.1-09, 19-13.1-11, 19-13.1-12, and 19-13.1-13 of the North Dakota Century Code, relating to the manufacturing and distribution of commercial feed; to repeal sections 19-13.1-01, 19-13.1-03, and 19-13.1-10 of the North Dakota Century Code, relating to rules, enforcement, and registration and licensing requirements applicable to commercial feed; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-13.1-02 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-02. Definitions of words and terms.

When used in this chapter, unless the context otherwise requires:

1. "Brand name" means any word, name, symbol, or device, or any singly or in combination thereof, identifying the, that identifies commercial feed of a distributor and distinguishing it and distinguishes it from that of all others.
2. "Commercial feed" means all materials, except whole seeds unmixed or physically altered entire unmixed seeds when not adulterated within the meaning of section 19-13.1-07, which are distributed for use as feed or for mixing in feed. The commissioner, by rule, may exempt from this definition, or from specific provisions of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds, or substances are not intermixed or mixed with other materials and are not adulterated within the meaning of section 19-13.1-07 any materials, singly or in combination, that are distributed, or which are intended to be distributed, for use as feed or for mixing in feed, except for:
 - a. Unmixed whole seeds and unmixed physically altered seeds, provided they are not chemically changed or adulterated;
 - b. Commodities such as hay, straw, stover, silage, cobs, husks, and hulls, provided the commodities are:
 - (1) Not intermixed or mixed with other materials;
 - (2) Not adulterated; and
 - (3) Specifically exempted by the agriculture commissioner;

- c. Individual chemical compounds or substances, provided they are:
- (1) Not intermixed or mixed with other materials;
 - (2) Not adulterated; and
 - (3) Specifically exempted by the agriculture commissioner; and
- d. Unprocessed grain screenings or unprocessed mixed grain screenings, provided:
- (1) The distributor does not make oral or written reference to the nutritional value of the screenings;
 - (2) The screenings are not adulterated; and
 - (3) The screenings are specifically exempted by the agriculture commissioner.
3. "Contract feeder" means ~~a person who, as an independent contractor, that feeds commercial feed to animals pursuant to a contract whereby such~~under which the commercial feed is supplied, furnished, or otherwise provided to such the person and ~~whereby such~~the person's remuneration is determined all in whole or in part by feed consumption, mortality, profits, or the amount or quality of the product.
4. "Customer-formula feed" means ~~a mixture of commercial feeds or feed ingredients each batch of which is mixed~~commercial feed that is manufactured according to the specific instructions of the final purchaser or contract feeder.
5. "Distribute" means to offer:
- a. Offer for sale, sell, exchange, or barter commercial feed or customer-formula feed; or to supply
 - b. Supply, furnish, or otherwise provide commercial feed or customer-formula feed to a contract feeder. "Distributor" means any person who distributes.
6. "Drug" means any:
- a. Any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in animals other than mandisease in an animal other than a human; and articles
 - b. Any article, other than feed, that is intended to affect the structure or any function of the animalan animal's body.
7. "Feed ingredient" means each of the constituent materials making up a commercial feed.
8. "Label" means ~~a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed or customer formula feed is distributed.~~

9. "Labeling" means all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrapper or accompanying such commercial feed any printed or stamped information on or attached to a commercial feed container or its wrapper and written information accompanying the distribution of a commercial feed or customer-formula feed.
- ~~10.9.~~ "Manufacture" means to grind, mix, or blend, or further process a commercial feed for distribution.
11. ~~"Mineral feed" means a substance or mixture of substances designed or intended to supply primarily mineral elements or inorganic nutrients.~~
- ~~12.10.~~ "Official sample" means any sample of feed taken by the commissioner and designated as "official" by the agriculture commissioner in accordance with section 19-13.1-09.
13. "Percent" or "percentage" means percentage by weight.
14. "Person" includes individual, partnership, corporation, limited liability company, and association.
15. ~~"Pet" means any domesticated animal normally maintained in or near the household of the owner.~~
- ~~16.11.~~ "Pet food" means any commercial feed prepared and distributed for consumption by pets dogs or cats.
- ~~17.12.~~ "Product name" means the name of the commercial feed which a term that identifies its commercial feed as to its kind, class, or specific use and which distinguishes that feed from all other products bearing the same brand name.
18. "Retail" means to sell to the consumer or final purchaser.
19. "Sell" or "sale" includes exchange.
- ~~20.13.~~ "Specialty pet food" means any commercial feed prepared and distributed for consumption by any animal normally maintained in confinement, including canaries, finches, gerbils, goldfish, hamsters, mynahs, psittacine birds, fish, snakes, turtles, and zoo animals any other domesticated animal normally maintained in a cage or a tank.
21. ~~"Ton" means a net weight of two thousand pounds avoirdupois [907.18 kilograms].~~

SECTION 2. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Manufacturer's license - Retailer's license.

1. a. A person shall obtain a commercial feed manufacturer's license for each facility at which the person manufactures commercial feed if the person distributes the feed within this state.
- b. A person shall obtain a commercial feed manufacturer's license if the person's name appears on the label of a commercial feed as a guarantor.

- c. This subsection does not apply to a person that manufactures or guarantees pet food or specialty pet food.
2. A person shall obtain a commercial feed retailer's license for each facility at which the person sells commercial feed other than pet food or specialty pet food. This subsection does not apply to a person licensed as a commercial feed manufacturer.
3. In order to obtain an initial license required by this section, a person shall submit an application form at the time and in the manner required by the agriculture commissioner and:
 - a. If the person is applying for a manufacturer's license, a fee in the amount of one hundred twenty dollars for a manufacturer's license; or
 - b. If the person is applying for a retailer's license, a fee in the amount of sixty dollars.
4. In order to renew a license required by this section, a person shall submit an application form at the time and in the manner required by the commissioner and:
 - a. If the person is applying for a manufacturer's license renewal, a fee in the amount of one hundred dollars; or
 - b. If the person is applying for a retailer's license renewal, a fee in the amount of fifty dollars.
5. A license issued under this section is valid during the period beginning on January first of an even-numbered year and ending on December thirty-first of the ensuing odd-numbered year.
6. If a person fails to renew a license within thirty-one days of its expiration, that person must apply for an initial license.

SECTION 3. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Product registration.

Each commercial feed manufacturer required to be licensed under this chapter shall register all feeds distributed in this state with the agriculture commissioner, at the time and in the manner required by the commissioner. This section does not apply to customer-formula feeds.

SECTION 4. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

License - Registration - Hearing.

1. a. The agriculture commissioner may refuse to issue a license to an applicant that is not in compliance with this chapter.
 - b. The commissioner may revoke a license if the licensee is not in compliance with this chapter.

- c. The commissioner may refuse to register any feed and may cancel the registration of any feed if the registrant is not in compliance with this chapter.
2. Before the commissioner may act under this section, the commissioner shall provide the affected person with an opportunity for an informal hearing.

SECTION 5. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Pet food - Specialty pet food - Registration - Penalty.

1. Before being distributed in this state, each pet food product and each specialty pet food product must be registered. This requirement does not apply to a distributor, provided the pet food or specialty pet food is registered by another person.
2. In order to register pet food and specialty pet food, a person shall submit:
 - a. An application form at the time and in the manner required by the agriculture commissioner; and
 - b. A fee in the amount of one hundred twenty dollars.
3. In order to renew a registration required by this section, a person shall submit:
 - a. An application form at the time and in the manner required by the commissioner; and
 - b. A fee in the amount of one hundred dollars.
4. A registration issued under this section is valid during the period beginning on January first of an even-numbered year and ending on December thirty-first of the ensuing odd-numbered year.
5. If a person fails to renew a registration within thirty-one days of its expiration, that person must apply for an initial registration.
6. Upon approving an application for an initial registration or a renewed registration, the commissioner shall furnish a certificate of registration to the applicant. A certificate of registration is not transferable.
7. Any person violating this section is subject to a penalty of twenty-five dollars for each product that must be registered.

SECTION 6. AMENDMENT. Section 19-13.1-04 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-04. Labeling Commercial feed - Label - Content.

~~Any~~Except as provided in section 7 of this Act, any commercial feed that is distributed in this state must be accompanied by a legible label bearing the information prescribed by rule labeled. The label must include:

1. The product's name, including any brand name under which the product is distributed.

2. The product's weight, volume, or quantity, as appropriate;
3. A guaranteed analysis expressed on an "as is" basis;
4. Unless waived by the agriculture commissioner in the interest of consumers, the commonly accepted name of each ingredient or, if permitted by the commissioner, a collective term for a group of ingredients that perform a similar function;
5. The name and principal mailing address of the manufacturer or the distributor;
6. Directions for use of any commercial feed containing drugs; and
7. Any precautionary statements recommended by the commissioner to ensure the safe and effective use of the feed.

SECTION 7. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Customer-formula feed - Label - Content.

Any customer-formula feed that is distributed in this state must be labeled.

1. The label must include:
 - a. The name and address of the manufacturer;
 - b. The name and address of the purchaser;
 - c. The date of delivery;
 - d. The product's name;
 - e. The weight, volume, or quantity, as appropriate, of each ingredient, including commercial feed; and
 - f. Any precautionary statement recommended by the agriculture commissioner to ensure the safe and effective use of the feed.
2. If the feed contains drugs, the label must also include:
 - a. The purpose of each drug;
 - b. The weight, volume, or quantity, as appropriate, of each drug; and
 - c. The name of each active ingredient.

SECTION 8. AMENDMENT. Section 19-13.1-06 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-06. Inspection feesfee.

~~There must be paid to the commissioner for all commercial feeds and customer-formula feeds, except pet foods and specialty pet foods, distributed in this state an~~

1. ~~An inspection fee at the rate of twenty cents per ton [907.18 kilograms] with a minimum of ten dollars. However, customer-formula feeds are exempted if the inspection fee is paid on the commercial feeds that they contain and distribution of commercial feeds to manufacturers is exempted if the commercial feeds so distributed are used solely in manufacture of feeds that are registered. Every person, except as hereinafter provided, who distributes commercial feed in this state shall:~~
1. ~~File, not later than the thirty-first day of January of each year, an annual statement under oath setting forth the number of net tons [kilograms] of commercial feeds distributed in this state during the preceding year; and upon filing such statement shall pay the inspection fee. If the statement is not received by January thirty-first, a penalty of ten percent of the amount owed, with a minimum of ten dollars and a maximum of two hundred fifty dollars, may be assessed. The person whose name appears on the label as the manufacturer, guarantor, or distributor shall assume the liability for reporting and paying the inspection fee.~~
2. ~~Keep such records as may be necessary or required by the commissioner to indicate accurately the tonnage of commercial feed distributed in this state and the commissioner has the right to examine such records to verify statements of tonnage.~~

~~Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein constitutes sufficient cause for the cancellation of all licenses on file for the distributoris imposed on all commercial feed distributed in this state. The minimum fee payable under this section is ten dollars.~~

2. Subsection 1 does not apply if:
 - a. The fee was paid earlier in the year by another person;
 - b. The commercial feed is to be used in the manufacturing of a registered commercial feed;
 - c. The feed is a customer-formula feed and the fee has been paid on the commercial feeds used as ingredients; or
 - d. The manufacturer produces only customer-formula feed.

SECTION 9. Section 19-13.1-06.1 of the North Dakota Century Code is created and enacted as follows:

19-13.1-06.1. Inspection fee - Responsibility for payment - Penalty.

1. The person responsible for payment of the inspection fee is:
 - a. The manufacturer listed on the label;
 - b. The guarantor listed on the label; or
 - c. The distributor listed on the label.
2. Before the close of business on each February fifteenth, the person responsible for the payment of the inspection fee shall provide to the agriculture commissioner:

- a. A sworn statement indicating the number of net tons [kilograms] of commercial feed, by class, that the person distributed in this state during the immediately preceding calendar year; and
 - b. The inspection fees due in accordance with this chapter.
3. If the person responsible for the payment of the inspection fee fails to submit the assessments as required by this section, the commissioner may impose a penalty equal to ten percent of the amount due, plus interest at the rate of six percent per annum from the due date. If imposed, a penalty under this section may not be less than ten dollars nor more than two hundred and fifty dollars.

SECTION 10. Section 19-13.1-06.2 of the North Dakota Century Code is created and enacted as follows:

19-13.1-06.2. Inspection fee - Records.

1. The person responsible for payment of the inspection fee shall maintain, for a period of three years, records of all transactions necessary to verify the statement of tonnage required by section 19-13.1-06.1.
2. The person shall make the records required by this section available to the agriculture commissioner for examination upon request.
3. If the commissioner determines that the records required by this section were not maintained accurately, the commissioner may cancel all licenses on file for the distributor.

SECTION 11. AMENDMENT. Section 19-13.1-07 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-07. Adulteration.

~~No~~ A person may not distribute an ~~adulterated feed. Any commercial feed or customer formula feed~~ that is adulterated;

1. ~~a. If it bears~~ Commercial feed is adulterated if it contains any poisonous or deleterious substance that may render it ~~the feed~~ injurious to health. ~~If~~ However, if the substance is not an added substance, the commercial feed is ~~not~~ may be considered adulterated under this subsection only if the quantity of the substance in the commercial feed ~~does not ordinarily~~ is present in sufficient quantity to render it injurious to health;.
- ~~b. 2.~~ If it bears or Commercial feed is adulterated if it contains any added substance that is poisonous, added deleterious, or added nonnutritive ~~substance that is,~~ and unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 75-717; 52 Stat. 1049; 21 U.S.C. 346] ~~other than one which is a.~~ This subsection does not apply to any pesticide chemical in or on a raw agricultural commodity or to a food additive;
- ~~e. 3.~~ If it is, or it bears or Commercial feed is adulterated if it contains; any food additive that is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 85-929; 72 Stat. 1785; 21 U.S.C. 348];.

- ~~d-4. a. If Commercial feed is adulterated if it is a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe within the meaning of section 408a of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 85-791; 68 Stat. 511; 21 U.S.C. 346a]. Except that when~~
- ~~b. However, if a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 85-791; 68 Stat. 511; 21 U.S.C. 346a] and if the raw agricultural commodity has been subjected to processing a process such as canning, cooking, dehydration, freezing, dehydrating, or milling, the residue of the any pesticide chemical residue remaining in or on the processed feed may not be deemed unsafe if the, provided:~~
- ~~(1) The residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice; and the~~
 - ~~(2) The concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless.~~
- ~~c. The exception set forth in subdivision b does not apply if the feeding of such processed feed will result or is likely to may result in a pesticide residue in the edible product of the animal, which evidencing a pesticide residue that is unsafe within the meaning of section 408a of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 85-791; 68 Stat. 511; 21 U.S.C. 346a];.~~
- ~~e-5. If it is, or it bears or Commercial feed is adulterated if it contains; any color additive that is unsafe within the meaning of section 721 of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 102-571; 106 Stat. 4498; 21 U.S.C. 379e]; or.~~
- ~~f-6. If it is, or it bears or Commercial feed is adulterated if it contains; any new animal drug which that is unsafe within the meaning of section 512 of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 90-399; 82 Stat. 343; 21 U.S.C. 360b];.~~
- ~~2-7. In addition to the foregoing subsections, commercial feed is adulterated if:~~
- ~~a. If any Any valuable constituent has been omitted, in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor, thereby providing a lower nutritive value in the finished product;~~
 - ~~3. b. If its The composition or quality of the feed falls below or differs from that which it is purported or is represented to possess by its labeling is stated on its label;~~
 - ~~4. c. If it The feed contains added hulls, screenings, straw, cobs, or other high fiber material, unless the name of each such each material is stated on the label;~~
 - ~~5. d. If it The feed contains viable weed seeds in amounts exceeding the limits which that the commissioner shall establish establishes by rule;~~

- 6- ~~e.~~ e. If ~~it~~The feed contains a drug and the methods used in or the facilities or controls used for its manufacturing, processing, or packaging do not conform to current good manufacturing practice rules adopted by the commissioner ~~to assure that the drug meets the requirement of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess;~~
- 7- ~~f.~~ f. If ~~it~~The feed consists in whole or in part of any filthy, putrid, or decomposed substance, or if ~~it~~the feed is otherwise unfit for ~~feed~~feed~~s~~ intended use;
- 8- ~~g.~~ g. If ~~it~~The feed has been prepared, packed, or held under unsanitary conditions, ~~whereby it that~~ may have caused it to become contaminated with filth; or ~~whereby it may have been rendered injurious to health;~~
- 9- ~~h.~~ h. If ~~it is,~~The feed consists in whole or in part, ~~of~~ the product of a diseased animal or of an animal that has died otherwise than by slaughter which is unsafe within the meaning of section 402(a)(1) or (2) of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 75-717; 52 Stat. 1046; 21 U.S.C. 342];
- 10- ~~i.~~ i. If ~~its~~The feed's container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;
- ~~j.~~ j. The feed has been packaged in bags or totes that previously contained pesticide products, treated seeds, or other hazardous materials; or
- 11- ~~k.~~ k. If ~~it~~The feed has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act, as amended [Pub. L. 85-929; 72 Stat. 1785; 21 U.S.C. 348].

SECTION 12. AMENDMENT. Section 19-13.1-08 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-08. Misbranding.

~~No~~A person may ~~not~~ not distribute ~~any commercial feed that is misbranded feed. A commercial feed or customer formula feed is~~Commercial feed is misbranded if:

1. ~~If its labeling~~Its label is false or misleading ~~in any particular;~~
2. ~~If it~~It is distributed under the name of another commercial feed;
3. ~~If it~~It is not labeled ~~as required in section 19-13.1-04 and in rules prescribed under~~ in accordance with this chapter;
4. ~~If it~~It purports to be or is represented as being a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition of identity, if any, prescribed by rules of the agriculture commissioner; ~~in the adopting of the rules the commissioner shall give due regard to commonly accepted definitions such as those issued by the association of American feed control officials; or~~

5. ~~If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon, with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in such terms so as to render it likely to be read and understood readable and comprehensible by the ordinary individual under customary conditions of purchase and use.~~

SECTION 13. AMENDMENT. Section 19-13.1-09 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-09. Inspection, sampling, analysis.

1. ~~a.~~ a. For the purpose of enforcement of purposes of enforcing this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, designated officers and employees duly designated by of the agriculture commissioner, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized to may enter and inspect, during normal business hours, any factory, warehouse, or establishment within their this state, in which commercial feeds are manufactured, processed, packed, or held for distribution, or to provided the individuals first present their credentials and written notice to the owner or manager.
- ~~b.~~ b. For purposes of enforcing this chapter, designated officers and employees of the commissioner may enter and inspect any vehicle being used to transport or hold such feeds; and to inspect commercial feed, provided the individuals first present their credentials and written notice to the owner, manager, or driver.
2. Any inspection authorized under this section must take place at reasonable times and, within reasonable limits, and in a reasonable manner, the factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of only such records and production and control procedures, as may be necessary to determine compliance with the good manufacturing practice rules established under subsection 6 of section 19-13.1-07 this chapter and rules implemented under this chapter.
- 2.3. A separate notice must be given for each such authorized inspection, but a. However, a separate notice is not required for each entry made during the period covered by the inspection. Each inspection must be commenced and completed with reasonable promptness. Upon completion of the inspection, the person individual in charge of the facility or the individual in charge of the vehicle must be so notified.
- 3.4. If the officer or employee making an inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises, the officer or employee shall give to the owner, operator, or agent in charge or manager a receipt describing the samples obtained.
- 4.5. If the owner, or agent of the owner, of any factory, warehouse, or establishment described in subsection 1 refuses to admit the officer or agent to inspect in accordance with If an officer or employee of the commissioner is denied entry as authorized by this section, the commissioner is authorized

~~to may obtain a warrant from any state court directing the owner or the owner's agent/manager to submit the premises described in the warrant to inspection.~~

- ~~5-6. Any agent/officer or employee of the commissioner is authorized to enter upon any public or private premises, including any vehicle of transport, during regular business hours to have access to, and to any structure or vehicle in accordance with this section, may obtain samples; and to examine records relating to distribution of commercial feeds to enforce this chapter.~~
- ~~6-7. Sampling under this section must be conducted in accordance with generally recognized methods and any analysis of the samples taken must be conducted in accordance with methods published by the association of official analytical chemists or in accordance with other generally recognized laboratory methods.~~
- ~~7-8. The commissioner shall forward the results of all analyses of official samples must be forwarded by the commissioner any sample analysis to the person named on the label and to the purchaser. When the inspection and analysis of an official sample~~
- ~~9. If an analysis indicates that a commercial feed has been adulterated or misbranded, the registrant/person named on the label may request a portion of the sample concerned, within thirty days following receipt of the analysis, request that the commissioner provide to the person a portion of the sample.~~
- ~~8-10. In determining for administrative purposes whether a commercial feed is deficient in any component, the commissioner must be guided by the official sample obtained and analyzed as provided for in this chapter.~~

SECTION 14. AMENDMENT. Section 19-13.1-11 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-11. Detained commercial feeds.

- ~~1. When/if the agriculture commissioner has reasonable cause to believe any/a lot of commercial feed is being distributed in violation of this chapter or of any of the prescribed regulations under rules implementing this chapter, the commissioner may issue and enforce a written or printed a "withdrawal from distribution" order, warning/prohibiting the distributor not to dispose from disposing of the lot of feed in any manner until written permission is given by the commissioner or they/a court. The commissioner shall release the lot of commercial feed so withdrawn when the provisions and rules have been complied with when there has been compliance with this chapter and the rules implementing this chapter. If compliance is not obtained within thirty days, the commissioner may begin, or upon request of the distributor shall begin, proceedings for condemnation.~~
- ~~2. Any lot of commercial feed not in compliance with the provisions and regulations this chapter or rules implementing this chapter is subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which the commercial feed is located. If the court finds the commercial feed to be in violation of this chapter or rules implementing this chapter and orders the condemnation of the commercial feed, it must be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state; provided, that in no instance may the. A court may not order disposition of the commercial feed be ordered by the court without first giving the claimant~~

an opportunity to apply to the court for its release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this chapter and rules implementing this chapter.

SECTION 15. AMENDMENT. Section 19-13.1-12 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-12. Penalties.

1. Any person convicted of violating this chapter or the rules issued thereunder or ~~who implementing this chapter and any person that impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the agriculture commissioner from performing the commissioner's duties in connection with the provisions of this chapter is guilty of a class A misdemeanor. In all prosecutions under this chapter involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the person performing the analysis, or that person's authorized agent, must be accepted as prima facie evidence of the composition.~~
2. This chapter does not require the commissioner to seek prosecution or ~~the institution of seizure proceedings~~ stake any other legal action based on minor violations of the chapter ~~when if the commissioner deems that the public interest will be best served by a suitable notice of written warning in writing.~~
3. Each state's attorney to whom any violation is reported shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the commissioner reports a violation for prosecution, the commissioner shall provide an opportunity shall be given for the distributor to present the distributor's view to the commissioner.
4. The commissioner may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule ~~adopted under the implementing this chapter notwithstanding the existence of other remedies at law. The~~ An injunction is to be issued without bond.
5. Any person adversely affected by an act, order, or ruling made pursuant to this chapter may within forty-five days thereafter bring action in the district court for Burleigh County for new trial of the issues bearing upon such act, order, or ruling, and upon such trial the court may issue and enforce such orders, judgments, or decrees as the court may deem proper, just, and equitable.

SECTION 16. AMENDMENT. Section 19-13.1-13 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-13. Publications.

1. The agriculture commissioner may publish, in such forms as the commissioner may determine proper, information concerning the sales of regarding commercial feeds, together with such data on including their production, sales, and use as the commissioner may consider advisable, and a report of the results of, and publish a comparison of the analyses of official samples of commercial feeds sold within their this state. However, the information concerning with the analyses guaranteed in their registration and on their label.

2. Information regarding the production and use of commercial feeds may not disclose the operations of any person.

SECTION 17. A new section to chapter 19-13.1 of the North Dakota Century Code is created and enacted as follows:

Certificates - Fees.

The agriculture commissioner may:

1. Implement a program to inspect, audit, and certify commercial feed manufacturing and distribution facilities, at the request of an owner;
2. Issue commercial feed export certificates; and
3. Establish a schedule of fees for the services provided under this section.

SECTION 18. REPEAL. Sections 19-13.1-01, 19-13.1-03, and 19-13.1-10 of the North Dakota Century Code are repealed.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 187

HOUSE BILL NO. 1227

(Representatives Kempenich, D. Johnson, Pollert, J. Kelsh)
(Senators Klein, Miller, Heckaman)

AN ACT to create and enact section 19-20.1-17.1 of the North Dakota Century Code, relating to the imposition of civil penalties; to amend and reenact sections 19-20.1-02, 19-20.1-03, 19-20.1-03.1, 19-20.1-03.4, 19-20.1-04, 19-20.1-06, 19-20.1-08, 19-20.1-10, 19-20.1-11, 19-20.1-12, 19-20.1-13, 19-20.1-14, 19-20.1-15, 19-20.1-16, 19-20.1-17, and 19-20.1-18 of the North Dakota Century Code, relating to fertilizers, fertilizer materials, micronutrients, specialty fertilizers, soil amendments, and plant amendments; to repeal sections 19-20.1-01, 19-20.1-03.3, 19-20.1-05.1, 19-20.1-07, and 19-20.2-11 of the North Dakota Century Code, relating to the agriculture commissioner, protected information, rulemaking, and storage and fees; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-20.1-02 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-02. Definitions of words and terms.

When used in this chapter:

1. "Brand" means a term, design, or trademark, used in connection with one or several grades of fertilizer, fertilizer material, micronutrients, specialty fertilizer, soil amendments, or plant amendments.
2. "Bulk" means in a nonpackaged form.
3. "Compost" means a material derived primarily or entirely from biological decomposition of vegetative organic matter or animal manure that does not have inorganic fertilizer added other than to promote decomposition.
4. "Deficiency" means that amount of plant nutrient or active ingredient found by analysis is less than the amount guaranteed resulting from a lack of nutrient or active ingredients or from lack of uniformity.
5. "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends fertilizer, fertilizer materials, micronutrients, specialty fertilizers, soil amendments, or plant amendments, or who sells or offers for sale fertilizer, fertilizer materials, micronutrients, specialty fertilizers, soil amendments, or plant amendments in this state.
6. "End user" means a person who uses a fertilizer, fertilizer materials, micronutrients, specialty fertilizers, soil amendment, or plant amendment in a manner for which the product was intended.
7. "Fertilizer" means any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for

use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other products excluded by the commissioner by rule.

8. "Fertilizer material" means a fertilizer which:
 - a. Contains no more than one of the primary plant nutrients;
 - b. Has approximately eighty-five percent of its primary plant nutrient content present in the form of a single chemical compound; or
 - c. Is derived from a plant or animal residue or byproduct or a natural material deposit which has been processed in such a way that its content of primary plant nutrients has not been materially changed except by purification or concentration.
9. ~~"Foliar fertilizer" means a fertilizer designed and ordinarily applied directly to growing plant foliage to stimulate further growth.~~
10. "Grade" means the percentages of total nitrogen, available phosphate, and soluble potassium or soluble potash stated in the same terms, order, and percentages as in the "guaranteed analysis". "Guaranteed analysis" means the minimum percentage of plant nutrients claimed.
11. ~~"Inert" means any ingredient not active.~~
- 12.10. "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer, soil amendment, or plant amendment.
- 13.11. "Label" means all written, printed, or graphic matter upon or accompanying any fertilizer, fertilizer material, micronutrients, specialty fertilizer, soil amendment, or plant amendment and any printed material or media announcements used in promoting ~~the~~their sale ~~thereof~~.
- 14.12. "Licensee" means any person licensed by the commissioner to distribute a fertilizer, fertilizer material, micronutrients, specialty fertilizer, soil amendment, or plant amendment.
- 15.13. "Manipulated" means fertilizers, fertilizer materials, micronutrients, specialty fertilizers, soil amendments, or plant amendments that are manufactured, blended, or mixed, or animal or vegetable manures that have been treated in any manner, including mechanical drying, grinding, pelleting, and other means, or by adding other chemicals or substances.
- 16.14. "Micronutrient" means a fertilizer that contains only essential chemical elements that are required at low levels for normal plant growth.
- 17.15. "Mobile mechanical unit" means any portable machine or apparatus used to blend, mix, or manufacture fertilizers, fertilizer material, micronutrients, specialty fertilizers, soil amendments, or plant amendments.
- 18.16. "Official sample" means any sample of fertilizer, fertilizer material, micronutrients, specialty fertilizer, soil amendment, or plant amendment, taken by the commissioner and designated as "official" by the commissioner.

- ~~19-17.~~ "Organic" in reference to fertilizer nutrients refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition with a water insoluble nitrogen content of at least sixty percent of the guaranteed total nitrogen.
- 20-18. "Percent" or "percentage" means the percentage by weight.
- 24-19. "Plant amendment" means a substance applied to plants or seeds which is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants except fertilizers, unless the fertilizer is represented to contain, as an active ingredient, a substance other than a primary plant nutrient or micronutrient, or is represented as promoting plant growth by supplying something other than a primary plant nutrient or micronutrient.
- 22-20. "Plant nutrient" means a nutrient generally recognized as beneficial for plant growth, including nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.
- 23-21. "Primary plant nutrients" means nitrogen, phosphate, and potash.
- 24-22. "Registrant" means the person who registers fertilizers, soil amendments, or plant amendments under the provisions of this chapter.
- 25-23. "Sell" when applied to fertilizers, fertilizer material, micronutrients, specialty fertilizers, soil amendments, or plant amendments includes:
- The act of selling or transferring ownership.
 - The offering ~~and exposing~~ for sale, exchange, or distribution.
 - Giving away.
 - Receiving, accepting, holding, or possessing for sale, exchange, or distribution.
- ~~26.~~ "~~Small package fertilizer~~" means ~~fertilizer sold exclusively in packages of twenty-five pounds [11.34 kilograms] or less.~~
- 27-24. "Soil amendment" means any substance ~~which that~~ is intended to improve the characteristics of the soil except fertilizers, unmanipulated animal manures, unmanipulated vegetable manures, and pesticides. The term includes fertilizer if the fertilizer is represented to contain, as an active ingredient, a substance other than a primary plant nutrient or micronutrient or is represented as promoting plant growth by supplying something other than a primary plant nutrient or micronutrient.
- 28-25. "Specialty fertilizer" means a fertilizer distributed primarily for nonfarm use.
- 29-26. "Ton" means a net weight of two thousand pounds avoirdupois [907.18 kilograms].

SECTION 2. AMENDMENT. Section 19-20.1-03 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-03. RegistrationProduct registration - Fees.

1. Each brand and grade of fertilizer, fertilizer material, foliar fertilizer, micronutrient, specialty fertilizer, soil amendment, ~~or~~ plant amendment must be registered in the name of the person whose name appears upon the label before being offered for sale or distributed in this state.
2. The application for registration must be submitted to the commissioner on a form furnished by the commissioner and must be accompanied by a:
 - a. A current product label; and
 - b. A fee of fifty dollars. Upon approval by the commissioner, a certificate of registration must be furnished to the applicant. Registrations cover per product.
3. A registration is effective for a two-year period beginning July first and ending June thirtieth of everyeach even-numbered year. ~~Distribution of fertilizer products without prior registration or~~
4. Any request for a registration renewal received after July thirty-first must be assessed a penalty of twenty-fiveone hundred dollars per product. ~~A distributor is not required~~
5. a. This section does not require a distributor to register any brand of fertilizer, soil amendment, or plant amendment that product listed in subsection 1 if that product is already registered under this chapter by another person, providing the label complies with the issued registration. Compost
- b. This section does not require the registration of compost that is transferred between parties without compensation is exempt from these requirements.
6. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

SECTION 3. AMENDMENT. Section 19-20.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-03.1. License required – PenaltyDistributor's license - Fees.

1. A person may not distribute any fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment in this state without first obtaining a distributor's license from the commissioner. ~~However, a distributor's license is not required for those distributors selling only specialty fertilizers.~~
2. A license ~~must be obtained~~is required for each location or mobile mechanical unit used by a distributor in the state.
3. The application for the license must be submitted on a form furnished by the commissioner and must be accompanied by a fee of one hundred dollars.

4. A license ~~covers~~ is effective for a two-year period beginning July first and ending June thirtieth of ~~every~~ each even-numbered year.
5. License renewal applications received after July thirty-first ~~may~~ must be assessed a penalty fee of ~~twenty~~ of one hundred dollars ~~per location~~. Licenses are
6. A license issued under this section:
 - a. Is not transferable, and each license must;
 - b. Must be conspicuously posted at each location; and must accompany
 - c. Must be carried in each mobile mechanical unit operating in the state.
7. The requirements of this section do not apply to persons that distribute only:
 - a. Specialty fertilizers; or
 - b. Seed inoculants.
8. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

SECTION 4. AMENDMENT. Section 19-20.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-03.4. Guaranteed analysis.

~~Until the commissioner prescribes the alternative form of guaranteed analysis in accordance with the provisions of this section, guaranteed~~

1. Guaranteed analysis must be claimed in the following order and forms follows:
 - 1-a. Total Nitrogen (N) _____ percent;
 - b. Available Phosphate (P_2O_5) _____ percent; and
 - c. Soluble Potash (K_2O) _____ percent.
2. ~~For~~ In the case of unacidulated mineral phosphatic materials and basic slag, bone, tankage, and other organic phosphatic materials, the total phosphate or degree of fineness, or both, may also be guaranteed.
3. ~~Guarantees~~ Rules implemented under this chapter may allow or require guarantees for plant nutrients other than nitrogen, phosphorus, and potassium ~~may be permitted or required by rules adopted by the commissioner. The guarantees for any other nutrients~~
 - a. Guarantees under this subsection must be expressed in the form of the element.
 - b. The commissioner may require that the sources of other nutrients, including oxides, salt, and chelates, may be required to be stated on the

application for registration and ~~may be~~ included as a parenthetical statement on the label.

- c. Other beneficial substances or compounds, determinable by laboratory methods, ~~also may be guaranteed by~~with permission of the commissioner ~~and with the advice of~~after consultation with the director of the agricultural experiment stationNorth Dakota state university extension service.
4. When any plant nutrients or other substances or compounds are guaranteed, they are subject to inspection and analysis in accord with the methods and rules prescribed by the commissioner.
- 4-5. a. The commissioner ~~may~~, by rule, may require potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of one hundred pounds [45.36 kilograms] per ton [907.18 kilograms].
5. b. The guaranteed analysis of a soil amendment or plant amendment must be an accurate statement of composition, including the percentages of each ingredient. If the product is a microbiological product, the number of viable micro-organisms per milliliter for a liquid or the number of viable micro-organisms per gram for a dry product must also be listed.

SECTION 5. AMENDMENT. Section 19-20.1-04 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-04. LabelingLabel requirement.

1. Any fertilizer, ~~fertilizer material, micronutrient, specialty fertilizer,~~ soil amendment, or plant amendment distributed in this state ~~in containers must have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the information required by the commissioner~~must be labeled.

1. If the product is in a container, the label must be plainly printed in English and conspicuously placed on or attached to the container. The label must include:
- The net weight;
 - The brand;
 - The grade, unless no primary nutrients are claimed;
 - The guaranteed analysis; and
 - The name and address of the registrant.
2. ~~If the product is distributed in bulk, a written or printed statement showing the net weight, brand and grade, guaranteed analysis, name and address of the distributor, and the sources from which the nitrogen, phosphorus, and potassium are derived~~document providing the same information required in subsection 1 must accompany the delivery and be supplied to the ~~purchaser~~provided to the end user at the time of delivery.
3. A fertilizer formulated according to specifications that are furnished by a consumer prior to mixing must be labeled to show the net weight, the guaranteed analysis or ~~number of pounds [kilograms]~~amount of each plant

nutrient it contains in pounds [kilograms], and the name and address of the distributor.

4. ~~The commissioner may require the labels of specialty fertilizer sold in packages of fifty pounds [22.68 kilograms] or more, or sold in bulk, to contain the prominent statement "Not intended for farm use"registrant.~~

SECTION 6. AMENDMENT. Section 19-20.1-06 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-06. Inspection fees and tonnage - Tonnage reports - Penalty.

1. ~~a. ThereAn inspection fee in the amount of twenty cents per ton [907.18 kilograms] must be paid to the commissioner feron all fertilizersfertilizer, fertilizer material, micronutrients, specialty fertilizer, soil amendments, or and plant amendments distributed in this state an inspection fee at the rate of twenty cents per ton [907.18 kilograms]. The inspection fee may not be less than ten dollars. Sales to manufacturers~~
- b. ~~This subsection does not apply to:~~
- (1) ~~Manufacturers, distributors, or exchanges of product between them are exempt from the inspection fee. Fees collected under this section must be forwarded to the state treasurer for deposit in the environment and rangeland protection fund.~~

~~Individual packages of, or~~

- (2) ~~Individual fertilizers, fertilizer material, micronutrients, specialty fertilizers, soil amendments, or plant amendments sold exclusively in packages of twenty-five pounds [11.34 kilograms] or less are exempt from the provisions of this section. If a person sells fertilizer, soil amendments, or plant amendments in packages of twenty-five pounds [11.34 kilograms] or less and in packages over twenty-five pounds [11.34 kilograms], that portion sold in packages over twenty-five pounds [11.34 kilograms] is subject to the same inspection fee of twenty cents per ton [907.18 kilograms], including the minimum ten dollar fee, as provided in this chapter.~~
2. ~~a. EveryOn or before January thirty-first, each licensed person who distributes a fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment to a nonlicensed personan end user in this state shall file with the commissioner, on forms furnished by the commissioner, an annual statement for the calendar year, setting forth:~~
- (1) ~~File with the commissioner a form stating the number of net tons [kilograms] of each fertilizer, soil amendment, or plant amendment-solisted product distributed in this state during the period. A licensed end user shall report all sales and purchases and pay the appropriate tonnage tax. The statement is due on or before January thirty-first of the following year. The person filing the statement shall pay the inspection fee at the rate stated in this section. If the tonnage statement is not filed and the payment of inspection fee is not made by January thirty first, a collection fee amounting to ten percent, minimum ten dollars, of the amount must be assessed against the licensee, and~~

~~the amount of fees due constitute a debt and become the basis of a judgment against the licensee preceding calendar year; and~~

- (2) Submit to the commissioner the inspection fee required by this section.
- b. If a person fails to submit an inspection fee, at the time and in the manner required by this section, the commissioner may impose a penalty equal to ten percent of the amount due. The penalty must be equal to at least ten dollars.
3. a. On or before January thirty-first, each licensed person that distributes a fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment to a licensed entity in this state shall file with the commissioner a form stating the number of net tons [kilograms] of each listed product distributed in this state during the preceding calendar year.
- b. If a person fails to file the form, at the time and in the manner required by this subsection, the commissioner may impose a late fee of thirty-five dollars.
4. Each distributor shall keep all records regarding purchases and sales for a period of three years. The records may be examined by the commissioner upon request.
5. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

SECTION 7. AMENDMENT. Section 19-20.1-08 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-08. Inspection, sampling, analysis.

1. The commissioner shall in order to determine compliance with this chapter and rules implemented under this chapter, the commissioner may enter upon real property and access any structure and personal property, during regular business hours, to sample, inspect, make analyses of, and test fertilizers, fertilizer material, micronutrients, specialty fertilizers, soil amendments, and plant amendments distributed within this state at any time and place and to such an extent as the commissioner may deem necessary to determine whether these products are in compliance with this chapter. The commissioner is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to products subject to this chapter and the rules adopted under this chapter.
2. The methods of analysis and sampling must be those adopted by the commissioner from sources such as the A.O.A.C. Journal of the AOAC. In cases not covered by these methods, or if methods are available in which improved applicability has been demonstrated, the commissioner may adopt appropriate methods from other sources.
3. In sampling a lot of fertilizer, a single package may constitute the an official sample. The commissioner, in determining for administrative purposes whether any fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment is deficient, the commissioner must be

guided solely by the commissioner's analysis of the official sample obtained and analyzed by the commissioner. The

4. If the results of the commissioner's official analysis of any indicate that a fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment that has been found to may be the subject of a penalty or other legal action must be forwarded by the commissioner shall forward the analysis to the registrant at least ten days before the report is submitted to the purchaser. If during that period no adequate evidence to the contrary is made available to the commissioner, the report becomes official. Official
5. The commissioner shall retain any official samples found to be deficient must be retained by the commissioner for thirty days from issuance of the analytical report.
6. Upon request, the commissioner shall furnish to the registrant a portion of any sample found to be the subject of a penalty or other legal action.

SECTION 8. AMENDMENT. Section 19-20.1-10 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-10. Misbranding.

1. A person may not distribute a misbranded fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment. For purposes of this section, a fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment is misbranded if false:
 - a. False or misleading statements concerning the product are disseminated in any manner or by any means, if it;
 - b. The product carries a false or misleading statement on the label or labeling, if it;
 - c. The product is distributed under the name of another product, if it;
 - d. The product is not labeled as required by section 19-20.1-04 and in accordance with rules adopted this chapter or rules implemented under this chapter, and if it; or
 - e. The product purports to be or is represented as a fertilizer, or is represented as containing a plant nutrient or fertilizer unless the plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by in rule of by the commissioner.
2. In adopting these rules, the commissioner shall give due regard to commonly accepted definitions and official fertilizer terms such as those issued by the association of American plant food control officials. It is unlawful to distribute a misbranded fertilizer, soil amendment, or plant amendment.

SECTION 9. AMENDMENT. Section 19-20.1-11 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-11. Publications.

The commissioner may publish in the forms the commissioner determines proper:

1. Information concerning the distribution of fertilizers, fertilizer material, micronutrients, specialty fertilizers, soil amendments, and plant amendments-; and
2. Results of analyses based on official samples of fertilizers, fertilizer material, micronutrients, specialty fertilizers, soil amendments, and plant amendments distributed within the state as compared with the analyses guaranteed under sections 19-20.1-03 and 19-20.1-04.

SECTION 10. AMENDMENT. Section 19-20.1-12 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-12. Rules.

For the enforcement of this chapter, the commissioner ~~is authorized to may~~ adopt and enforce rules relating to investigational allowances, definitions, records, licensing, inspection, analysis, labeling, storage, and distribution of fertilizers, fertilizer material, micronutrients, specialty fertilizers, soil amendments, and plant amendments as ~~necessary to carry into effect the full intent and meaning of this chapter.~~

SECTION 11. AMENDMENT. Section 19-20.1-13 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-13. Deficiencies.

1. A product is deficient if one or more of its guaranteed primary plant nutrients or other guaranteed active ingredients falls below the investigational allowances and compensations as established by rule or if the overall index value of the fertilizer is shown below the level established by rule.
2. A deficiency in an official sample of mixed fertilizer resulting from nonuniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.
3. For the purpose of determining the commercial index value to be applied, the commissioner shall determine at least annually the values per unit of nitrogen, available phosphate, and soluble potash in fertilizers in this state.
4. If any fertilizer, fertilizer material, micronutrients, specialty fertilizer, soil amendment, or plant amendment in the possession of the consumer is found by the commissioner to be short in weight, the registrant of the product shall within thirty days after official notice from the commissioner pay to the consumer a penalty equal to four times the value of the actual shortage.

SECTION 12. AMENDMENT. Section 19-20.1-14 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-14. Cancellation of registrations.

1. The commissioner may cancel the registration of any brand of fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment and, may cancel the license of any distributor or, may refuse to register any brand of fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment or, and may refuse to license any distributor ~~as herein provided~~, upon satisfactory evidence that the registrant, licensee, or distributor ~~has~~ used fraudulent or deceptive practices in

the evasions or attempted evasions of the provisions of this chapter or any rules adopted~~implemented~~ under this chapter. No

2. The commissioner may not refuse a registration or revoke a license may be revoked or refused without first providing an opportunity for a hearing given by the commissioner.

SECTION 13. AMENDMENT. Section 19-20.1-15 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-15. Stop-sale orders.

The commissioner may issue and enforce a ~~written or printed~~ "stop-sale, use, or removal" order to the owner or custodian of any lot of fertilizer, ~~fertilizer material, micronutrient, specialty fertilizer,~~ soil amendment, or plant amendment and ~~an order to hold at a designated place when, if the commissioner finds the fertilizer, soil amendment, or plant amendment that the product is being offered or exposed for sale in violation of this chapter or a rule adoptedimplemented under this chapter until the law or rule has been complied with and the fertilizer, soil amendment, or plant amendment is released in writing by the commissioner or the violation has been otherwise legally disposed by written authority. The commissioner shall release the fertilizer, soil amendment, or plant amendment so withdrawn when the requirements of this chapter and the rules adopted under this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid. The order must remain in effect until the commissioner:~~

1. Determines that the violation has been corrected;
2. Has given written authorization for the disposal of the product; or
3. Has given written authorization for the product to be offered for sale.

SECTION 14. AMENDMENT. Section 19-20.1-16 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-16. Seizure, condemnation, and sale.

1. Any lot of fertilizer, ~~fertilizer material, micronutrient, specialty fertilizer,~~ soil amendment, or plant amendment, not in compliance with this chapter and the rules ~~adopted underimplementing~~ this chapter, is subject to seizure on complaint of the commissioner to the district court ~~in~~ of the county in which the ~~fertilizer, soil amendment, or plant amendment~~product is located. ~~In the event~~
2. ~~If the court finds the fertilizer, soil amendment, or plant amendment~~product to be in violation of this chapter or a rule ~~adopted underimplementing~~ this chapter and orders its condemnation, it must be disposed of in any manner consistent with the quality of the ~~fertilizer, soil amendment, or plant amendment~~product and the laws of the state. ~~In no instance may the~~
3. A court may not order disposition of the ~~fertilizer, soil amendment, or plant amendment be ordered by the court~~product without first giving the claimant an opportunity to apply to the court for its release of the ~~fertilizer, soil amendment, or plant amendment~~ or for permission to process or relabel the ~~fertilizer, soil amendment, or plant amendment~~product in order to bring it into compliance with this chapter and the rules ~~adopted underimplementing~~ this chapter.

SECTION 15. AMENDMENT. Section 19-20.1-17 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-17. Violations - ~~Penalty~~Criminal penalty.

1. If it appears from the examination of any fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment that ~~any of the provisions of this chapter or the rules adopted under~~implementing this chapter have been violated, the commissioner shall cause notice of the violations to be given to the registrant, licensee, manufacturer, distributor, or possessor from whom the sample was taken. Any person so notified must be given an opportunity to be heard ~~under rules adopted by the commissioner~~. If it appears after the hearing, either in the presence or absence of the person so notified, that ~~any of the provisions of this chapter or rules adopted under~~implementing this chapter have been violated, the commissioner may certify the facts to the proper prosecuting attorney.
2. Any person ~~convicted of violating~~that violates this chapter or the rules ~~adopted under~~implementing this chapter or ~~who~~that impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the commissioner in the performance of the commissioner's duty ~~in connection with this chapter or the rules adopted under this chapter~~ is guilty of a class A misdemeanor.
3. In all prosecutions under this chapter involving the composition of a lot of fertilizers, fertilizer material, micronutrients, specialty fertilizers, soil amendments, or plant amendments, a certified copy of the official analysis signed by the person performing the analysis or that person's assigned agent must be accepted as prima facie evidence of the composition.
- 3-4. ~~Nothing in this chapter may be construed as requiring the~~The commissioner is not required to report for prosecution or for the institution of institute seizure proceedings ~~as a result of~~ or minor violations of the chapter ~~when~~if the commissioner believes that the public interestsinterest will be best served by a suitable notice ~~of~~written warning in writing.
4. ~~It is the duty of each state's attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.~~
5. The commissioner may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule ~~adopted under~~implementing this chapter, notwithstanding the existence of other remedies at law. An injunction under this section must be issued without bond.

SECTION 16. Section 19-20.1-17.1 of the North Dakota Century Code is created and enacted as follows:

19-20.1-17.1. Violations - Civil penalty.

Any person that violates this chapter or a rule implementing this chapter is subject to a civil penalty in an amount up to two thousand five hundred dollars per violation. The civil penalty may be imposed by a court or by the agriculture commissioner in an administrative hearing.

SECTION 17. AMENDMENT. Section 19-20.1-18 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-18. Exchanges between manufacturers.

Nothing in this chapter may be construed to restrict or avoid sales or exchanges of fertilizers, fertilizer materials, micronutrients, specialty fertilizers, soil amendments, or plant amendments to each other by importers, manufacturers, or manipulators who mix fertilizers, fertilizer materials, micronutrients, specialty fertilizers, soil amendments, or plant amendments for sale or as preventing the free and unrestricted shipments of fertilizer, fertilizer materials, micronutrients, specialty fertilizers, soil amendments, or plant amendments to manufacturers or manipulators who have registered their brands as required by this chapter.

SECTION 18. REPEAL. Sections 19-20.1-01, 19-20.1-03.3, 19-20.1-05.1, 19-20.1-07, and 19-20.2-11 of the North Dakota Century Code are repealed.

Approved April 26, 2013
Filed April 26, 2013

GAME, FISH, PREDATORS, AND BOATING

CHAPTER 188

SENATE BILL NO. 2242

(Senators Oehlke, Hogue, Lyson)
(Representatives Hofstad, D. Johnson, Hunskor)

AN ACT to create and enact a new subsection to section 20.1-01-02 and a new subsection to section 20.1-03-12 of the North Dakota Century Code, relating to disabled veterans and hunting fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 20.1-01-02 of the North Dakota Century Code is created and enacted as follows:

"Disabled veteran" means a veteran who has a one hundred percent service-connected disability as determined by the department of veterans' affairs or has an extra-schedular rating to include individual unemployability that brings the veteran's total disability ratio to one hundred percent as determined by the department of veterans' affairs.

⁹⁰ **SECTION 2.** A new subsection to section 20.1-03-12 of the North Dakota Century Code is created and enacted as follows:

For a resident disabled veteran combined general game, habitat stamp, small game, and fur-bearer license, three dollars.

Approved May 2, 2013

Filed May 2, 2013

⁹⁰ Section 20.1-03-12 was also amended by section 4 of House Bill No. 1264, chapter 193, section 5 of House Bill No. 1264, chapter 193, section 1 of House Bill No. 1434, chapter 196, and section 1 of Senate Bill No. 2231, chapter 195.

CHAPTER 189

HOUSE BILL NO. 1282

(Representatives Heilman, Anderson, Beadle,
Dosch, Hatlestad, Porter, Vigesaa, Weisz)
(Senator Schaible)

AN ACT to create and enact a new section to chapter 20.1-01 of the North Dakota Century Code, relating to using a suppressor for hunting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 20.1-01 of the North Dakota Century Code is created and enacted as follows:

Suppressor allowed for hunting.

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.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 190

HOUSE BILL NO. 1354

(Representatives Oversen, Amerman, Klemin, Trottier, Vigesaa)
(Senators Armstrong, Marcellais, Wardner)

AN ACT to amend and reenact section 20.1-02-04 of the North Dakota Century Code, relating to special deer licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-02-04 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-04. Duties of director.

The director shall:

1. Maintain an office in Bismarck.
2. Adopt rules necessary to the conduct of the department.
3. Keep an accurate record of all the transactions and expenditures of the department and submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04.
4. Enforce state laws involving wildlife.
5. Collect and distribute statistics and information germane to this title and publish information and reports, including a monthly bulletin, for the education of the public in conservation matters.
6. Examine all waters of the state and, wherever suitable waters are found, arrange to plant, stock, or deposit available fish, spawn, or fry.
7. Cooperate with the United States fish and wildlife service, or any other appropriate federal agency, and make applications for fish, spawn, and fry, to apportion and deposit in waters of the state.
8. Cooperate with and assist clubs and individuals in stocking the waters of this state with fish.
9. Remove or take from any public waters containing a surplus of fish any reasonable quantity of fish for stocking other public waters, hatching or propagating purposes, or exchange with other states and countries.
10. Control, construct, mark, designate, manage, and have charge of all state fish hatcheries, state game farms, game refuges, and game reserves owned, leased, or controlled for the propagation and protection of game birds, game animals, and fish.

11. Supervise the breeding, propagation, capture, distribution, and preservation of game birds, game animals, and fish as the director deems advisable.
12. Adopt rules necessary for carrying out section 20.1-10-01 and these rules have the force of law after one publication in the daily newspapers of this state.
13. Provide the necessary blank forms for making applications for licenses of all kinds and distribute them among those authorized to sell licenses.
14. Keep a record of all permits issued for the purpose of propagation and domestication of game birds or protected animals.
15. Issue four any deer licenses and six any white-tailed deer licenses annually to the ~~wounded warrior project~~ injured military wildlife project of North Dakota for distribution. A license issued under this subsection is valid ~~from~~ during the ~~opening of the youth deer season through the close of the~~ period of the deer ~~bow~~ season.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 191

HOUSE BILL NO. 1161

(Representatives Porter, Froseth, Hunskor)
(Senators Armstrong, Lyson, Schneider)

AN ACT to amend and reenact subsection 12 of section 20.1-02-05 of the North Dakota Century Code, relating to game and fish department licenses; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 12 of section 20.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

12. ~~Issue any resident license prescribed by this title to an individual who has come to the state with a bona fide intention of becoming a resident, even though that individual has not been a resident of this state for the required time period immediately preceding the application for the license; to any individual who is a member of the United States armed forces and who is within the state on duty or leave; to any employee of the United States fish and wildlife service or the conservation department of any state or province of Canada in the state to advise or consult with the department; or to any nonresident full time student living in this state who is attending an institution under the jurisdiction of the state board of higher education, a private institution of higher education, or a tribal college. Except for a license issued to a nonresident full-time student living in this state who is attending an institution under the jurisdiction of the state board of higher education, a private institution of higher education, or a tribal college, a license may not be issued under this subsection unless an affidavit of a bona fide resident, setting forth the actual conditions, accompanies the application. This subsection does not apply to lottery permits, except that the director shall issue a resident deer hunting license to any resident of this state who is a member of the United States armed forces stationed outside this state and who shows proof of North Dakota residence and who pays the appropriate licensing fee. A deer license issued to a member of the United States armed forces under this subsection must be issued without being subject to the lottery for deer hunting licenses.~~ Issue any resident license and adopt rules if necessary to carry out resident licensing for each of the following, except a lottery permit or license may be issued only to an individual who qualifies as a resident under subdivision a:
 - a. A resident who is eligible for a license under this title, except that the director shall issue a license on proper application. A resident who is eighteen years of age or older must submit a valid driver's license number from this state or valid nondriver photo identification number issued by this state before the director may issue a license.
 - b. An individual who has come to the state with a bona fide intention of becoming a resident, even though that individual has not been a resident of this state for the required time period immediately preceding the application for the license. However, an individual who is eighteen years of

- age or older is not eligible for a resident license under this subsection unless that individual first produces a driver's license number from this state or a nondriver photo identification number issued by this state and submits an affidavit of a bona fide resident setting forth the actual conditions of residency. An individual is not eligible for a resident license under this subsection if the individual maintains a valid resident hunting-related or fishing-related license from another state or country, unless the license is a lifetime license.
- c. An individual who is a member of the United States armed forces and who is within the state on duty or leave.
 - d. An employee of the United States fish and wildlife service or the conservation department of any state or province of Canada in the state to advise or consult with the department.
 - e. A nonresident full-time student living in this state who is attending an institution under the jurisdiction of the state board of higher education, a private institution of higher education, or a tribal college. A license may not be issued under this subdivision unless a valid student identification number accompanies the application.
 - f. A resident of this state who applies for a resident deer hunting license, is a member of the United States armed forces stationed outside this state, who shows proof of North Dakota residence, including a driver's license number from this state or a nondriver photo identification number from this state, and who pays the appropriate licensing fee, except the director shall issue the resident deer hunting license on proper application. A deer license issued to a member of the United States armed forces under this subdivision must be issued without being subject to the lottery for deer hunting licenses.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on April 1, 2014.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 192

HOUSE BILL NO. 1322

(Representatives Hofstad, Damschen, D. Johnson)
(Senators Miller, Oehlke)

AN ACT to amend and reenact section 20.1-02-05.1 of the North Dakota Century Code, relating to game and fish department land purchases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-02-05.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-05.1. Land acquisitions - Statewide land acquisition plan.

1. The director shall establish a comprehensive statewide land acquisition plan that must be approved by the budget section of the legislative management. Every land acquisition made by the department exceeding ten acres [4.05 hectares] or ten thousand dollars must be approved by the budget section. ~~Prior to any~~
2. Before a land acquisition, the department shall have the land in question appraised by a certified appraiser. The department may not acquire any land for an amount that exceeds the appraised value except for parcels or tracts of land less than forty acres [16.19 hectares] which may be acquired for up to two hundred percent of the appraised value.
3. Before the appraisal, the director shall give notice of the intent to purchase to every landowner within one mile [1.16 kilometers] of the boundary of the land to be appraised unless the landowner is within the boundary of a city, then the director shall send notice to the governing body of the city or unless the landowner is within the geographical boundary of a rural subdivision where the lots are ten acres [4.04 hectares] or less, then the director shall send notice to the governing body of the township or other governing authority for the rural subdivision. The director shall send notice to the board of county commissioners in the county of the land to be appraised, the board of township supervisors if the land to be appraised is in an organized township, and the governing body of a city within twelve miles [19.32 kilometers] of the boundary of the land to be appraised. The director shall publish notice in the official newspaper of the county of the land to be appraised, once a week for two consecutive weeks. The notice must contain the amount of acreage, the legal description, and the fact that the department intends to purchase the land.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 193

HOUSE BILL NO. 1264

(Representatives Brandenburg, Kempenich)
(Senators Erbele, Wanzek)

AN ACT to create and enact a new section to chapter 20.1-02, two new subsections to section 20.1-03-12, and a new section to chapter 20.1-03 of the North Dakota Century Code, relating to depredation kill permits for geese and an early Canada goose season; to amend and reenact section 20.1-03-07.1 of the North Dakota Century Code, relating to the early Canada goose season; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 20.1-02 of the North Dakota Century Code is created and enacted as follows:

Canada goose depredation kill permits.

The department shall implement a web-based online application process for Canada goose kill permits, publicize in select agricultural publications and trade journals the availability of Canada goose kill permits, and implement a program to match volunteers with agricultural producers with kill permits.

SECTION 2. AMENDMENT. Section 20.1-03-07.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-07.1. (~~Effective through July 31, 2013~~) Nonresident waterfowl hunting license required.

1. Except as provided in sections 20.1-02-05, 20.1-03-07.2, and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that individual first obtains a nonresident waterfowl hunting license. However, a nonresident may hunt cranes after first obtaining a nonresident waterfowl hunting license or a nonresident small game hunting license.
2. Except as otherwise provided in this section, the nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen consecutive days or any two periods of seven consecutive days each. A license authorizing the fourteen-day hunting period allows hunting in a specified waterfowl hunting zone. A license authorizing two 7-day hunting periods allows hunting in a specified zone during each period.
3. Upon payment of the fee for a statewide nonresident waterfowl hunting license, a nonresident may hunt waterfowl in any zone. Forty dollars of the fee for a statewide nonresident waterfowl license must be used for the private land open to sportsmen program.
4. The governor, in the governor's proclamation, shall specify various waterfowl hunting zones for which nonresident waterfowl hunting licenses will be

available, and may specify the number of licenses which may be issued in each zone and the manner in which they are to be issued.

5. A nonresident is entitled to purchase only one nonresident waterfowl hunting license per year.
6. The fourteen-day and two 7-day hunting period restrictions do not apply to nonresidents hunting in Richland and Sargent Counties or in Benson, Ramsey, or Towner Counties during the early September Canada goose season.

~~(Effective after July 31, 2013) Nonresident waterfowl hunting license required.~~

~~Except as provided in sections 20.1-02-05, 20.1-03-07.2, and 20.1-03-07.3, a nonresident may not hunt waterfowl unless that individual first obtains a nonresident waterfowl hunting license. However, a nonresident may hunt cranes after first obtaining a nonresident waterfowl hunting license or a nonresident small game hunting license. Except as otherwise provided in this section, the nonresident waterfowl hunting license entitles the nonresident to hunt waterfowl for any period of fourteen consecutive days or any two periods of seven consecutive days each. A license authorizing the fourteen day hunting period allows hunting in a specified waterfowl hunting zone. A license authorizing two 7-day hunting periods allows hunting in a specified zone during each period. Upon payment of the fee for a statewide nonresident waterfowl hunting license, a nonresident may hunt waterfowl in any zone. Forty dollars of the fee for a statewide nonresident waterfowl license must be used for the private land open to sportsmen program. The governor, in the governor's proclamation, shall specify various waterfowl hunting zones for which nonresident waterfowl hunting licenses will be available, and may specify the number of licenses which may be issued in each zone and the manner in which they are to be issued. A nonresident is entitled to purchase only one nonresident waterfowl hunting license per year.~~

SECTION 3. A new section to chapter 20.1-03 of the North Dakota Century Code is created and enacted as follows:

Early Canada goose season.

A resident or nonresident may purchase an early Canada goose license to hunt geese during an early season as determined by the governor by proclamation. The governor by proclamation may specify the number of licenses that may be issued and the manner in which the licenses are issued. A nonresident is not required to purchase any other license to hunt Canada geese during an early Canada goose season. A nonresident is not entitled to more than one nonresident early Canada goose season license and still may obtain a nonresident waterfowl hunting license under section 20.1-03-07.1.

⁹¹ **SECTION 4.** A new subsection to section 20.1-03-12 of the North Dakota Century Code is created and enacted as follows:

For a nonresident early Canada goose season license, fifty dollars.

⁹¹ Section 20.1-03-12 was also amended by section 5 of House Bill No. 1264, chapter 193, section 1 of House Bill No. 1434, chapter 196, section 1 of Senate Bill No. 2231, chapter 195, and section 2 of Senate Bill No. 2242, chapter 188.

⁹² **SECTION 5.** A new subsection to section 20.1-03-12 of the North Dakota Century Code is created and enacted as follows:

For a resident early Canada goose season license, five dollars.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 27, 2013

Filed March 27, 2013

⁹² Section 20.1-03-12 was also amended by section 4 of House Bill No. 1264, chapter 193, section 1 of House Bill No. 1434, chapter 196, section 1 of Senate Bill No. 2231, chapter 195, and section 2 of Senate Bill No. 2242, chapter 188.

CHAPTER 194

HOUSE BILL NO. 1131

(Representatives Hofstad, Schmidt, Vigessaa)
(Senators Carlisle, Lyson, Schaible)

AN ACT to amend and reenact section 20.1-03-11 of the North Dakota Century Code, relating to big game and gratis licenses; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-11. License to hunt big game required - Limitations on licenses.

1. An individual may not hunt, kill, take, or attempt to take any big game without having the appropriate big game hunting license and a locking seal bearing a number corresponding to the number of the big game hunting license or stamp. The locking seal must be issued as an integral part of the big game hunting license. Except as otherwise provided in this subsection, an individual may not apply for or be issued a big game hunting license ~~if unless~~ that individual's fourteenth or subsequent birthday ~~does not occur on or before the opening date of~~ occurs in the same year as the respective big game hunting season ~~provided, however, that an individual who is under fourteen years of age and who will be eligible to hunt on the opening date of or during the regular deer hunting season may hunt during the youth deer season.~~ This age limitation does not apply to applicants for big game licenses for hunting by bow and arrow. Each violation of this section is a distinct and separate offense. The following provisions govern youth deer and antelope hunting:
 - a. An individual whose twelfth or thirteenth birthday ~~occurs on or before the opening date of or during the~~ in the same year as a youth deer hunting season but is younger than fourteen years of age is entitled to receive a statewide white-tailed antlerless deer permit but may hunt only in ~~the~~ that youth deer hunting season.
 - b. An individual whose twelfth or thirteenth birthday ~~occurs on or before the opening date of or during the~~ in the same year as an antelope hunting season but is younger than fourteen years of age is entitled to apply for an antelope permit for that season.
 - c. An individual hunting under subdivision a or b must be accompanied by the individual's parent, guardian, or other individual authorized by the individual's parent or guardian. As used in this section, "accompanied" means to stay within a distance that permits uninterrupted visual contact and unaided verbal communication.
2. The number of licenses issued, including those licenses issued without charge under the provisions of this section, shall not exceed the number of licenses authorized by the governor's proclamation issued pursuant to section 20.1-08-04.

3. ~~An individual who is a resident, corporation, limited liability company, limited liability partnership, limited partnership, or partnership that has executed a lease for at least one hundred sixty acres [64.75 hectares] of land and that actively farms or ranches that land or an individual, corporation, limited liability company, limited liability partnership, limited partnership, or partnership that holds title to at least one hundred sixty acres [64.75 hectares] of land is eligible to apply for a license to hunt deer without charge, or if that entity is a nonresident upon payment of the fee requirement for a nonresident big game license, upon filing a signed application describing that land. If the license is issued to a corporation, limited liability company, limited liability partnership, limited partnership, or partnership, only one license may be issued and the license must be issued in the name of an individual shareholder, member, or partner. The land must be within a unit open for the hunting of deer. The license must include a legal description of the eligible land described in the completed application and may be used to hunt deer only upon that land. A license issued under this subsection is valid for the deer bow, deer gun, and muzzleloader seasons until filled. However, an individual, that individual's spouse, and their children who have a license issued under this subsection may hunt together on land described in any of the affidavits making them eligible for the license. Family members hunting together under this provision shall hunt within the same unit within which the land described in the affidavit making them eligible for the license is located. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. An individual who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or legal dependent residing customarily with that individual, but no more than one license may be issued under this subsection for any qualifying land. An individual transferring eligibility under this subsection may not receive a license under this subsection for the season for which the eligibility was transferred. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license.~~
 - a. An individual, corporation, limited liability company, limited liability partnership, limited partnership, partnership, trust, or life estate that hold title to at least one hundred fifty acres [60.70 hectares] of land is eligible to apply for a license to hunt deer without charge, or if the individual named to receive the license is a nonresident, upon payment of the fee required for a nonresident big game license.
 - b. A resident that is an individual, corporation, limited liability company, limited liability partnership, limited partnership, partnership, trust, or life estate that has executed a lease for at least one hundred fifty acres [60.7028 hectares] of land and that actively farms or ranches that land is eligible to apply for a license to hunt deer without charge. Upon request, a lessee shall provide proof the land described in the completed application is leased for agricultural purposes. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license. An individual issued a license under this subsection must be a resident.
 - c. Applications must include a legal description of the eligible land, must be within a unit open for the hunting of deer, and must be signed. A license issued under this subsection is valid for the deer bow, deer gun, and muzzleloader seasons until filled and only upon the land described in the application.

- d. If the eligible applicant in subsections a and b is a corporation, limited liability company, limited liability partnership, limited partnership, partnership, trust, or life estate, only one license may be issued and the license must be issued in the name of an individual shareholder, member, partner, beneficiary, or holder of a life estate.
 - e. An individual who is eligible for a license under subsections a and b may transfer that eligibility for the license to a spouse or legal dependent residing customarily with that individual. An individual may be eligible for only one license. No more than one license may be issued under this subsection for all qualifying land. An individual transferring eligibility under this subsection may not receive a license under subsections a and b for seasons for which the eligibility was transferred.
 - f. An individual, that individual's spouse, and their children who have a license issued under subsections a and b may hunt together on land described in any of the applications making them eligible for the license. Family members hunting together under this provision must hunt within the same unit within which the land described in the application making them eligible for the license is located.
 - g. Applications for license issued under subsections a, b, and f received by the game and fish department on or before the date of the application deadline for deer gun lottery will be issued as any legal deer. Applications for license issued under subsections a, b, and f received by the game and fish department after the the application deadline will be issued based on licenses available.
4. One percent of the total deer licenses and permits to hunt deer with guns to be issued in any unit or subunit as described in the governor's proclamation, including licenses issued to nonresidents under subsection 3, must be allocated for nonresidents. Notwithstanding the number of licenses allocated under this subsection, upon payment of the fee requirement for a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents, a nonresident may participate on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents.
 5. A resident who has executed a lease for at least ~~one hundred sixty acres [64.75 hectares]~~one hundred fifty acres [60.78 hectares] of land and who actively farms or ranches that land or a resident who holds title to at least ~~one hundred sixty acres [64.75 hectares]~~one hundred fifty acres [60.78 hectares] of land is eligible to apply for a license to hunt antelope without charge upon filing a signed application describing that land. The land must be within a unit open for the hunting of antelope. The license must include a legal description of the eligible land described in the completed application and may be used to hunt antelope only upon that land. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. A resident who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or legal dependent residing customarily with the resident, but no more than one license may be issued under this subsection for any qualifying land. A resident transferring eligibility under this subsection may not receive a license under this subsection for the season for which eligibility was transferred. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license. The number

of licenses issued without charge under this subsection may not exceed the total number of licenses prescribed for each district or unit in the governor's proclamation. If the number of eligible persons who apply for licenses issued without charge under this subsection exceeds the number of licenses prescribed for the district or unit in the governor's proclamation less any licenses that are otherwise designated to be issued with a charge under this subsection, the licenses to be issued without charge must be issued by lottery as prescribed in the governor's proclamation. If the number of licenses prescribed for the district or unit in the governor's proclamation exceeds fifty and if the number of applications for these licenses exceeds the number of licenses prescribed for the district or unit in the governor's proclamation, then one-half of the licenses exceeding fifty must be issued by lottery as prescribed in the governor's proclamation and may not be issued to landowners without charge.

6. A person who is unable to step from a vehicle without aid of a wheelchair, crutch, brace, or other mechanical support or prosthetic device or who is unable to walk any distance because of a permanent lung, heart, or other internal disease that requires the person to use supplemental oxygen to assist breathing and who receives or obtains, whether issued by lottery or otherwise, a license to hunt deer, is entitled to convert one license to take any sex or species of deer in the unit or subunit for which the license is issued. Notwithstanding any other law or any provision contained in the governor's proclamation concerning the hunting of deer, a person who is unable to step from a vehicle without aid of a wheelchair, crutch, brace, or other mechanical support or prosthetic device or who is unable to walk any distance because of a permanent lung, heart, or other internal disease that requires the person to use supplemental oxygen to assist breathing is entitled to apply for a license to hunt deer regardless of whether that person received a license to hunt deer in any prior year.
7. A resident who has executed a lease for at least ~~one hundred sixty acres [64.75 hectares]~~ one hundred fifty acres [60.78 hectares] of land and who actively farms or ranches that land or a resident who holds title to at least ~~one hundred sixty acres [64.75 hectares]~~ one hundred fifty acres [60.78 hectares] of land is eligible to apply for a license to hunt elk upon filing a signed application describing that land and payment of the fee requirement for a resident big game license. The land must be within a unit open for the hunting of elk. The license must include a legal description of the eligible land described in the completed application and may be used to hunt elk within the district or unit in which the land described in the completed application is located. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. A resident who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or legal dependent residing customarily with the resident, but no more than one license may be issued under this subsection for any qualifying land. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license. The governor's proclamation may restrict the districts or units for which preferential licenses may be issued under this subsection. The number of licenses issued under this subsection for each designated district or unit for hunting elk may not exceed fifteen percent of the total licenses prescribed in the governor's proclamation for each district or unit. If the number of applications for licenses to be issued under this subsection in a district or unit exceeds the maximum number of ~~such~~ licenses allocated to that district or unit, the licenses to be issued must be

issued by weighted lottery as prescribed in the governor's proclamation. Licenses to hunt elk may not be issued under this subsection when the total number of licenses prescribed in the governor's proclamation is fewer than twenty. The director may issue special elk depredation management licenses to landowners in designated areas around Theodore Roosevelt national park upon payment of the fee requirement for a resident big game license. The provisions of this section governing the number of licenses issued for each designated district or unit for hunting elk do not apply to special elk depredation management licenses and a person who receives such a license under this subsection is eligible to apply for a license to hunt elk in future years and is eligible to participate in the raffle under section 20.1-08-04.6. 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 subsection.

8. A resident who has executed a lease for at least ~~one hundred sixty acres [64.75 hectares]~~ one hundred fifty acres [60.78 hectares] of land and who actively farms or ranches that land or a resident who holds title to at least ~~one hundred sixty acres [64.75 hectares]~~ one hundred fifty acres [60.78 hectares] of land is eligible to apply for a license to hunt moose without charge upon filing a signed application describing that land. The land must be within a unit open for the hunting of moose. The license must include a legal description of the eligible land described in the completed application and may be used to hunt moose only upon that land. Upon request, a lessee shall provide proof that the land described in the completed application is leased for agricultural purposes. A resident who is eligible for a license under this subsection may transfer that eligibility for the license to a spouse or a legal dependent residing customarily with the resident, but no more than one license may be issued under this subsection for any qualifying land. A resident transferring eligibility under this subsection is not eligible to apply for a license to hunt moose in future years but is eligible to participate in the raffle under section 20.1-08-04.2. If not otherwise specified in an agricultural lease, the landowner is entitled to receive the license. The number of licenses issued under this subsection for a district or unit may not exceed fifteen percent of the total licenses prescribed in the governor's proclamation for that district or unit. If the number of eligible persons who apply for a license under this subsection exceeds the number of licenses available under this subsection, the licenses must be issued by lottery as prescribed in the governor's proclamation. A person who receives a license under this subsection and who is successful in harvesting a moose is not eligible to apply for a license to hunt moose in future years but is eligible to participate in the raffle under section 20.1-08-04.2. Notwithstanding this subsection, if a person other than the transferee of license eligibility is unsuccessful in harvesting a moose under this subsection, that person may return the unused license to the department and is eligible to apply for, but not transfer, an additional license to hunt moose in future years. A person who receives a second license under this subsection is not eligible to participate in the raffle under section 20.1-08-04.2. If a person receives a license under this subsection, the person's spouse, children, and parents living with the person are not eligible to receive a license under this subsection for the district or unit in which the land described in the completed application is located, unless the person has sold or otherwise transferred the person's rights to the land described in the completed application. The governor's proclamation may restrict the area of land within a unit open for the hunting of moose for which a preferential license is issued under this subsection. If the proclamation restricts the area for issuance of preferential licenses, an applicant must own or lease land within the restricted area to be

eligible to apply for a license to hunt moose upon payment of the fee required for a resident big game license. The license may be used to hunt moose within the entire unit in which the land described in the completed application is located. A successful applicant from a restricted area may not return an unused license to regain eligibility for a license to hunt moose in future years. 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 subsection.

9. A person who holds a valid license to hunt deer may hunt the same species and sex of deer, for which that person's license is valid, on land in an adjoining unit for which that person would be eligible for a gratis deer license under subsection 3.
10. Fifteen percent of the total mule deer licenses and permits to hunt mule deer made available in the immediately preceding year for the regular gun season must be made available to nonresidents to hunt any deer with bow and arrow.

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

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 195

SENATE BILL NO. 2231

(Senators Laffen, Burckhard, Murphy)
(Representatives Kreun, Porter, Ruby)

AN ACT to amend and reenact sections 20.1-03-12, 20.1-03-12.1, and 20.1-03-12.2 of the North Dakota Century Code, relating to hunting fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹³ **SECTION 1. AMENDMENT.** Section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-12. Schedule of fees for licenses and permits.

The various license and permit fees are as follows:

1. For a resident, age sixteen and over, small game hunting license, ~~sixteen~~ sixteen dollars.
2. For a nonresident small game hunting license, ~~eighty-five~~ one hundred dollars.
3. For a resident big game hunting license, ~~twenty~~ thirty dollars, except the fee for a licensee under age sixteen is ten dollars, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1.
4. Except for a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents under subsection 4 of section 20.1-03-11, for a nonresident big game hunting license, two hundred fifty dollars, and for a nonresident bow license, two hundred fifty dollars, and a nonrefundable five dollar application fee must accompany any lottery license fee under this subsection, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1. For a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents, fifty dollars.
5. For a resident fur-bearer license, ~~seven~~ fifteen dollars.
6. For a resident fishing license, ~~ten~~ sixteen dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee is ~~three~~ five dollars.
7. For a nonresident fishing license, ~~thirty-five~~ forty-five dollars.
8. ~~For a nonresident short-term seven-day fishing license, twenty dollars.~~

⁹³ Section 20.1-03-12 was also amended by section 4 of House Bill No. 1264, chapter 193, section 5 of House Bill No. 1264, chapter 193, section 1 of House Bill No. 1434, chapter 196, and section 2 of Senate Bill No. 2242, chapter 188.

9. For a resident husband and wife fishing license, ~~fourteen~~twenty-two dollars.
- ~~10-9.~~ For a nonresident nongame hunting license, fifteen dollars.
- ~~11-10.~~ For a resident wild turkey permit, ~~eight~~fifteen dollars.
- ~~12-11.~~ For an annual general game license, three dollars.
- ~~13-12.~~ For a license to a nonresident buyer or shipper of green furs, or that person's agent, the amount that the nonresident buyer or shipper of green furs would pay for a nonresident buyer or shipper of green furs license or comparable license in that person's state of residence, or fifty dollars, whichever is greater.
- ~~14-13.~~ For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by that person within this state.
- ~~15-14.~~ For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
- ~~16-15.~~ For an annual license to practice taxidermy, twenty-five dollars.
- ~~17-16.~~ For a permit to ship, by a person having a resident hunting license, during the respective open seasons, not to exceed in any one season twenty-five game birds, to points within this state other than that person's home or to points outside this state, three dollars.
- ~~18-17.~~ For a permit to make collections of protected birds and animals for scientific purposes, ten dollars.
- ~~19-18.~~ For a motorboat certificate of number and license: Each motorboat under sixteen feet [4.88 meters] in length, and all canoes, regardless of length, powered by a motor, ~~twelve~~eighteen dollars. Each motorboat sixteen feet [4.88 meters] in length and over but shorter than twenty feet [6.1 meters] in length, excluding canoes, ~~twenty-four~~thirty-six dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, ~~thirty-three~~forty-five dollars.
- ~~20-19.~~ To operate watercraft used for hire, the following license fees apply for three years:
- Class 1. Each craft capable of carrying two adults of average weight, six dollars.
 - Class 2. Each craft capable of carrying three adults of average weight, six dollars.
 - Class 3. Each craft capable of carrying four adults of average weight, six dollars.
 - Class 4. Each craft capable of carrying five adults of average weight, six dollars.
 - Class 5. Each craft capable of carrying up to eight adults of average weight, nine dollars.

Class 6. Each craft capable of carrying up to ten adults of average weight, twelve dollars.

Class 7. Each craft capable of carrying up to fifteen adults of average weight, twenty-four dollars.

Class 8. Each craft capable of carrying sixteen or more adults of average weight, thirty dollars.

- ~~21-20.~~ For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, fifteen dollars for each hoop-net or trap, and fifteen dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
- ~~22-21.~~ For a resident paddlefish tag annual license, ~~threeten~~ thirteen dollars per tag.
- ~~23-22.~~ For a nonresident paddlefish tag annual license, ~~seventwenty-five~~ seventy-five dollars and fifty cents per tag.
- ~~24-23.~~ For an annual resident license to sell minnows or other live bait at wholesale, fifty dollars.
- ~~25-24.~~ For an annual license to sell minnows or other live bait at retail, fifteen dollars, except the fee is seventy-five dollars if white suckers are sold.
- ~~26-25.~~ For an annual license to operate a private fish hatchery, seventy-five dollars.
- ~~27-26.~~ For a resident commercial frog license, fifty dollars.
- ~~28-27.~~ For a nonresident commercial frog license, two hundred dollars.
- ~~29-28.~~ For a resident frog license, three dollars.
- ~~30-29.~~ For a resident husband and wife frog license, five dollars.
- ~~31-30.~~ For a shooting preserve operating permit, one hundred dollars, plus thirty cents per acre [.40 hectare] for each acre [.40 hectare].
- ~~32-31.~~ For a nonresident waterfowl hunting license, ~~eighty-five~~ one hundred dollars.
- ~~33-32.~~ For a nonresident husband and wife fishing license, ~~forty-five~~ sixty dollars.
- ~~34-33.~~ For a nonresident short-term three-day fishing license, ~~fifteen~~ twenty-five dollars.
- ~~35-34.~~ For a nonresident fur-bearer and nongame hunting license, ~~twenty-five~~ forty dollars.
- ~~36-35.~~ For a combination license, ~~thirty-two~~ fifty dollars.
- ~~37-36.~~ For a white-tailed deer license sold to certified guides or outfitters and provided by them to nonresidents, two hundred fifty dollars.
- ~~38-37.~~ For a resident swan license, ~~five~~ ten dollars.
- ~~39-38.~~ For a nonresident swan license, ~~twenty-five~~ thirty dollars.

- ~~40-39.~~ For a resident ~~and nonresident~~ sandhill crane license, ~~five~~ten dollars.
- ~~41-40.~~ For a nonresident sandhill crane license, thirty dollars.
41. For a resident commercial clam license, one hundred dollars.
42. For a nonresident commercial clam license, one thousand dollars.
43. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the director a surety bond in the sum of two thousand dollars.
44. For an annual class B nonresident license to sell minnows or other live bait at wholesale, two hundred fifty dollars.
45. For a bighorn sheep license issued to a nonresident, five hundred dollars.
46. For a nonresident reciprocal trapping license, ~~two~~three hundred fifty dollars.
47. For a nonresident spring white goose license, fifty dollars.
48. For a resident certificate fee, one dollar, and for a nonresident certificate fee, two dollars. An agent may not charge a service fee for issuing a resident or nonresident certificate fee.
49. For a nonresident short-term ten-day fishing license, ~~twenty-five~~thirty-five dollars.
50. For a nonresident wild turkey permit, eighty dollars.
51. For a statewide nonresident waterfowl hunting license, one hundred ~~twenty-five~~fifty dollars.
52. For an annual class A nonresident license to sell minnows or other live bait at wholesale, five hundred dollars.

The fees for these licenses and permits must be deposited with the state treasurer and credited to the game and fish fund. Forty-five dollars of each nonresident big game hunting license fee must be used for the private land initiative.

SECTION 2. AMENDMENT. Section 20.1-03-12.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-12.1. Habitat restoration stamp required - Use of revenue - Land purchases not allowed.

Except for licenses issued under section 20.1-03-07.3, a habitat restoration stamp is required for every resident and nonresident general game license for which a stamp fee of ~~ten~~seventeen dollars must be charged. The habitat restoration stamp fee is in addition to the annual general game license fee charged under section 20.1-03-12. Land may not be purchased with habitat restoration stamp moneys. All moneys generated by habitat restoration stamp fees must be placed in the game and fish private land habitat and access improvement fund with ~~five~~eight dollars of the fee allocated to the private land open to sportsmen program.

SECTION 3. AMENDMENT. Section 20.1-03-12.2 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-12.2. Hunting license and permit application fees.

Each resident applying for a license or permit to hunt elk, moose, or bighorn sheep under this chapter must be assessed a nonrefundable application fee of ~~three~~five dollars for each license or permit application in addition to the fee charged for the issuance of the license or permit under this chapter. Each nonresident applying for a license or permit to hunt bighorn sheep under this chapter must be assessed a nonrefundable application fee of one hundred dollars in addition to the fee charged for the issuance of a license or permit to hunt bighorn sheep under this chapter.

Approved April 8, 2013

Filed April 8, 2013

CHAPTER 196

HOUSE BILL NO. 1434

(Representatives Schatz, Fehr, Heller, N. Johnson, Monson, Steiner, Thoreson)
(Senators Laffen, Poolman, Schneider)

AN ACT to amend and reenact subsection 6 of section 20.1-03-12 of the North Dakota Century Code, relating to fishing license fees for the disabled.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁴ **SECTION 1. AMENDMENT.** Subsection 6 of section 20.1-03-12 of the North Dakota Century Code is amended and reenacted as follows:

6. For a resident fishing license, ten dollars, except that for a resident sixty-five years or over ~~or~~ a resident totally or permanently disabled, or a resident disabled veteran who has a fifty percent service-connected disability as determined by the department of veterans' affairs or has an extra-schedular rating to include individual unemployability that brings the veteran's total disability ratio to fifty percent, the license fee is ~~three~~five dollars.

Approved April 2, 2013

Filed April 2, 2013

⁹⁴ Section 20.1-03-12 was also amended by section 4 of House Bill No. 1264, chapter 193, section 5 of House Bill No. 1264, chapter 193, section 1 of Senate Bill No. 2231, chapter 195, and section 2 of Senate Bill No. 2242, chapter 188.

CHAPTER 197

HOUSE BILL NO. 1130

(Representatives Porter, Damschen, Hofstad)
(Senators Burckhard, Carlisle, Lyson)

AN ACT to amend and reenact section 20.1-03-17 of the North Dakota Century Code, relating to computerized issuance of game and fish licenses.

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 may appoint agents 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 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. The director and county auditor may require agents to show evidence of adequate financial security before the agents are 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.

Approved April 16, 2013

Filed April 16, 2013

CHAPTER 198

HOUSE BILL NO. 1195

(Representatives Porter, Hawken, Louser, Rohr, Streyle, Weisz)
(Senators Klein, Lyson)

AN ACT to amend and reenact section 20.1-03-27 of the North Dakota Century Code, relating to carrying a game and fish license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 20.1-03-27 of the North Dakota Century Code is amended and reenacted as follows:

20.1-03-27. Licenses to be carried on person -- LicensesProof of license to be shownprovided officers upon demand - Penalty.

~~Any person holding a hunting, trapping, or fishing license required under this title shall carry the license on that person's person when hunting, trapping, or fishing.~~ Upon the request or demand of the director, the deputy director, any game warden, or any ~~police~~peace officer, ~~that person~~ an individual who is hunting, trapping, or fishing immediately shall show the license immediatelyprovide the appropriate license in paper or electronic format to the officer making the request or demand. Any ~~person~~individual who violates this section is guilty of a class 2 noncriminal offense.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 199

HOUSE BILL NO. 1336

(Representatives Wall, Anderson, J. Nelson, Williams)
(Senators Luick, Dotzenrod)

AN ACT to create and enact a new subsection to section 20.1-08-04 of the North Dakota Century Code, relating to the proclamation for paddlefish tags.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 20.1-08-04 of the North Dakota Century Code is created and enacted as follows:

The governor in the governor's order or proclamation may determine the number of resident and nonresident paddlefish snagging tags to be issued for the taking of paddlefish. If a limited number of paddlefish tags are to be issued, the governor shall by order or proclamation declare the manner of issuance of the tag. The governor may by order or proclamation determine the time period for which a recipient of a paddlefish tag obtained by lottery is ineligible to apply for the same type of tag.

Approved April 15, 2013
Filed April 16, 2013

GOVERNMENTAL FINANCE

CHAPTER 200

HOUSE BILL NO. 1286

(Representatives Kasper, Beadle, Brabandt, Dosch,
Headland, Ruby, Streyle, Thoreson)
(Senators Burckhard, Campbell, Klein, Wardner)

AN ACT to create and enact section 21-03-06.1 of the North Dakota Century Code, relating to voter approval of school district building projects funded through a building authority or other indirect means.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 21-03-06.1 of the North Dakota Century Code is created and enacted as follows:

21-03-06.1. School district voter approval of building authority or other indirect funding methods - Building construction project approval.

1. Notwithstanding any other provision of law, a school board may not enter an agreement pursuant to internal revenue service revenue ruling 63-20 under which payments of any kind would be required by the school district to any building authority or other entity that incurs indebtedness or other obligation in connection with acquisition, improvements, or construction of any property or structure at a total cost of four million dollars or more to be used by the school district unless the agreement has been approved by a vote of a majority of the qualified electors of the school district voting on the question at a regular or special school district election if the agreement is for acquisition, improvements, or construction of any property or structure for which an election would be required if the school district undertook the acquisition, improvements, or construction project through issuance of bonds of the school district.
2. The school board of a school district may not enter an agreement pursuant to internal revenue service revenue ruling 63-20 under which payments of any kind would be required by the school district to any building authority or other entity that incurs indebtedness or other obligation regarding construction, purchase, repair, improvement, modernization, or renovation of any building or facility to be used by the school district without approval by the superintendent of public instruction in the manner provided in section 15.1-36-01, if the approval by the superintendent of public instruction would be required for the project under section 15.1-36-01 if the school district undertook the project itself.

Approved May 6, 2013
Filed May 7, 2013

CHAPTER 201

SENATE BILL NO. 2143

(Senators Sinner, Campbell)
(Representatives Ruby, Vigesaa)

AN ACT to amend and reenact subsection 1 of section 21-06-07 of the North Dakota Century Code, relating to the investment of public funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 21-06-07 of the North Dakota Century Code is amended and reenacted as follows:

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.

Approved March 18, 2013
Filed March 18, 2013

CHAPTER 202

HOUSE BILL NO. 1167

(Representatives Kempenich, Carlson, Heller, Kreidt)
(Senators Klein, Wardner, Dotzenrod, O'Connell)

AN ACT to create and enact a new section to chapter 21-10 of the North Dakota Century Code, relating to the definition of earnings of the legacy fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 21-10 of the North Dakota Century Code is created and enacted as follows:

Legacy fund - Earnings defined.

For the purposes of section 26 of article X of the Constitution of North Dakota, the term "earnings" means net income in accordance with generally accepted accounting principles, excluding any unrealized gains or losses.

Approved April 29, 2013

Filed April 29, 2013

HEALTH AND SAFETY

CHAPTER 203

HOUSE BILL NO. 1088

(Human Services Committee)
(At the request of the State Department of Health)

AN ACT to amend and reenact subsection 12 of section 23-01-05 of the North Dakota Century Code, relating to state health officer written orders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 204

HOUSE BILL NO. 1274

(Representatives Weisz, Devlin, Oversen)
(Senators Klein, J. Lee, Murphy)

AN ACT to amend and reenact section 23-01-38 of the North Dakota Century Code, relating to electronic drug prior authorization.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-38 of the North Dakota Century Code is amended and reenacted as follows:

23-01-38. Electronic drug prior authorization and transmission - Limitations.

1. Effective ~~Except as otherwise provided under this subsection, effective~~ August 1, ~~2013~~ 2015, a drug prior authorization request must be accessible to a health care provider with the provider's electronic prescribing software system and must be accepted electronically, through a secure electronic transmission, by the payer, by the insurance company, or by the pharmacy benefit manager responsible for implementing or adjudicating or for implementing and adjudicating the authorization or denial of the prior authorization request. For purposes of this section, a facsimile is not an electronic transmission. The requirements in this section do not apply to workforce safety and insurance.
2. Effective August 1, 2013, electronic transmission devices used to communicate a prescription to a pharmacist may not use any means or permit any other person to use any means, including advertising, commercial messaging, and popup advertisements, to influence or attempt to influence through economic incentives the prescribing decision of a prescribing practitioner at the point of care. Such means may not be triggered by or be in specific response to the input, selection, or act of a prescribing practitioner or the prescribing practitioner's staff in prescribing a certain pharmaceutical or directing a patient to a certain pharmacy. Any electronic communication sent to the prescriber, including advertising, commercial messaging, or popup advertisements must be consistent with the product label, supported by scientific evidence, and meet the federal food and drug administration requirements for advertising pharmaceutical products.
3. Electronic prescribing software may show information regarding a payer's formulary if the software is not designed to preclude or make more difficult the act of a prescribing practitioner or patient selecting any particular pharmacy or pharmaceutical.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 205

HOUSE BILL NO. 1443

(Representatives Hawken, Delmore, N. Johnson, J. Nelson)
(Senators Berry, Kilzer)

AN ACT to provide for collaboration in developing diabetes goals and plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Diabetes goals and plans - Report to legislative management.

1. The department of human services, state department of health, Indian affairs commission, and public employees retirement system shall collaborate to identify goals and benchmarks while also developing individual agency plans to reduce the incidence of diabetes in the state, improve diabetes care, and control complications associated with diabetes.
2. Before June first of each even-numbered year the department of human services, state department of health, Indian affairs commission, and public employees retirement system shall submit a report to the legislative management on the following:
 - a. The financial impact and reach diabetes is having on the agency, the state, and localities. Items included in this assessment must include the number of lives with diabetes impacted or covered by the agency, the number of lives with diabetes and family members impacted by prevention and diabetes control programs implemented by the agency, the financial toll or impact diabetes and diabetes complications places on the agency's programs, and the financial toll or impact diabetes and diabetes complications places on the agency's programs in comparison to other chronic diseases and conditions.
 - b. An assessment of the benefits of implemented programs and activities aimed at controlling diabetes and preventing the disease. This assessment must document the amount and source for any funding directed to the agency from the legislative assembly for programs and activities aimed at reaching those with diabetes.
 - c. A description of the level of coordination existing between the agencies on activities, programmatic activities, and messaging on managing, treating, or preventing diabetes and diabetes complications.
 - d. The development or revision of detailed action plans for battling diabetes with a range of actionable items for consideration by the legislative assembly. The plans must identify proposed action steps to reduce the impact of diabetes, prediabetes, and related diabetes complications. The plan must identify expected outcomes of the action steps proposed in the following biennium while also establishing benchmarks for controlling and preventing relevant forms of diabetes.

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- e. The development of a detailed budget blueprint identifying needs, costs, and resources required to implement the plan identified in subdivision d. This blueprint must include a budget range for all options presented in the plan identified in subdivision d for consideration by the legislative assembly.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 206

HOUSE BILL NO. 1038

(Legislative Management)
(Human Services Committee)

AN ACT to provide for the establishment of an autism spectrum disorder database and an autism spectrum disorder voucher program pilot project; to provide for the expansion of the autism spectrum disorder medicaid waiver; to provide for a legislative management study; to provide for reports to the legislative management; to provide an appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

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.
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 a complete physical evaluation of the reported individual, performed by a licensed physician.
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.
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.

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 3. DEPARTMENT OF HUMAN SERVICES AUTISM SPECTRUM DISORDER MEDICAID WAIVER. The department of human services, during the biennium beginning July 1, 2013, and ending June 30, 2015, shall seek approval from the federal centers for medicare and medicaid services to expand the department's autism spectrum disorder medicaid waiver to cover seventeen additional individuals from birth through age seven. The expansion to the waiver must become effective on or after January 1, 2014, and must include appropriate behavior intervention and treatment services that may include evidence-based and promising practices, case management services, technology and technology-based support, in-home support, equipment and supplies, home monitoring, respite care, residential supports and services, and behavioral consultation.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - AUTISM SPECTRUM DISORDER SERVICES. The legislative management shall consider studying, during the 2013-14 interim, autism spectrum disorder services, including the most feasible service delivery system for individuals not served in the developmental disability

system who have an autism spectrum disorder. As part of the study, the legislative management may consult with clinicians who have expertise in the evaluation, diagnosis, and treatment of autism spectrum disorder. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 5. APPROPRIATION - STATE DEPARTMENT OF HEALTH - AUTISM SPECTRUM DISORDER DATABASE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$235,732, or so much of the sum as may be necessary, to the state department of health for the purpose of establishing and administering an autism spectrum disorder database, for the biennium beginning July 1, 2013, and ending June 30, 2015. The state department of health is authorized one full-time equivalent position for this purpose.

SECTION 6. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - STATE AUTISM COORDINATOR. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$132,568, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$132,568, or so much of the sum as may be necessary, to the department of human services for the purpose of hiring a state autism coordinator who would be responsible for implementing a resource and service center to provide information and services for individuals with autism spectrum disorder, developing a statewide outreach plan, conducting regional meetings and a conference, and developing a protocol for use after screenings, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of human services is authorized one full-time equivalent position for this purpose.

SECTION 7. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - STATEWIDE AUTISM SPECTRUM DISORDER TRAINING PROGRAM. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$80,000, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$80,000, or so much of the sum as may be necessary, to the department of human services for the purpose of implementing a statewide autism spectrum disorder training program. The department of human services shall collaborate with the state department of health and the superintendent of public instruction to implement a training program, including training of medical and behavior health providers, education staff, child care providers, and parents for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 8. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - AUTISM SPECTRUM DISORDER VOUCHER PROGRAM PILOT PROJECT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$539,186, or so much of the sum as may be necessary, to the department of human services for the purpose of issuing vouchers as part of the autism spectrum disorder voucher program pilot project, for the second year of the biennium beginning July 1, 2013, and ending June 30, 2015. The department shall allocate up to \$12,500 per year to each individual enrolled in the voucher program for paying the costs of eligible services.

SECTION 9. DEPARTMENT OF HUMAN SERVICES - APPROPRIATION - AUTISM SPECTRUM DISORDER MEDICAID WAIVER. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$449,973, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$449,973, or so much

of the sum as may be necessary, to the department of human services for the purpose of expanding the department's autism spectrum disorder medicaid waiver program, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 10. EXPIRATION DATE. Section 2 of this Act is effective through June 30, 2015, and after that date is ineffective.

Approved May 3, 2013

Filed May 7, 2013

CHAPTER 207

HOUSE BILL NO. 1036

(Legislative Management)
(Health Services Committee)

AN ACT to amend and reenact sections 23-01.1-01, 23-01.1-02, 23-01.1-04, and 23-01.1-07 of the North Dakota Century Code, relating to the membership and powers of the health care data committee, administrative authority of the health care data committee, and a civil penalty; to repeal section 23-01.1-02.1 and chapter 23-01.1 of the North Dakota Century Code, relating to the publication of comparative physician fee information and the health care data committee; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-01.1-01. Health care data committee of state health council - Membership - Appointment by chairman of health council.

The health care data committee is a standing committee of the state health council, consisting of not less than three nor more than five members, appointed by the chairman of the health council from the members of the council. A majority of the members of the health care data committee must be consumer members of the health council.

SECTION 2. AMENDMENT. Section 23-01.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-01.1-02. Powers of health care data committee.

~~To provide information to the public necessary for the enhancement of price competition in the health care market, the~~The health care data committee may:

- ~~1. Collect, store, analyze, and provide health care data.~~
- ~~2. Compile the average aggregate charges by diagnosis for the twenty-five most common diagnoses, annual operating costs, revenues, capital expenditures, and utilization for each nonfederal acute care hospital in this state, and the average charges by source of payment and level of service in each long-term care facility in this state.~~
- ~~3. Establish a uniform format for the collection of information on charges to patients.~~
- ~~4. Prepare an annual report comparing the cost of hospitalization by diagnosis in each nonfederal acute care hospital and comparing average charges by source of payment and by level of service in each long-term care facility in the state.~~

- ~~5-2.~~ Establish procedures that assure public availability of the information required to make informed health care purchasing decisions.
- ~~6-3.~~ Establish arrangements with the state department of health, the department of human services, the insurance commissioner, workforce safety and insurance, and the public employees retirement system, and other agencies to assure patient confidentiality, the sharing of information, and the coordination, analysis, and dissemination of health care data, and to act in a manner which does not duplicate data collection activities of other state agencies.
- ~~7.~~ ~~Prepare and distribute a report comparing physicians' average charges for selected services to include all physicians licensed to practice medicine in this state and determined by the health care data committee to be actively providing direct patient care services in this state.~~

SECTION 3. AMENDMENT. Section 23-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

23-01.1-04. Administrative authority of health care data committee - Administrative support - Authority to acquire data.

The health care data committee may adopt rules consistent with and necessary for the implementation of this chapter. The committee shall establish working arrangements among other state agencies for the assurance of patient confidentiality, the sharing of information, and the coordination, analysis, and dissemination of health care data to the public and to the state agencies ~~in making more cost-effective health care purchasing decisions~~. The committee may require insurers, nonprofit health service corporations, health maintenance organizations, and state agencies to provide data regarding hospital, physician, and other provider ~~charges, information~~ and reimbursement and volume data as required for the performance of the duties of the committee under this chapter.

SECTION 4. AMENDMENT. Section 23-01.1-07 of the North Dakota Century Code is amended and reenacted as follows:

23-01.1-07. Civil penalty.

Any person violating this chapter or violating any rule adopted by the health care data committee is subject to a civil penalty not to exceed five hundred dollars per day of violation. The state department of health with the assistance of the attorney general may prosecute an action in district court to recover any civil penalty under this chapter.

SECTION 5. REPEAL. Section 23-01.1-02.1 of the North Dakota Century Code is repealed.

SECTION 6. REPEAL. Chapter 23-01.1 of the North Dakota Century Code is repealed.

SECTION 7. EFFECTIVE DATE. Section 6 of this Act becomes effective on August 1, 2015.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 208

SENATE BILL NO. 2226

(Senators J. Lee, Erbele, Warner)
(Representatives Porter, Weisz, S. Kelsh)

AN ACT to amend and reenact section 23-01.2-04 of the North Dakota Century Code, relating to a medical director; and to provide an appropriation for the North Dakota trauma system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01.2-04 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-04. Medical director.

The state health officer ~~may~~shall appoint an emergency medical services and trauma medical director to provide medical oversight and consultation in the development and administration of the state emergency medical services and trauma systems. The medical director must be a physician licensed in the state and must be contracted and paid by the state department of health.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$332,000, or so much of the sum as may be necessary, to the state department of health for the purpose of a comprehensive state trauma system, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

Contracted emergency medical services and trauma medical director	\$125,000
Advanced trauma life support training	\$40,000
Development of the rural trauma team development course	\$75,000
Trauma designation visits	\$50,000
State trauma registry	\$42,000

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 209

SENATE BILL NO. 2065

(Government and Veterans Affairs Committee)
(At the request of the Information Technology Department)

AN ACT to amend and reenact subdivision a of subsection 5 of section 23-06.5-19 of the North Dakota Century Code, relating to the health care record registry of health care directives; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 5 of section 23-06.5-19 of the North Dakota Century Code is amended and reenacted as follows:

- a. The registry must be accessible by entering the file number and password on the internet website. Registration forms, file numbers, and other information maintained by the information technology department under this section are confidential and the state may not disclose this information to any person other than the subject of the document, or the subject's agent. A health care record may be released to the subject of the document, the subject's agent, or the subject's health care provider. The information technology department may not use information contained in the registry except as provided under this chapter.

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

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 210

HOUSE BILL NO. 1035

(Legislative Management)
(Health Services Committee)

AN ACT to amend and reenact subsection 1 of section 23-09.3-01.1 and subsection 1 of section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on expansion of basic care bed capacity and the moratorium on expansion of long-term care bed capacity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 23-09.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2014~~2013, and July 31, ~~2013~~2015, 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.

SECTION 2. AMENDMENT. Subsection 1 of section 23-16-01.1 of the North Dakota Century Code is 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, ~~2014~~2013, and July 31, ~~2013~~2015. 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.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 211

HOUSE BILL NO. 1213

(Representatives Kreun, Devlin, N. Johnson, Glasheim)
(Senators Erbele, Laffen, Sorvaag)

AN ACT to amend and reenact section 23-11-29 of the North Dakota Century Code, relating to the real property tax exemption status of a housing authority; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-11-29 of the North Dakota Century Code is amended and reenacted as follows:

23-11-29. Tax exemptions and payments in lieu of taxes.

The property of an authority used for low-income housing, authority administration, or other property solely owned by the authority and used to conduct the powers granted to the authority in this chapter. including an authority created under Indian laws recognized by the federal government, is declared to be public property used for essential public and governmental purposes and is exempt from all taxes and special assessments of the state or any political subdivision. In lieu of taxes or special assessments, an authority may agree to make payments to the state or any political subdivision for improvements, services, and facilities furnished by the state or political subdivision for the benefits of a housing project. The payments may not exceed the estimated cost of the improvements, services, or facilities to be so furnished. Notwithstanding any other provision of law, the property of an authority used for moderate income housing is exempt from all taxes of the state or any political subdivision except special assessments unless specifically exempted from the special assessment by the political subdivision.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 212

HOUSE BILL NO. 1292

(Representatives Ruby, Weisz, Delmore)
(Senators Klein, Laffen, Sinner)

AN ACT to amend and reenact sections 23-12-09 and 23-12-10.4 of the North Dakota Century Code, relating to smoking in public places and places of employment and the responsibility of proprietors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-12-09 of the North Dakota Century Code is amended and reenacted as follows:

23-12-09. Smoking in public places and places of employment - Definitions.

In sections 23-12-09 through 23-12-11, unless the context or subject matter otherwise requires:

1. "Bar" means a retail alcoholic beverage establishment licensed under chapter 5-02 that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages. The term includes a bar located within a hotel, bowling center, restaurant, or other establishment that is not licensed primarily or exclusively to sell alcoholic beverages.
2. "Business" means a sole proprietorship, partnership, association, joint venture, corporation, or other business entity, either for profit or not for profit, including retail establishments where goods or services are sold and professional corporations and other entities where professional services are delivered.
3. "E-cigarette" means any electronic oral device, such as one composed of a heating element and battery or electronic circuit, or both, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, and e pipe or under any other product, name, or descriptor.
4. "Employee" means an individual who is employed by an employer in consideration for direct or indirect monetary wages or profit, or an individual who volunteers services for an employer.
5. "Employer" means an individual, business, or private club, including a municipal corporation or trust, or the state and its agencies and political subdivisions that employs the services of one or more individuals.
6. "Enclosed area" means all space between a floor and ceiling that has thirty-three percent or more of the surface area of its perimeter bounded by opened or closed walls, windows, or doorways. A wall includes any physical barrier regardless of whether it is opened or closed, temporary or permanent, or

contains openings of any kind, and includes retractable dividers and garage doors.

7. "Entrance" means an exterior door that actuates to the left or right which allows access to a public place.
8. "Health care facility" means any office or institution providing health care services or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions. Some examples of health care facilities include hospitals; clinics; ambulatory surgery centers; outpatient care facilities; weight control clinics; nursing homes; homes for the aging or chronically ill; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any medical professional licensed under title 43, including all specialties and subspecialties in those fields. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, wards within health care facilities, and any mobile or temporary health care facilities.
- ~~8-9.~~ "Health care services" means services provided by any health care facility. Some examples of health care services are medical, surgical, dental, vision, chiropractic, psychological, and pharmaceutical services.
- ~~9-10.~~ "Place of employment" means an area under the control of a public or private employer, including work areas, auditoriums, classrooms, conference rooms, elevators, employee cafeterias, employee lounges, hallways, meeting rooms, private offices, restrooms, temporary offices, vehicles, and stairs. A private residence is not a place of employment unless it is used as a licensed child care, adult day care, or health care facility.
- ~~40-11.~~ "Public place" means an area which the public enters. Some examples of public places are publicly owned buildings, vehicles, or offices; bars; bingo facilities; gambling and gaming facilities as defined in section 12.1-28-01; child care and adult day care facilities subject to licensure by the department of human services, including those operated in private homes; convention facilities; educational facilities, both public and private; facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance; financial institutions; health care facilities; hotels and motels, including all rooms that are rented to guests; laundromats; any common areas in apartment buildings, condominiums, mobile home parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; private and semi-private nursing home rooms; museums, libraries, galleries, and aquariums; polling places; professional offices; public transportation facilities, including buses, trains, airplanes and similar aircraft, taxicabs and similar vehicles such as town cars and limousines when used for public transportation, and ticket, boarding, and waiting areas of public transit facilities, including bus and train stations and airports; reception areas; restaurants; retail food production and marketing establishments; retail service establishments; retail stores, including tobacco and hookah establishments; rooms, chambers, places of meeting or public assembly, including school buildings; shopping malls; sports arenas; theaters; and waiting rooms.
- ~~44-12.~~ "Publicly owned building, vehicle, or office" means a place or vehicle owned, leased, or rented by any state or political subdivision, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of taxes.

- ~~42-13.~~ "Restaurant" includes every building or other structure, or any part thereof, and all buildings in connection therewith that are kept, used, maintained, advertised, or held out to the public as a place where food is served. Some examples of restaurants include coffee shops, cafeterias, sandwich stands, private and public school cafeterias, kitchens, and catering facilities in which food is prepared on the premises for serving elsewhere, and a bar area within a restaurant.
- 43-14. "Shopping mall" means an enclosed public walkway or hall area that serves to connect retail or professional businesses.
- 44-15. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. Smoking also includes the use of an e-cigarette which creates a vapor, in any manner or any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Act.
- 45-16. "Sports arena" means an indoor or outdoor place where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events. Some examples of sports arenas include sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling centers.

⁹⁵ **SECTION 2. AMENDMENT.** Section 23-12-10.4 of the North Dakota Century Code is amended and reenacted as follows:

23-12-10.4. Responsibility of proprietors.

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act shall:

1. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place.
2. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
3. ~~Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Act at least one sign, visible from the vehicle's exterior, stating that smoking is prohibited.~~
4. Remove all ashtrays from any area where smoking is prohibited, except for ashtrays displayed for sale and not for use on the premises and ashtrays that are factory-installed in vehicles.
- 5-4. By December 6, 2012, communicate to all existing employees and to all prospective employees upon their application for employment that smoking is prohibited in that place.
- 6-5. For places under his or her control, direct a person who is smoking in violation of this Act to extinguish the product being smoked. If the person does not stop smoking, the owner, operator, manager, or employee shall refuse service and

⁹⁵ Section 23-12-10.4 was also amended by section 1 of House Bill No. 1253, chapter 213.

shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, operator, manager, or employee shall immediately report the violation to an enforcement agency identified in this Act. The refusal of the person to stop smoking or leave the premises in response to requests made under this section by an owner, operator, manager, or employee shall not constitute a violation of the Act by the owner, operator, manager, or employee.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 213

HOUSE BILL NO. 1253

(Representatives Thoreson, Dosch, Headland,
Kasper, Meier, Owens, Ruby, Schatz, Streyle)
(Senators Armstrong, Bowman)

AN ACT to amend and reenact sections 23-12-10.4 and 23-42-04 of the North Dakota Century Code, relating to securing the necessary signage required to be in compliance with smoking restrictions in public places and places of employment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁶ **SECTION 1. AMENDMENT.** Section 23-12-10.4 of the North Dakota Century Code is amended and reenacted as follows:

23-12-10.4. Responsibility of proprietors - Reimbursement of costs of compliance.

1. The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act shall:
 1. a. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place.
 2. b. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
 3. c. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Act at least one sign, visible from the vehicle's exterior, stating that smoking is prohibited.
 4. d. Remove all ashtrays from any area where smoking is prohibited, except for ashtrays displayed for sale and not for use on the premises.
 5. e. By December 6, 2012, communicate to all existing employees and to all prospective employees upon their application for employment that smoking is prohibited in that place.
 6. f. For places under his or her control, direct a person who is smoking in violation of this Act to extinguish the product being smoked. If the person does not stop smoking, the owner, operator, manager, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, operator, manager, or employee shall immediately report the violation to an enforcement agency identified in this Act. The refusal of the person to stop smoking or leave the premises in response to requests made under this section by an owner, operator, manager, or employee shall not

⁹⁶ Section 23-12-10.4 was also amended by section 2 of House Bill No. 1292, chapter 212.

constitute a violation of the Act by the owner, operator, manager, or employee.

2. The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act may request from the executive committee of the tobacco prevention and control advisory committee the signs necessary to comply with the signage requirements of subsection 1.

SECTION 2. AMENDMENT. Section 23-42-04 of the North Dakota Century Code is amended and reenacted as follows:

23-42-04. Powers and duties of the executive committee.

1. To implement the purpose of this chapter and, in addition to any other authority granted elsewhere in this chapter, to support its efforts and implement the comprehensive plan, the executive committee may employ staff and fix their compensation, accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money, lease property, provide direction to the state investment board for investment of the tobacco prevention and control fund, and take any action that any private individual, corporation, or limited liability company lawfully may do except as restricted by the provisions of this chapter.
2. Upon the request of the owner, operator, manager, or other person in control of the public place or place of employment where smoking is prohibited under section 23-12-10, the executive committee shall provide the signs necessary to be in compliance with the signage requirements of subsection 2 of section 23-12-10.4.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 214

SENATE BILL NO. 2250

(Senators Sitte, Schaible, Wardner)
(Representatives Becker, Rohr, Streyle)

AN ACT to create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to participation in the health information organization.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Voluntary participation in the health information organization - Prohibition on withholding care or benefits.

1. As used in this section:
 - a. "Health information organization" means the health information exchange created under chapter 54-59.
 - b. "Individually identifiable health information" has the meaning set forth in title 45, Code of Federal Regulations, section 160.103.
2. An individual may opt-out of participating in the health information organization by providing notice to the organization. If an individual chooses to opt-out of participating in the health information organization, the individual's individually identifiable health information may not be accessed by search by a health insurer, government health plan, or health care provider other than the provider who originally created or ordered the creation of the individually identifiable health information.
3. In opting out of participating in the health information organization under this section, the individual must have the option of:
 - a. Opting out of participating; or
 - b. Conditionally opting out, in which case the accessibility of the individual's individually identifiable health information is limited to access by a health care provider who determines access is required by a medical emergency.
4. An individual's decision to opt-out of participating in the health information organization:
 - a. May be changed at any time by the individual by providing written notice to the health information organization.
 - b. Does not prohibit use or disclosure of individually identifiable health information which is required by law.

5. A health care provider, health insurer, or government health plan may not withhold coverage or care from an individual nor may a health insurer deny an individual a health insurance benefit plan based solely on that individual's choice to participate or to opt-out of the health information organization.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 215

HOUSE BILL NO. 1259

(Representatives Thoreson, Boehning, Brabandt, Grande,
Heilman, Kasper, B. Koppelman, Owens, Porter, Ruby, Schatz)
(Senator Sorvaag)

AN ACT to amend and reenact subsection 2 of section 23-15-01 of the North Dakota Century Code, relating to fireworks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-15-01 of the North Dakota Century Code is amended and reenacted as follows:

2. Any person operating a retail business and who has a retail license as provided in section 23-15-04 may offer for sale and sell at retail that year, to any individual who is at least twelve years of age, only during the periods of June twenty-seventh through July fifth and December twenty-sixth through January first, the following items:
 - a. A star light, with wood spike cemented in one end, total pyrotechnic composition not to exceed twenty grams each in weight (10 ball). However, a person may not offer to sell or offer to distribute a skyrocket, customarily known as a bottle rocket, if the outside diameter of the casing is less than five-eighths inch [15.875 millimeters] and the length of the casing is less than three and one-half inches [88.9 millimeters].
 - b. A helicopter type flyer, total pyrotechnic composition not to exceed twenty grams each in weight.
 - c. A cylindrical fountain, total pyrotechnic composition not to exceed seventy-five grams each in weight. The inside tube diameter may not exceed three-fourths inch [19.05 millimeters].
 - d. A cone fountain, total pyrotechnic composition not to exceed fifty grams each in weight.
 - e. A wheel, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of a driver tube may not be over one-half inch [12.7 millimeters].
 - f. An illuminating torch or a colored fire in any form, total pyrotechnic composition not to exceed one hundred grams each in weight.
 - g. A sparkler or a dipped stick, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate may not exceed five grams.

- h. A comet or shell, of which the mortar is an integral part, except a comet or shell designed to produce an audible effect, total pyrotechnic composition not to exceed forty grams each in weight.
- i. A soft shell firecracker not to exceed one and one-half inches [38.1 millimeters] in length and one-fourth inch [6.35 millimeters] in diameter, total pyrotechnic composition not to exceed fifty milligrams each in weight.
- j. A whistle without report, total pyrotechnic composition not to exceed forty grams each in weight.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 216

HOUSE BILL NO. 1030

(Legislative Management)
(Energy Development and Transmission Committee)

AN ACT to provide that the present use and disposal of coal combustion residues is acceptable in North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Coal combustion residues - Present use and disposal deemed acceptable.

Notwithstanding any other provision of law, the legislative assembly deems the present use and disposal of coal combustion residues to be acceptable and that present regulation allows for the beneficial use of coal combustion residues in concrete, for other construction applications, and for other innovative uses and allows for safe disposal without coal combustion residues being regulated as a hazardous waste. If a federal law or regulation is adopted pertaining to the use and disposal of coal combustion residues, this section does not prohibit the state from seeking state primacy of the federal program.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 217

SENATE BILL NO. 2030

(Legislative Management)
(Health Services Committee)

AN ACT to create and enact a new section to chapter 23-35 of the North Dakota Century Code, relating to tribal health districts; to amend and reenact section 23-35-01, subsection 2 of section 23-35-03, subsection 1 of section 23-35-04, sections 23-35-06, 23-35-07, 23-35-08, 23-35.1-01, 23-35.1-02, 23-35.1-03, and 23-35.1-04 of the North Dakota Century Code, relating to health districts, regional public health network definitions, joint powers agreement review, annual plan, and receipt and use of moneys; to provide a report to the legislative management; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-35-01 of the North Dakota Century Code is amended and reenacted as follows:

23-35-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Board of health" means a district, county, ~~or city,~~ or tribal board of health.
2. "Department" means the state department of health.
3. "Governing body" means, as applicable, a city commission, city council, board of county commissioners, ~~or joint board of county commissioners,~~ or tribal council.
4. "Health district" means an entity formed under section 23-35-04 or 23-35-05.
5. "Joint board of county commissioners" means the boards of county commissioners of two or more counties acting together in joint session.
6. "Local health officer" means the health officer of a public health unit.
7. "Public health department" means a city ~~or,~~ county, or tribal health department formed under this chapter.
8. "Public health unit" means the local organization formed under this chapter to provide public health services in a city, county, or designated multicounty or city-county area, or Indian reservation. The term includes a city public health department, county public health department, tribal health department, and a health district.

SECTION 2. A new section to chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

Tribal health units.

An Indian nation that occupies a reservation the external boundaries of which border more than four counties may form a health district or public health department as provided in this chapter. A tribal public health unit and bordering public health units shall collaborate regarding the provision of public health services. If an individual who is not an enrolled member of an Indian tribe of the Indian reservation that forms a tribal public health unit is a party to a civil action in which the tribal public health unit is also a party, that individual may bring the action in or move the action to tribal court or district court.

⁹⁷ **SECTION 3. AMENDMENT.** Subsection 2 of section 23-35-03 of the North Dakota Century Code is amended and reenacted as follows:

2. A city's or, county's, or tribe's governing body may establish a public health unit by creating and appointing a board of health, which in the case of a city, may be composed of the city's governing body, or in the case of a tribe, may be composed of the tribal council or governing body. A board of health must have at least five members.
 - a. In the case of a board of health created by a joint board of county commissioners, each county in the health district must have at least one representative on the board; each county of over fifteen thousand population must have an additional representative for each fifteen thousand population or major fraction of that number; and in a health district of fewer than five counties, each county must have at least one representative on the district board of health, and the additional representatives selected to constitute the minimum five-member board must be equitably apportioned among the counties on a population basis.
 - b. In the case of a joint city-county health district composed of only one county and having at least one city over fifteen thousand population, each city having a population over fifteen thousand must have a representative on the district board of health for each fifteen thousand population or major fraction of that number, and the remaining population of the county, exclusive of the populations of cities with more than fifteen thousand each, must have a representative on the district board of health for each fifteen thousand population or major fraction of that number, or at least one member if the remaining population is less than fifteen thousand.

SECTION 4. AMENDMENT. Subsection 1 of section 23-35-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Upon the adoption of a resolution, the governing body may form a single county, multicounty, ~~or a city-county,~~ or tribal health district.

SECTION 5. AMENDMENT. Section 23-35-06 of the North Dakota Century Code is amended and reenacted as follows:

23-35-06. Health districts - Dissolution - Withdrawal.

1. ~~Except for a tribal health district,~~ if a health district has been in operation for two years, the district may be dissolved as provided for under this section. If a

⁹⁷ Section 23-35-03 was also amended by section 11 of House Bill No. 1177, chapter 93.

petition is filed with the county auditor of each county of a health district which is signed by qualified electors of that county equal to ten percent or more of the votes cast in that county at the last general election, an election on the question of dissolution must be presented to the qualified electors in each county in the district at the next election held in each county in the district. If a majority of the votes cast on the question in a majority of the counties favor dissolution, the health district is dissolved on the second January first following the election. If a majority of the votes cast on the question in a majority of the counties are against dissolution, no other election on this issue may be held for two years.

2. If a health district has been in operation for two years, any county may withdraw from the district as provided under this section. If a petition is filed with the withdrawing county's auditor which is signed by qualified electors of the county equal to ten percent or more of the votes cast in that county at the last general election, an election on the question of withdrawal must be presented to the qualified electors in the county at the next election in the county. If a majority of the votes cast on the question favor withdrawing from the district, the county is withdrawn from the district on the second January first following the election. If a majority of the votes cast on the question are against withdrawal, no other election on this issue may be held for two years.
3. A tribal health district may be dissolved by the tribal council or governing body at any time.

⁹⁸ **SECTION 6. AMENDMENT.** Section 23-35-07 of the North Dakota Century Code is amended and reenacted as follows:

23-35-07. Health district funds.

1. ~~A~~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. 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 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.

⁹⁸ Section 23-35-07 was also amended by section 21 of House Bill No. 1015, chapter 15.

Any funds remaining in the fund at the end of any fiscal year may be carried over to the next fiscal year.

2. ~~The~~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.

⁹⁹ **SECTION 7. AMENDMENT.** Section 23-35-08 of the North Dakota Century Code is amended and reenacted as follows:

23-35-08. Boards of health - Powers and duties.

Except when in conflict with a local ordinance or a civil service rule within a board of health's jurisdiction, ~~or a tribal code, ordinance, or policy,~~ each board of health:

1. Shall keep records and make reports required by the department.
2. Shall prepare and submit a public health unit budget.
3. Shall audit, allow, and certify for payment expenses incurred by a board of health in carrying into effect this chapter.
4. May accept and receive any contribution offered to aid in the work of the board of health or public health unit.
5. May make rules regarding any nuisance, source of filth, and any cause of sickness which are necessary for public health and safety.
6. May establish by rule a schedule of reasonable fees that may be charged for services rendered. Services may not be withheld due to an inability to pay any fees established under this subsection. If a tribal board of health establishes fees for services rendered, the fees may not exceed the highest corresponding fee of any of the public health units that border the tribal public health unit.
7. May make rules in a health district or county public health department, as the case may be, and in the case of a city public health department may recommend to the city's governing body ordinances for the protection of public health and safety.
8. May adopt confinement, decontamination, and sanitary measures in compliance with chapter 23-07.6 which are necessary when an infectious or contagious disease exists.
9. May make and enforce an order in a local matter if an emergency exists.
10. May inquire into any nuisance, source of filth, or cause of sickness.
11. Except in the case of an emergency, may conduct a search or seize material located on private property to ascertain the condition of the property as the

⁹⁹ Section 23-35-08 was also amended by section 22 of House Bill No. 1015, chapter 15.

condition relates to public health and safety as authorized by an administrative search warrant issued under chapter 29-29.1.

12. May abate or remove any nuisance, source of filth, or cause of sickness when necessary to protect the public health and safety.
13. May supervise any matter relating to preservation of life and health of individuals, including the supervision of any water supply and sewage system.
14. May isolate, kill, or remove any animal affected with a contagious or infectious disease if the animal poses a material risk to human health and safety.
15. Shall appoint a local health officer.
16. May employ any person necessary to effectuate board rules and this chapter.
17. If a public health unit is served by a part-time local health officer, the board of health may appoint an executive director. An executive director is subject to removal for cause by the board of health. The board of health may assign to the executive director the duties of the local health officer, and the executive director shall perform these duties under the direction of the local health officer.
18. May contract with any person to provide the services necessary to carry out the purposes of the board of health.
19. Shall designate the location of a local health officer's office and shall furnish the office with necessary equipment.
20. May provide for personnel the board of health considers necessary.
21. Shall set the salary of the local health officer, the executive director, and any assistant local health officer and shall set the compensation of any other public health unit personnel.
22. Shall pay for necessary travel of the local health officer, the local health officer's assistants, and other personnel in the manner and to the extent determined by the board.

SECTION 8. AMENDMENT. Section 23-35.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-01. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. The definitions of section 23-35-01 apply; and
2. "Regional public health network" means a group of public health units that have entered a joint powers agreement ~~or an existing lead multidistrict health unit identified in the emergency preparedness and response region which has been reviewed by the state health officer and has been verified as meeting the requirements of this chapter and chapter 54-40.3~~ and have been verified by the state health officer as meeting the requirements of this chapter.

SECTION 9. AMENDMENT. Section 23-35.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-02. Regional public health network - Joint powers agreement - Review by state health officer - Criteria.

Before a group of public health units may be designated as a regional public health network and eligible for state funding, the state health officer shall review the joint powers agreement the districtspublic health units entered and verify that:

1. ~~The geographical region covered by the regional public health network corresponds to one of the emergency preparedness and response regions established by the state department of health.~~ consists of:
 - a. At least two public health units serving a minimum population of fifteen thousand; or
 - b. A minimum of three public health units.
2. The joint powers agreement requires that the participating public health units:
 - a. ~~Share various administrative functions and public health services in accordance with subsection 3~~ Assess the health of the population;
 - b. Identify workplan activities that meet the needs of the region;
 - c. Comply with requirements adopted by the health council ~~adopts by rule;~~ and
 - e-d. Meet department maintenance of effort funding requirements, which must be calculated based on each unit's dollar or mill levy public health unit contribution in the most recent calendar year 2007-; and
 - e. Share core public health activities and measure outcomes in accordance with subsection 3.
3. The joint powers agreement requires:
 - a. ~~A regional public health network to share the following public health services:~~
 - (1) ~~Emergency preparedness and response;~~
 - (2) ~~Environmental health services; and~~
 - (3) ~~A regional public health network health officer, although this paragraph does not prohibit a public health unit from appointing a local health officer.~~ Evidence that network activities align with prevailing health status and community needs;
 - b. ~~A regional public health network to select and share at least three administrative functions and at least three public health services, as provided under this subdivision:~~
 - (1) ~~"Administrative functions" are:~~

- (a) Financial accounting, billing, and accounts receivable;
 - (b) Community assessment and planning;
 - (c) Contract compliance;
 - (d) Public health service improvement planning;
 - (e) Human resource management;
 - (f) Technology support;
 - (g) Budgeting;
 - (h) Workforce development;
 - (i) Public information;
 - (j) Grant writing;
 - (k) Inventory management, including vaccines; and
 - (l) Any other functions approved by the state health officer.
- (2) "Public health services" are:
- (a) School health;
 - (b) Nutrition;
 - (c) Family planning;
 - (d) Injury prevention;
 - (e) Violence prevention;
 - (f) Tobacco prevention and cessation;
 - (g) Oral health;
 - (h) Cancer prevention;
 - (i) Maternal and child health;
 - (j) Asthma;
 - (k) Diabetes;
 - (l) Cardiovascular health;
 - (m) Physical activity;
 - (n) Immunizations;
 - (o) Communicable disease programs;

- (p) Mental health;
 - (q) Chronic disease;
 - (r) Public health visits; and
 - (s) Any other services approved by the state health officer.
4. The joint powers agreement provides:
- a. Shared or expanded services, including the core public health activities of:
 - (1) Preventing epidemics and spread of disease;
 - (2) Protecting against environmental hazards;
 - (3) Preventing injuries;
 - (4) Promoting health behaviors;
 - (5) Responding to disasters; and
 - (6) Assuring the quality and accessibility of health services;
 - c. Assurance of network performance measurement to demonstrate capacity, process, or health outcomes;
 - d. Criteria for the future participation of public health units that were not parties to the original joint powers agreement;
 - b-e. An application process by which public health units that were not parties to the original joint powers agreement may become participating districts; and
 - e-f. A process by which public health units that were not parties to the original joint powers agreement may appeal a decision to deny an application to participate in the agreement to the state health officer.
- 5-4. The joint powers agreement provides for the structure of the governing body of the network.

SECTION 10. AMENDMENT. Section 23-35.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-03. Regional public health network - Annual plan.

A regional public health network shall prepare an annual plan regarding the provision of the required and optional public health services ~~core public health activities~~ and shall submit the plan to the state health officer for approval.

SECTION 11. AMENDMENT. Section 23-35.1-04 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-04. Regional public health networks - Receipt and use of moneys.

The board of a regional public health network may receive and expend moneys for the provision of ~~administrative functions, public health services, core public health activities~~ and any other lawful activities.

SECTION 12. STATE DEPARTMENT OF HEALTH REPORTS TO THE LEGISLATIVE MANAGEMENT - TRIBAL PUBLIC HEALTH UNIT PILOT PROJECT.

During the 2013-14 interim, the state department of health shall report semiannually to the legislative management on the status of the tribal public health unit pilot project, including services provided, resources available, expenditures, and the future sustainability of the pilot project.

SECTION 13. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$700,000, or so much of the sum as may be necessary, to the state department of health for the purposes of planning or establishing, or both, a regional public health network, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department may not spend more than \$250,000 for each regional public health network.

Approved April 26, 2013

Filed April 26, 2013

CHAPTER 218

SENATE BILL NO. 2154

(Senators Klein, Laffen, Robinson)
(Representatives Dosch, Weisz, Gruchalla)

AN ACT to amend and reenact subsections 2, 3, and 4 of section 23-37-17 of the North Dakota Century Code, relating to registration fees for above and underground tanks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁰ **SECTION 1. AMENDMENT.** Subsection 2 of section 23-37-17 of the North Dakota Century Code is amended and reenacted as follows:

2. An owner or operator of an existing tank that is discovered at a location that currently and previously has had tanks registered with the fund ~~on or before July 1, 2007,~~ shall pay ~~seventy-five dollars~~ an additional twenty-five dollar penalty fee in addition to the registration fee for each aboveground tank and ~~one hundred twenty-five dollars~~ for each underground tank owned or operated by that person for each previous year that the tank was required to be registered for which a fee was not paid. The payment includes the fees and the penalty for the failure to register.

¹⁰¹ **SECTION 2. AMENDMENT.** Subsection 3 of section 23-37-17 of the North Dakota Century Code is amended and reenacted as follows:

3. An owner or operator of an existing tank at a location that was not previously and continuously registered with the fund, whether the registration was required by law or not, ~~on or before July 1, 2007,~~ must provide the fund with a phase two environmental study conducted by a qualified firm according to American society for testing materials standards. A tank integrity test must also be performed. The environmental study and tank integrity test must be reviewed by the commissioner along with the application for registration with the fund. If the commissioner rejects the application, the applicant is denied eligibility to the fund. However, if the site is remediated and the leaking tank is replaced, the applicant may reapply for registration with the fund. A new installation that is using a used tank must provide tank integrity test results for the used tank. Use of a synthetic liner in an aboveground dike system negates the need for a tank integrity test. The owner or operator of a new tank at a new site or a new tank at an existing site that had a tank registered at the site previously need only pay the required fees for registration with the fund.

¹⁰⁰ Section 23-37-17 was also amended by section 2 of Senate Bill No. 2154, chapter 218, and section 3 of Senate Bill No. 2154, chapter 218.

¹⁰¹ Section 23-37-17 was also amended by section 1 of Senate Bill No. 2154, chapter 218, and section 3 of Senate Bill No. 2154, chapter 218.

¹⁰² **SECTION 3. AMENDMENT.** Subsection 4 of section 23-37-17 of the North Dakota Century Code is amended and reenacted as follows:

4. If accepted for registration with the fund, the owner or operator of the tank shall pay ~~seventy five dollars~~ an additional twenty-five dollar penalty fee in addition to the registration fee for each aboveground tank and ~~one hundred twenty five dollars for an~~ underground tank owned or operated by that person for each ~~underground tank for each~~ previous year that the tank was required to be registered for which a fee was not paid, regardless of ownership in each of those years. The payment includes the fees and the penalty for the failure to register.

Approved March 21, 2013
Filed March 21, 2013

¹⁰² Section 23-37-17 was also amended by section 1 of Senate Bill No. 2154, chapter 218, and section 2 of Senate Bill No. 2154, chapter 218.

CHAPTER 219

HOUSE BILL NO. 1175

(Representatives Porter, Bellew, J. Nelson)
(Senators Carlisle, Dever, O'Connell)

AN ACT to create and enact a new chapter to title 23 of the North Dakota Century Code, relating to an acute cardiovascular emergency medical system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 23 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

1. "Department" means the state department of health.
2. "STEMI" means ST-elevation myocardial infarction.

Acute cardiovascular emergency medical system - Duties of state department of health.

1. Following consultation with and receipt of a recommendation of the acute cardiovascular emergency medical system of care advisory committee, the department shall establish and maintain a comprehensive emergency cardiovascular medical system for the state. The system must include standards for the following components:
 - a. A system plan.
 - b. Prehospital emergency medical services.
 - c. Hospitals, for which the standards must include:
 - (1) Standards for designation, redesignation, and dedesignation of receiving and referring centers.
 - (2) Standards for evaluation and quality improvement programs for designated centers.
 - (3) Recognition of a hospital as a STEMI receiving center or as a STEMI referring center. In making such recognition, the standards must include consideration of whether the hospital is:
 - (a) Accredited as a mission: lifeline STEMI receiving center or mission: lifeline STEMI referring center by the society of cardiovascular patient care and the American heart association accreditation process; or

- and ambulatory clinic settings for ongoing care after hospital discharge following acute treatments.
- d. Develop and advise the department to adopt a data oversight process and plan for achieving continuous quality improvement in the quality of care provided under the system of acute cardiovascular emergency care. The plan must be based on aggregate data analysis and the identification of potential interventions to improve heart attack care in geographic areas or regions of the state.
 - e. Recommend improvements for acute cardiovascular emergency medical system response.
3. A physician serving as a member of the acute cardiovascular emergency medical system of care advisory committee is immune from professional liability in providing the advisory committee with voluntary medical direction.
 4. Except for a member of the acute cardiovascular emergency medical system of care advisory committee serving on the advisory committee in the member's capacity as a department employee and who is therefore entitled to receive reimbursement of mileage and expenses from the department, a member of the advisory committee serves without compensation or reimbursement of mileage and expenses from the department but may receive compensation and reimbursement from the advisory committee member's employer or sponsoring entity.

Standard of care.

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.

Approved April 10, 2013

Filed April 10, 2013

HIGHWAYS, BRIDGES, AND FERRIES

CHAPTER 220

HOUSE BILL NO. 1066

(Representatives Drovdal, Kempenich)
(Senator Bowman)

AN ACT to create and enact a new section to chapter 24-01 of the North Dakota Century Code, relating to the Yellowstone trail.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 24-01 of the North Dakota Century Code is created and enacted as follows:

Yellowstone trail - United States highway 12.

The department shall designate United States highway 12 from the South Dakota border to the Montana border as the Yellowstone trail and at a minimum shall place signs along the highway designating that name and may use appropriate signs donated to the department.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 221

HOUSE BILL NO. 1033

(Legislative Management)
(Government Services Committee)

AN ACT to require authorization of the purchase or lease of aircraft; to provide for the use of department of transportation airplanes; to provide for the disposition of airplanes; to provide legislative intent; to provide for budget section approval; to provide for a report to the sixty-fourth legislative assembly; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Authorization to purchase or lease aircraft - Legislative assembly or budget section approval.

A state agency or other entity of state government may not purchase or lease an aircraft without specific authorization from the legislative assembly or the budget section of the legislative management if the legislative assembly is not in session. This section does not apply to aircraft purchased or leased by the office of the adjutant general or the university of North Dakota school of aviation.

SECTION 2.

Use of department of transportation airplanes.

Upon request, the department of transportation shall provide air transportation services to other state agencies. Unless waived by the department, each agency using air transportation services from the department shall pay a user charge determined by the department of transportation. The department shall give priority to requests for air transportation services from the attorney general's office when the request is for law enforcement purposes. The director of the department of transportation shall allow employees of other state agencies to operate the department's airplanes for official purposes if the employee is properly licensed and has the proper rating and type endorsement to operate the requested airplane.

SECTION 3. DISPOSITION OF DEPARTMENT OF TRANSPORTATION AIRPLANES. The director of the department of transportation shall dispose of, by sale or trade, the department's 1977 piper cheyenne airplane and the department's 1975 cessna skymaster airplane. If the airplanes are sold, the proceeds from the sale of the airplanes must be remitted to the state treasurer for deposit in the general fund. After June 30, 2014, the department may not use any funds appropriated by the legislative assembly to maintain or operate the department's 1977 piper cheyenne airplane or the department's 1975 cessna skymaster airplane.

SECTION 4. LEGISLATIVE INTENT - NORTH DAKOTA STATE UNIVERSITY AIRPLANE LEASE - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. It is the intent of the sixty-third legislative assembly that before June 30, 2017, North Dakota state university discontinue the lease entered by the university for a

KingAir B200 airplane and that North Dakota state university provide a report to the appropriations committees of the sixty-fourth legislative assembly regarding the status of its KingAir B200 airplane lease and efforts to utilize other air transportation services.

SECTION 5. APPROPRIATION - DEPARTMENT OF TRANSPORTATION - AIRPLANE REPLACEMENT - BUDGET SECTION APPROVAL - ADVISORY COMMITTEE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$4,500,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of purchasing replacement airplanes for the department's airplane fleet, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of transportation must receive budget section approval prior to expending any funds appropriated under this section in excess of \$4,000,000. The funding provided in this section is considered a one-time funding item.

During the biennium beginning July 1, 2013, and ending June 30, 2015, the department of transportation shall establish an airplane replacement advisory committee to advise the department of transportation regarding the purchase of replacement airplanes authorized under this section. The members of the advisory committee include:

1. The director of the department of transportation or the director's designee who shall serve as chairman;
2. The director of the aeronautics commission or the director's designee;
3. The director of the office of management and budget or the director's designee; and
4. Two members of the legislative assembly appointed by the chairman of the legislative management.

The committee shall meet at the call of the chairman. The members of the committee who are members of the legislative assembly are entitled to receive compensation and expense reimbursement as provided under section 54-03-20 and reimbursement for mileage as provided by law for state officers. The legislative council shall pay the compensation and expense reimbursement for the legislative members.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 222

HOUSE BILL NO. 1157

(Representatives Vigesaa, Mooney, Silbernagel)
(Senators Erbele, Oehlke)

AN ACT to amend and reenact section 24-05-04 of the North Dakota Century Code, relating to county road machinery.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-05-04 of the North Dakota Century Code is amended and reenacted as follows:

24-05-04. Contracts to be advertised - Requirements for rental contracts.

1. ~~Any~~ purchase of county road machinery and any rental contract or agreement for the use of road machinery and other articles, except necessary repairs for road machinery, which exceeds the sum of fifty thousand dollars must be advertised as provided by law for the purchase of county supplies. The board of county commissioners may not enter ~~into~~ a rental contract or agreement for the use of road machinery and other articles for a longer period than twelve months from the date of the rental contract or agree to pay rental for the use of road machinery and other articles which would result in the lessor receiving rental at a rate in excess of twenty percent per year of the cash sale price of the road machinery or other articles, ~~which.~~ The cash sale price of the road machinery and other articles must be clearly set forth in any rental contract for road machinery and other articles; and failure to include this data in any rental contract for the use of road machinery and other articles renders the rental contract void, ~~and any payments.~~ A payment made under ~~the~~ void rental contract ~~are~~ is recoverable from the county commissioners making the contract, jointly and severally.
2. Notwithstanding the provisions of this section relating to the duration of rental contracts, the board of county commissioners may enter ~~into~~ lease-purchase agreements ~~under which the annual payments by the county do not exceed twenty thousand dollars~~ for the road machinery and articles covered by this section; if those agreements provide for the complete performance and full payment of the purchase price of the machinery or articles within ~~five~~ seven years from the date of the execution of the lease-purchase agreement according to section 44-08-01.1.

Approved April 26, 2013
Filed April 26, 2013

MENTAL AND PHYSICAL ILLNESS OR DISABILITY

CHAPTER 223

SENATE BILL NO. 2157

(Senators J. Lee, Larsen, Axness)
(Representatives Damschen, Weisz, Oversen)

AN ACT to amend and reenact subsection 3 of section 25-03.1-21 and subsection 1 of section 25-03.1-25 of the North Dakota Century Code, relating to the emergency commitment of mentally ill individuals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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, clinical psychologist, 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 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 2. AMENDMENT. Subsection 1 of section 25-03.1-25 of the North Dakota Century Code is amended and reenacted as follows:

1. When a peace officer, physician either in person or directing an emergency medical services professional, psychiatrist, psychologist, 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, other persons, 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, psychologist, or mental health professional, using the screening process set forth in section 25-03.1-04, may cause the person 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.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 224

SENATE BILL NO. 2068

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact section 25-03.2-03.1 of the North Dakota Century Code, relating to residential child care facility bed capacity and psychiatric residential treatment facility bed capacity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-03.2-03.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-03.1. Moratorium on expansion of psychiatric residential treatment facility for children bed capacity - Exchange of bed capacity.

1. Notwithstanding sections 25-03.2-03 and 25-03.2-08, unless a needs assessment conducted by the department indicates a need for the licensing of additional bed capacity, the department may not issue a license under this chapter for any additional bed capacity for a psychiatric residential treatment facility for children above the state's gross number of beds licensed as of June 30, 2003. This ~~section~~subsection does not apply to nor prohibit the department from licensing additional bed capacity for a new psychiatric residential treatment facility for children if the additional beds are designated for the care of children and adolescents who are residents of other states.
2. Notwithstanding subsection 1, the department may develop a policy to:
 - a. Exchange residential child care facility bed capacity licensed under chapter 50-11 with psychiatric residential treatment facility bed capacity; or
 - b. Exchange psychiatric residential treatment facility bed capacity with residential child care facility bed capacity licensed under chapter 50-11.

Approved April 12, 2013

Filed April 12, 2013

CHAPTER 225

SENATE BILL NO. 2198

(Senators Miller, Armstrong, Hogue)
(Representatives Becker, K. Koppelman, Toman)

AN ACT to create and enact a new section to chapter 25-03.3 of the North Dakota Century Code, relating to annual reviews and petitions for discharge during a period of imprisonment; and to amend and reenact section 12.1-04-07 of the North Dakota Century Code, relating to reports regarding a defendant's fitness to proceed in a criminal proceeding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-04-07 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-07. Report - Hearing when contested.

1. The report of the examining psychiatrists or psychologists must be given in writing to the court within three days of expiration of the period of commitment or, if the defendant is not committed, within thirty days after the outpatient evaluation. The court shall cause copies to be delivered to the prosecutor and counsel for the defendant.
2. The report must include:
 - a. The identity of the individuals interviewed and records and other information considered.
 - b. Procedures, tests, and techniques utilized in the assessment.
 - c. The date and time of the examination of the defendant, and the identity of each individual present during the examination.
 - d. The relevant information obtained, other information not obtained which the examiner believes may be relevant, and the findings made.
 - e. An opinion as to whether the defendant is fit to proceed or is unable to effectively communicate with counsel and whether the defendant will attain fitness to proceed or ability to effectively communicate with counsel in the foreseeable future.
3. If the findings of the report are contested, the court shall hold a hearing prior to deciding whether the defendant currently lacks fitness to proceed or currently lacks ability to effectively communicate with counsel and whether the defendant will attain fitness to proceed or ability to effectively communicate with counsel in the foreseeable future. Upon hearing, the prosecution and defense have the right to summon and cross-examine the persons responsible for the report and to offer evidence upon the issues.

SECTION 2. A new section to chapter 25-03.3 of the North Dakota Century Code is created and enacted as follows:

Annual review - Petition for discharge - Inapplicability during periods of imprisonment.

Sections 25-03.3-17 and 25-03.3-18 do not apply if a respondent, during a period of commitment under this chapter, is transferred to the custody of the department of corrections and rehabilitation in accordance with section 29-27-07 or is serving a term of imprisonment in a county jail or regional corrections center. Upon release from imprisonment, the respondent must be retransferred to the care, custody, and control of the executive director. Upon retransfer, the respondent is entitled to a review to determine whether continued commitment under this chapter is warranted.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 226

SENATE BILL NO. 2069

(Government and Veterans Affairs Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 25-04 of the North Dakota Century Code, relating to directing the legislative council to change the name of the developmental center at westwood park, Grafton, to the life skills and transition center.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 25-04 of the North Dakota Century Code is created and enacted as follows:

Life skills and transition center to be substituted for developmental center at westwood park, Grafton.

The legislative council shall delete, where appropriate, "developmental center at westwood park, Grafton", "developmental center", or any derivatives of those terms, which when used in context indicate an intention to refer to those terms, wherever they appear in the North Dakota Century Code, in supplements to the North Dakota Century Code, and in the North Dakota Administrative Code, and to insert in lieu of each deletion "life skills and transition center" or an appropriate derivative of that phrase. These changes are to be made when any volume or supplement of the North Dakota Century Code is being reprinted. Life skills and transition center is to be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the developmental center at westwood park, Grafton.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 227

SENATE BILL NO. 2172

(Senators J. Lee, Berry, Robinson)
(Representatives J. Nelson, Weisz, Hogan)

AN ACT to create and enact a new section to chapter 25-17 of the North Dakota Century Code, relating to newborn child screening for critical congenital heart defects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 25-17 of the North Dakota Century Code is created and enacted as follows:

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 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.

Approved April 1, 2013
Filed April 1, 2013

INSURANCE

CHAPTER 228

HOUSE BILL NO. 1117

(Judiciary Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact a new section to chapter 26.1-02 of the North Dakota Century Code, relating to consumer assistance records received by the insurance commissioner.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 26.1-02 of the North Dakota Century Code is created and enacted as follows:

Consumer assistance records - Exempt.

1. Personal, financial, or health information related to requests for consumer assistance received by the commissioner is an exempt record as defined in section 44-04-17.1.
2. As used in this section, "personal, financial, or health information" means information collected from or on behalf of an individual requesting consumer assistance which would reveal:
 - a. The individual's personal health condition, disease, or injury;
 - b. The existence, nature, source, or amount of the individual's personal income;
 - c. The existence, nature, source, or amount of the individual's personal expenses;
 - d. Records of or relating to the individual's personal financial transactions of any kind;
 - e. The existence, identification, nature, or value of the individual's personal assets, liabilities, or net worth;
 - f. A history of the individual's personal medical diagnosis or treatment;
 - g. The existence, identification, nature, value, or content of the individual's coverage or status under any insurance policy;
 - h. The individual's personal contractual rights or obligations; or

-
- i. Any social security number, date of birth, file number, bank account number, or other number used for identification of the individual or any account in which the individual has a personal financial interest.
 3. The name of a regulated entity that is the subject of a complaint or inquiry; is not "personal, financial, or health information"; and is not subject to the restrictions in this section.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 229

SENATE BILL NO. 2074

(Judiciary Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact subsection 1 of section 26.1-02.1-05 of the North Dakota Century Code, relating to penalties for insurance fraud; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁴ **SECTION 1. AMENDMENT.** Subsection 1 of section 26.1-02.1-05 of the North Dakota Century Code is amended and reenacted as follows:

1. a. A violation of section 26.1-02.1-02.1 is a:
 - (1) A class A felony if the value of any property or services retained exceeds fifty thousand dollars;
 - (2) A class B felony if the value of any property or services attempted to be obtained exceeds fifty thousand dollars;
 - (3) A class B felony if the value of any property or services retained exceeds ten thousand dollars but does not exceed fifty thousand dollars;
 - (4) A class C felony if the value of any property or services attempted to be obtained exceeds ten thousand dollars but does not exceed fifty thousand dollars;
 - (5) A class C felony if the value of any property or services retained exceeds fiveone thousand dollars but does not exceed ten thousand dollars; and a
 - (6) A class A misdemeanor in all other cases.
- b. For purposes of this section, the value of any property and services must be determined in accordance with ~~subsection 6 of~~ section 12.1-23-05.

Approved April 26, 2013
Filed April 26, 2013

¹⁰⁴ Section 26.1-02.1-05 was also amended by section 13 of Senate Bill No. 2251, chapter 104.

CHAPTER 230

HOUSE BILL NO. 1150

(Representatives Monson, Rust, Vigesaa)
(Senators Klein, Unruh, Dotzenrod)

AN ACT to amend and reenact sections 26.1-13-12 and 26.1-13-15 of the North Dakota Century Code, relating to county mutual insurance companies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-13-12 of the North Dakota Century Code is amended and reenacted as follows:

26.1-13-12. General powers, liabilities, and duties of county mutual company - Office - Name - Limitations.

A county mutual insurance company ~~possesses~~^{has} the powers and is subject to the liabilities and duties of other insurance companies, except that:

1. The principal office of the company must be located within the company's approved territory of operation.
2. ~~When~~^{if} the company is organized by the residents of a single county, the name of the county together with the word "county" must be embraced in the corporate name of the company.
3. ~~Any company organized under this chapter for mutual protection against loss or damage by tornadoes, windstorms, cyclones, hail, except upon growing crops, and any hazard upon any risk upon livestock, only, may operate and issue policies in all of the counties of the state, but in all other matters is regulated and limited by this chapter. Notwithstanding contrary territorial limitations in this chapter, a county mutual insurance company may operate and issue the following policies in all the counties of the state:~~
 - a. Protection against loss or damage by tornadoes;
 - b. Protection against loss or damage by windstorms;
 - c. Protection against loss or damage by cyclones;
 - d. Protection against loss or damage by hail, except upon growing crops;
 - e. Protection against loss or damage by any hazard upon any risk upon livestock; and
 - f. Protection against loss or damage by any hazard to a seasonal dwelling if the primary residence is insured by the company in an authorized county.

SECTION 2. 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 ~~any~~an incorporated city in this state ~~unless, except the policy issued provides~~may provide coverage as specified under sections 26.1-13-14 and 26.1-13-16 within the platted limits of ~~any~~the incorporated city in ~~this state on the actual~~;
 - a. ~~The place of residence occupied by the policyholder and appurtenant structures and the contents thereof and on no more than; or~~
 - b. ~~A rental property that is no larger than a~~ four residential rental units of each policyholder~~unit.~~unit.
4. The company may insure all property located outside of incorporated cities within the limits of the territory comprised in the formation of the company.
5. Policies issued under subsection 3 on property located within the platted limits of ~~any~~an incorporated city with a population over ten thousand ~~are limited to covering the actual place of residence occupied by the policyholder and appurtenant structures and the contents thereof and no more than four residential rental units of each policyholder and must conform to rules adopted by the commissioner establishing requirements for underwriting risks and safeguarding financial solvency. A company may not exceed twenty-five~~thirty-five percent of the company's gross written premiums of the previous year for the gross written premiums in cities with a population over ten thousand.
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 April 2, 2013
Filed April 2, 2013

CHAPTER 231

HOUSE BILL NO. 1153

(Representatives Keiser, Kasper, Vigesaas)
(Senators Grindberg, Klein, Laffen)

AN ACT to amend and reenact section 26.1-17-33.1 of the North Dakota Century Code, relating to restructuring of nonprofit mutual insurance companies; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-17-33.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-17-33.1. Nonprofit health service corporation - Conversion to nonprofit mutual insurance company - Application of law.

1. Any nonprofit health service corporation organized under chapter 26.1-17, having admitted assets in excess of all liabilities at least equal to the original surplus required of a mutual insurance company by section 26.1-12-10, without reincorporation, and upon adoption of a resolution by its board of directors, may petition the insurance commissioner for an order to become a nonprofit mutual insurance company subject to chapter 26.1-12. For the purpose of obtaining approval from the insurance commissioner, conversion to a nonprofit mutual insurance company under this section is deemed a consolidation pursuant to chapter 26.1-07 and the procedure described therein must be followed.
2. Upon becoming subject to chapter 26.1-12, the company may continue to provide health care and related services to its present or future members and subscribers by health care contracts and may make provision for the payment of health care services directly to hospitals and other agencies or institutions or persons rendering health care services or related services or may make direct payment to the member or subscriber. The conversion of a nonprofit health service corporation into a mutual insurance company must not impair the rights or obligations or any existing contractual rights of a health care service corporation or its members. Except as provided in this section, the laws that apply to mutual insurance companies, and insurance companies generally, apply to a nonprofit mutual insurance company converted from a nonprofit health service corporation pursuant to this section.
3. The nonprofit corporation laws apply to the operation and control of a nonprofit mutual insurance company converted from a nonprofit health service corporation under this section and supersede any conflicting provisions in title 26.1 unless title 26.1 is more restrictive. ~~Except as authorized in subsections 4 and 5, a nonprofit mutual insurance company may not sell, lease, transfer, or dispose of all or substantially all property or assets, and may not merge or consolidate with, or acquire, a stock insurance company or agency, for-profit subsidiary, or any other corporation. Except as provided in subsection 5, a nonprofit mutual insurance company may not issue stock.~~

4. The funds of a nonprofit mutual insurance company may be invested in those investments authorized to be made by domestic insurance companies under section 26.1-05-19, as limited by section 26.1-05-18.
5. A nonprofit mutual insurance company may form a wholly owned company for the purpose of administering medicare claims and engaging in other business activities that do not accept insurance risk. A company established under this subsection may form a joint venture or subsidiary to conduct one or more of the functions the nonprofit mutual insurance company could conduct directly. An officer, a director, or a management employee of the nonprofit mutual insurance company may not directly or indirectly own an interest in a subsidiary.
6. ~~A~~Except as authorized under subsection 12, a nonprofit mutual insurance company may not demutualize ~~or be converted to a for-profit mutual or stock company.~~ A nonprofit mutual insurance company may not be converted to a for-profit mutual company or to a for-profit stock company.
7. A nonprofit mutual insurance company may ~~not~~ avail itself of the additional investment authority under chapter 26.1-10. Upon approval by the commissioner after a showing of good cause by the nonprofit mutual insurance company, aggregate investments in all subsidiaries of the company under subsection 21 of section 26.1-05-19 and under chapter 26.1-10 may exceed an amount equal to twenty-five percent of the company's admitted assets.
8. A conversion of a nonprofit health service corporation to a nonprofit mutual insurance company under this section or the restructuring of a nonprofit mutual insurance company under subsection 12, to the extent that any assets of the nonprofit health service corporation or the restructured nonprofit mutual insurance company and the restructured nonprofit mutual insurance company's nonprofit holding corporation parent formed pursuant to subsection 12 are impressed with a charitable trust immediately before the conversion or restructuring, does not give rise to a breach of the charitable trust or violate any fiduciary duty laws, and does not constitute grounds for disapproval of either the petition to convert to a nonprofit mutual insurance company or the articles of incorporation of the company under section 26.1-12-04, or application for restructuring of a nonprofit mutual insurance company under subsection 12. ~~The~~A conversion or restructuring authorized by this section does not diminish the application of charitable trust or fiduciary duty laws that may apply to the converted or restructured company immediately before the conversion.
9. A nonprofit mutual insurance company may not engage in the practice of medicine, dentistry, optometry, or any other profession for which a license or registration is required.
10. ~~Every~~Each nonprofit mutual insurance company ~~is~~ and each nonprofit mutual insurance company and its nonprofit holding corporation parent are charitable and benevolent ~~organization~~organizations and the laws of this state relating to and affecting nonprofit charitable and benevolent corporations are applicable to all nonprofit mutual insurance companies and restructured nonprofit mutual insurance companies and their nonprofit holding corporation parents.

11. Except as authorized under subsection 12, a nonprofit mutual insurance company may not form a mutual insurance holding company.
12. Upon approval of the nonprofit mutual insurance company's board of directors, the approval of the commissioner pursuant to this subsection, and any necessary approval of the nonprofit mutual insurance company's members, a nonprofit mutual insurance company may restructure, while remaining a nonprofit corporation, by forming a nonprofit holding corporation that will be the sole member of the restructured company.
 - a. The restructured company shall retain any additional authority granted to the restructured company as a nonprofit mutual insurance company under this section and the restructured company shall remain subject to subsections 3, 4, 5, 6, 7, 8, 9, and 10, except to the extent inconsistent with this subsection and chapter 10-33.
 - 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, 26.1-12-30, and 26.1-12-32.
 - c. The restructured company may elect to use the term "mutual" in the company's name, marketing materials, and other communications.
 - d. The nonprofit holding corporation is subject to the provisions of sections 26.1-12-06, 26.1-12-07, 26.1-12-14, and 26.1-12-16. After restructuring under this subsection, chapter 26.1-12.1 does not apply to the restructured company or the restructured company's nonprofit holding corporation parent.
 - e. The membership interests of the members of the restructuring company must be converted into membership interests in the nonprofit holding corporation; however, notwithstanding section 26.1-12-14, upon the effective date of the restructuring, such membership interests may be weighted or otherwise adjusted to reflect the number of subscribers covered under a particular policy. Concomitantly with the restructuring, and without complying with sections 26.1-10-05 and 26.1-10-05.1, the restructuring company may transfer or assign the restructuring company's shares, membership units, or other incidents of ownership in one or more of the restructuring company's subsidiaries and affiliates, as well as the restructuring company's workforce, to the nonprofit holding corporation.
 - f. The restructuring company shall submit an application for restructuring, consisting of revised articles and bylaws, the articles and bylaws of the nonprofit holding company, any share or membership interest transfer documents, authorizing resolutions and other materials the restructuring company deems pertinent to the restructuring to the commissioner. The commissioner shall approve the restructuring unless, after a public hearing, the commissioner finds:
 - (1) After the change of control, the domestic insurance company referenced 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 the domestic insurance company is presently licensed;

- (2) The effect of the merger or other acquisition of control would be to substantially lessen competition in insurance in this state or tend to create a monopoly in this state;
 - (3) The financial condition of any acquiring party might jeopardize the financial stability of the insurance company or prejudice the interest of the insurance company's policyholders;
 - (4) The acquiring party's plans or proposals to liquidate the insurance company, to sell the insurance company's assets, to consolidate or merge with any person, or to make any other material change in the insurance company's business or corporate structure or management are unfair and unreasonable to policyholders of the company and are not in the public interest;
 - (5) The competence, experience, and integrity of those persons that would control the operation of the insurance company are such that it would not be in the interest of policyholders of the company and of the public to permit the merger or other acquisition of control; or
 - (6) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.
- g. Within thirty days of submission of the application to the commissioner under this subsection, the commissioner shall make written findings, conclusions, and a determination on the application.
13. A merger or consolidation of a nonprofit mutual insurance company that has been restructured under subsection 12, merger or consolidation of the restructured nonprofit mutual insurance company's nonprofit holding corporation parent, acquisition of control of either, or acquisition of another insurer by the restructured company or the restructured company's nonprofit holding corporation parent is subject to the provisions of sections 26.1-10-03 and 26.1-10-03.1 and chapter 26.1-07 which would be applicable to the type of transaction involved.
 14. This section does not supersede or impair the rights, powers, or authority of the attorney general or courts of this state established by statute, case law, or common law with respect to charitable or benevolent corporations.

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

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 232

SENATE BILL NO. 2304

(Senators Larsen, Klein)
(Representatives Beadle, Kasper)

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 insurance producer criminal history record checks; to amend and reenact section 26.1-26-13.3 of the North Dakota Century Code, relating to insurance producer criminal history record checks; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁵ **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 insurance department for criminal history record checks authorized under chapter 26.1-26.

SECTION 2. AMENDMENT. Section 26.1-26-13.3 of the North Dakota Century Code is amended and reenacted as follows:

26.1-26-13.3. Application for license.

1. An individual applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner must find that the individual:
 - a. Is at least eighteen years of age;
 - b. Has not committed any act that is a ground for denial, suspension, or revocation set forth in section 26.1-26-42;
 - c. Has paid the fees set forth in section 26.1-01-07; and
 - d. Has successfully passed the examinations for the lines of authority for which the individual has applied.
2. An individual applying for a resident producer license shall complete a criminal history record check as provided in section 12-60-24. All costs associated with the criminal history record check are the responsibility of the applicant. This subsection does not apply to license continuation under section 26.1-26-13.4 or individuals who apply for an insurance producer license within twelve

¹⁰⁵ Section 12-60-24 was also amended by section 7 of House Bill No. 1012, chapter 12, section 1 of House Bill No. 1327, chapter 491, section 1 of House Bill No. 1389, chapter 325, and section 1 of Senate Bill No. 2110, chapter 324.

months following the cancellation or expiration of a valid resident insurance producer license issued by the North Dakota insurance department, unless the license was suspended or revoked.

3. The commissioner may make arrangements, including contracting with an outside service, for the collection and transmission of fingerprints for conducting criminal history record checks.
4. A business entity acting as an insurance producer must obtain an insurance producer license. Application must be made using the uniform business entity application. Before approving the application, the commissioner must find that:
 - a. The business entity has paid the fee set forth in section 26.1-01-07;
 - b. The business entity has designated a licensed individual principal insurance producer responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state; and
 - c. The individual designated as the licensed principal insurance producer of the business entity has taken the examination required by section 26.1-26-13.2. The business entity may only be licensed for those lines of insurance for which one or more of its principal insurance producers is licensed. The business entity shall inform the commissioner within ten working days of any change in the status of its principal insurance producer or producers.
 - d. The commissioner may require any documents reasonably necessary to verify the information contained in an application.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on September 1, 2013.

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 233

HOUSE BILL NO. 1196

(Representatives Keiser, Frantsvog, Ruby, Vigesaa)
(Senators Andrist, O'Connell)

AN ACT to create and enact section 26.1-30-03.1 of the North Dakota Century Code, relating to issuance of insurance policies in foreign languages.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 26.1-30-03.1 of the North Dakota Century Code is created and enacted as follows:

26.1-30-03.1. Issuance of foreign language policies.

An insurance carrier or producer licensed to provide insurance under this title may provide insurance policies, endorsements, or riders in a language other than English. All policies, endorsements, and riders written in languages other than English must be filed pursuant to sections 26.1-30-19, 26.1-30-20, and 26.1-30-21 and must include a written certification declaring to the commissioner that the non-English documents are accurate translations of the benefits provided in the English version pursuant to sections 26.1-30-19, 26.1-30-20, and 26.1-30-21. If there is a dispute or complaint regarding the non-English documents, the English language version of the insurance coverage controls the resolution of the dispute or complaint. This section does not abrogate or supersede the provisions of chapter 26.1-04 relating to prohibited practices within insurance business.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 234

HOUSE BILL NO. 1168

(Representative Keiser)
(Senator Klein)

AN ACT to create and enact a new section to chapter 26.1-36 of the North Dakota Century Code, relating to health insurance enrollment periods in the individual market; and to declare an emergency.

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:

Individual health plans - Open enrollment periods - Rules.

1. As used in this section:

- a. "Adverse selection" occurs when an individual who experiences greater than average health risks seeks to purchase an individual health plan.
- b. "Annual open enrollment period" means a period each year during which an individual may enroll or change coverage in an individual health plan that is not sold through a health benefit exchange.
- c. "Health benefit exchange" means a governmental agency or nonprofit entity that:
 - (1) Meets the applicable requirements of the federal Patient Protection and Affordable Care Act [Pub. L. 111-148] and the provisions of the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152]; and
 - (2) Makes qualified health plans available to qualified individuals and qualified employers through a state health benefit exchange, regional health benefit exchange, subsidiary health benefit exchange, or a federally facilitated health benefit exchange.
- d. "Individual health plan" means health insurance coverage offered to individuals, other than in connection with a group health plan. The term does not include limited scope dental or vision benefits, coverage only for specified disease or illness, hospital indemnity or other fixed indemnity insurance, or other similar limited benefit health plans.
- e. "Initial enrollment period" means a period during which an individual may enroll in individual health plan coverage sold outside a health benefit exchange for coverage during the 2014 benefit year.
- f. "Special enrollment period" means a period that is outside of the initial and annual open enrollment periods, during which an individual or enrollee who experiences certain qualifying events may enroll in or change

- enrollment in an individual health plan not sold through a health benefit exchange.
2. The commissioner may adopt rules reasonably necessary to mitigate adverse selection or other undesirable market effect among individual health plans sold inside and among individual health plans sold outside a health benefit exchange. The rules may contain:
- a. Requirements for the initial enrollment period;
 - b. Requirements for an annual open enrollment period;
 - c. Requirements for a special enrollment period;
 - d. Requirements for an individual who purchases individual health plan coverage during a special enrollment period; and
 - e. Any other provision reasonably required to mitigate adverse selection or other undesirable market effect in individual health plans sold inside or outside a health benefit exchange.

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

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 235

HOUSE BILL NO. 1194

(Representatives Keiser, Porter)
(Senators Klein, Sitte)

AN ACT to create and enact a new section to chapter 26.1-36 of the North Dakota Century Code, relating to short-term insurance; and to provide a penalty.

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:

Short-term care insurance - Rules - Penalty.

1. "Short term care" means any insurance policy, group certificate of insurance, or rider advertised, marketed, offered, or designed to provide coverage for less than twelve consecutive months for each covered period on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventative, therapeutic, rehabilitative, maintenance, adult day care, or personal care services provided in an insured's own home or a licensed facility setting other than an acute care unit of a hospital.
2. Any policy or rider advertised, marketed, or offered as short-term care insurance must comply with this section and all other applicable insurance laws to the extent the other laws do not conflict with this section.
3. The insurance commissioner:
 - a. May adopt rules that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of short-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, incontestability, rescission, return of policy provisions, and definitions of terms.
 - b. May adopt rules establishing loss ratio standards for short-term care insurance policies; provided, that a specific reference to short-term care insurance policies is contained in the rules.
 - c. May adopt rules to promote premium adequacy; protect the policyholder in the event of substantial rate increases; and to establish minimum standards for correcting abusive marketing practices, replacement forms, insurance producer testing, penalties, and reporting practices for short-term care insurance.

4. In addition to any other penalties provided by the laws of this state, any insurer and any insurance producer found to have violated any requirement of this title relating to the regulation of short-term care insurance or the marketing of such insurance is subject to a fine of up to three times the amount of any commission paid for each policy involved in the violation or up to ten thousand dollars, whichever is greater.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 236

SENATE BILL NO. 2337

(Senators Sinner, Carlisle, Klein)
(Representatives Keiser, Porter)

AN ACT to amend and reenact subsection 4 of section 14-09-08.20, section 26.1-36.3-01, subsection 4 of section 26.1-36.3-04, and sections 26.1-36.3-06 and 26.1-36.3-11 of the North Dakota Century Code, relating to basic health benefit plans and standard health benefit plans; to repeal sections 26.1-36-09.4, 26.1-36.3-08, 26.1-36.3-10, and 26.1-36.4-07 of the North Dakota Century Code, relating to basic health benefit plans and standard health benefit plans; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 14-09-08.20 of the North Dakota Century Code is amended and reenacted as follows:

4. For purposes of this section:
 - a. "Basic coverage" means:
 - (1) Health health insurance that includes coverage for the following medically necessary services: preventive care, emergency care, inpatient and outpatient hospital care, physician services whether provided within or outside a hospital setting, diagnostic laboratory, and diagnostic and therapeutic radiological services; or
 - (2) ~~A basic group health benefit plan approved under section 26.1-36.3-08;~~
 - b. "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;
 - c. "Insurer" has the meaning provided in section 26.1-36.5-01;
 - d. "National medical support notice" means the notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 [Pub. L. 105-200; 112 Stat. 645] and regulations adopted thereunder; and
 - e. "Title IV-D" has the meaning provided in section 50-09-01.

SECTION 2. AMENDMENT. Section 26.1-36.3-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.3-01. Definitions.

As used in this chapter and section 26.1-36-37.2, unless the context otherwise requires:

1. "Actuarial certification" means a written statement by a member of the American academy of actuaries, or other individual acceptable to the insurance commissioner, that a small employer carrier is in compliance with section 26.1-36.3-04, based upon the person's examination of the small employer carrier, including a review of the appropriate records and the actuarial assumptions and methods used by the small employer carrier in establishing premium rates for applicable health benefit plans.
2. "Affiliate" or "affiliated" means any entity or person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.
3. "Association" means, with respect to health insurance coverage offered in this state, an association that:
 - a. Has been actively in existence for at least five years;
 - b. Has been formed and maintained in good faith for purposes other than obtaining insurance;
 - c. Does not condition membership in the association on any health status-related factor relating to an individual, including an employee or dependent of an employee;
 - d. Makes health insurance coverage offered through the association available to all members regardless of any health status-related factor relating to the members, or individuals eligible for coverage through a member; and
 - e. Does not make health insurance coverage offered through the association available other than in connection with a member of the association.
4. "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage.
5. "~~Basic health benefit plan~~" means a ~~lower cost health benefit plan developed under section 26.1-36.3-08.~~
6. "Case characteristics" means demographic or other objective characteristics of a small employer that are considered by the small employer carrier in the determination of premium rates for the small employer; however, claim experience, health status, and duration of coverage are not case characteristics.
- ~~7-6.~~ "Church plan" has the meaning given the term under section 3(33) of the Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 88 Stat. 829; 29 U.S.C. 1001 et seq.].

- ~~8-7.~~ "Class of business" means all or a separate grouping of small employers established under section 26.1-36.3-03.
- ~~9.~~ "~~Committee~~" means the ~~health benefit plan committee created under section 26.1-36.3-08.~~
- ~~10-8.~~ "Control" is as defined in section 26.1-10-01.
- ~~11-9.~~ "Dependent" means a spouse, an unmarried child, including a dependent of an unmarried child, under the age of twenty-two, an unmarried child who is a full-time student under the age of twenty-six and who is financially dependent upon the enrollee, and an unmarried child, including a dependent of an unmarried child, of any age who is medically certified as disabled and dependent upon the enrollee as set forth in section 26.1-36-22.
- ~~12-10.~~ "Eligible employee" means an employee who works on a full-time basis and has a normal workweek of thirty or more hours. The term includes a sole proprietor, a partner of a partnership, and an independent contractor, if the sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer. The term does not include an employee who works on a part-time, temporary, or substitute basis.
- ~~13-11.~~ "Enrollee" means a person covered under a small employer health benefit plan.
- ~~14-12.~~ "Established geographic service area" means a geographic area, as approved by the insurance commissioner and based on the carrier's certificate of authority to transact insurance in this state, within which the carrier is authorized to provide coverage.
- ~~15-13.~~ "Governmental plan" means an employee welfare benefit plan as defined in section 3(32) of the Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 88 Stat. 829; 29 U.S.C. 1001 et seq.] or any federal government plan.
- ~~16-14.~~ "Group health benefit plan" means an employee welfare benefit plan as defined in section 3(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 88 Stat. 829; 29 U.S.C. 1001 et seq.] to the extent that the plan provides medical care as defined in this section and including items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise. For purposes of this chapter:
- a. A plan, fund, or program that would not be, but for this section, an employee welfare benefit plan and which is established or maintained by a partnership, to the extent that the plan, fund, or program provides medical care, including items and services paid for as medical care, to present or former partners in the partnership, or to their dependents, as defined under the terms of the plan, fund, or program, directly or through insurance, reimbursement, or otherwise, must be treated as an employee welfare benefit plan which is a group health benefit plan;
 - b. In the case of a group health benefit plan, the term "employer" also includes the partnership in relationship to any partner; and

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- c. In the case of a group health benefit plan, the term "participant" also includes:
- (1) In connection with a group health benefit plan maintained by a partnership, an individual who is a partner in relation to the partnership; or
 - (2) In connection with a group health benefit plan maintained by a self-employed individual, under which one or more employees are participants, the self-employed individual, if the individual is, or may become, eligible to receive benefits under the plan or the beneficiaries may be eligible to receive any benefit.
- 47.15. a. "Health benefit plan" means any hospital or medical or major medical policy, certificate, or subscriber contract.
- b. "Health benefit plan" does not include one or more, or any combination of, the following:
- (1) Coverage only for accident, or disability income insurance, or any combination thereof;
 - (2) Coverage issued as a supplement to liability insurance;
 - (3) Liability insurance, including general liability insurance and automobile liability insurance;
 - (4) Workforce safety and insurance or similar insurance;
 - (5) Automobile medical payment insurance;
 - (6) Credit-only insurance;
 - (7) Coverage for onsite medical clinics; and
 - (8) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance.
- c. "Health benefit plan" does not include the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:
- (1) Limited scope dental or vision benefits;
 - (2) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; or
 - (3) Such other similar, limited benefits as are specified in federal regulations.
- d. "Health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of the benefits, and any exclusion of benefits under any group health benefit plan maintained by the same plan sponsor, and the benefits are paid with respect to an event

without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor:

- (1) Coverage only for specified disease or illness; or
 - (2) Hospital indemnity or other fixed indemnity insurance.
- e. "Health benefit plan" does not include the following if offered as a separate policy, certificate, or contract of insurance:
- (1) Medicare supplemental health insurance as defined under section 1882(g)(1) of the Social Security Act;
 - (2) Coverage supplemental to the coverage provided under 10 U.S.C. 55; and
 - (3) Similar supplemental coverage provided under a group health plan.
- f. A carrier offering a policy or certificate of specified disease, hospital confinement indemnity, or limited benefit health insurance shall comply with the following:
- (1) File with the insurance commissioner on or before March first of each year a certification that contains:
 - (a) A statement from the carrier certifying that the policy or certificate is being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance.
 - (b) A summary description of the policy or certificate, including the average annual premium rates, or range of premium rates in cases when premiums vary by age, gender, or other factors, charged for the policy and certificate in this state.
 - (2) When the policy or certificate is offered for the first time in this state on or after August 1, 1993, file with the commissioner the information and statement required in paragraph 1 at least thirty days before the date the policy or certificate is issued or delivered in this state.

48-16. "Health carrier" or "carrier" means any entity that provides health insurance in this state. For purposes of this chapter, health carrier includes an insurance company, a prepaid limited health service corporation, a fraternal benefit society, a health maintenance organization, nonprofit health service corporation, and any other entity providing a plan of health insurance or health benefits subject to state insurance regulation.

49-17. "Health status-related factor" means any of the following factors:

- a. Health status;
- b. Medical condition, including both physical and mental illness;
- c. Claims experience;
- d. Receipt of health care;

- e. Medical history;
- f. Genetic information;
- g. Evidence of insurability, including condition arising out of acts of domestic violence; or
- h. Disability.

20-18. "Index rate" means, for each class of business as to a rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

24-19. "Late enrollee" means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer following the initial enrollment period during which the individual is entitled to enroll under the terms of the health benefit plan, provided that the initial enrollment period is a period of at least thirty days. An eligible employee or dependent may not be considered a late enrollee, however, if:

- a. The individual:
 - (1) Was covered under qualifying previous coverage at the time of the initial enrollment;
 - (2) Lost coverage under qualifying previous coverage as a result of termination of employment or eligibility, the involuntary termination of the qualifying previous coverage, death of a spouse, or divorce; and
 - (3) Requests enrollment within thirty days after termination of the qualifying previous coverage.
- b. The individual is employed by an employer that offers multiple health benefit plans and the individual elects a different plan during an open enrollment period.
- c. A court has ordered coverage be provided for a spouse or minor or dependent child under a covered employee's health benefit plan and request for enrollment is made within thirty days after issuance of the court order.
- d. The individual had coverage under a Consolidated Omnibus Budget Reconciliation Act [Pub. L. 99-272; 100 Stat. 82] continuation provision and the coverage under that provision was exhausted.

22-20. "Medical care" means amounts paid for:

- a. The diagnosis, care, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;
- b. Transportation primarily for and essential to medical care referred to in subdivision a; and
- c. Insurance covering medical care referred to in subdivisions a and b.

- 23-21. "Network plan" means health insurance coverage offered by a health carrier under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the carrier.
- 24-22. "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered, or which could have been charged or offered, by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage.
- 25-23. "Plan sponsor" has the meaning given the term under section 3(16)(B) of the Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 88 Stat. 829; 29 U.S.C. 1001 et seq.].
- 26-24. "Premium" means money paid by a small employer and eligible employees as a condition of receiving coverage from a small employer carrier, including any fees or other contributions associated with the health benefit plan.
- 27-25. "Producer" means insurance producer.
- 28-26. "Qualifying previous coverage" and "qualifying existing coverage" mean, with respect to an individual, health benefits or coverage provided under any of the following:
- a. A group health benefit plan;
 - b. A health benefit plan;
 - c. Medicare;
 - d. Medicaid;
 - e. Civilian health and medical program for uniformed services;
 - f. A medical care program of the Indian health service or of a tribal organization;
 - g. A state health benefit risk pool, including coverage issued under chapter 26.1-08;
 - h. A health plan offered under 5 U.S.C. 89;
 - i. A public health plan as defined in federal regulations, including a plan maintained by a state government, the United States government, or a foreign government;
 - j. A health benefit plan under section 5(e) of the Peace Corps Act [Pub. L. 87-293; 75 Stat. 612; 22 U.S.C. 2504(e)]; and
 - k. A state's children's health insurance program funded through title XXI of the federal Social Security Act [42 U.S.C. 1397aa et seq.].

The term "qualifying previous coverage" does not include coverage of benefits excepted from the definition of a "health benefit plan" under subsection 17.

- ~~29-27.~~ "Rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect.
- ~~30-28.~~ "Reinsuring carrier" means a small employer carrier which reinsures individuals or groups with the program.
- ~~31-29.~~ "Restricted network provision" means any provision of a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of health care providers that have entered into a contractual arrangement with the carrier under chapters 26.1-17, 26.1-18, and 26.1-47 to provide health care services to covered individuals.
- ~~32-30.~~ "Small employer" means, in connection with a group health plan with respect to a calendar and a plan year, an employer who employed an average of at least two but not more than fifty eligible employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year.
- ~~33-31.~~ "Small employer carrier" means any carrier that offers health benefit plans covering eligible employees of one or more small employers in this state.
- ~~34. "Standard health benefit plan" means a health benefit plan developed under section 26.1-36.3-08.~~

SECTION 3. AMENDMENT. Subsection 4 of section 26.1-36.3-04 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner may suspend for a specified period the application of subdivision a of subsection 2 as to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the commissioner that the suspension is reasonable in light of the financial condition of the small employer carrier or, ~~with the prior approval of the committee established pursuant to section 26.1-36.3-08,~~ that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

SECTION 4. AMENDMENT. Section 26.1-36.3-06 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.3-06. Availability of coverage.

1. a. As a condition of transacting business in this state with small employers, every small employer carrier shall actively offer small employers all health benefit plans it actively markets to small employers in this state, ~~including a basic health benefit plan and a standard health benefit plan.~~
- b. (1) Subject to subdivision a of subsection 1, a small employer carrier shall issue any health benefit plan to any eligible small employer that applies for the plan and agrees to make the required premium payments and to satisfy the other reasonable provisions of the health benefit plan not inconsistent with this chapter and section 26.1-36-37.2. However, a carrier may not be required to issue a health benefit plan to a self-employed individual who is covered by, or is eligible for coverage under, a health benefit plan offered by an employer.

- (2) In the case of a small employer carrier that establishes more than one class of business pursuant to section 26.1-36.3-03, the small employer carrier shall maintain and issue to eligible small employers all health benefit plans it actively markets to small employers, ~~including at least one basic health benefit plan and at least one standard health benefit plan in each established class of business.~~ A small employer carrier may apply reasonable criteria in determining whether to accept a small employer into a class of business if the criteria are not intended to discourage or prevent acceptance of small employers applying for a health benefit plan, are not related to a health status-related factor of the small employer, and are applied consistently to all small employers applying for coverage in the class of business. The small employer carrier shall provide for the acceptance of all eligible small employers into one or more classes of business. This paragraph does not apply to a class of business into which the small employer carrier is no longer enrolling new small businesses.
2. a. ~~A small employer carrier shall file with the commissioner, in a format and manner prescribed by the commissioner, the basic health benefit plans and the standard health benefit plans to be used by the carrier. A health benefit plan filed under this subdivision may be used by a small employer carrier beginning sixty days after it is filed unless the commissioner disapproves its use.~~
- b. ~~The commissioner after providing notice and an opportunity for a hearing to the small employer carrier may disapprove, at any time, the continued use by a small employer carrier of a basic or standard health benefit plan if the plan does not meet the requirements of this chapter and section 26.1-36-37.2.~~
3. Health benefit plans covering small employers must comply with the following:
- a. A health benefit plan may impose a preexisting condition exclusion only if:
- (1) The exclusion relates to a condition, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period immediately preceding the effective date of coverage;
 - (2) The exclusion extends for a period of not more than twelve months after the effective date of coverage;
 - (3) The exclusion does not relate to pregnancy as a preexisting condition; and
 - (4) The exclusion does not treat genetic information as a preexisting condition in the absence of a diagnosis of a condition related to such information.
- b. A small employer carrier shall reduce any time period applicable to a preexisting condition exclusion or limitation period by the aggregate of periods the individual was covered by qualifying previous coverage, if any, if the qualifying previous coverage was continuous until at least sixty-three days prior to the effective date of the new coverage. Any waiting period applicable to an individual for coverage under a group health benefit plan

may not be taken into account in determining the period of continuous coverage. This subdivision does not preclude application of an employer waiting period applicable to all new enrollees under the health benefit plan. Small employer carriers shall credit coverage by either a standard method or an alternative method. The commissioner shall adopt rules for crediting coverage under the standard and alternative method. These rules must be consistent with the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.] and any federal rules adopted pursuant thereto.

- c. A health benefit plan may exclude coverage for late enrollees for the greater of eighteen months or for an eighteen-month preexisting condition exclusion; however, if both a period of exclusion from coverage and a preexisting condition exclusion are applicable to a late enrollee, the combined period may not exceed eighteen months from the date the individual enrolls for coverage under the health benefit plan.
- d.
 - (1) Except as provided in this subdivision, a small employer carrier shall apply requirements used to determine whether to provide coverage to a small employer, including requirements for minimum participation of eligible employees and minimum employer contributions, uniformly among all small employers with the same number of eligible employees who are applying for coverage or receiving coverage from the small employer carrier.
 - (2) A small employer carrier may vary application of minimum participation requirements and minimum employer contribution requirements only by the size of the small employer group.
 - (3)
 - (a) Except as provided in subparagraph b, a small employer carrier, in applying minimum participation requirements with respect to a small employer, may not consider employees or dependents who have qualifying existing coverage in determining whether the applicable percentage of participation is met. For purposes of determining the applicable percentage of participation under this subparagraph only, individual health benefit plans are not included in the definition of "qualifying existing coverage" under section 26.1-36.3-01.
 - (b) With respect to a small employer, with ten or fewer eligible employees, a small employer carrier may consider employees or dependents who have coverage under another health benefit plan sponsored by the small employer in applying minimum participation requirements.
 - (4) A small employer carrier may not increase any requirement for minimum employee participation or any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.
- e.
 - (1) If a small employer carrier offers coverage to a small employer, the small employer carrier shall offer coverage to all of the eligible employees of a small employer and their dependents. A small employer carrier may not offer coverage only to certain individuals in a

small employer group or only to part of the group, except in the case of late enrollees as provided in subdivision c.

- (2) Except as permitted under subsection 1 and this subsection, a small employer carrier may not modify a health benefit plan with respect to a small employer or any eligible employee or dependent through riders, endorsements, or otherwise, to restrict or exclude coverage for certain diseases or medical conditions otherwise covered by the health benefit plan.

4-3. a. A small employer carrier offering coverage through a network plan is not required to offer coverage or accept applications under subsection 1 to a small employer if:

- (1) The small employer does not have eligible individuals who live, work, or reside in the service area for such network plan; or
- (2) The small employer does have eligible individuals who live, work, or reside in the service area for the network plan, but the carrier has demonstrated, if required, to the commissioner that it will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contractholders and enrollees, and that it is applying this paragraph uniformly to all employers without regard to the claims experience of those employers and their employees and their dependents or any health status-related factor relating to such employees and dependents.

b. A small employer carrier, upon denying health insurance coverage in any service area in accordance with paragraph 2 of subdivision a, may not offer coverage in the small employer market within the service area for a period of one hundred eighty days after the date the coverage is denied.

5-4. A small employer carrier is not required to provide coverage to small employers pursuant to subsection 1 for any period of time for which the commissioner determines that the carrier does not have the financial reserves to underwrite additional coverage and is applying this section uniformly without regard to the claims experience of small employers or any health status-related factor relating to employees and their dependents. A small employer carrier denying coverage in accordance with this section may not offer coverage in connection with a group health benefit plan in the small group market for a period of one hundred eighty days after the health coverage is denied or until the carrier has demonstrated to the commissioner sufficient financial reserves to underwrite financial coverage, whichever is later.

6-5. Subsection 1 does not apply to health benefit plans offered by a small employer carrier if the carrier makes the health benefit plans available in the small employer market only through one or more associations.

SECTION 5. AMENDMENT. Section 26.1-36.3-11 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36.3-11. Standards to assure fair marketing.

1. Each small employer carrier shall actively market health benefit plan coverage, ~~including the basic and standard health benefit plans,~~ to eligible small employers in the state.
2. a. A small employer carrier or producer may not engage in the following activities, directly or indirectly:
 - (1) Encouraging or directing small employers to refrain from filing an application for coverage with the small employer carrier because of the health status, claims experience, industry, occupation, or geographic location of the small employer.
 - (2) Encouraging or directing small employers to seek coverage from another carrier because of the health status, claims experience, industry, occupation, or geographic location of the small employer.
- b. Subdivision a does not apply to information provided by a small employer carrier or producer to a small employer regarding the established geographic service area or a restricted network provision of a small employer carrier.
3. a. A small employer carrier may not enter into any contract, agreement, or arrangement, directly or indirectly, with a producer that provides for or results in the compensation paid to a producer for the sale of a health benefit plan to be varied because of the health status, claims experience, industry, occupation, or geographic location of the small employer.
- b. Subdivision a does not apply to a compensation arrangement that provides compensation to a producer on the basis of percentage of premium, provided the percentage does not vary because of the health status, claims experience, industry, occupation, or geographic area of the small employer.
4. ~~A small employer carrier shall provide reasonable compensation, as provided under the plan of operation of the program, to a producer, if any, for the sale of a basic or standard health benefit plan.~~
5. No small employer carrier may terminate, fail to renew, or limit its contract or agreement of representation with a producer for any reason related to the health status, claims experience, occupation, or geographic location of the small employers placed by the producer with the small employer carrier.
- ~~6-5.~~ No small employer carrier or producer may induce or otherwise encourage a small employer to separate or otherwise exclude an employee from health coverage or benefits provided in connection with the employee's employment.
- ~~7-6.~~ Denial by a small employer carrier of an application for coverage from a small employer must be in writing and must state the reason or reasons for the denial.
- ~~8-7.~~ A violation of this section by a small employer carrier or a producer is an unfair trade practice under section 26.1-04-03.

9-8. If a small employer carrier enters into a contract, agreement, or other arrangement with a third-party administrator to provide administrative, marketing, or other services related to the offering of health benefit plans to small employers in this state, the third-party administrator is subject to this section as if it were a small employer carrier.

SECTION 6. REPEAL. Sections 26.1-36-09.4, 26.1-36.3-08, 26.1-36.3-10, and 26.1-36.4-07 of the North Dakota Century Code are repealed.

SECTION 7. EFFECTIVE DATE. This Act becomes effective on January 1, 2014.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 237

HOUSE BILL NO. 1181

(Representatives Keiser, Frantsvog, Ruby, Vigesaa)
(Senators Andrist, Klein)

AN ACT to create and enact section 26.1-44-03.2 of the North Dakota Century Code, relating to domestic surplus lines insurers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 26.1-44-03.2 of the North Dakota Century Code is created and enacted as follows:

26.1-44-03.2. Domestic surplus lines insurers.

1. A North Dakota domestic insurer may be designated a domestic surplus lines insurer if:
 - a. The insurer possesses a policyholder surplus of at least fifteen million dollars;
 - b. The designation is in compliance with a resolution of the insurer's board of directors; and
 - c. The commissioner has provided written approval of the designation.
2. A domestic surplus lines insurer may write surplus lines insurance in North Dakota and any other jurisdiction in which the insurer is eligible. A domestic surplus lines insurer may insure in this state any risk if:
 - a. Produced pursuant to chapter 26.1-44;
 - b. The premium is subject to surplus lines premium tax pursuant to section 26.1-44-03.1; and
 - c. Issued pursuant to the surplus lines insurance multistate compliance compact.
3. For purposes of the federal Nonadmitted and Reinsurance Reform Act of 2010 [15 U.S.C. 8201 et seq.], a domestic surplus lines insurer is considered a nonadmitted insurer as defined under that Act, with respect to risks insured in this state.
4. A domestic surplus lines insurer may not issue a policy designed to satisfy the motor vehicle financial responsibility requirements in chapter 26.1-41 or any other law mandating insurance coverage by a licensed insurance company.
5. Except as specifically exempted from such requirements, a domestic surplus lines insurer is subject to compliance with all financial examination and solvency requirements that apply to domestic insurers under chapter 26.1-03 regarding examinations and reports.

6. A domestic surplus lines insurer is not subject to the provisions of chapter 26.1-38.1 regarding the life and health insurance guaranty association nor to chapter 26.1-39 regarding property and casualty insurance.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 238

HOUSE BILL NO. 1171

(Representatives Keiser, Kasper)
(Senators Klein, O'Connell)

AN ACT to create and enact a new chapter to title 26.1 of the North Dakota Century Code, relating to unclaimed life insurance benefits; and to amend and reenact section 47-30.1-07 of the North Dakota Century Code, relating to the state's unclaimed property act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 26.1 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

1. "Contract" means an annuity contract issued in this state. The term does not include an annuity used to fund an employment-based retirement plan or program in which the insurer is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.
2. "Death master file" means the United States social security administration's death master file or any other database or service the commissioner has determined is at least as comprehensive as the United States social security administration's death master file for determining that an individual has reportedly died.
3. "Death master file match" means a search of the death master file or revised death master file which results in a match of the social security number or of the name and date of birth of an insured, annuity owner, or retained asset accountholder.
4. "Policy" means any policy or certificate of life insurance issued in this state which provides a death benefit. The term does not include:
 - a. A policy or certificate of life insurance which provides a death benefit under an employee benefit plan subject to the federal Employee Retirement Income Security Act of 1974 [Pub. L. 93-406; 29 U.S.C. 1002 et seq.];
 - b. A policy or certificate of life insurance which provides a death benefit under an employee benefit plan under any federal employee benefit program;
 - c. A policy or certificate of life insurance which is used to fund a pre-need funeral contract or prearrangement; or
 - d. A policy or certificate of credit life or accidental death insurance.

5. "Revised death master file" means the names added to the death master file since the insurer's most recent semiannual comparison required under this chapter.

Insurer conduct.

1. Before November 1, 2014, an insurer shall perform a comparison of the insurer's insureds' in-force life insurance policies and retained asset accounts against a death master file in order to identify potential matches of the insurer's insureds. Semiannually, an insurer shall perform a comparison of the insurer's insureds' in-force life insurance policies and retained asset accounts against the revised death master file in order to identify the potential matches of the insurer's insureds.
2. For each potential match identified as a result of a death master file or revised death master file match, within twelve months of the potential match, the insurer shall:
 - a. Complete a good-faith effort, which the insurer shall document, to confirm the death of the insured or retained asset accountholder against other available records and information;
 - b. Review the insurer's records to determine whether the individual who has died purchased any other products with the insurer; and
 - c. Determine whether benefits are due in accordance with the applicable policy or contract, and if benefits are due in accordance with the applicable policy or contract the insurer shall:
 - (1) Use good-faith efforts, which the insurer shall document, to locate the beneficiary or beneficiaries; and
 - (2) Provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate, if applicable under the policy or contract.
3. With respect to group life insurance, for each potential match identified as a result of a death master file or revised death master file match, the insurer shall confirm the possible death of an insured if the insurer maintains at least the following information of those covered under a policy or certificate:
 - a. The social security number or the name and date of birth;
 - b. Beneficiary designation information;
 - c. Coverage eligibility;
 - d. Benefit amount; and
 - e. Premium payment status.
4. Every insurer shall implement procedures to account for:

- a. Nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;
 - b. Compound last names, maiden or married names, and hyphens, blank spaces, and apostrophes in last names;
 - c. Incomplete date of birth data and transposition of the month and date portions of a date of birth; and
 - d. Incomplete social security numbers.
5. To the extent permitted by law, for each potential match identified as a result of a death master file or revised death master file match, the insurer may disclose minimum necessary personal information about the insured or beneficiary to:
- a. A person the insurer reasonably believes may be able to assist the insurer locate the beneficiary; or
 - b. A person otherwise entitled to payment of the claims proceeds.
6. An insurer or an insurer's service provider may not charge an insured, accountholder, or beneficiary for any fees or costs associated with a comparison, search, or verification conducted pursuant to this section.
7. The benefits from a life insurance policy or a retained asset account, plus any applicable accrued interest must be first payable to the designated beneficiaries or owners and if the beneficiaries or owners cannot be found, escheat to the state as unclaimed property as provided under this chapter.
8. Within twelve months following a potential match identified as a result of a death master file or revised death master file match, an insurer shall:
- a. Notify the state abandoned property office that a life insurance policy beneficiary or retained asset accountholder has not submitted and completed a claim with the insurer and that the insurer has complied with subsections 2 and 3 and has been unable, after good-faith efforts documented by the insurer, to contact the retained asset accountholder, beneficiary, or beneficiaries and unable to complete the necessary payment; and
 - b. Submit any unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interest, to the state abandoned property office under chapter 47-30.1.
9. Except as otherwise provided under this chapter, chapter 47-30.1 applies to the escheatment of unclaimed life insurance benefits or unclaimed retained asset accounts.

Rulemaking.

The commissioner may adopt rules to limit an insurer's death master file comparisons and revised death master file comparisons required under this chapter to the insurer's electronic searchable files, to allow the commissioner to approve an

insurer's plan and timeline for conversion of the insurer's files to electronic searchable files, and to allow for phasing-in compliance with this chapter according to an insurer's plan and timeline approved by the commissioner.

Application.

Section 47-30.1-07 and chapter 47-30.1, relating to unclaimed property, apply to a contract or policy to the extent the laws do not conflict with this chapter.

Unfair trade practices - Liability limitation.

Failure to meet any requirement of this chapter is a violation of chapter 26.1-04. This chapter does not create a private cause of action for violation of this chapter. Once an insurer submits unclaimed life insurance benefits or unclaimed retained asset accounts, plus any applicable accrued interests, to the state abandoned property office in compliance with this chapter, the insurer is relieved and indemnified from additional liability to any person relating to the proceeds submitted. This indemnification from liability is in addition to any other protections provided by law.

SECTION 2. AMENDMENT. Section 47-30.1-07 of the North Dakota Century Code is amended and reenacted as follows:

47-30.1-07. Funds owing under life insurance policies.

1. ~~Funds~~Except as otherwise provided under this section, funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated are presumed abandoned if unclaimed for ~~more than three years~~one year after the funds became due and payable as established from the records of the insurance company holding or owing the funds, ~~but property described in subdivision b of subsection 3 is presumed abandoned if unclaimed for more than three years. If the policy or annuity contract provides for death benefits and is a policy covered under section 1 of this Act, the insurance company shall comply with section 1 of this Act.~~
2. If a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company or it is not definite and certain from the records of the company who is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the company.
3. For purposes of this chapter, a life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the insurance company is matured and the proceeds due and payable if:
 - a. The company knows ~~that~~of the potential death of the insured or annuitant ~~has died~~, in which case the company shall comply with subsection 6; or
 - b. (1) The insured has attained, or would have attained if the insured were living, the limiting age under the mortality table on which the reserve is based;
 - (2) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in paragraph 1; and

- (3) Neither the insured nor any other person appearing to have an interest in the policy within the preceding three years, according to the records of the company, has assigned, readjusted, or paid premiums on the policy, subjected the policy to a loan, corresponded in writing with the company concerning the policy, or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the company.
4. For purposes of this chapter, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under subsection 1 if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds thereof before the depletion of the cash surrender value of a policy by the application of those provisions.
 5. If the laws of this state or the terms of the life insurance policy require the company to give notice to the insured or owner that an automatic premium loan provision or other nonforfeiture provision has been exercised and the notice, given to an insured or owner whose last known address according to the records of the company is in this state, is undeliverable, the company shall make a reasonable search to ascertain the policyholder's correct address to which the notice must be mailed.
 6. ~~Notwithstanding any other provision of law, if~~ the company learns of the ~~death or potential~~ death of the insured or annuitant ~~and the beneficiary has not communicated with the insurer, within fourtwelve months after following the company learning of the death or potential death, the company shall take reasonable steps to pay the proceeds to the beneficiary:~~
 - a. Complete a good-faith effort, which the company shall document, to confirm the death of the insured or annuitant against other available records and information;
 - b. Review the insurer's records to determine whether the individual who has died purchased any other products with the insurer;
 - c. Determine whether benefits are due in accordance with the applicable insurance policy or annuity contract, and if benefits are due in accordance with the applicable policy or contract the company shall:
 - (1) Use good-faith efforts, which the company shall document, to locate the beneficiary or beneficiaries; and
 - (2) Provide the appropriate claims forms or instructions to the beneficiary or beneficiaries to make a claim, including the need to provide an official death certificate, if applicable under the policy or contract; and
 - d. Report and deliver the unclaimed property to the administrator as abandoned property if the benefits are due in accordance with the applicable insurance policy or annuity contract and the beneficiary has not submitted and completed a claim with the insurer.
 7. ~~Commencing two years after July 1, 1985, every~~Every change of beneficiary form issued by an insurance company under any life or endowment insurance

policy or annuity contract to an insured or owner who is a resident of this state must request the following information:

- a. The name of each beneficiary, or if a class of beneficiaries is named, the name of each current beneficiary in the class;
- b. The address of each beneficiary; and
- c. The relationship of each beneficiary to the insured.

Approved April 26, 2013
Filed April 26, 2013

JUDICIAL BRANCH OF GOVERNMENT

CHAPTER 239

HOUSE BILL NO. 1073

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

AN ACT to create and enact a new section to chapter 27-02 of the North Dakota Century Code, relating to declaration of a judicial emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 27-02 of the North Dakota Century Code is created and enacted as follows:

Judicial emergency.

1. If the supreme court of this state declares a judicial emergency due to an emergency or natural disaster that substantially endangers or infringes upon the normal functioning of the judicial system, the ability of persons to avail themselves of the judicial system, or the ability of litigants or others to have access to the courts or to meet schedules or time deadlines imposed by law or court order, notice of the declaration must be provided as required by supreme court rule.
2. An order declaring a judicial emergency may suspend, toll, extend, or otherwise grant relief from deadlines, time schedules, statutes of limitations, statutes of repose, or filing requirements imposed by law, whether in civil or criminal cases, administrative matters, or any other legal proceedings as determined by the supreme court. An order declaring a judicial emergency may not suspend, toll, extend, or otherwise grant relief from deadlines, time schedules, or filing requirements that are required by the United States Constitution or the Constitution of North Dakota.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 240**SENATE BILL NO. 2076**

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

AN ACT to amend and reenact section 4 of chapter 261 of the 2009 Session Laws, relating to judgeships created in 2010.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4 of chapter 261 of the 2009 Session Laws is amended and reenacted as follows:

SECTION 4. DISTRICT JUDGES. The appropriation provided in section 1 of this Act provides for two additional district court judges to be assigned pursuant to section 10 of article VI of the Constitution of North Dakota in the northwest and southeast judicial districts, and to be assigned to chambers by the supreme court. Within thirty days after January 1, 2010, the judgeship vacancies created by this section shall be filled in accordance with section 13 of article VI of the Constitution of North Dakota. In accordance with sections 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 the office until the next general election following appointment and if elected holds office for the remainder of the term and until a successor is elected and duly qualified.

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 241

HOUSE BILL NO. 1075

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

AN ACT to amend and reenact section 27-05-30 of the North Dakota Century Code, relating to judicial referees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-05-30 of the North Dakota Century Code is amended and reenacted as follows:

27-05-30. Judicial referees.

1. ~~There may be appointed in each judicial district, by~~The presiding judge of a judicial district, on behalf of the judges of ~~the district court having jurisdiction therein, may appoint~~ one or more referees to serve on a full-time or part-time basis. A referee is entitled to receive a salary within the limits of legislative appropriation.
2. ~~A district court~~In accordance with rules of the supreme court, the presiding judge may assign a referee to preside in any case or proceeding provided for in chapter 12.1-31.2, title 14, sections 20.1-01-28 and 20.1-01-29, chapter 27-20, and chapter 28-25 pursuant to rules of the supreme court, subsection 6 of section 50-09-08.6, and subsection 2 of section 50-09-14.
3. The supreme court may promulgate rules for the qualification of referees, the extent and assignment of authority by the ~~district court judges of the judicial districts~~presiding judge, procedure, and the conduct of the office, including regulations for training sessions and continuing education.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 242

HOUSE BILL NO. 1074

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

AN ACT to amend and reenact section 27-05.2-09 of the North Dakota Century Code, relating to membership of the court facilities improvement advisory committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-05.2-09 of the North Dakota Century Code is amended and reenacted as follows:

27-05.2-09. Court facilities improvement advisory committee - Members.

1. The court facilities improvement advisory committee consists of:
 - a. One member appointed by the North Dakota association of counties to represent counties with a population fewer than seven thousand five hundred.
 - b. One member appointed by the North Dakota association of counties to represent counties with a population of seven thousand five hundred or more.
 - c. ~~One member~~The state court administrator, who shall serve as chairman of the committee, ~~appointed by the chief justice of the supreme court.~~
 - d. One member appointed by the state bar association of North Dakota.
 - e. One member appointed by the chairman of the legislative management.
2. The term of each member is three years. Initially, as determined by lot, one member shall serve for one year, two members shall serve for two years, and two members shall serve for three years. At the end of the member's term, the appointing authority shall appoint a successor for a full three-year term. ~~A~~Except for the state court administrator, a member may not serve more than two 3-year terms. A vacancy must be filled by the appointing authority for the remainder of the term.
3. At the initial meeting of the committee, the committee shall adopt rules of operation and procedure for the committee. The committee shall submit the rules to the supreme court for approval. The rules of operation must provide that a quorum of the committee consists of at least four members.
4. The members of the committee are entitled to reimbursement for travel and expenses as provided by law for other state officers. Travel and expense costs must be paid from funds from the court facilities improvement and maintenance fund.
5. The supreme court shall provide staff services for the committee.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 243

SENATE BILL NO. 2272

(Senators Nelson, Armstrong, Hogue)
(Representatives Hawken, Maragos, Strinden)

AN ACT to repeal chapter 27-06 of the North Dakota Century Code, relating to district court reporters and bailiffs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Chapter 27-06 of the North Dakota Century Code is repealed.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 244

HOUSE BILL NO. 1417

(Representatives Klemin, Hogan, Kretschmar)
(Senators Sitte, Sorvaag, Unruh)

AN ACT to amend and reenact sections 27-08.1-01 and 27-08.1-03 of the North Dakota Century Code, relating to limits on small claims court actions.

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 ~~ten~~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, in the county where the defendant resides or in the county where the real property is located.

- 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.

SECTION 2. AMENDMENT. Section 27-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

27-08.1-03. Informal hearing - Answer and counterclaim - Filing and service fees - Examination of debtor.

No formal pleadings other than the claim affidavit and order for appearance may be required, and the hearing and disposition of actions must be informal. A court reporter is not required to be present to take the testimony unless arranged for and paid for by one of the parties to the action. The defendant may file an answer, and file a claim affidavit setting forth any new matter constituting a counterclaim, not to exceed ~~ten~~fifteen thousand dollars, which must be served upon the plaintiff by a person of legal age, not a party to or interested in the action, or mailed to the plaintiff by certified mail, not later than forty-eight hours before the hearing set for the appearance of the defendant. The compulsory counterclaim rule does not apply to counterclaims in excess of ~~ten~~fifteen thousand dollars. At the hearing, the plaintiff and the defendant may appear without counsel. The court will conduct the proceedings and may make its own inquiry before, during, or after the hearing. After the court has found that money is owing by any party to the proceeding, the court may, in the presence of the prevailing party, inquire of the debtor as to plans for payment of the debt. The court may examine the debtor concerning the property owned by the debtor, at the hearing, as would be made under chapter 28-25. The examination may be made without first having issued an execution against the property of the debtor and without further notice as otherwise provided in chapter 28-25. A trial by jury is not allowed in small claims court. A fee as prescribed in subdivision c of subsection 1 of section 27-05.2-03 must be charged for filing the claim affidavit.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 245**SENATE BILL NO. 2086**

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact subdivision c of subsection 4 of section 27-20-30.1 of the North Dakota Century Code, relating to foster care providers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision c of subsection 4 of section 27-20-30.1 of the North Dakota Century Code is amended and reenacted as follows:

- c. That the child's continued foster care agreement has been willfully entered between the department of human services or its agent, the child, and the foster parent~~care provider~~;

Approved March 14, 2013

Filed March 15, 2013

JUDICIAL PROCEDURE, CIVIL

CHAPTER 246

HOUSE BILL NO. 1042

(Legislative Management)
(Judiciary Committee)

AN ACT to amend and reenact section 28-04-05 of the North Dakota Century Code, relating to actions having venue where the defendant resides.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-04-05 of the North Dakota Century Code is amended and reenacted as follows:

28-04-05. Actions having venue where defendant resides.

In all other cases, except as provided in section 28-04-03.1, and subject to the power of the court to change the place of trial as provided by sections 28-04-09 and 28-04-10, the action must be brought in the county in which the defendant or one of the defendants resides at the time of the commencement of the action. If that county is attached to another county for judicial purposes, the action must be brought in the latter county. If none of the defendants reside in the state, the action either must be brought in the county in which the plaintiff ~~shall designate in the summons~~ or one of the plaintiffs resides or in the county in which the cause of action arose.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 247

HOUSE BILL NO. 1024

(Legislative Management)
(Administrative Rules Committee)

AN ACT to amend and reenact section 28-32-10 of the North Dakota Century Code, relating to notice of administrative rulemaking implementing recent legislation and the depth of newspaper publication of notice of administrative rulemaking; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁶ **SECTION 1. AMENDMENT.** Section 28-32-10 of the North Dakota Century Code is amended and reenacted as follows:

28-32-10. Notice of rulemaking - Hearing date.

1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.
 - a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, identify the emergency status and declared effective date of any emergency rules, include a determination of whether the proposed rulemaking is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written comments concerning the proposed rule may be sent, provide the deadline for submission of written comments, provide a telephone number and post-office or electronic mail address at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. The agency's full notice must include a statement of the bill number and general subject matter of any legislation, enacted during the most recent session of the legislative assembly, which is being implemented by the proposed rule. The agency's full notice must be filed with the legislative council, ~~and the agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The notice filed with the legislative council must be accompanied by a copy of the proposed rules.~~
 - b. The agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The abbreviated newspaper publication of notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a minimum depth of ~~from approximately~~ three inches [7.62 centimeters] ~~to four inches~~ [4.16 centimeters] and with a headline describing the general topic of the

¹⁰⁶ Section 28-32-10 was also amended by section 6 of House Bill No. 1043, chapter 63.

proposed rules. The notice must also include the telephone number or address to use to obtain a copy of the proposed rules, identification of the emergency status and declared effective date of any emergency rules, the address to use and the deadline to submit written comments, and the location, date, and time of the public hearing on the rules.

2. The agency shall mail or deliver by electronic mail a copy of the agency's full notice and proposed rule to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation, enacted during the most recent session of the legislative assembly, which is being implemented by the proposed rule and to each person who has made a timely request to the agency for a copy of the notice and proposed rule. The agency may mail or otherwise provide a copy of the agency's full notice to any person who is likely to be an interested person. ~~The agency shall mail or deliver a copy of the rules to each member of the legislative assembly whose name appeared as a sponsor or cosponsor of legislation enacted during the most recent session of the legislative assembly which is being implemented by the proposed rule and to any person requesting a copy.~~ The agency may charge persons who are not members of the legislative assembly fees for copies of the proposed rule as allowed under section 44-04-18.
3. In addition to the other notice requirements of this subsection, the superintendent of public instruction shall provide notice of any proposed rulemaking by the superintendent of public instruction to each association with statewide membership whose primary focus is elementary and secondary education issues which has requested to receive notice from the superintendent under this subsection and to the superintendent of each public school district in this state, or the president of the school board for school districts that have no superintendent, at least twenty days before the date of the hearing described in the notice. Notice provided by the superintendent of public instruction under this section must be by first-class mail. However, upon request of a group or person entitled to notice under this section, the superintendent of public instruction shall provide the group or person notice by electronic mail.
4. The legislative council shall establish standard procedures for all agencies to follow in complying with the provisions of this section and a procedure to allow any person to request and receive mailed copies of all filings made by agencies pursuant to this section. The legislative council may charge an annual fee as established by the administrative rules committee for providing copies of the filings.
5. At least twenty days must elapse between the date of the publication of the notice and the date of the hearing. Within fifteen business days after receipt of a notice under this section, a copy of the notice must be mailed by the legislative council to any person who has paid the annual fee established under subsection 4.

SECTION 2. EFFECTIVE DATE. This Act is effective for administrative rulemaking notices filed with the legislative council after July 31, 2013.

Approved April 10, 2013
Filed April 10, 2013

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 248

SENATE BILL NO. 2227

(Senators Carlisle, Flakoll, Warner)
(Representatives Grande, Klemin, Amerman)

AN ACT to amend and reenact sections 29-32.1-01 and 29-32.1-09 of the North Dakota Century Code, relating to limitations and summary disposition for postconviction relief proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29-32.1-01 of the North Dakota Century Code is amended and reenacted as follows:

29-32.1-01. Remedy - To whom available - Conditions.

1. A person who has been convicted of and sentenced for a crime may institute a proceeding applying for relief under this chapter upon the ground that:
 - a. The conviction was obtained or the sentence was imposed in violation of the laws or the Constitution of the United States or of the laws or Constitution of North Dakota;
 - b. The conviction was obtained under a statute that is in violation of the Constitution of the United States or the Constitution of North Dakota, or that the conduct for which the applicant was prosecuted is constitutionally protected;
 - c. The court that rendered the judgment of conviction and sentence was without jurisdiction over the person of the applicant or the subject matter;
 - d. The sentence is not authorized by law;
 - e. Evidence, not previously presented and heard, exists requiring vacation of the conviction or sentence in the interest of justice;
 - f. A significant change in substantive or procedural law has occurred which, in the interest of justice, should be applied retrospectively;
 - g. The sentence has expired, probation or parole or conditional release was unlawfully revoked, or the applicant is otherwise unlawfully in custody or restrained; or
 - h. The conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error available before July 1, 1985, under any common law, statutory or other writ, motion, proceeding, or remedy.

2. Except as provided in subsection 3, an application for relief under this chapter must be filed within two years of the date the conviction becomes final. A conviction becomes final for purposes of this chapter when:
 - a. The time for appeal of the conviction to the North Dakota supreme court expires;
 - b. If an appeal was taken to the North Dakota supreme court, the time for petitioning the United States supreme court for review expires; or
 - c. If review was sought in the United States supreme court, the date the supreme court issues a final order in the case.
3. a. Notwithstanding subsection 2, a court may consider an application for relief under this chapter if:
 - (1) The petition alleges the existence of newly discovered evidence, including DNA evidence, which if proved and reviewed in light of the evidence as a whole, would establish that the petitioner did not engage in the criminal conduct for which the petitioner was convicted;
 - (2) The petitioner establishes that the petitioner suffered from a physical disability or mental disease that precluded timely assertion of the application for relief; or
 - (3) The petitioner asserts a new interpretation of federal or state constitutional or statutory law by either the United States supreme court or a North Dakota appellate court and the petitioner establishes that the interpretation is retroactively applicable to the petitioner's case.
- b. An application under this subsection must be filed within two years of the date the petitioner discovers or reasonably should have discovered the existence of the new evidence, the disability or disease ceases, or the effective date of the retroactive application of law.
4. A proceeding under this chapter is not a substitute for and does not affect any remedy incident to the prosecution in the trial court or direct review of the judgment of conviction or sentence in an appellate court. Except as otherwise provided in this chapter, a proceeding under this chapter replaces all other common law, statutory, or other remedies available before July 1, 1985, for collaterally challenging the validity of the judgment of conviction or sentence. It is to be used exclusively in place of them. A proceeding under this chapter is not available to provide relief for disciplinary measures, custodial treatment, or other violations of civil rights of a convicted person occurring after the imposition of sentence.

SECTION 2. AMENDMENT. Section 29-32.1-09 of the North Dakota Century Code is amended and reenacted as follows:

29-32.1-09. Summary disposition.

1. The court, on its own motion, may enter a judgment denying a meritless application on any and all issues raised in the application before any response by the state. The court also may summarily deny a second or successive application for similar relief on behalf of the same applicant and may

summarily deny any application when the issues raised in the application have previously been decided by the appellate court in the same case.

2. The court, on its own motion, may dismiss any grounds of an application which allege ineffective assistance of postconviction counsel. An applicant may not claim constitutionally ineffective assistance of postconviction counsel in proceedings under this chapter.
3. The court may grant a motion by either party for summary disposition if the application, pleadings, any previous proceeding, discovery, or other matters of record show that there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law.
- 2.4. If an evidentiary hearing is necessary, the court may determine which issues of material fact are in controversy and appropriately restrict the hearing.

Approved April 26, 2013
Filed April 26, 2013

UNIFORM PROBATE CODE

CHAPTER 249

SENATE BILL NO. 2164

(Senators Holmberg, Hogue)
(Representatives K. Koppelman, Delmore)

AN ACT to amend and reenact section 30.1-19-04 of the North Dakota Century Code, relating to presentation of claims to the personal representative.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 30.1-19-04 of the North Dakota Century Code is amended and reenacted as follows:

30.1-19-04. (3-804) Manner of presentation of claims.

Claims against a decedent's estate may be presented as follows:

1. The claimant may deliver or mail to the personal representative and any attorney of record for the estate a written statement of the claim indicating its basis, the name and address of the claimant, and the amount claimed, or may file a written statement of the claim, in the form prescribed by rule, with the clerk of the court. The claim is deemed presented on the first to occur, either receipt of the written statement of claim by the personal representative, or the filing of the claim with the court. If a claim is not yet due, the claimant shall state the date when it will become due ~~shall be stated~~. If the claim is contingent or unliquidated, the claimant shall state the nature of the uncertainty ~~shall be stated~~. If the claim is secured, the claimant shall describe the security ~~shall be described~~. Failure to describe correctly the security, the nature of any uncertainty, and the due date of a claim not yet due does not invalidate the presentation made.
2. The claimant may commence a proceeding against the personal representative in any court where the personal representative may be subjected to jurisdiction, to obtain payment of the claimant's claim against the estate, but the commencement of the proceeding must occur within the time limited for presenting the claim. ~~No~~ presentation of claim is not required in regard to matters claimed in proceedings against the decedent which were pending at the time of death.
3. If a claim is presented under subsection 1, ~~no~~ proceeding thereon on the claim may not be commenced more than sixty days after the personal representative has mailed a notice of disallowance, but, in the case of a claim which is not presently due or which is contingent or unliquidated, the personal representative may consent to an extension of the sixty-day period, or to avoid injustice, the court, on petition, may order an extension of the sixty-day period,

but in no event may the extension run beyond the applicable statute of limitations.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 250

HOUSE BILL NO. 1040

(Legislative Management)
(Human Services Committee)

AN ACT to create and enact section 30.1-28-10.1 of the North Dakota Century Code, relating to the appointment of an emergency guardian; to amend and reenact section 30.1-28-09 of the North Dakota Century Code, relating to requirements of guardianship proceedings; and to repeal section 30.1-28-10 of the North Dakota Century Code, relating to the appointment of temporary guardians.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 30.1-28-09 of the North Dakota Century Code is amended and reenacted as follows:

30.1-28-09. (5-309) Notices in guardianship proceedings.

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 a ~~temporary~~ an emergency guardian or for the temporary suspension of a guardian, notice of hearing shall be given 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 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.
3. The notice must be printed with not less than double-spaced twelve-point type. The notice must inform the ward or proposed ward of the ward's or proposed ward's rights at the hearing and must include a description of the nature, purpose, and consequences of an appointment of a guardian.

SECTION 2. Section 30.1-28-10.1 of the North Dakota Century Code is created and enacted as follows:

30.1-28-10.1. Emergency guardian.

1. 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. Immediately upon receipt of the petition for an emergency guardianship, the court shall appoint an attorney to represent the alleged incapacitated individual in the 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 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 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 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 days after the appointment.
3. Appointment of an emergency guardian, with or without notice, is not a determination of the alleged incapacitated individual's incapacity.
4. 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 3. REPEAL. Section 30.1-28-10 of the North Dakota Century Code is repealed.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 251

SENATE BILL NO. 2165

(Senators Holmberg, Hogue)
(Representative Delmore)

AN ACT to amend and reenact section 30.1-32.1-12 of the North Dakota Century Code, relating to transfer on death deeds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 30.1-32.1-12 of the North Dakota Century Code is amended and reenacted as follows:

30.1-32.1-12. Liability for creditor claims and statutory allowances.

1. To the extent the transferor's probate estate is insufficient to satisfy an allowed claim against the estate or a statutory allowance to a surviving spouse or child, the estate may enforce the liability against property transferred at the transferor's death by a transfer on death deed. The estate may not enforce the liability against a purchaser of the property for value or a person that acquires an encumbrance in the property for value from the person that received the property by a transfer on death deed.
2. If more than one property is transferred by one or more transfer on death deeds, the liability under subsection 1 is apportioned among the properties in proportion to ~~their~~the net values of the property at the transferor's death.
3. A proceeding to enforce the liability under this section ~~must~~may not be commenced ~~not~~ later than eighteen months after the transferor's death. Any proceeding to enforce the liability as to property that has been purchased or encumbered for value must be brought against the person that received the property by a transfer on death deed for the net value at the time of the transferor's death.

Approved April 12, 2013
Filed April 12, 2013

JUDICIAL REMEDIES

CHAPTER 252

SENATE BILL NO. 2140

(Senators Hogue, Lyson, Wardner)
(Representatives Klemin, Steiner, Vigesaa)

AN ACT to amend and reenact section 32-09.1-08 of the North Dakota Century Code, relating to the service of the summons and notice of garnishment of earnings; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-09.1-08 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-08. Service.

1. The garnishee summons and notice to defendant shall be served upon the garnishee in the same manner as other summons in that court of record except that service must be personal. The
2. Service of a garnishee summons and disclosure statement upon a bank or credit union must be made by delivery of the summons and disclosure statement to a specifically named president or vice president of the bank or credit union or to the registered agent for service of process of the bank or credit union. Delivery of the summons and disclosure statement to the specifically named individual may be in hand as established by the sworn affidavit of the individual who delivered the summons and disclosure statement or by any form of mail or third-party commercial delivery service, if delivery is restricted to the named individual or registered agent and the sender receives a receipt signed by that individual or registered agent.
3. A plaintiff shall serve with the garnishee summons a disclosure form, substantially as set out in this chapter. The plaintiff may also serve interrogatories with the garnishee summons. A copy of the garnishee summons and copies of all other papers served on the garnishee must be served personally upon the defendant in accordance with the North Dakota Rules of Civil Procedure for personal service or served by first-class mail not later than ten days after service is made upon the garnishee. A single garnishee summons may be addressed to two or more garnishees but must state whether each is summoned separately or jointly.

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

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 253

HOUSE BILL NO. 1069

(Judiciary Committee)

(At the request of the Office of Management and Budget)

AN ACT to amend and reenact sections 32-12.2-15 and 32-12.2-16 of the North Dakota Century Code, relating to authorization of agencies to limit the liability of certain contracting parties to the state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-12.2-15 of the North Dakota Century Code is amended and reenacted as follows:

32-12.2-15. Contracts limiting liability to the state –~~Assumption of certain excess liability by the risk management fund.~~

Notwithstanding any provision in this chapter to the contrary, ~~if the attorney general and the director of the office of management and budget determine it is in the best interest of the state, an agency may agree to limit the liability of a contractor to the state. The liability limitation must be approved by the attorney general and director of the office of management and budget in writing and may only be approved for if the agency determines such services or products cannot be effectively obtained without such limitation and the limitation does not pose any significant risk of loss to the state and is in the best interests of the state. The agency, in consultation with the office of management and budget and the attorney general's office, shall prepare a written documentation before agreeing to any liability limitation. An agency's authority to agree to a limitation of liability is limited to contracts for the purchase or lease of, or services related to, software, communication, or electronic equipment and economic forecasting and may only limit the agency's ability to recover indirect consequential damages. For any uninsured losses, the director of the office of management and budget may approve the risk management fund to assume all or part of the contractor's liability to the state in excess of the limitation. Contracts for economic forecasting for the office of management and budget may contain a provision limiting the state's ability to seek and recover indirect consequential damages if the director of the office of management and budget and the attorney general determine that such services cannot be effectively obtained without such limitation and that the limitation does not pose any significant risk of loss to the state and is in the best interests of the state. A contract under this section may not limit any direct loss to the state or loss resulting from property damage or personal injury.~~

SECTION 2. AMENDMENT. Section 32-12.2-16 of the North Dakota Century Code is amended and reenacted as follows:

32-12.2-16. Ratifying contracts limiting liability to the state.

Any employee or official of an agency who ~~entered into~~enters a contract prior to ~~March 17, 2005,~~ requiring the agency to limit the liability of the contracting party without first consulting with the office of management and budget and the attorney general's office will be deemed to be acting within the scope of the employee's or official's employment provided the contract is approved or ratified by the attorney

general and the director of the office of management and budget and otherwise meets the conditions contained in section 32-12.2-15.

Approved March 26, 2013

Filed March 27, 2013

LABOR AND EMPLOYMENT

CHAPTER 254

HOUSE BILL NO. 1369

(Representatives Hawken, Thoreson, Guggisberg)
(Senators Holmberg, Mathern)

AN ACT to amend and reenact subsection 4 of section 14-02.4-02, subsection 5 of section 14-02.5-01, subsection 4 of section 34-01-20, sections 34-05-01.1 and 34-05-01.2, subsection 8 of section 34-05-01.3, sections 34-07-05, 34-11.1-04, 34-14-11, 34-14-12, and 34-14-13 of the North Dakota Century Code, relating to a name change from the department of labor to the department of labor and human rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 14-02.4-02 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the division of human rights within the ~~labor~~ department of labor and human rights.

SECTION 2. AMENDMENT. Subsection 5 of section 14-02.5-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Department" means the ~~labor~~ department of labor and human rights.

SECTION 3. AMENDMENT. Subsection 4 of section 34-01-20 of the North Dakota Century Code is amended and reenacted as follows:

4. The department of labor and human rights shall receive complaints of violations of this section and may attempt to obtain voluntary compliance with this section through informal advice, negotiation, or conciliation. In order to receive assistance from the department of labor and human rights, a person claiming to be aggrieved by a violation of this section shall file a complaint with the department within three hundred days after the alleged act of wrongdoing. An employee is not prohibited from filing, or required to file, a complaint with the department of labor and human rights under this subsection before proceeding under other provisions of this section.

SECTION 4. AMENDMENT. Section 34-05-01.1 of the North Dakota Century Code is amended and reenacted as follows:

34-05-01.1. Department of labor and human rights.

There is hereby created the North Dakota department of labor and human rights. All records, materials, supplies, and equipment used by the deputy commissioner of agriculture and labor in the official capacity as administrator of the labor division of the

department of agriculture and labor must be transferred to the department of labor and human rights.

SECTION 5. 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 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 6. AMENDMENT. Subsection 8 of section 34-05-01.3 of the North Dakota Century Code is amended and reenacted as follows:

8. Report biennially to the governor and to the legislative assembly concerning activities of the department of labor and human rights, including in such report recommendations for legislation deemed necessary or desirable to effectuate the purposes of this chapter.

SECTION 7. AMENDMENT. Section 34-07-05 of the North Dakota Century Code is amended and reenacted as follows:

34-07-05. Who may issue certificates - Where certificates may be obtained.

An employment certificate must be in writing and must be issued by the minor's parent or guardian. The parent or guardian who certifies, or rejects, the employment certificate must file a completed copy with the department of labor and human rights, the employer, the principal of the school which the minor attends, or a principal in the municipality in which the minor resides, within ten days of certification or rejection. No employment certificate is required for any minor then in, or who is about to enter, the minor's own employment or the employment of a firm, corporation, or limited liability company of which the minor is a member, officer, or manager. The labor commissioner shall make the certificates of employment available.

SECTION 8. AMENDMENT. Section 34-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

34-11.1-04. Violations for misuse reported by employee - Reprisals prohibited - Furnishing false information - ~~Labor department~~Department of labor and human rights.

1. An employee may, without fear of reprisal, report in writing to the employee's respective agency head, a state's attorney, the attorney general, or an employee organization the existence of:
 - a. A job-related violation of local, state, or federal law, rule, regulation, or ordinance.
 - b. The job-related misuse of public resources.
2. For having made a report under subsection 1, no employee will:
 - a. Be dismissed from employment.
 - b. Have salary increases or employment-related benefits withheld.

- c. Be transferred or reassigned.
 - d. Be denied a promotion that the employee otherwise would have received.
 - e. Be demoted.
 - f. Be discriminated against in any term or condition of employment.
3. An employee who intentionally furnishes false information is subject to disciplinary action, including suspension or dismissal as determined by the employee's appointing authority or designee. An employee claiming reprisal under this section may appeal first to the human resource management services division and then to the district court in the manner prescribed by chapter 28-32, or to other appropriate offices and then to district court if the employee is not under the jurisdiction of the human resource management services division.
 4. The ~~labor~~ department of labor and human rights shall receive complaints of violations of this section and may attempt to obtain voluntary compliance with this section through informal advice, negotiation, or conciliation. To receive assistance from the ~~labor~~ department of labor and human rights, a person claiming to be aggrieved by a violation of this section shall file a complaint with the department within three hundred days after the alleged act of wrongdoing. An employee is not prohibited from filing, or required to file, a complaint with the ~~labor~~ department of labor and human rights under this subsection before proceeding under other provisions of this section.
 5. An employee of the state may appeal a claim of reprisal under this section in the manner prescribed for a classified employee under chapter 54-44.3. This subsection does not apply to an employee under the jurisdiction of the state board of higher education or the judicial branch of government.

SECTION 9. AMENDMENT. Section 34-14-11 of the North Dakota Century Code is amended and reenacted as follows:

34-14-11. Reciprocal agreements for collection of wages.

The labor commissioner may enter into reciprocal agreements with the department of labor or corresponding agency of any other state, nation, or country or with the person, board, officer, or commission authorized to act for and on behalf of the department or agency, for the collection in the other state, nation, or country of claims or judgments for wages and other demands based upon claims previously assigned to the department of labor and human rights.

SECTION 10. AMENDMENT. Section 34-14-12 of the North Dakota Century Code is amended and reenacted as follows:

34-14-12. Actions in other states, nations, or countries for collection of claims - Assignments for collection.

The department of labor and human rights may, to the extent provided for by any reciprocal agreement entered into pursuant to section 34-14-11, or by the laws of any other state, nation, or country, maintain actions in the courts of the other state, nation, or country for the collection of such claims for wages, judgments, and other demands and may assign the claims, judgments, and demands to the department of labor or agency of the other state, nation, or country for collection to the extent that the same

may be permitted or provided for by the laws of the state, nation, or country or by reciprocal agreement.

SECTION 11. AMENDMENT. Section 34-14-13 of the North Dakota Century Code is amended and reenacted as follows:

34-14-13. Claims assigned by other states, nations, or countries - Actions - Collection.

The department of labor and human rights may, upon the written request of the department of labor or other corresponding agency of any other state, nation, or country or of any person, board, officer, or commission of the state, nation, or country authorized to act for and on behalf of the department of labor or corresponding agency, maintain actions in the courts of this state upon assigned claims for wages, judgments, and demands arising in the other state, nation, or country in the same manner and to the same extent that the actions by the department of labor and human rights are authorized when arising in this state; provided, however, that the actions may be commenced and maintained only in those cases where the other state, nation, or country by appropriate legislation or by reciprocal agreement extends a like comity to cases arising in this state.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 255

SENATE BILL NO. 2247

(Senators Klein, Krebsbach, Unruh)
(Representatives Dockter, Kempenich, Kreun)

AN ACT to amend and reenact section 34-14-04.1 of the North Dakota Century Code, relating to limitations on withholdings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-14-04.1 of the North Dakota Century Code is amended and reenacted as follows:

34-14-04.1. Limitations on withholdings.

~~Every~~Except for those amounts that are required under state or federal law to be withheld from employee compensation or where a court has ordered the employer to withhold compensation, an employer shall only may withhold from the compensation due employees those amounts which are required by state or federal law to be withheld and may deduct advances paid to employees, other than undocumented cash, and other individual items authorized in writing by the employees.:

1. Advances paid to employees, other than undocumented cash.
2. A recurring deduction authorized in writing.
3. A nonrecurring deduction authorized in writing, when the source of the deduction is cited specifically.
4. A nonrecurring deduction for damage, breakage, shortage, or negligence must be authorized by the employee at the time of the deduction.

Approved March 19, 2013
Filed March 19, 2013

LIENS

CHAPTER 256

HOUSE BILL NO. 1251

(Representatives Keiser, Belter, J. Kelsh, Nathe, Vigesaa)
(Senators Cook, Klein, Wanzek, Dotzenrod)

AN ACT to amend and reenact sections 35-13-01 and 35-13-04 of the North Dakota Century Code, relating to repairman's liens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 35-13-01 of the North Dakota Century Code is amended and reenacted as follows:

35-13-01. Repairman's lien authorized.

Any blacksmith, machinist, farm equipment dealer, construction equipment dealer, welder, garage keeper, mechanic, or aviation operator, having an established place of business ~~within~~ this state who makes, alters, or repairs any automobile, truck, engine, combine, tractor, farm equipment, construction equipment, well machine, aircraft, or watercraft at the request of the owner or legal possessor of the property has a lien ~~thereon on that property~~, and on any accessories and parts placed upon the property, for reasonable charges for work done and materials furnished, until the charges are paid. If the cost of repair would exceed ~~one~~four thousand dollars or ~~twenty-five~~thirty percent or, ~~two~~nine thousand ~~five-hundred~~ dollars or ~~twenty-five~~thirty percent for property used for agricultural or construction purposes, of the value of the property, in ~~its~~the property's repaired condition, whichever is greater, and the repairman intends to have the entire repair bill constitute a lien with priority over the mortgage or financing statement of record, the repairman shall give notice by registered or certified mail to the recordholder of the mortgage or financing statement of the proposed repair, the estimated cost of repair, and the estimated value of the property in its repaired condition.

SECTION 2. AMENDMENT. Section 35-13-04 of the North Dakota Century Code is amended and reenacted as follows:

35-13-04. Priority of lien.

A lien obtained under this chapter has priority over all other liens, chattel mortgages, or encumbrances against the personal property upon which the lien is secured, but if the repairman has failed to notify the recordholder of the mortgage or financing statement as provided in section 35-13-01, or if such notice was given and the holder of the mortgage or financing statement, within five days after receiving such notice, communicated in writing to the repairman an objection to all the proposed repair costs becoming a lien against the property with priority over the mortgage or financing statement, then only that portion of the repairman's lien up to ~~one~~four thousand dollars or ~~twenty-five~~thirty percent, or ~~two~~nine thousand ~~five-hundred~~ dollars or ~~twenty-five~~thirty percent for property used for agricultural or

construction purposes, of the retail value, whichever is greater, in ~~its~~the property's repaired condition, has priority over the mortgage or financing statement.

Approved April 24, 2013

Filed April 24, 2013

CHAPTER 257

HOUSE BILL NO. 1136

(Representative Klemin)
(Senator Hogue)

AN ACT to amend and reenact sections 11-18-01, 11-18-05, 35-13-02, 35-17-04, 35-17-07, 35-17-08, 35-20-15.1, 35-20-16, 35-29-02, 35-29-04, 35-29-05, 35-30-02, 35-30-05, 35-30-06, 35-31-02, 35-31-05, 35-31-06, 35-34-04, 35-34-06, 35-35-03, 35-37-04, 41-09-72, 41-09-73, and 41-09-84, subsection 2 of section 41-09-87, sections 41-09-94 and 41-09-96, subsection 3 of section 41-09-135, sections 41-10-01, 41-10-05, 47-16-03, 54-09-08, 54-09-09, 54-09-10, and 54-09-11, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to filing liens and security interests electronically; to repeal section 57-28-29 of the North Dakota Century Code, relating to filing tax liens; to provide for application; to provide for a report to the legislative assembly; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-18-01 of the North Dakota Century Code is amended and reenacted as follows:

11-18-01. Recorder's duties - Recording and filing instruments - Abstracts.

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.
4. Prepare a security agreement abstract whenever any person requests the agreement and pays the required fee.
5. ~~Furnish upon written or telephonic request to persons the information contained in financing statements filed to perfect a security interest pursuant to chapter 41-09 when the collateral is farm products, and to provide written~~

~~confirmation of the oral information provided upon receipt of a fee which shall be the same as for recording that instrument.~~

¹⁰⁷ **SECTION 2. AMENDMENT.** Section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

11-18-05. Fees of recorder.

The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
 - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ten dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
 - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
 - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording.
 - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
 - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
 - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ten dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
 - c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.

¹⁰⁷ Section 11-18-05 was also amended by section 1 of Senate Bill No. 2128, chapter 258.

- d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
2. For filing any ~~non-central indexing system~~ instrument, ten dollars.
3. For making certified copies of any recorded instrument or filed ~~non-central indexing system~~ instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed ~~non-central indexing system~~ instrument, a fee of not more than one dollar per instrument page. For providing any electronic data extracted from the recorded instrument, a fee of not more than fifty cents per instrument.
4. ~~For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing database, the computerized central notice system or the computerized statutory liens database, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-96 and 54-09-11.~~
5. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
- 6-5. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

¹⁰⁸ **SECTION 3. AMENDMENT.** Section 35-13-02 of the North Dakota Century Code, as amended by House Bill No. 1340, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

35-13-02. Lien statement - Contents - When required - Filing.

1. The secretary of state shall prescribe ~~one form~~ an electronic system that can be used to obtain a lien under this section and also be entered in the central indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file electronically, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the office of the recorder of the county in which the owner or legal possessor of the property resides central indexing system, a verified written statement showing:
 - a. The labor performed.
 - b. The materials furnished.

¹⁰⁸ Section 35-13-02 was also amended by section 1 of House Bill No. 1340, chapter 402.

- c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
 - d. The name and address of the person for whom the labor was performed or to whom the materials were furnished.
 - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the labor was performed or to whom the materials were furnished.
 - f. The name and address of the person claiming the lien.
 - f.g. A description of the property upon which the lien is claimed.
2. A person filing a verified statement shall within thirty days serve notice of the filing, by registered mail, upon the owner or legal possessor of the property. A person entitled to the lien who fails to file a verified statement within the time limited in this section is deemed to have waived the right to a lien.
 3. A lienholder may file electronically an amendment to add or correct the social security number or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~provide a means to amend electronically the repairman's lien that has been filed pursuant to this section. The amendment of the lien does not affect the priority of the lien.

SECTION 4. AMENDMENT. Section 35-17-04 of the North Dakota Century Code is amended and reenacted as follows:

35-17-04. Procedure to obtain lien - Statement filed - Contents - Waiver.

Any person entitled to an agister's lien, within ninety days after taking possession of the animal, may file electronically in the ~~office of the recorder in any county in this state or in the office of the secretary of state~~central indexing system, a statement signed by the filer containing the following information:

1. The number of and a description of the animals subject to the lien and the legal description as to the location of the animals.
2. The name and address of the person for whom the animals are kept.
3. The name and address of the lienholder.
4. The price agreed upon for keeping the animals and, if no price was agreed upon, the reasonable value of the services.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the animals are kept.

The secretary of state shall ~~prescribe one form that can be used~~provide a means to obtain electronically a lien under this section or gain protection under the central notice system, or both. If the statement is not filed within ninety days as required by this section, the person entitled to the lien under section 35-17-03 waives the lien.

SECTION 5. AMENDMENT. Section 35-17-07 of the North Dakota Century Code is amended and reenacted as follows:

35-17-07. Amendment of lien.

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to provide a means to electronically~~ amend or assign the agister's lien that has been filed pursuant to section 35-17-04. The amendment or assignment of a lien does not affect the priority of the lien.

SECTION 6. AMENDMENT. Section 35-17-08 of the North Dakota Century Code is amended and reenacted as follows:

35-17-08. Fees - Penalty.

The fee for filing electronically an agister's lien and related documents ~~with the secretary of state or the county recorder in the central notice system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file electronically a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

SECTION 7. AMENDMENT. Section 35-20-15.1 of the North Dakota Century Code is amended and reenacted as follows:

35-20-15.1. Amendment of lien for unpaid earned property or casualty insurance premiums.

A lienholder may file an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide a means to amend electronically or assign the unpaid earned property or casualty insurance premium lien that has been filed under section 35-20-15. The amendment or assignment of a lien does not affect the priority of the lien.

SECTION 8. AMENDMENT. Section 35-20-16 of the North Dakota Century Code is amended and reenacted as follows:

35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing.

The secretary of state shall ~~prescribe a form that can be used~~ provide a means to obtain electronically a lien under this section and also be entered in the central indexing system. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after termination of coverage, shall file in the ~~office of the recorder of the county or counties in which the property covered by the policy is located~~ central indexing system and with any loss payee named in the policy, a ~~verified~~ an electronic statement ~~in writing~~ stating all of the following:

1. The name and address of the policyholder.
2. The name and address of the lienholder.
3. The nature and quantity of insurance coverage provided.

4. The amount of unpaid earned premium.
5. A description of the property covered by the insurance and subject to the lien.
6. That a lien is claimed upon the property described.
7. The name of the county or counties where the property is located.
8. The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of that person.

SECTION 9. AMENDMENT. Section 35-29-02 of the North Dakota Century Code is amended and reenacted as follows:

35-29-02. Place of filing.

1. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.
2. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens must be filed in the ~~office of the recorder of central indexing system and associated~~ to the county in which the real property subject to the liens is situated.
3. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens must be filed as follows:
 - a. If the person against whose interest the lien applies is a corporation, limited liability company, or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.
 - b. If the person against whose interest the lien applies is a trust that is not covered by subdivision a, in the office of the secretary of state.
 - c. If the person against whose interest the lien applies is the estate of a decedent, in the office of the secretary of state.
 - d. In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.
4. The secretary of state shall provide a means for the United States to file any documentation according to this chapter.

SECTION 10. AMENDMENT. Section 35-29-04 of the North Dakota Century Code is amended and reenacted as follows:

35-29-04. Duties of filing officer.

1. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented ~~to a filing officer who is:~~

- a. The secretary of state, ~~the secretary~~ shall cause the notice to be marked, held, and indexed in accordance with the provisions of section 41-09-90 as if the notice were a financing statement within the meaning of title 41; or
 - b. ~~Any other officer described in section 35-29-02, the officer~~The secretary of state shall endorse thereon the officer's identification and the date and time of receipt and immediately file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.
2. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the secretary of state for filing, the secretary shall do all of the following:
 - a. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of title 41, but the notice of lien to which the certificate relates may not be removed from the files.
 - b. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of title 41.
 3. If a refiled notice of federal lien referred to in subsection 1 or any certificate or notice referred to in subsection 2 is presented for filing ~~to any other filing officer specified in section 35-29-02, the officer~~secretary of state shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where original notice of lien is entered.
 4. ~~Upon request of any~~Any person, ~~the filing officer shall issue the officer's certificate showing~~ may search the central indexing system to determine whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this chapter or chapter 35-28 as it existed prior to enactment of this chapter, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. ~~The fee for a certificate is one dollar and twenty-five cents for each notice or certificate reported therein. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of one dollar, plus seventy-five cents for the second and each succeeding page.~~
 5. The secretary of state shall fulfill any of the functions described in this section by electronic means with the same legal effect as if the function had been completed on a physical document.

SECTION 11. AMENDMENT. Section 35-29-05 of the North Dakota Century Code is amended and reenacted as follows:

35-29-05. Fees.

1. The fee for filing and indexing each notice of lien is:

- a. ~~For a lien on real estate, ten dollars, plus three dollars for the second and each succeeding page.~~
 - b. ~~For a lien on tangible and intangible personal property, ten dollars, plus five dollars to record if filed with a county recorder.~~
 - c. ~~For all other notices, including a certificate of discharge, nonattachment, or subordination, ten dollars, plus ten dollars if filed toward a lien on real estate with a county recorder.~~
 - d. ~~For a nonstandard statement when presented for filing, an additional fee of five dollars plus one dollar per page, and if filed on a real estate lien with a county recorder, an additional ten dollars plus three dollars for the second and each succeeding page.~~
 - e. ~~For a certificate of release, five dollars, which must be paid at the time the lien is filed in the central indexing system is established according to section 41-09-96. Fees to record liens with a county recorder are the same as provided for under section 11-18-05.~~
2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

SECTION 12. AMENDMENT. Section 35-30-02 of the North Dakota Century Code is amended and reenacted as follows:

35-30-02. Procedure to obtain lien.

1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file electronically a statement signed by the filer in the office of the recorder in any county in this state or in the office of the secretary of state central indexing system. The statement must contain the following information:
 - a. The name and address of the person for whom the processing was done.
 - b. The name and address of the processor.
 - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural products were grown and the year the crop is to be harvested or was harvested.
 - d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
 - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
 - f. A description of the processing services and the first date the services were furnished.
2. ~~The secretary of state and the office of the recorder in any county in this state with which a statement signed by the filer under subsection 1 is submitted for~~

~~filing shall reject the statement unless proof of mailing of notification of the lien to the debtor's last known address by registered or certified mail with return receipt requested is filed with the statement.~~

- ~~3.~~ The secretary of state shall ~~prescribe one form that can be used~~provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

SECTION 13. AMENDMENT. Section 35-30-05 of the North Dakota Century Code is amended and reenacted as follows:

35-30-05. Amendment of lien.

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~provide an electronic means to amend or assign the agricultural processor's lien that has been filed pursuant to section 35-30-02. The amendment or assignment of a lien does not affect the priority of the lien.

SECTION 14. AMENDMENT. Section 35-30-06 of the North Dakota Century Code is amended and reenacted as follows:

35-30-06. Fees - Penalty.

The fee for filing electronically an agricultural processor's lien and related documents ~~with the secretary of state or the county recorder in the central indexing system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

SECTION 15. AMENDMENT. Section 35-31-02 of the North Dakota Century Code is amended and reenacted as follows:

35-31-02. Procedure to obtain lien.

To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred twenty days after the supplies are furnished or the services performed, shall file electronically a statement ~~signed by the filer in the office of the recorder of any county in this state or in the office of the secretary of state~~central notice system. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file electronically a statement ~~signed by the filer in the office of the recorder of any county in the state or in the office of the secretary of state~~central notice system. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.

3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.
4. A description and value of the supplies and the first date furnished.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person to whom the supplies were furnished.

The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

SECTION 16. AMENDMENT. Section 35-31-05 of the North Dakota Century Code is amended and reenacted as follows:

35-31-05. Amendment of lien.

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural supplier's lien that has been filed pursuant to section 35-31-02. The amendment or assignment of a lien does not affect the priority of the lien.

SECTION 17. AMENDMENT. Section 35-31-06 of the North Dakota Century Code is amended and reenacted as follows:

35-31-06. Fees - Penalty.

The fee for filing an agricultural supplier's lien and related documents ~~with the secretary of state or the county recorder~~ in the central notice system is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

SECTION 18. AMENDMENT. Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

35-34-04. Vessel lien.

1. In the case of a vessel, the child support agency may file electronically a notice of lien ~~with the secretary of state~~ 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 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 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.

SECTION 19. AMENDMENT. Section 35-34-06 of the North Dakota Century Code is amended and reenacted as follows:

35-34-06. 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 electronically 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, 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 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.

SECTION 20. AMENDMENT. Section 35-35-03 of the North Dakota Century Code is amended and reenacted as follows:

35-35-03. Filing officer may reject lien - Filing officer to accept notice of invalid lien - Filing officer not liable.

1. Any filing officer may reject for filing or recording any nonconsensual common-law lien.
2. If a nonconsensual common-law lien has been accepted for filing or recording, the filing officer shall accept for filing any ~~sworn~~ notice of invalid lien signed and submitted electronically by the person against whom such a lien was filed or that person's attorney. The notice must be captioned "Notice of Invalid Lien" and must state the name and address of the person on whose behalf the notice is filed, the name and address of the lien claimant, and a clear reference to the document or documents the person believes constitute a

nonconsensual common-law lien. The notice must be filed in such a manner that any search of the records which reveals the lien the notice refers to will also reveal the notice of invalid lien. The filing officer shall mail or deliver electronically a copy of the notice of invalid lien to the lien claimant at the lien claimant's last-known address within one business day.

3. A filing officer, county, or the state may not be held liable for filing a nonconsensual common-law lien, or for filing a ~~sworn~~ notice of invalid lien pursuant to this section.
4. A fee may not be charged for the filing of a notice of invalid lien against a filed nonconsensual common-law lien.

SECTION 21. AMENDMENT. Section 35-37-04 of the North Dakota Century Code is amended and reenacted as follows:

35-37-04. Perfection of lien - Verified notice - Effect of instruments - Effective date of lien.

1. If the proceeds for oil or gas which are required to be paid are not paid to the interest owner when due, the interest owner may perfect the security interest and lien by filing electronically a ~~form~~ UCC-1A in the central indexing system and recording the lien in the real estate records in the office of the county recorder of the county in which the well is located. If the oil and gas owner's lien is not filed within ninety days from the date of production, the security interest is not perfected and does not give the interest owner priority over a perfected security interest in the same oil, gas, or proceeds of the oil or gas.
2. ~~All instruments that are presented to a county recorder for filing in accordance with subsection 1 are effective as financing statements even though the signature of the debtor may not appear on the lien.~~ Liens must be filed electronically in the central indexing system and recorded in the real estate records of the county according to sections 11-18-01 and 11-18-05. Liens may be terminated in the same manner as financing statements.
3. Upon perfection by filing, the security interest and lien of the interest owner takes priority over the rights of all persons whose rights or claims arise or attach thereafter to the oil or gas unpaid for, or the proceeds of oil or gas if the oil or gas has been sold, including those that arise or attach between the time the security interest and lien attaches and the time of filing. The security interest and lien created pursuant to this chapter do not have priority over the security interest and lien rights previously created and perfected or an operating agreement or other voluntary agreement for the development and operation of the property.

SECTION 22. AMENDMENT. Section 41-09-72 of the North Dakota Century Code is amended and reenacted as follows:

41-09-72. (9-501) Filing office.

1. Except as otherwise provided in subsection 2, if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

- a. The office designated for the filing or recording of a record of a mortgage on the related real property, if:
 - (1) The collateral is as-extracted collateral or timber to be cut; or
 - (2) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or
 - b. The office of the recorder in any county in this state or in the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
2. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.
 3. The secretary of state shall provide an electronic means for filing any record required or permitted to be filed by this title. This may include use of business-to-business methods using a common data format and must include a web-based application. Any record that is not filed electronically must be rejected.

¹⁰⁹ **SECTION 23. AMENDMENT.** Section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

41-09-73. (9-502) (Effective through June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
 - a. Provides the name of the debtor;
 - b. Provides the name of the secured party or a representative of the secured party;
 - c. Indicates the collateral covered by the financing statement;
 - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
 - e. Provides a mailing address for the secured party; and
 - f. Provides a mailing address for the debtor.

¹⁰⁹ Section 41-09-73 was also amended by section 2 of House Bill No. 1340, chapter 402.

2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
 - a. Indicate that it covers this type of collateral;
 - b. Indicate that it is to be filed for record in the real property records;
 - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
 - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
 - a. The record indicates the goods or accounts that it covers;
 - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
 - c. The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and
 - d. The record is duly recorded.
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or federal tax identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing prior to January 1, 2012, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. After December 31, 2011, a debtor's social security number or federal tax identification number may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.

(Effective after June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
 - a. Provides the name of the debtor;
 - b. Provides the name of the secured party or a representative of the secured party;
 - c. Indicates the collateral covered by the financing statement; and
 - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
 - e. ~~Provides a mailing address for the secured party; and~~
 - f. ~~Provides a mailing address for the debtor.~~
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
 - a. Indicate that it covers this type of collateral;
 - b. Indicate that it is to be filed for record in the real property records;
 - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
 - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
 - a. The record indicates the goods or accounts that it covers;
 - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
 - c. The record satisfies the requirements for a financing statement in this section, but:
 - (1) The record need not indicate that it is to be filed in the real property records; ~~and~~

(2) The record sufficiently provides the name of a debtor who is an individual if the record provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom subdivision d of subsection 1 of section 41-09-74 applies; and

(3) The mortgage may not include a social security number or internal revenue service taxpayer identification number; and

d. The record is duly recorded.

4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or ~~federal tax~~internal revenue service taxpayer identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing ~~prior to January 1, 2012~~, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. ~~After December 31, 2011, a~~ debtor's social security number or ~~federal tax~~internal revenue service taxpayer identification number ~~may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records as provided for under section 11-18-23.2.~~

SECTION 24. AMENDMENT. Section 41-09-84 of the North Dakota Century Code is amended and reenacted as follows:

41-09-84. (9-513) Termination statement - Remedies - Fees.

1. If a financing statement covering consumer goods is filed after December 31, 1973, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall file ~~with each filing officer with whom the financing statement was filed~~electronically in the central indexing system, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which must be identified by file number. In other cases when there is no outstanding secured obligation and no written commitment between the secured party and the debtor to make advances, incur obligations, or otherwise give value, the secured party, unless requested by the debtor in writing to continue the filing, ~~must send to each filing officer with whom the financing statement was filed,~~shall file electronically a termination statement to the effect that the secured party no longer claims a security interest under the financing statement nor under the central notice system, which shall be identified by file number. If the affected secured party fails to file a termination statement as required by this subsection within sixty days of when the secured obligation is fully satisfied, and the debtor has not requested in writing that the filing be continued, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any

loss caused to the debtor by such failure. The debtor's written request for a filing to be continued may be made at any time and be effective under this section. If the affected secured party fails to file a termination statement within ten days after proper written demand by the debtor, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure.

2. Except as otherwise provided in section 41-09-81, upon the filing of a termination statement ~~with the filing office~~, the financing statement to which the termination statement relates ceases to be effective. Except as provided in section 41-09-81, for purposes of subsection 7 of section 41-09-90, subsection 1 of section 41-09-93, and subsection 32 of section 41-09-94, the electronic filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.
3. The fee for filing and indexing a termination statement, ~~including sending or delivering the financing statement~~, is five dollars. ~~For any financing statement filed after April 8, 1991, the fee must be paid at the time~~ is included in the fee for filing the financing statement is paid.

¹¹⁰ **SECTION 25. AMENDMENT.** Subsection 2 of section 41-09-87 of the North Dakota Century Code is amended and reenacted as follows:

2. Filing does not occur with respect to a record that a filing office refuses to accept because:
 - a. The record is not communicated by a method or medium of communication authorized by the filing office;
 - b. An amount equal to or greater than the applicable filing fee is not tendered;
 - c. The filing office is unable to index the record because:
 - (1) In the case of an initial financing statement, the record does not provide a name for the debtor;
 - (2) In the case of an amendment or correction statement, the record:
 - (a) Does not identify the initial financing statement as required by section 41-09-83 or 41-09-89, as applicable; or
 - (b) Identifies an initial financing statement whose effectiveness has lapsed under section 41-09-86;
 - (3) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

¹¹⁰ Section 41-09-87 was also amended by section 23 of House Bill No. 1015, chapter 15.

- (4) In the case of a record filed or recorded in the filing office described in subdivision a of subsection 1 of section 41-09-72, the record does not provide a sufficient description of the real property to which it relates;
- d. In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- e. In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
- (1) Provide a mailing address for the debtor;
 - (2) Indicate whether the debtor is an individual or an organization; or
 - (3) If the financing statement indicates that the debtor is an organization, provide:
 - (a) A type of organization for the debtor;
 - (b) A jurisdiction of organization for the debtor; or
 - (c) An organizational identification number for the debtor or indicate that the debtor has none;
- f. In the case of an assignment reflected in an initial financing statement under subsection 1 of section 41-09-85 or an amendment filed under subsection 2 of section 41-09-85, the record does not provide a name and mailing address for the assignee; or
- g. In the case of a continuation statement, the record is not filed within the six-month period prescribed by subsection 4 of section 41-09-86; or
- h. The record does not contain the social security number or the internal revenue service taxpayer identification number of the debtor.

SECTION 26. AMENDMENT. Section 41-09-94 of the North Dakota Century Code is amended and reenacted as follows:

41-09-94. (9-523) Information from filing office - Sale or license of records.

1. ~~If a~~ Any person that ~~files a written record requests~~ may request electronically an acknowledgment of the filing, ~~the filing office~~ a filing. ~~The central indexing system shall send~~ provide to the person ~~detailed information and~~ an image of the record, if not filed electronically, showing the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record. ~~However, if the person furnishes a copy of the record to the filing office, the filing office may instead:~~
 - a. ~~Note upon the copy the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record; and~~
 - b. ~~Send the copy to the person.~~

2. ~~If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:~~
 - a. ~~The information in the record;~~
 - b. ~~The number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90; and~~
 - c. ~~The date and time of the filing of the record.~~
3. ~~The filing office~~central indexing system shall communicate ~~or otherwise make available in a record~~electronically the following information to any person that requests it:
 - a. Whether there is on file on a date and time specified by the ~~filing office~~central indexing system, but ~~not a date earlier than three business days before the filing office receives the request; any verified statement of an agricultural lien created under chapter 35-17, 35-30, or 35-31 or any financing statement that:~~
 - (1) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;
 - (2) Has not lapsed under section 41-09-86 with respect to all secured parties of record; and
 - (3) Effective January 1, 2002, if the request so states, has lapsed under section 41-09-86 and a record of which is maintained by the ~~filing office~~central indexing system under subsection 1 of section 41-09-93;
 - b. The date and time of filing of each ~~verified statement and each financing statement; and~~
 - c. The information provided in each ~~verified statement and each financing statement.~~
4. ~~In complying with its duty under subsection 3, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a written certificate.~~
5. ~~3. The filing office~~if a request to the central indexing system cannot be automatically accepted, the secretary of state shall perform the acts required by subsections 1 through 4 at the time and in the manner prescribed by ~~filing office rule, but~~and 2 not later than two business days after the ~~filing office~~central indexing system receives the request.
6. ~~4. At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies~~detailed information of all records filed in it under this part, in every medium from time to time filed ~~within the central indexing system.~~

SECTION 27. AMENDMENT. Section 41-09-96 of the North Dakota Century Code is amended and reenacted as follows:

41-09-96. (9-525) Fees.

1. The fee for filing and indexing an original statement under this title is ~~fifteen~~forty dollars plus ~~one~~ dollar per ~~additional~~ page. ~~When a nonstandard statement is presented for filing, an additional fee of five dollars must be paid.~~ An additional fee may not be charged for the same statement to gain protection under the central notice system.
2. The fee for filing and indexing an amendment, ~~including continuations,~~ assignments, releases, or correction statements under this title is ~~ten~~forty dollars plus ~~one~~ dollar per ~~additional~~ page. An additional fee may not be charged for the same document to gain protection under the central notice system.
3. The fee for filing and indexing a continuation under this title is thirty dollars. An additional fee may not be charged for the same document to gain protection under the central notice system.
4. A fee may not be charged for responding to a central indexing system response to an electronic request for information:
 - a. Information from the filing office central indexing system communicating whether there is on file any financing statement or verified statement naming a particular debtor.
 - b. Information on specific filings on a particular debtor.
 - c. Copies of each filing on a particular debtor.
 - d. Certified copies of filings on a particular debtor.
- 4.5. The fee for a filing office central indexing response providing information on specific filings on submitted by a particular debtor secured party is seven five hundred dollars per debtor for the first five entries, plus two dollars for each additional five entries or fraction thereafter.
5. ~~The fee for a filing office providing copies of each filing for a particular debtor is seven dollars per debtor plus two dollars per page for each page over three pages.~~
6. ~~The fee for a filing office providing certified copies of filings on a particular debtor is ten dollars plus two dollars per page for attachments.~~
- 7.6. Any fees collected by the secretary of state pursuant to this chapter and all other filings entered into the central indexing system must be deposited in the general fund in the state treasury, except with the exception of the fees collected under subsection 64 of section 41-09-94, subsection 4 of this section, and a portion of the filing fees specifically identified in section 54-09-11, which must be deposited in the secretary of state's general services operating fund.

SECTION 28. AMENDMENT. Subsection 3 of section 41-09-135 of the North Dakota Century Code is amended and reenacted as follows:

3. The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect, no later than is required by section 41-09-86, and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

SECTION 29. AMENDMENT. Section 41-10-01 of the North Dakota Century Code is amended and reenacted as follows:

41-10-01. Definitions.

As used in this chapter:

1. "Authorized", when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in sections 41-09-80 and 41-09-130.
2. "Debtor" means a natural person whose name was provided in a financing statement record as an individual debtor or one of the types of persons listed in section 41-09-76.
3. "Filing office" or "filing officer" refers to the ~~appropriate office or officer~~ central indexing system, which must be provided by the secretary of state, where a financing statement record is to be filed electronically as provided by section 41-09-72; ~~including the county recorder, the secretary of state, and other designated filing officers.~~
4. "Financing statement record" means an initial financing statement, an amendment that adds collateral covered by a financing statement, and an amendment that adds a debtor to a financing statement as such terms are used in this title.

SECTION 30. AMENDMENT. Section 41-10-05 of the North Dakota Century Code is amended and reenacted as follows:

41-10-05. Venue.

An action under this chapter may be brought in any district court ~~in the county in which the financing statement record is presented for filing~~ or in a county where any of the persons who may bring an action under this chapter reside.

SECTION 31. AMENDMENT. Section 47-16-03 of the North Dakota Century Code is amended and reenacted as follows:

47-16-03. Filing farm lease containing reservation of title to crop - Waiver of rights on failure to file.

1. When a lease of a farm contains a provision reserving title in the lessor to any part of the crops in excess of the rental share of the lessor until the stated conditions of the lease have been complied with by the lessee, such lease

must be filed in the office of the recorder in the county in which the land described therein is located if notice by a real estate recording is sought, and must be filed electronically in the central indexing system if recording in the central notice system is sought, prior to July first in the year in which the crops are raised to render such reservation of title effective as to subsequent purchasers or encumbrancers of any part of the grain over and above the lessor's rental share produced upon the land.

2. The failure to file such lease or contract in accordance with this section constitutes a waiver by the lessor of all rights reserved by that person over and above that person's rental share in such crops as against any subsequent purchaser or encumbrancer of the lessee.
3. The secretary of state may ~~prescribe a form which shall provide an electronic system that~~ includes the pertinent information from the lease that may be filed in the central notice system. A lessor may file this ~~form with the recorder~~ electronic statement and obtain the same rights under this section as if the lessor had filed the lease.
4. The fee required to file and index this notice of lease is:
 - a. As provided in section 11-18-05, if the notice of lease is only a real estate recording;
 - b. As provided in section ~~41-09-064~~ 41-09-96, if the notice of lease is filed only to gain protection under the central notice system; or
 - c. As provided in section 11-18-05, ~~if the notice of lease is both a real estate recording and filed to gain protection under the central notice system. An additional fee may not be charged for the same statement~~ a real estate recording is sought and according to section 41-09-96 if electronically filed to gain protection under the central notice system.

SECTION 32. AMENDMENT. Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

54-09-08. Secretary of state's general services operating fund.

The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection ~~64~~ of section 41-09-94, subsection 4 of section 41-09-96, subsection ~~87~~ of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

SECTION 33. AMENDMENT. Section 54-09-09 of the North Dakota Century Code is amended and reenacted as follows:

54-09-09. Computerized central indexing system - Rules.

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed ~~with the office of the secretary of state or with any of the offices of the recorder in this state~~ pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, ~~57-28-29, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1,~~

~~57-43.1-17.4, 57-43.2-16.3, and 57-51-11. The system must connect each recorder's office to the secretary of state's office through the information technology department. The system must allow access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state.~~

2. Within two working days of receipt of a financing statement, continuation statement, amendment, or termination statement filed electronically pursuant to chapter 41-09 or a statement filed electronically pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the ~~recorder or~~ secretary of state shall file the information contained in the statement must be filed in the computerized central indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. The secretary of state shall ~~prescribe one form~~ provide an electronic means that can be used to perfect a security interest in farm products or gain protection under the central notice system, or both.
3. The secretary of state may adopt rules necessary to implement this section and sections 54-09-10 and 54-09-11.

SECTION 34. AMENDMENT. Section 54-09-10 of the North Dakota Century Code is amended and reenacted as follows:

54-09-10. Secretary of state to compile lists for crops and livestock - Distribution of lists.

1. From the computerized central indexing system, the secretary of state or a designee shall produce ~~each month one~~ electronically a list for crops and ~~one a~~ list for livestock that each contain the information as filed ~~on the forms~~ pursuant to section 41-09-72. The secretary of state shall also include on the lists the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The lists must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form. Each list must conspicuously note the effective date of the list.
2. The secretary of state shall distribute ~~monthly~~ by mail or deliver electronically the lists prepared pursuant to subsection 1, ~~at least five business days in advance of the effective date of each of the lists.~~ If requested, the secretary of state shall mail or deliver electronically the lists to any person making a request at a fee as provided in section 54-09-11.
3. Upon a verbal request of any person, the secretary of state; or a designee of the secretary of state, ~~or a recorder~~ shall verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock. The requesting party may request electronically a certificate from the secretary of state ~~or the recorder and the secretary of state or the recorder shall~~ the central indexing system to confirm the information given. Direct computer access is equivalent to oral

confirmation, and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central indexing system to lose federal certification. A computer printout from the computerized central indexing system constitutes the certificate of the secretary of state or the recorder as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

SECTION 35. AMENDMENT. Section 54-09-11 of the North Dakota Century Code is amended and reenacted as follows:

54-09-11. Fees.

1. ~~The secretary of state shall establish fees for placing data in the computerized central indexing system; for obtaining computer access to the computerized central indexing system, to the computerized Uniform Commercial Code central filing database, or to the computerized statutory liens database; for receiving printouts; for direct access to all or parts of the central indexing system; for lists sold or licensed under subsection 6 of section 41-09-94; for any other list provided by the secretary of state; for any programming charges specifically incurred to provide information requested by persons which is related to the central indexing system; and for other services provided through the computerized system.~~
2. ~~The~~ A fee may not be required for furnishing information on a verbal request pursuant to subsection 3 of section 54-09-10 ~~is seven dollars, and the fee for furnishing a certificate under subsection 3 of section 54-09-10 is seven~~ fifteen dollars.
3. ~~The secretary of state shall establish the fee for furnishing lists under subsection 1 of section 54-09-10~~ from the central indexing system based on actual costs to produce the lists for distribution.
4. ~~Fees collected by the secretary of state under subsections 1 and 3 and this section, under subsection 64 of section 41-09-94, and subsection 4 of section 41-09-96, and ten dollars from each filing entered into the central indexing system must be deposited in the secretary of state's general services operating fund. Fees collected by the secretary of state under subsection 2 must be deposited in the general fund in the state treasury~~ this section must be used for the programming and maintenance of the central indexing system.
5. ~~The secretary of state may adopt rules regarding what portion of the filing fees and search fees collected by the recorder under section 41-09-96 must be submitted to the secretary of state for deposit into the secretary of state's general operating fund to meet the cost of the provision of services required under sections 54-09-09 and 54-09-10~~ shall pay ten dollars to the county recorder of the county of residence for the first debtor listed on each statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, or 41-09-72. The payment must be made monthly from the general fund in the state treasury.

SECTION 36. AMENDMENT. Subsection 5 of section 57-34-10 of the North Dakota Century Code is amended and reenacted as follows:

5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary

of state a notice of the lien provided for in subsection 4, takes free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:

- a. The name of the taxpayer.
- b. The name "State of North Dakota" as claimant.
- c. The date and time the notice of lien was indexed.
- d. The amount of the lien.
- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

SECTION 37. AMENDMENT. Subsection 4 of section 57-36-09.5 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. The name "State of North Dakota" as claimant.
 - c. The date and time the notice of lien was indexed.
 - d. The amount of the lien.
 - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next day following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 38. AMENDMENT. Section 57-38-49 of the North Dakota Century Code is amended and reenacted as follows:

57-38-49. Preservation of lien.

Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:

1. The name of the taxpayer.
2. The name "State of North Dakota" as claimant.

3. The date and time the notice of lien was indexed.
4. The amount of the lien.
5. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

SECTION 39. AMENDMENT. Subsection 4 of section 57-39.2-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. The name "State of North Dakota" as claimant.
 - c. The date and time the notice of lien was indexed.
 - d. The amount of the lien.
 - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 40. AMENDMENT. Subsection 4 of section 57-40.2-16 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. The name "State of North Dakota" as claimant.
 - c. The date and time the notice of lien was indexed.
 - d. The amount of the lien.
 - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 41. AMENDMENT. Subsection 3 of section 57-40.3-07.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. The name "State of North Dakota" as claimant.
 - c. The date and time the notice of lien was indexed.
 - d. The amount of the lien.
 - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner is exempt from the payment of fees otherwise provided by law for the indexing or the satisfaction of the lien.

SECTION 42. AMENDMENT. Subsection 4 of section 57-43.1-17.4 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. The name "State of North Dakota" as claimant.
 - c. The date and time the notice of lien was indexed.
 - d. The amount of the lien.
 - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 43. AMENDMENT. Subsection 4 of section 57-43.2-16.3 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. The name "State of North Dakota" as claimant.

- c. The date and time the notice of lien was indexed.
- d. The amount of the lien.
- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 44. AMENDMENT. Subsection 4 of section 57-43.3-22 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. The name "State of North Dakota" as claimant.
 - c. The date and time the notice of lien was indexed.
 - d. The amount of the lien.
 - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 45. AMENDMENT. Subsection 2 of section 57-51-11 of the North Dakota Century Code is amended and reenacted as follows:

2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central indexing system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. The name "State of North Dakota" as claimant.
 - c. The date and time the notice of lien was indexed.
 - d. The amount of the lien.
 - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. of the first day following the indexing of the notice. A notice of lien filed by the commissioner ~~with a~~

recorder before August 1, 1997, may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 46. AMENDMENT. Subsection 4 of section 57-63-10 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
 - a. The name of the facility.
 - b. The name "State of North Dakota" as claimant.
 - c. The date and time the notice of lien was indexed.
 - d. The amount of the lien.
 - e. The internal revenue service taxpayer identification number of the facility or the social security number of the owner, officer, or manager of the facility.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. A notice of lien filed by the commissioner ~~with the recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 47. REPEAL. Section 57-28-29 of the North Dakota Century Code is repealed.

SECTION 48. APPLICATION. During the 2013-15 biennium, the secretary of state shall provide an electronic means for the central indexing system to accept an amendment to a statement filed before July 1, 2014, pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 41-09-72, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, or 57-43.2-16. Before July 1, 2015, a secured party or lienholder may amend a filing under this section without a fee if the amendment is limited in scope to correcting the name of the debtor as required under section 41-09-135, or adding or correcting the social security or internal revenue service taxpayer identification number of the debtor, or both.

SECTION 49. SECRETARY OF STATE REPORT TO LEGISLATIVE ASSEMBLY. The secretary of state shall report to the sixty-fourth legislative assembly regarding the change in filing fees provided under this Act, including a comparison of the revenue collected under the new fee system versus the revenues collected under the previous fee system.

SECTION 50. CONTINGENT EFFECTIVE DATE. Sections 1 through 27 and sections 29 through 47 of this Act become effective August 1, 2015, 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.

CHAPTER 258

SENATE BILL NO. 2128

(Senators Klein, Wanzek)
(Representatives Dockter, Pollert, Oversen)

AN ACT to amend and reenact subdivision c of subsection 1 of section 11-18-05, sections 24-01-25, 35-22-16, 35-22-17, 35-22-18, and 35-22-19, and subsection 2 of section 35-24-13 of the North Dakota Century Code, relating to fees and notice requirements of the county recorder; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹¹ **SECTION 1. AMENDMENT.** Subdivision c of subsection 1 of section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

- c. ~~Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seventy-two dollars for twenty lots or fewer and fifty dollars for more than twenty lots.~~

SECTION 2. AMENDMENT. Section 24-01-25 of the North Dakota Century Code is amended and reenacted as follows:

24-01-25. Fees not charged for recording instruments.

No fees may be charged or collected by the county auditor, the recorder, or the clerk of court for any services rendered for the recording or filing of any document required under the provisions of this chapter 177 of the 1953 Session Laws.

SECTION 3. AMENDMENT. Section 35-22-16 of the North Dakota Century Code is amended and reenacted as follows:

35-22-16. Affidavit of publication recorded - Effect of in evidence.

The affidavit of publication must be recorded ~~at length by~~ in the office of the recorder of the county in which the real property is situated in a record kept for mortgages. The original affidavit, the record thereof, and certified copies of the record are prima facie evidence of the facts contained in the record.

SECTION 4. AMENDMENT. Section 35-22-17 of the North Dakota Century Code is amended and reenacted as follows:

35-22-17. Recorder to mail copy of affidavit of publication to be mailed.

~~The recorder, within~~ Within ten days after the filing of the affidavit of publication of the notice of mortgage foreclosure in any foreclosure of a real estate mortgage by advertisement, ~~shall send, by registered or certified mail,~~ a copy of the affidavit of

¹¹¹ Section 11-18-05 was also amended by section 2 of House Bill No. 1136, chapter 257.

publication ~~must be mailed by certified mail~~ to the record title owner and to every subsequent mortgagee whose mortgage appears on record, addressed to the person at the post office shown of record in the recorder's office. If no post-office address appears of record ~~and it is unknown to the recorder~~, the copy must be addressed to the post office located nearest to the land described in the certificate of sale.

SECTION 5. AMENDMENT. Section 35-22-18 of the North Dakota Century Code is amended and reenacted as follows:

35-22-18. Recorder to make affidavit Affidavit of mailing - Recordation.

~~The recorder shall make an~~An affidavit setting forth the time and manner of the mailing of the copy of the affidavit of publication, the description of the land, and the name and post-office address of the person or persons to whom the affidavit of publication was mailed, ~~and shall attach thereto the registry receipt or receipts, and the affidavit and registry receipt or receipts~~ must be filed and recorded in the recorder's office.

SECTION 6. AMENDMENT. Section 35-22-19 of the North Dakota Century Code is amended and reenacted as follows:

35-22-19. Failure of recorder to mail notices - Liability.

The failure of the recorder to comply with the provisions of sections 35-22-17 and 35-22-18 in no way invalidates the foreclosure proceedings nor affects the title to the property involved, but such failure renders the ~~recorder~~state liable in a civil action to the person entitled to a copy of the affidavit of publication herein described for any damage sustained by the person by reason of such failure.

SECTION 7. AMENDMENT. Subsection 2 of section 35-24-13 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon the filing of such bond, the ~~recorder~~person that posted the bond shall send a notice thereof, together with a copy of the bond, to all obligees named therein, by registered or certified mail addressed to such obligees at the address set forth in their respective claims for lien.

SECTION 8. LEGISLATIVE MANAGEMENT STUDY - BANK OF NORTH DAKOTA'S FORECLOSURE PROCEDURES. During the 2013-14 interim, the legislative management may study the Bank of North Dakota's foreclosure procedures, specifically foreclosure by advertisement. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 259

SENATE BILL NO. 2166

(Senator Holmberg)
(Representative Delmore)

AN ACT to amend and reenact sections 28-05-09 and 35-27-25 of the North Dakota Century Code, relating to actions for construction liens and miner's liens; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-05-09 of the North Dakota Century Code is amended and reenacted as follows:

28-05-09. When lis pendens not required.

A notice of the pendency of an action in a district court is not required if the action is for the foreclosure of a mortgage or for the enforcement of a construction lien or miner's lien.

SECTION 2. AMENDMENT. Section 35-27-25 of the North Dakota Century Code is amended and reenacted as follows:

35-27-25. Requiring suit to be commenced - Demand - Limitations of action.

Upon written demand ~~by or on behalf~~ of the owner, ~~that person's agent, or contractor, served on the person holding the lien~~ which has been delivered to the lienor and filed with the county recorder, suit must be commenced and filed ~~with the clerk of court and a lis pendens as provided in chapter 28-05 must be recorded within thirty days thereafter after the date of delivery of the demand or the lien is forfeited. This thirty-day requirement applies regardless of the method of delivery and additional time may not be allowed based on the method of delivery.~~ The demand must contain a provision ~~informing~~ inform the person holding the lien lienor that if suit is not commenced ~~and a lis pendens recorded within the thirty days required under this section, the person holding the lien forfeits the lien is forfeited.~~ A lien is not valid or effective as such, nor may be enforced in any case enforceable, unless the holder of the lien asserts the same by complaint filed with the clerk of court lienor commences an action and records with the county recorder a lis pendens within three years after the date of recording of the lien. If a summons and complaint asserting the validity of the lien is not filed in the office of the clerk of court of the county in which the lien is lis pendens is not recorded within the limitations provided by this section, the lien is deemed satisfied and the clerk of court, upon request of any interested person, shall certify to the recorder that no summons and complaint has been filed and the lien is deemed satisfied under this section, who then shall record the verified certificate.

SECTION 3. APPLICATION. Section 2 of this Act applies to construction liens of record on the effective date of this Act. Section 2 of this Act does not extend the time for enforcement of any lien of record or any right to record a lien.

Approved April 11, 2013
Filed April 11, 2013

LIVESTOCK

CHAPTER 260

SENATE BILL NO. 2211

(Senators Flakoll, J. Lee, O'Connell)
(Representatives Anderson, Delmore, D. Johnson)

AN ACT to create and enact two new sections to chapter 36-01 and chapter 36-21.2 of the North Dakota Century Code, relating to the duties of the state board of animal health and the treatment of animals; to repeal sections 36-21.1-01, 36-21.1-02, 36-21.1-03, 36-21.1-03.1, 36-21.1-04, 36-21.1-06, 36-21.1-12, and 36-21.1-13 of the North Dakota Century Code, relating to the treatment of animals; to provide a penalty; and to provide for reports to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 36-01 of the North Dakota Century Code is created and enacted as follows:

Restriction on importation of certain animals - Exception.

1. The state board of animal health may restrict the importation and the sale or other distribution within the state of any domestic animal and any animal that is wild by nature, if the board has reason to believe that the animal may pose a threat to the health and well-being of this state's human or animal population.
2. The board may exempt, from any restriction imposed under subsection 1, the importation or sale of animals for bona fide scientific purposes, educational purposes, or temporary exhibitions.

SECTION 2. A new section to chapter 36-01 of the North Dakota Century Code is created and enacted as follows:

Assistance in criminal investigations.

The board shall maintain and make available to any law enforcement agency a list of veterinarians who are licensed in this state and trained to provide assistance in any criminal investigation pertaining to this state's animal laws.

SECTION 3. Chapter 36-21.2 of the North Dakota Century Code is created and enacted as follows:

36-21.2-01. Neglect - Definition - Exemptions - Penalty.

1. Any person that willfully engages in animal neglect is guilty of a class A misdemeanor.

2. For purposes of this chapter, "neglect" with respect to dogs and cats, means the failure to provide an animal with:
 - a. Food and water, as appropriate for the species, the breed, and the animal's age and physical condition;
 - b. Shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition;
 - c. Necessary medical attention; and
 - d. An environment that is:
 - (1) Ventilated in a manner appropriate for the species, the breed, and the animal's age and physical condition;
 - (2) Cleaned in a manner appropriate for the species, the breed, and the animal's age and physical condition; and
 - (3) Free of conditions likely to cause injury or death to an animal of that species, breed, age, and physical condition.
3. For purposes of this chapter, "neglect" with respect to all animals other than those included in subsection 2, means the failure to provide:
 - a. Food and water that is:
 - (1) Appropriate for the species and the breed; and
 - (2) Sufficient to sustain the animal's health;
 - b. Minimal protection from adverse weather conditions, as appropriate for the species and the breed; and
 - c. Medical attention in the event of an injury or illness, as appropriate for the species and the breed.
4. The following do not constitute violations of this section:
 - a. Any usual and customary practice in:
 - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
 - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
 - (3) The sport of rodeo;
 - (4) Animal racing;
 - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
 - (6) Fishing, hunting, and trapping;

- (7) Wildlife management;
 - (8) The culinary arts;
 - (9) Lawful research and educational activities; and
 - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;
- b. The humane or swift destruction of an animal for cause; and
 - c. Services provided by or under the direction of a licensed veterinarian.

36-21.2-02. Animal abuse - Definition - Exemptions - Penalty.

1. Any person that willfully engages in animal abuse is guilty of a class A misdemeanor for a first or a second offense and a class C felony for a third or subsequent offense occurring within ten years.
2. For purposes of this chapter, "animal abuse" means any act or omission that results in physical injury to an animal or that causes the death of an animal, but does not include any act that falls within the definition of animal cruelty, as set forth in section 36-21.2-03.
3. The following do not constitute violations of this section:
 - a. Any usual and customary practice in:
 - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
 - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
 - (3) The sport of rodeo;
 - (4) Animal racing;
 - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
 - (6) Fishing, hunting, and trapping;
 - (7) Wildlife management;
 - (8) The culinary arts;
 - (9) Lawful research and educational activities; and
 - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;
 - b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;

- c. The humane or swift destruction of an animal for cause; and
- d. Services provided by or under the direction of a licensed veterinarian.

36-21.2-03. Animal cruelty - Definition - Exemptions - Penalty.

1. Any person that intentionally engages in animal cruelty is guilty of a class C felony.
2. For purposes of this chapter, "animal cruelty" means:
 - a. Breaking an animal's bones;
 - b. Causing the prolonged impairment of an animal's health;
 - c. Mutilating an animal; or
 - d. Physically torturing an animal.
3. The following do not constitute violations of this section:
 - a. Any usual and customary practice in:
 - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
 - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
 - (3) The sport of rodeo;
 - (4) Animal racing;
 - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
 - (6) Fishing, hunting, and trapping;
 - (7) Wildlife management;
 - (8) The culinary arts;
 - (9) Lawful research and educational activities; and
 - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;
 - b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;
 - c. The humane or swift destruction of an animal for cause; and
 - d. Services provided by or under the direction of a licensed veterinarian.

36-21.2-04. Animal abandonment - Definition - Exemptions - Penalty.

1. Any person that willfully engages in the abandonment of an animal is guilty of a class A misdemeanor.
2. For purposes of this chapter, "abandonment" means the relinquishment of a person's custody or control, with no intention of reclaiming that custody or control, and without placing the animal into the custody or control of another person that is able to provide care for the animal and who knowingly and willingly accepts that responsibility. The term includes:
 - a. The desertion of an animal; and
 - b. The failure to retrieve an animal within forty-eight hours after the agreed-upon conclusion of a boarding contract or other service contract, other than that specified in section 43-29-16.1.
3. The following do not constitute violations of this section:
 - a. Any usual and customary practice in:
 - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
 - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
 - (3) The sport of rodeo;
 - (4) Animal racing;
 - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
 - (6) Fishing, hunting, and trapping;
 - (7) Wildlife management;
 - (8) The culinary arts;
 - (9) Lawful research and educational activities; and
 - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;
 - b. The humane or swift destruction of an animal for cause; and
 - c. Services provided by or under the direction of a licensed veterinarian.
4. For purposes of this section, "care" means food, water, and shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition, and necessary medical attention.

36-21.2-05. Seizure of animal - Court order.

1. A law enforcement officer may petition the court for an order directing the seizure of any animal believed to have been neglected, abused, treated cruelly, or subjected to any act or omission in violation of this chapter.
2. The court may act without notice to the animal's owner or to the person having custody or control of the animal and may rely solely on testimony or an affidavit in considering the petition.
3. In the order for seizure, the court may direct that a veterinarian humanely destroy an animal if the veterinarian, upon examining the animal, determines that the animal is experiencing excruciating pain or suffering and that the animal's pain or suffering is not likely to be alleviated using reasonable medical interventions.

36-21.2-06. Law enforcement - Duty upon seizure - Notification.

1. Upon seizing an animal as provided for in section 36-21.2-05, the law enforcement officer shall provide care for the animal, either directly or through a contractual arrangement with another person. For purposes of this subsection, "care" means food, water, and shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition, and necessary medical attention.
 - a. If the owner and the person having custody or control at the time of the seizure are known to the officer, the officer shall:
 - (1) Provide notice of the seizure to the owner and the person having custody or control of the animal; and
 - (2) Petition the court for an order directing the animal's disposition.
 - b. If the animal's owner is not known to the law enforcement officer, the officer shall publish notice of the animal's seizure in the official newspaper of the county and indicate that if the owner does not claim the animal within five days, the animal will be sold, placed for adoption, or humanely destroyed, at the direction of the law enforcement officer.
 - (1) If the owner does not claim the animal within five days, as required by this subdivision, the law enforcement officer shall sell the animal, place the animal for adoption, or provide for its humane destruction.
 - (2) If the owner is identified within the five-day period, the law enforcement officer shall petition the court for an order directing the animal's disposition.
2. In ruling on a petition for an animal's disposition under this section, a court may direct that the animal be sold, placed for adoption, humanely destroyed, or returned to its owner, with or without conditions.

36-21.2-07. Costs of seizure and care - Responsibility of owner - Lien.

1. If convicted of violating this chapter, the owner of an animal seized under section 36-21.2-05 is responsible for all costs related to the animal's seizure.

including required notifications, attorney's fees, court costs, and any costs incurred in providing the animal with care or in providing for its destruction in accordance with section 36-21.2-06.

2.
 - a. The law enforcement agency that seized the animal has a lien upon the animal for all costs incurred as a result of the seizure and conviction. The lien is superior to any other claim or lien.
 - b. If the lien is not satisfied by the animal's owner, the law enforcement agency may apply to the court for an order enforcing the lien.
3. If a seized animal is sold, the proceeds must be used first to satisfy the lienholder to the extent of the lien and second to satisfy any other claims involving the animal. Any remaining proceeds must be returned to the owner, as directed by the court. If the owner is unknown, any proceeds otherwise payable to the owner must be deposited in the general fund of the county.

36-21.2-08. Abandoned animal - Law enforcement officer - Duties.

1. A law enforcement officer may take custody of an animal if the officer has reasonable cause to believe that the animal has been abandoned in violation of this chapter.
2.
 - a. Upon taking custody of an animal in accordance with this section, the law enforcement officer shall:
 - (1) Provide care for the animal, either directly or through a contractual arrangement with another person; and
 - (2)
 - (a) Notify the owner, if known to the officer; or
 - (b) If the owner is not known to the officer, provide notice of the animal's custody, indicate that if the owner does not lay claim to the animal within five days, the animal will be sold, placed for adoption, or humanely destroyed, at the direction of the law enforcement officer, and include the officer's contact information.
 - b. For purposes of this subdivision, notice may be provided by:
 - (1) Publication in the official newspaper of the county if the newspaper is published daily or in a daily newspaper serving the county;
 - (2) Any electronic means; or
 - (3) Posting a description and a photograph at the local law enforcement center.
3. If the owner is identified within the five-day period, the law enforcement officer shall return the animal to the owner only if:
 - a. The owner demonstrates that the animal was not abandoned in violation of this chapter; and
 - b. The owner pays for all costs associated with the animal's care while in custody, including any costs of notifications under this section.

4. If the law enforcement officer refuses to return the animal to its owner, the owner may petition the court for an order directing its return. In ruling on a petition under this subsection, a court may direct that the animal be sold, placed for adoption, humanely destroyed, or returned to its owner with or without conditions.
5. If the owner does not lay claim to the animal within five days, the law enforcement officer shall sell the animal, place it for adoption, or humanely destroy it.
6. Any proceeds from the sale or adoption of an animal under this section must be deposited in the county general fund.
7. Notwithstanding the requirements of this section, if upon examining an animal taken into custody by a law enforcement officer in accordance with this section a licensed veterinarian determines that the animal's condition justifies its destruction, the veterinarian shall humanely destroy the animal. The law enforcement agency shall reimburse the veterinarian for the cost of the animal's destruction.
8. For purposes of this section, "care" means food, water, and shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition, and necessary medical attention.

36-21.2-09. Title of animal - Sale or adoption.

The title to any animal sold or adopted in accordance with this chapter passes to the individual taking custody or control of the animal.

36-21.2-10. Veterinarian.

If upon examining an animal a licensed veterinarian determines that there is reasonable cause to believe an animal has been neglected, abused, treated cruelly, or subjected to any act or omission in violation of this chapter, the veterinarian may retain custody of the animal and shall immediately notify law enforcement officials regarding the determination.

36-21.2-11. Caged animals - Public display - Exemptions - Penalty.

1. In addition to any other requirements set forth in this chapter, a person placing a caged animal on public display shall ensure that:
 - a. The size of the cage allows the animal to stand up, lie down, and turn or move about; and
 - b. The cage provides the animal with protection from the elements, as appropriate for the species, the breed, and the animal's age and physical condition.
2. Any person that willfully fails to meet the requirements of this section is guilty of a class A misdemeanor.
3. This section does not apply to:
 - a. The North Dakota state fair association;

- b. Agricultural fair associations; or
 - c. Political subdivisions.
4. The following do not constitute violations of this section:
- a. Any usual and customary practice in:
 - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
 - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
 - (3) The sport of rodeo;
 - (4) Animal racing;
 - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
 - (6) Fishing, hunting, and trapping;
 - (7) Wildlife management;
 - (8) The culinary arts;
 - (9) Lawful research and educational activities; and
 - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;
 - b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;
 - c. The humane or swift destruction of an animal for cause; and
 - d. Services provided by or under the direction of a licensed veterinarian.

36-21.2-12. Unattended animal in motor vehicle - Penalty.

- 1. An individual may not leave an animal unattended in a motor vehicle without ensuring that the animal's health and safety is not endangered.
- 2. An individual who violates this section is guilty of an infraction.
- 3. A law enforcement officer may use reasonable means to enter a motor vehicle and remove an animal left in violation of this section.

36-21.2-13. Immunity from liability.

A veterinarian is immune from civil or criminal liability if the veterinarian, on the veterinarian's own initiative or at the request of a law enforcement officer or other governmental entity, renders emergency treatment to a sick or injured animal under this chapter. Immunity under this section does not apply in the case of negligence.

36-21.2-14. Estrays.

This chapter does not apply to estrays.

36-21.2-15. Multiple animals - Enhancement of offense.

If a violation of this chapter involves multiple animals, whether of the same species or not, the violation is deemed to be a singular offense for purposes of enhancement.

SECTION 4. REPEAL. Sections 36-21.1-01, 36-21.1-02, 36-21.1-03, 36-21.1-03.1, 36-21.1-04, 36-21.1-06, 36-21.1-12, and 36-21.1-13 of the North Dakota Century Code are repealed.

SECTION 5. REPRESENTATIVES OF AGRICULTURAL PRODUCTION GROUPS - REPORT TO LEGISLATIVE MANAGEMENT. Before July 1, 2014, representatives of agricultural production groups, including representatives of this state's livestock industry, shall compile information regarding the effects of this Act on the various sectors of the agricultural industry. The compiled information must be presented to the legislative management for review, together with any suggestions for potential statutory changes.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 261

SENATE BILL NO. 2071

(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact subsection 4 of section 36-05.1-01 of the North Dakota Century Code, relating to satellite video livestock auction market regulations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 36-05.1-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Representative" means a dealer licensed under chapter 36-04 ~~who is a resident of this state~~ or a livestock auction market licensed under chapter 36-05.

Approved March 27, 2013
Filed March 27, 2013

MILITARY

CHAPTER 262

HOUSE BILL NO. 1057

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to create and enact two new subsections to section 37-01-01, a new section to chapter 37-03, and section 37-01-10.2 of the North Dakota Century Code, relating to the definition and authority of the adjutant general to present awards; and to amend and reenact sections 37-01-09 and 37-01-10.1 of the North Dakota Century Code, relating to service medals awarded to national guard members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new subsections to section 37-01-01 of the North Dakota Century Code are created and enacted as follows:

"Adjutant general coin" means a coin or medallion bearing the state's adjutant general's organization insignia or emblem.

"Disaster response coin" means a coin or medallion bearing a design to commemorate the response during a state disaster or emergency.

SECTION 2. A new section to chapter 37-03 of the North Dakota Century Code is created and enacted as follows:

North Dakota adjutant general and disaster response coin - Presented by whom - Qualifications.

The adjutant general may present an adjutant general coin to deserving individuals who have distinguished themselves through exceptional service to the mission of the North Dakota national guard or department of emergency services. The adjutant general may present a disaster response coin to deserving individuals who have distinguished themselves through exceptional service during times of disaster or emergency in the state.

SECTION 3. AMENDMENT. Section 37-01-09 of the North Dakota Century Code is amended and reenacted as follows:

37-01-09. Service medals.

The commander in chief of the national guard of this state may issue an order providing suitable service medals or ribbons or marks of distinction for all officers and enlisted ~~men~~members who have served in the national guard for an aggregate period of five, ten, ~~fifteen,~~ and twenty, ~~thirty,~~ and forty years, respectively, and for a like service thereafter or for service on active duty with the armed forces of the United States. Such service medals or ribbons may also be awarded to any member of the

armed forces of the United States who shall serve in an active duty capacity with the North Dakota national guard for a period of two or more years.

SECTION 4. AMENDMENT. Section 37-01-10.1 of the North Dakota Century Code is amended and reenacted as follows:

37-01-10.1. North Dakota legion of merit medal - Presented by whom - Qualifications - Regulations governing.

The governor, in the name of the legislative assembly, may present a military medal known as the "North Dakota legion of merit" to any member or former member of the North Dakota national guard who, in the discharge of the person's military duty, has been distinguished by outstanding service ~~and twenty years of duty~~ to the North Dakota national guard, and that person's community, state, and nation. Such medal may also be awarded to a member or former member of the armed forces of the United States or of the national guard of another state who performs outstanding service for the guard of this state. The medal must bear a suitable inscription and must be of military design as prescribed by the adjutant general. The medal must be awarded by the board of awards in the same manner as prescribed in section 37-01-10.

SECTION 5. Section 37-01-10.2 of the North Dakota Century Code is created and enacted as follows:

37-01-10.2. North Dakota state flag - Presented by whom - Qualifications.

A North Dakota state flag may be presented upon retirement to any member of the North Dakota national guard upon the completion of twenty good years or more of military service.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 263

SENATE BILL NO. 2073

(Judiciary Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 37-01-03 and 37-01-43, subdivision b of subsection 7 of section 37-28-02, and section 39-04-10.8 of the North Dakota Century Code, relating to the operation of the North Dakota national guard and national guard license plates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-01-03 of the North Dakota Century Code is amended and reenacted as follows:

37-01-03. Articles of uniform code of military justice applicable in state - Regulations governing - Punishment for offenses while on duty.

The articles of uniform code of military justice governing the armed forces of the United States as codified in the Manual for Courts-Martial, United States, ~~as effective through 2010, now in effect~~ 2012 edition, are a part of this title so far as the same are applicable and not modified by any provision of this title. A person who commits an offense while on military duty, to include state active duty, may be tried by a court-martial lawfully appointed even after such duty has terminated, and if found guilty, the accused must be punished according to the articles of uniform code of military justice and the rules and regulations governing the armed forces of the United States and within the limits prescribed in this title and by federal law for the courts-martial in the national guard. In any case in which the person alleged to have committed the offense could be charged either under the code of military justice or the civil law of this state, the officer whose duty it is to approve such charge, in the officer's discretion, may order the person charged or subject to being charged to be turned over to the civil authorities for trial. Commanders may administer nonjudicial punishment for offenses while on military duty, to include state active duty, in accordance with part V, Manual for Courts-Martial, except that the servicemember may not demand a trial by courts-martial. Whenever reference is made to the articles of uniform code of military justice, to the military service, or to the armed forces of the United States, such reference shall be deemed to include the military service of this state. The intent of this title and of all laws of this state affecting the military forces is to conform to all acts and regulations of the United States affecting the same subjects, and all laws of this state shall be construed to effect this purpose.

SECTION 2. 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, ~~as effective through December 2003~~ [50 U.S.C. App. U.S.C. sections 501-596] in effect on December 19, 2003.

SECTION 3. AMENDMENT. Subdivision b of subsection 7 of section 37-28-02 of the North Dakota Century Code is amended and reenacted as follows:

- b. "Veteran" means, for eligibility purposes, a member of the national guard or reserve component who was activated under 10 U.S.C. 12301, as effective ~~through October 2004~~, in effect on October 28, 2004 and 10 U.S.C. 12302, ~~as effective through 2004~~in effect on December 31, 2011, and who completed honorable and faithful service of more than thirty days on active duty in the armed forces of the United States at any time during the period of service, or active component member awarded the expeditionary medal or campaign badge for service after December 5, 1992, who was a resident of the state of North Dakota, and who has not received bonus or adjusted compensation from another state for the period of service.

SECTION 4. AMENDMENT. Section 39-04-10.8 of the North Dakota Century Code is amended and reenacted as follows:

39-04-10.8. National guard number plates.

The director, in cooperation with the adjutant general, shall issue distinctive number plates to members of the national guard. A plate issued under this section must bear the national guard insignia designated by the adjutant general and the letters "NG" before the number. The director may issue the plates to the owner of a passenger motor vehicle ~~or~~, a truck the registered gross weight of which does not exceed twenty thousand pounds [9071.84 kilograms], or a motorcycle. On request of the director, the adjutant general shall certify those members of the national guard eligible to receive the plates. On payment of all other fees required under this chapter for registration of the motor vehicle, and payment of an additional fee of not more than five dollars to cover the cost of issuing the distinctive number plates, the applicant is entitled to issuance of the distinctive number plates. A registrant is eligible for distinctive number plates under this section if the registrant is a member of the national guard or if the registrant has retired from the national guard after twenty years or more of military service. On termination of the registrant's eligibility, the registrant shall return the distinctive number plates to the director, who shall reissue for a fee of not more than five dollars another number plate to which that registrant is entitled under this chapter. The director and adjutant general shall cooperate in establishing procedures to implement this section.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 264

SENATE BILL NO. 2210

(Senators Flakoll, Bowman, Carlisle, Marcellais)
(Representatives D. Johnson, Thoreson)

AN ACT to provide for the publishing of a book of veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Book 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.

Approved April 30, 2013
Filed April 30, 2013

CHAPTER 265

HOUSE BILL NO. 1056

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 37-07-05 and 37-04-08 of the North Dakota Century Code, relating to pay of national guard members when called to state active duty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-07-05 of the North Dakota Century Code is amended and reenacted as follows:

37-07-05. Pay and allowances of enlisted national guard members - Deductions allowed.

Each enlisted member of the national guard, when called into active service by the governor, shall receive pay at the rate provided for enlisted personnel of similar grade, rating, and term of enlistment in the national guard of the United States, except that such daily pay rate for each of the grades hereafter listed must be increased by the percentage set forth after such grade as follows:

1. E-3 55%
2. E-4 45%
3. E-5 35%
4. E-6 25%
5. E-7 15%
6. E-8 10%

Each enlisted member shall also receive transportation, shelter, and subsistence. The value of articles issued to any member of a company or battery and not returned in good order on demand, and all legal fines or forfeitures, may be deducted from the member's pay. Each enlisted member shall also receive a state active duty pay enhancement of one hundred dollars for every fourteen consecutive days spent on state active duty. Pay at an annual encampment must be such as is allowed by federal law.

SECTION 2. AMENDMENT. Section 37-04-08 of the North Dakota Century Code is amended and reenacted as follows:

37-04-08. Pay received by ~~personnel~~ commissioned officers of the national guard.

Every commissioned officer of the national guard shall receive from this state, while engaged in any service ordered by the governor, pay and allowances at the rate

allowed by law to officers of similar rank and length of service in the United States army. Each commissioned officer of the national guard shall also receive a state active duty pay enhancement of one hundred dollars for every fourteen consecutive days spent on state active duty. The adjutant general and deputy assistant adjutant general when receiving salary from the state and not on active duty in a federal status shall receive such compensation as may be appropriated by the legislative assembly for that purpose, provided that when the adjutant general receives compensation from the government of the United States as director of selective service, such compensation must be deducted from the compensation otherwise due the adjutant general from the state and the adjutant general may be paid from state funds only the difference, if any, between the compensation from the United States and the compensation provided in this section.

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

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 266

HOUSE BILL NO. 1310

(Representatives Docket, Karls, Thoreson, Guggisberg)
(Senator Carlisle)

AN ACT to amend and reenact section 37-14-18 of the North Dakota Century Code, relating to eligibility of county veterans' service officers to be appointed as conservators.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-14-18 of the North Dakota Century Code is amended and reenacted as follows:

37-14-18. County veterans' service officer - Appointment - Duties.

The board of county commissioners of each county of the state of North Dakota shall appoint, employ, and pay, on a full-time or part-time basis, an officer to be known as a county veterans' service officer. The veterans' affairs commissioner may work directly with county veterans' service officers. An individual may serve as a county veterans' service officer in more than one county. The appointment must be made with the prior advice of the commissioner of veterans' affairs, and in accordance with veterans' preference as provided in section 37-19.1-02. By August 1, 2011, all county veterans' service officers must be accredited by the national association of county veterans' service officers. It is the duty of the county veterans' service officer to become acquainted with the laws, both state and federal, enacted for the benefit of returning servicemen and servicewomen to assist such returning members of the armed forces in the presentation, proof, and establishment of such claims, privileges, and rights as they have. It also is the duty of the county veterans' service officer to actively cooperate with and to coordinate the activities of the state and federal agencies within the county which the officer serves to facilitate their operation and ensure promptness in the solution of the problems concerned with the reestablishment of returning servicemen and servicewomen in civilian pursuits. A county veterans' service officer may not serve as a conservator for an individual who is receiving benefits or services from the department of veterans' affairs or the United States department of veterans' affairs, except if the individual is the spouse or an immediate family member of the officer, ~~or unless the conservator is appointed by the county under chapter 11-21.~~

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 267

SENATE BILL NO. 2292

(Senators Sinner, J. Lee, Lyson, Oehlke)
(Representative Gruchalla)

AN ACT to create and enact a new subsection to section 37-17.1-04 and a new section to chapter 37-17.1 of the North Dakota Century Code, relating to search and rescue operations; and to amend and reenact section 37-17.1-27 of the North Dakota Century Code, relating to reimbursement of costs under the state disaster relief fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 37-17.1-04 of the North Dakota Century Code is created and enacted as follows:

"Wide area search and rescue" means the employment, coordination, and utilization of available resources and personnel in activities occurring within large geographical areas for the purpose of locating, relieving distress, and preserving the life of an individual reported or believed to be lost, stranded, or deemed a high-risk missing individual, and removing any survivor to a place of safety.

SECTION 2. A new section to chapter 37-17.1 of the North Dakota Century Code is created and enacted as follows:

Wide area search and rescue activities - Powers and duties of local officials - Costs.

1. The chief law enforcement officer of each political subdivision is responsible for local wide area search and rescue activities. The operation of a wide area search and rescue activity must be in accordance with state and local operations plans adopted by the governing body of each subdivision. A state or local operations plan must specify the use of the incident command system for a multiagency or multijurisdictional search and rescue operation. The local emergency management director shall notify the department of emergency services of each wide area search and rescue mission. The local emergency management director shall work in a coordinating capacity directly supporting all wide area search and rescue activities in that political subdivision and in registering each emergency search and rescue worker for employee status. The chief law enforcement official of each political subdivision may restrict access to a specific search and rescue area to personnel authorized by the chief law enforcement official. Access may be restricted only for the time necessary to accomplish the search and rescue mission. An unauthorized person may not interfere with a search and rescue mission.
2. If a search and rescue activity results in the discovery of a deceased individual or if any search and rescue worker assists in the recovery of human remains, the chief law enforcement official of the political subdivision shall ensure compliance with chapter 11-19.1.

3. Upon authorization by the governor and approval of costs by the director of the division of homeland security, expenses incurred in meeting a contingency or emergency arising from a wide area search and rescue operation may be reimbursed under section 37-17.1-22 or 37-17.1-27.

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 presidential-declared disasters in the state and for the purposes of reimbursing costs under section 2 of this Act. Any interest or other fund earnings must be deposited in the fund.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 268

HOUSE BILL NO. 1149

(Representatives Anderson, Hofstad, Kreun)
(Senator Laffen)

AN ACT to create and enact a new subsection to section 37-17.1-06 and a new subdivision to subsection 1 of section 37-17.1-07.1 of the North Dakota Century Code, relating to emergency response to hazardous chemical, oil, gas, and saltwater incidents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 37-17.1-06 of the North Dakota Century Code is created and enacted as follows:

The division of homeland security shall serve as a central information dissemination point and repository for initial notification information for spills and discharges in the state for hazardous chemicals as defined in section 37-17.1-07.1, oil, gas, and saltwater. The division shall develop processes to ensure proper state and federal agencies that have oversight responsibilities are promptly notified. The division shall also provide notice to local emergency management officials within a time that is consistent with the level of emergency.

SECTION 2. A new subdivision to subsection 1 of section 37-17.1-07.1 the North Dakota Century Code is created and enacted as follows:

For purposes of monitoring, determining if emergency response may be required, and notifying local officials, owners and operators or responsible parties shall report all spills or discharges to the appropriate state agency as required by law. The report must include the name of the reporting party, including phone number and address; date; time of release; location of release; containment status; waterways involved; and immediate potential threat. If the release occurs or travels offsite from a facility, the owner and operator or responsible party shall notify the surface owner within a reasonable time. State agencies that receive direct reports of spills or discharges shall provide the report information to the division within a time that is consistent with potential level of response needed.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 269

HOUSE BILL NO. 1120

(Political Subdivisions Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact section 37-17.1-10 of the North Dakota Century Code, relating to authority to issue mandatory evacuations during emergencies; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-17.1-10 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-10. Local disasters, mandatory evacuations, or emergencies.

1. Unless so declared in accordance with the provisions of subsection 4 of section 37-17.1-05, a local disaster or emergency, or mandatory evacuation order may be declared only by the principal executive officer of the county or city. It may not be continued or renewed for a period in excess of seven days except by or with the consent of the governing board of the county or city. Any order or proclamation declaring a local disaster or emergency, or mandatory evacuation must be given prompt and general publicity and must be filed promptly with the county or city auditor.
2. The effect of a declaration of a local disaster or emergency is to activate the response and recovery aspects of any and all applicable local disaster or emergency operational plans and to authorize the furnishing of aid and assistance thereunder.

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

Approved March 18, 2013
Filed March 18, 2013

CHAPTER 270

HOUSE BILL NO. 1025

(Legislative Management)
(Advisory Commission on Intergovernmental Relations)

AN ACT to amend and reenact sections 37-17.1-12, 37-17.1-16, 37-17.1-17, and 40-22-01.1 of the North Dakota Century Code, relating to liability and immunity during disaster responses and financing of repairs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-17.1-12 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-12. Compensation - Entitlement - Time - Amount.

1. Persons within this state shall conduct themselves and keep and manage their affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to effectively prevent, mitigate, prepare for, respond to, and recover from a disaster or emergency. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster or emergency. This chapter neither increases nor decreases these obligations but recognizes their existence under the Constitution of North Dakota and statutes of this state and the common law. Compensation for services or for the taking or use of property must be only to the extent that obligations recognized herein are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered that person's services or property without compensation.
2. Personal services may not be compensated by the state or any county or city thereof, except pursuant to statute or local law or ordinance.
3. Compensation for property ~~must~~ may be ~~only paid~~ if the property was commandeered or otherwise used in management of a disaster or emergency declared ~~by the governor and its use or destruction was ordered by the governor~~ under proper authority to the extent not otherwise waived or agreed upon before the use of property.
4. A claim made against a county or city must be made in writing to the appropriate governing body within two years after the use, damage, loss, or destruction of the property under proper authority is discovered or reasonably should have been discovered, may only be for actual damages not recovered from claimants' property or other applicable insurance, and may be paid from any combination of funds provided under section 40-22-01.1, disaster relief funds made available to a county or city for this purpose, or other funds at the discretion of the governing body. A city or county may establish reasonable provisions for the payment of compensation.
5. Any person claiming compensation for the use, damage, loss, or destruction of property by the state under this chapter shall file a written claim therefor

with the office of management and budget in the form and manner required by the office. The claim for compensation must be received by the office of management and budget within ~~one year~~two years after the use, damage, loss, or destruction of the property pursuant to the governor's order under section 37-17.1-05 is discovered or reasonably should have been discovered or compensation under this chapter is waived.

- 5-6. Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the office of management and budget, the amount of compensation must be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

SECTION 2. AMENDMENT. Section 37-17.1-16 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-16. Immunity and exemption.

1. All functions hereunder and all other activities relating to emergency management are hereby declared to be governmental functions. The state, a county or city, any disaster or emergency worker, an employee of a federal agency on loan or leave to the state in support of emergency service response whether the emergency is declared or undeclared, or any other person providing goods or services during an emergency if the person is working in coordination with and under the direction of an appropriate governmental emergency or disaster response entity, complying with or reasonably attempting to comply with this chapter, or any executive order or disaster or emergency operational plan pursuant to this chapter, or pursuant to any ordinance relating to any precautionary measures enacted by any county or city of the state, except in case of willful misconduct, gross negligence, or bad faith, is not liable for the death of or injury to persons, or for damage to property except as compensation may be provided in section 37-17.1-12, as a result of any such activity. This section does not affect the right of any person to receive benefits to which that person would otherwise be entitled under this chapter, or under workforce safety and insurance law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any Act of Congress.
2. Any requirement for a license to practice any professional, mechanical, or other skill does not apply to any authorized disaster or emergency worker who, in the course of performing the worker's duties, practices the professional, mechanical, or other skill during a disaster or emergency.
3. This section does not affect any other provision of law that may provide immunity to a person that is providing volunteer assistance.

SECTION 3. AMENDMENT. Section 37-17.1-17 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-17. No private liability.

Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of emergency management activities during an actual, impending, mock or practice disaster or emergency, is, together with their successors in interest, if any,

not civilly liable, except in the case of gross negligence or willful and malicious failure to guard or warn against a dangerous condition, use, structure, or activity, for negligently causing the death of, or injury to, any person on or about such real estate or premises or for loss of, or damage to, the property of such person.

SECTION 4. AMENDMENT. Section 40-22-01.1 of the North Dakota Century Code is amended and reenacted as follows:

40-22-01.1. Restoration of certain property damaged in flood control or during a declared disaster or emergency - Special assessments for costs.

When any city ~~shall have~~ has constructed any temporary emergency flood control protection devices or works to protect property located within a portion of a city from flood damage or expended funds for the protection of the city from flood or other peril under chapter 37-17.1 or otherwise, the city may ~~cause the removal of~~ maintain and remove material used in the construction of ~~such~~ the temporary emergency flood control protection devices or works and the repair of damages to land, buildings, or personal property caused by the operation of its equipment upon the property while in the process of installing or removing ~~such~~ the temporary emergency flood protection systems. ~~Such~~ The city may create by resolution of its governing board a special assessment district encompassing the protected area. Special assessments against the property within the district ~~shall~~ must be imposed to cover the costs incurred by the city in constructing and maintaining the emergency flood protection devices or works and in removing the material used and in repairing the damages caused by the operation of equipment while installing or removing ~~such~~ the temporary emergency flood protection systems. The amount to be assessed must be established by a resolution adopted by the governing board. Special assessments against any property in the district ~~shall~~ must be determined and made in the same manner as is provided for improvements by special assessments to the extent consistent herewith, and the certification and collection, including lien provisions, applicable to other special assessments ~~shall be~~ are applicable hereto. Provided, however, that the provisions of sections 40-22-15, 40-22-17, and 40-22-18, relating to a resolution of necessity and protests against special assessments, ~~shall~~ sections 40-22-10, 40-22-11, and 40-22-29, relating to engineers' reports, plans, and estimates, and section 40-22-19, relating to contract proposals, do not apply to special assessment districts created pursuant to ~~under~~ this section.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 271

SENATE BILL NO. 2118

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 37-17.1-14.1 and 37-17.1-14.3 of the North Dakota Century Code, relating to authority to join interstate mutual aid agreements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-17.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-14.1. Mutual aid - Cooperation.

1. The division of homeland security shall encourage and assist political subdivisions to enter mutual aid agreements with other public and private agencies within the state for reciprocal aid and assistance in responding to and recovering from actual and potential disasters or emergencies.
2. In reviewing emergency operations plans and programs of political subdivisions, the division of homeland security shall consider whether the plans and programs contain adequate provisions for mutual aid.
3. Local emergency management organizations may assist in negotiation of mutual aid agreements between the governor and an adjoining state or province or a political subdivision of an adjoining state or a province and shall carry out arrangements of any such agreements relating to the local political subdivision.

SECTION 2. AMENDMENT. Section 37-17.1-14.3 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-14.3. Authority to join interstate mutual aid agreements - Interstate compacts.

1. The governor, in the name of the state, may join with other states in the interstate mutual aid agreement or compact.
2. The governor may negotiate and execute such supplemental agreements as may be necessary and proper to fully carry out the terms and provisions of the interstate mutual aid agreement or compact as set forth in section 37-17.1-14.5.
3. Local emergency management organizations may enter interstate mutual aid agreements with nearby political subdivisions or public response entities. Such agreements are valid once filed with the department of emergency services.

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 272

HOUSE BILL NO. 1467

(Representatives Karls, Boehning, Brabandt, Streyle)
(Senators Armstrong, Dever)

AN ACT to create and enact a new section to chapter 37-17.1 of the North Dakota Century Code, relating to emergencies and firearms; and to amend and reenact subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code, relating to the powers of the governor in an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-17.1 of the North Dakota Century Code is created and enacted as follows:

Firearms in emergencies.

1. Notwithstanding any other law, a person acting on behalf or under the authority of the state or a political subdivision may not do any of the following during a declared emergency:
 - a. Prohibit or restrict the otherwise lawful possession, use, carrying, transfer, transportation, storage, or display of a firearm or ammunition;
 - b. Seize or confiscate, or authorize the seizure or confiscation of, any otherwise lawfully possessed firearm or ammunition unless the person acting on behalf of or under the authority of the state or political subdivision is defending that person or another from an assault, arresting an individual in actual possession of a firearm or ammunition for a violation of law, or seizing or confiscating the firearm or ammunition as evidence of a crime; or
 - c. Require registration of any firearm or ammunition for which registration is not otherwise required by law.
2. Subdivision a of subsection 1 as it relates to transfer of a firearm or ammunition does not apply to the commercial sale of firearms or ammunition if an authorized authority has ordered an evacuation or general closure of businesses in the affected area.
3. Any individual aggrieved by a violation of this section may commence a civil action against any person who subjects the individual, or causes the individual to be subjected, to an action prohibited by this section.
4. In addition to any other remedy, an individual aggrieved by the seizure or confiscation of a firearm or ammunition in violation of this section may bring an action for the return of the firearm or ammunition, or the value of the firearm or ammunition, if the firearm or ammunition is no longer available, in the district court of the county in which that individual resides, in which the firearm or ammunition is located, or in which the seizure or confiscation occurred.

5. In any action to enforce this section, the court shall award a prevailing plaintiff costs and reasonable attorney's fees.

SECTION 2. AMENDMENT. Subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

- h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, ~~firearms,~~ explosives, and combustibles, not including ammunition.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 273

SENATE BILL NO. 2353

(Senators Miller, Dotzenrod, Oehlke, Unruh)
(Representative Gruchalla)

AN ACT to create and enact two new sections to chapter 37-17.3 of the North Dakota Century Code, relating to statewide integrated radio communication; to provide for a legislative management study; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-17.3 of the North Dakota Century Code is created and enacted as follows:

Legislative declaration - Statewide integrated radio communication system service.

The legislative assembly finds that effective radio communication is vital to public safety and effective emergency response and law enforcement and declares that a statewide integrated radio communication system will more effectively serve the goals of law enforcement and emergency response personnel and thereby better serve the people of North Dakota. Existing radio systems operated by local jurisdictions serve those jurisdictions adequately, but do not provide the protection and benefits to the citizens of North Dakota that new digital networks being utilized in neighboring states offer.

SECTION 2. A new section to chapter 37-17.3 of the North Dakota Century Code is created and enacted as follows:

North Dakota statewide interoperability executive committee.

1. The statewide interoperability executive committee consists of:
 - a. The director of state radio or a designee;
 - b. The director of the division of homeland security or a designee;
 - c. The superintendent of the highway patrol or a designee;
 - d. The adjutant general or a designee;
 - e. The director of the department of transportation or a designee;
 - f. A representative of the North Dakota sheriff's and deputies association;
 - g. A representative of the North Dakota emergency managers association;
 - h. A representative of the North Dakota fire chiefs association;
 - i. A representative of the North Dakota emergency medical services association;

- j. A representative of the North Dakota police chiefs association;
 - k. A representative of the North Dakota peace officers association;
 - l. A representative of the North Dakota 911 association; and
 - m. The North Dakota chief information officer or a designee.
2. The committee shall elect a chairman and vice chairman for terms of two years upon its initial meeting. The adjutant general shall call and convene the initial meeting.
 3. The committee shall prepare recommendations regarding a statewide integrated radio system with due consideration for all stakeholders reliant upon a radio communication system.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY. During the 2013-14 interim, to assist with the development of a statewide interoperability plan, the legislative management shall consider studying issues relating to the development of the current radio communication plan, its costs and components, and evolving technologies that will better serve the public. The study must include the input of stakeholders statewide, including local city, local county, and state public service and public safety entities, including those members represented on the statewide interoperability executive committee. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$25,000, or so much of the sum as may be necessary, to the department of emergency services for the purpose of paying the costs of the members of the statewide interoperability executive committee expenses, including travel expenses, in providing an inventory of technologies used for radio communications, and with the remainder to the department of homeland security to analyze information, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 274

SENATE BILL NO. 2334

(Senators Berry, Hogue)

AN ACT to create and enact a new section to chapter 37-17.3 of the North Dakota Century Code, relating to fees for the statewide seamless base map; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-17.3 of the North Dakota Century Code is created and enacted as follows:

Statewide seamless base map fees - Continuing appropriation.

The statewide seamless base map is an open record. The data collected by the director which produces the statewide seamless base map is exempt from section 44-04-18 and may be accessed solely through a subscription service established by the director. The director shall establish the appropriate fees for access to the statewide seamless base map subscription service. Changes to fees charged by the division, including schedule of charges, must take effect on July first. The director shall announce any fee increases a minimum of one year before the effective date. All fees collected through the subscription service must be deposited in the statewide seamless base map fund. Any moneys deposited in the statewide seamless base map fund are appropriated on a continuing basis to the division for the purpose of paying maintenance and distribution costs related to the statewide seamless base map.

Approved March 21, 2013

Filed March 21, 2013

CHAPTER 275

SENATE BILL NO. 2127

(Senators Sorvaag, Dever, Flakoll, Marcellais)
(Representatives Boehning, Kasper)

AN ACT to create and enact a new section to chapter 37-19.1 of the North Dakota Century Code, relating to private employers providing a voluntary veterans' preference in employment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-19.1 of the North Dakota Century Code is created and enacted as follows:

Private employment veterans' preference.

A private, nonpublic employer in this state may provide a preference to a veteran for employment. Spouses of honorably discharged veterans who have a service-connected permanent and total disability also may be preferred for employment. This preference is not considered a violation of any state or local equal employment opportunity law.

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 276

SENATE BILL NO. 2062

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact section 37-29-03 of the North Dakota Century Code, relating to job protections of emergency responders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-29-03 of the North Dakota Century Code is amended and reenacted as follows:

37-29-03. Discrimination prohibited in employment practices - Limitations - Verification - Civil actions.

1. An employer may not terminate or demote an employee who is a volunteer emergency responder or in any other manner discriminate against that employee in the terms and conditions of employment based upon the employee being absent or tardy from employment due to serving as a volunteer emergency responder in responding to a disaster or emergency.
2. An employee who is terminated, demoted, or otherwise discriminated against in violation of this section may bring a civil action against the employer that violated this subsection. In the civil action, the employee may seek reinstatement to the employee's former position; payment of back wages; reinstatement of fringe benefits; and if seniority rights are granted, the employee may seek reinstatement of seniority rights. A civil action under this section must be commenced within one year of the date of the violation.
3. ~~Subsection~~Except for an involuntarily activated North Dakota national guard member, subsection 1 does not apply if due to serving as a volunteer emergency responder, the employee is absent or tardy from the employee's place of employment for a period that exceeds twenty regular working days in a calendar year.
4. In order to receive the protections of subsection 1, an employee who will be absent or tardy from the employee's place of employment while serving as a volunteer emergency responder in the case of a disaster or emergency shall make reasonable efforts to notify the employer of that service.
5. An employer may request that an employee provide the employer with written verification of times and dates of instances during which the employee was absent or tardy from employment due to serving as a volunteer emergency responder in the case of a disaster or emergency. Verification under this subsection may include a statement from the department of emergency services, the adjutant general's office, the North Dakota wing of the civil air patrol, or other appropriate entity.

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6. This section does not limit an employer from charging against an employee's regular pay the time the employee is absent or tardy from employment while serving as a volunteer emergency responder to a disaster or emergency.

Approved March 21, 2013

Filed March 21, 2013

MINING AND GAS AND OIL PRODUCTION

CHAPTER 277

HOUSE BILL NO. 1333

(Representatives Schatz, Anderson, Froseth, Hunsakor, Kempenich, Thoreson)
(Senators Armstrong, Burckhard, Hogue, Lyson, O'Connell)

AN ACT to create and enact three new subsections to section 38-08-02, a new section to chapter 38-08, and a new section to chapter 38-11.1 of the North Dakota Century Code, relating to locating, definitions for, and mediation for pipeline facilities; to amend and reenact subsection 2 of section 38-08-04, sections 38-08-04.4 and 38-08-04.5, subsection 6 of section 38-08-15, subsection 1 of section 38-08-16, section 38-08-23, and subsection 1 of section 57-51-15 of the North Dakota Century Code, relating to saltwater disposal wells, the abandoned oil and gas well plugging and site reclamation fund, reclamation of pipelines facilities, and oil and gas gross production tax for reclamation; to provide for application; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Three new subsections to section 38-08-02 of the North Dakota Century Code are created and enacted as follows:

"Abandoned pipeline" means an underground gathering pipeline that is no longer in service, is physically disconnected from in-service facilities, and is not intended to be reactivated for future use.

"Pipeline facility" means a pipeline, pump, compressor, storage, and any other facility, structure, and property incidental and necessary or useful in the interconnection of a pipeline or for the transportation, distribution, and delivery of energy-related commodities to points of sale or consumption or to the point of distribution for consumption located within or outside of this state.

"Underground gathering pipeline" means an underground gas or liquid pipeline that 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.

112 SECTION 2. AMENDMENT. Subsection 2 of section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

¹¹² Section 38-08-04 was also amended by section 2 of House Bill No. 1198, chapter 473.

2. To regulate:
 - a. The drilling, producing, and plugging of wells, the restoration of drilling and production sites, and all other operations for the production of oil or gas.
 - b. The shooting and chemical treatment of wells.
 - c. The spacing of wells.
 - d. Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations.
 - e. Disposal of saltwater and oilfield wastes.
 - (1) The commission shall give all affected counties written notice of hearings in such matters at least fifteen days before the hearing.
 - (2) The commission may consider, in addition to other authority granted under this section, safety of the location and road access to saltwater disposal wells, treating plants, and all associated facilities.
 - f. The underground storage of oil or gas.

SECTION 3. AMENDMENT. Section 38-08-04.4 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04.4. Commission authorized to enter into contracts.

The commission is hereby authorized to ~~may~~ enter into public and private contractual agreements for the plugging or replugging of oil and gas or injection wells, the removal or repair of related equipment, and the reclamation of abandoned oil and gas or injection well sites, and the reclamation of oil and gas-related pipelines and associated facilities, including reclamation as a result of leaks or spills from a pipeline or associated facility, if any of the following apply:

1. The person or company drilling or operating the well or equipment cannot be found, has no assets with which to properly plug or replug the well or reclaim the well site, ~~or~~ cannot be legally required to plug or replug the well or to reclaim the well site, pipeline, or associated pipeline facility, or damage is the result of an illegal dumping incident.
2. There is no bond covering the well to be plugged or the site to be reclaimed or there is a bond but the cost of plugging or replugging the well or reclaiming the site, pipeline, or associated pipeline facility exceeds the amount of the bond ~~or~~ damage is the result of an illegal dumping incident.
3. The well ~~or~~, equipment, pipeline, or associated pipeline facility is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety.

~~Reclamation work must be limited to abandoned drilling and production sites, saltwater disposal pits, drilling fluid pits, and access roads. Sealed bids for any well plugging or reclamation work under this section must be solicited by placing a notice in the official county newspaper of the county in which the work is to be done and in such other newspapers of general circulation in the area as the commission may~~

deem appropriate. Bids must be addressed to the commission and must be opened publicly at the time and place designated in the notice. The contract must be let to the lowest responsible bidder, but the commission may reject any or all bids submitted. If a well or equipment is leaking or likely to leak oil, gas, or saltwater or is likely to cause a serious threat of pollution or injury to the public health or safety, the commission, without notice or the letting of bids, may enter into contracts necessary to mitigate the problem.

The contracts for the plugging or replugging of wells or the reclamation of well sites must be on terms and conditions as prescribed by the commission, but at a minimum the contracts shall require the plugging and reclamation to comply with all statutes and rules governing the plugging of wells and reclamation of well sites.

SECTION 4. 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.
 - 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.
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 5. AMENDMENT. Subsection 6 of section 38-08-15 of the North Dakota Century Code is amended and reenacted as follows:

6. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as above provided, after payment of costs of suit and expenses incident to the sale ~~and all amounts paid as penalties provided for by this chapter~~ must be paid to the state treasurer and credited to the general fund.

SECTION 6. AMENDMENT. Subsection 1 of section 38-08-16 of the North Dakota Century Code is amended and reenacted as follows:

1. Any person who violates any provision of this chapter, or any rule, regulation, or order of the commission is subject to a civil penalty to be imposed by the commission not to exceed twelve thousand five hundred dollars for each offense, and each day's violation is a separate offense, unless the penalty for the violation is otherwise specifically provided for and made exclusive in this chapter. Any such civil penalty may be compromised by the commission. All amounts paid as civil penalties must be deposited in the abandoned oil and gas well plugging and site reclamation fund. The penalties provided in this section, if not paid, are recoverable by suit filed by the attorney general in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there be more than one defendant, or in the district court of any county in which the violation occurred. The payment of the penalty may not operate to legalize any illegal oil, illegal gas, or illegal product involved in the violation for which the penalty is imposed, or to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of the violation.

SECTION 7. AMENDMENT. Section 38-08-23 of the North Dakota Century Code is amended and reenacted as follows:

38-08-23. Plats.

Any person reclaiming a drilling pit or reserve pit after the completion of oil and gas drilling operations shall record an accurate plat certified by a registered surveyor showing the location of the well and notice that an abandoned drilling pit or reserve pit may be on the location within six months of the completion of the reclamation with the recorder of the county in which the drilling pit or reserve pit is located. A plat filed for record in accordance with this section may be recorded without acknowledgment or further proof as required by chapter 47-19 and without the auditor's certificate referred to in section 11-18-02.

SECTION 8. A new section to chapter 38-08 of the North Dakota Century Code is created and enacted as follows:

Submission of geographic information system data on oil and gas underground gathering pipelines required.

1. The commission shall create a geographic information system database for collecting pipeline shape files as submitted by each underground gathering pipeline owner or operator. The shape files and the resulting geographic information system database are exempt from any disclosure to parties outside the commission and are confidential except as provided in this section. The information may be used by the commission in furtherance of the commission's duties.
2. An owner or operator of an underground gathering pipeline shall submit to the commission, in a time period no longer than one hundred eighty days of putting any underground gathering pipeline into service, a shape file showing the centerline of the pipeline. Upon abandonment of any underground gathering pipeline, the owner or operator shall submit, in a time period no longer than one hundred eighty days of abandonment, to the commission an updated shape file reflecting the pipeline or portion of a pipeline that has been abandoned. For an oil and gas underground gathering pipeline that is in service after August 1, 2011, and before the effective date of this section, the owner or operator or most recent owner or operator shall submit, within eighteen months from the effective date for this section, shape files for all existing underground gathering pipelines, including any known abandoned pipeline.
3. Upon a written request by the owner or tenant of the real property regarding underground gathering pipelines located within the bounds of the real property owned or leased by that property owner or tenant, the commission shall provide to the owner or tenant the requested information. The commission may not include information, if available, on any underground gathering pipeline that exists outside the bounds of the real property owned or leased by the requesting party.
4. Upon request by the tax commissioner, the commission may allow access to information contained in the geographic information system database to the tax commissioner to be used for the sole purpose of administering the valuation and assessment of centrally assessed underground gathering pipeline property under chapter 57-06. The information obtained under this subsection is confidential and may be used only for the purposes identified in this subsection.

SECTION 9. A new section to chapter 38-11.1 of the North Dakota Century Code is created and enacted as follows:

Mediation of disputes.

The North Dakota mediation service may mediate disputes related to easements for oil and gas-related pipelines and associated facilities.

¹¹³ **SECTION 10. AMENDMENT.** Subsection 1 of section 57-51-15 of the North Dakota Century Code is amended and reenacted 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; ~~and~~
 - c. 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
 - d. Allocate the remaining revenues under subsection 3.

SECTION 11. APPLICATION. This Act does not apply to the reclamation of an oil or gas-related pipeline or associated facility put into service before August 1, 1983.

Approved April 12, 2013
Filed April 12, 2013

¹¹³ Section 57-51-15 was also amended by section 2 of House Bill No. 1278, chapter 408, and section 2 of House Bill No. 1358, chapter 471.

CHAPTER 278

HOUSE BILL NO. 1348

(Representatives Froseth, Drovdal, Hunskor, Kempenich, Monson)
(Senators Andrist, Laffen)

AN ACT to amend and reenact section 38-08-05 of the North Dakota Century Code, relating to setbacks for oil and gas wells.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-08-05 of the North Dakota Century Code is amended and reenacted as follows:

38-08-05. Drilling permit required.

1. ~~It is unlawful to~~ A person may not commence operations for the drilling of a well for oil or gas without first obtaining a permit from the industrial commission under ~~such~~ rules as may be ~~prescribed~~ adopted by the commission and paying to the commission a fee for each ~~such~~ well in an amount to be ~~prescribed~~ determined by the commission. The applicant shall provide notice to the owner of any permanently occupied dwelling located within ~~one-quarter mile~~ one thousand three hundred twenty feet [402.34 meters] of the proposed oil or gas well.
2. Unless waived by the owner or if the commission determines that the well location is reasonably necessary to prevent waste or to protect correlative rights, the commission may not issue a drilling permit for an oil or gas well that will be located within five hundred feet [152.4 meters] of an occupied dwelling. If the commission issues a drilling permit for a location within ~~five hundred~~ one thousand feet [~~152.4~~ 300.48 meters] of an occupied dwelling, the commission may impose such conditions on the permit as:
 - a. For wells permitted on new pads built after July 31, 2013, the conditions imposed under this subdivision may include, upon request of the owner of the permanently occupied dwelling, requiring that the location of all flares, tanks, and treaters utilized in connection with the permitted well be located at a greater distance from the occupied dwelling than the oil and gas well bore if the location can be accommodated reasonably within the proposed pad location; or
 - b. As the commission determines reasonably necessary to minimize impact to the owner of the occupied dwelling.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 279

HOUSE BILL NO. 1350

(Representatives Rust, Hunskor)
(Senator Andrist)

AN ACT to amend and reenact section 38-11.1-07 of the North Dakota Century Code, relating to statute of limitations for actions for injury due to oil and gas production.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-11.1-07 of the North Dakota Century Code is amended and reenacted as follows:

38-11.1-07. Notification of injury - Statute of limitations.

Any person, to receive compensation, under sections 38-11.1-08 and 38-11.1-09, shall notify the mineral developer of the damages sustained by the person within two years after the injury occurs or would become apparent to a reasonable person. Any claim for relief for compensation brought under this chapter must be commenced within the limitations period provided in section 28-01-16.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 280

HOUSE BILL NO. 1352

(Representatives Hunskor, Drovdal, Monson, Trottier)
(Senators Andrist, Hogue, Laffen, O'Connell)

AN ACT to create and enact a new section to chapter 38-11.1 and a new section to chapter 47-16 of the North Dakota Century Code, relating to mediation of mineral developer and surface owner disputes and resolution of title disputes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 38-11.1 of the North Dakota Century Code is created and enacted as follows:

Mediation of disputes.

Within one year after a compensation offer made under section 38-11.1-08 is rejected, either the mineral developer or surface owner may involve the North Dakota mediation service or other civil mediator. Involvement of a mediator may comply with Rule 8.8 of the North Dakota Rules of Court for purposes of alternative dispute resolution compliance. The cost of the mediator must be mediated between the parties. If the parties are unable to reach an agreement regarding the cost of the mediator through mediation, each party shall pay an equal portion of the mediator's compensation. If the mediation is provided by the North Dakota mediation service, compensation of the mediator must be the actual cost of the mediator to the North Dakota mediation service.

SECTION 2. A new section to chapter 47-16 of the North Dakota Century Code is created and enacted as follows:

Resolution of title disputes.

If the mineral owner and mineral developer disagree over the mineral owner's ownership interest in a spacing unit, the mineral developer shall furnish the mineral owner with a description of the conflict and the proposed resolution or with that portion of the title opinion that concerns the disputed interest.

Approved April 15, 2013

Filed April 16, 2013

MOTOR VEHICLES

CHAPTER 281

HOUSE BILL NO. 1100

(Political Subdivisions Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact subsection 2 of section 39-01-01 and subsection 2 of section 39-10-03 of the North Dakota Century Code, relating to definitions of and lights used by authorized emergency vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁴ **SECTION 1. AMENDMENT.** Subsection 2 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Authorized emergency vehicles":
 - a. "Class A" authorized emergency vehicles means:
 - (1) Vehicles of a governmentally owned fire department.
 - (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.
 - (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.
 - (4) Ambulances.
 - (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.
 - (6) Vehicles owned or leased by the United States and used for law enforcement purposes.
 - (7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.

¹¹⁴ Section 39-01-01 was also amended by section 1 of Senate Bill No. 2039, chapter 291, section 2 of Senate Bill No. 2039, chapter 291, section 1 of Senate Bill No. 2317, chapter 307, and section 2 of Senate Bill No. 2317, chapter 307.

- (8) Vehicles operated by or under the control of the director of the parks and recreation department.
 - (9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.
 - (10) Vehicles operated by or under the control of the state forester.
 - (11) Vehicles operated by or under the control of the bureau of criminal investigation and used for law enforcement purposes.
- b. "Class B" authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.
 - c. "Class C" authorized emergency vehicles means:
 - (1) Vehicles ~~authorized~~used by the state division of homeland security or local division of emergency management organizations.
 - (2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.
 - (3) Vehicles, other than ambulances, used by emergency medical services personnel.

SECTION 2. AMENDMENT. Subsection 2 of section 39-10-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The exceptions herein granted to a class A authorized emergency vehicle apply only:
 - a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions.
 - b. When the class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death, or damage to property, and when giving adequate warning by use of a flashing red or combination red and white lights that are visible under normal atmospheric conditions for at least five hundred feet [152.4 meters] and if appropriate, giving audible signal by siren or airhorn. A firetruck, ambulance, or law enforcement vehicle that is otherwise a class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.
 - c. In any instance when the head of a law enforcement agency deems advisable within the area of that person's jurisdiction for the protection of person and property and when giving audible signal by siren or when giving adequate warning by use of a flashing red or combination red and white lights which are visible under normal atmospheric conditions for at least five hundred feet [152.4 meters]. A firetruck, ambulance, or law enforcement vehicle that is otherwise a class A authorized emergency vehicle may display a flashing blue light in addition to and under the same conditions as the other colors allowed in this subdivision.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 282

SENATE BILL NO. 2117

(Government and Veterans Affairs Committee)
(At the request of the Insurance Commissioner)

AN ACT to amend and reenact section 39-01-02 of the North Dakota Century Code, relating to marking on official state vehicles; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-01-02 of the North Dakota Century Code is amended and reenacted as follows:

39-01-02. Motor vehicles owned or leased by the state to display name on side of vehicles - Exceptions - Penalty.

All motor vehicles owned and operated by the state, except vehicles under the control of the central vehicle management system and the official vehicle for use by the governor, must have displayed on each front door the words NORTH DAKOTA. The words must be in letters four inches [10.16 centimeters] in height. Two and one-half inches [6.35 centimeters] directly below those words there must be printed in letters one and one-half inches [3.81 centimeters] in height the name of the state agency owning or leasing the motor vehicle. The width of the display required by this section must be proportionate to the required height. The color of the lettering must be in clear and sharp contrast to the background. The state auditor shall include in the auditor's report to the governor and the legislative assembly any instance of noncompliance with this section. The above requirements and the requirements for no smoking signs do not apply to vehicles operated by ~~the attorney general's office, the highway patrol, or vehicles used principally in juvenile, parole, and placement services~~ a state entity that engages in investigatory activities. The central vehicle management system vehicles must display a window decal designed by the director. The state highway patrol and all peace officers of this state shall enforce this section.

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

Approved March 21, 2013

Filed March 21, 2013

CHAPTER 283

SENATE BILL NO. 2120

(Senators Larsen, Luick, Hogue)
(Representative Ruby)

AN ACT to amend and reenact section 39-01-15 of the North Dakota Century Code, relating to parking privileges for a disabled veteran.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁵ **SECTION 1. AMENDMENT.** Section 39-01-15 of the North Dakota Century Code is amended and reenacted as follows:

39-01-15. Parking privileges for mobility impaired - Certificate - Revocation - Continuing appropriation - Penalty.

1. Any mobility-impaired ~~person~~individual who displays prominently upon an automobile parked by that ~~person~~individual or under that ~~person's~~individual's direction and for that ~~person's~~individual's use, the distinguishing certificate specified in subsection 4 ~~or~~, license plates issued under section 39-04-10.2, ~~or a disabled veteran plate issued under subdivision j of subsection 2 of section 39-04-18~~ is entitled to courtesy in the parking of the automobile. ~~Provided, however, that~~However, any municipality may prohibit, by ordinance, ~~prohibit~~ parking on any ~~street or~~ highway for the purpose of creating a fire lane; or to provide for the accommodation of heavy traffic during morning and afternoon rush hours; ~~and the~~. The privileges extended to ~~such a~~ mobility-impaired personsindividual do not apply on ~~streets or highways where and during such times as a~~ highway if parking is prohibited.
2. A mobility-impaired ~~person~~individual as used in this section includes ~~any person~~an individual who uses portable oxygen; requires personal assistance or the use of crutches, a wheelchair, or a walker to walk two hundred feet [60.96 meters] without rest; is restricted by cardiac, pulmonary, or vascular disease from walking two hundred feet [60.96 meters] without rest; has a forced expiratory volume of less than one liter for one second or an arterial oxygen tension of less than sixty millimeters of mercury on room air while at rest and is classified III or IV by standards for cardiac disease set by the American heart association; ~~or~~ has an orthopedic, neurologic, or other medical condition that makes it impossible for the person to walk two hundred feet [60.96 meters] without assistance or rest; ~~or is a disabled veteran issued a plate under subdivision j of subsection 2 of section 39-04-18.~~
3. Repealed by S.L. 1989, ch. 319, § 6.
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 statement issued by a qualified physician or an advanced practice registered

¹¹⁵ Section 39-01-15 was also amended by section 1 of Senate Bill No. 2271, chapter 373.

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 statement from a qualified physician or an advanced practice registered nurse if the applicant has previously submitted an application containing a certification from a qualified physician 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 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 or an advanced practice registered nurse who provides a false statement that a personan individual is mobility impaired for the purpose of that personan 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 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 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 licensenumber 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 personan 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 personan individual.

5. Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five dollar fee received for the issuance of an additional certificate under subsection 4, must be deposited in the state treasury and credited to the employment of people with disabilities fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the committee on employment of people with disabilities of the department of human services for development of job opportunities for disabled individuals in this state. If a certificate is lost, mutilated, or destroyed, the personan individual to whom the certificate was issued is entitled to a replacement. The personan individual shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.
6. A certificate issued under this section must be hung from the rearview mirror of the motor vehicle whenever the vehicle is occupying a space reserved for the mobility impaired and is being used by a mobility-impaired personan individual or another personan individual for the purposes of transporting

the mobility-impaired ~~person~~individual. No part of the certificate may be obscured. A fee of five dollars may be imposed for a violation of this subsection.

7. An applicant may appeal a decision denying issuance of the certificate to the director. Written notice of the appeal must be received within ten business days following receipt by the applicant of notice of denial. The applicant has sixty days to provide additional supportive material to the director for purposes of deciding the appeal. The director shall affirm or reverse the decision to deny issuance of the certificate within thirty days after receipt of the supportive material. Written notice of the decision must be given to the applicant.
8. If a law enforcement officer finds that the certificate is being improperly used, the officer may report to the director any such violation and the director may, in the director's discretion, remove the privilege. ~~Any person~~An individual who is not mobility impaired and who exercises the privileges granted a mobility-impaired ~~person~~individual under subsection 1 is guilty of an infraction for which a fine of one hundred dollars must be imposed.
9. ~~Whenever any~~If a public or private entity designates parking spaces for use by a motor vehicles~~vehicle~~ operated by a mobility-impaired ~~persons~~individual, those reserved spaces must comply with the requirements of the Americans with Disabilities Accessibility Guidelines for Buildings and Facilities as contained in the appendix to title 28, Code of Federal Regulations, part 36 [28 CFR 36] and must be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, each reserved space must be indicated by an official sign approved by the director bearing the internationally accepted symbol of access for the mobility impaired. The sign must indicate that unauthorized use of the space is a nonmoving violation for which a fee of one hundred dollars must be imposed. For particular events, a public or a private entity may reserve additional parking spaces for use by motor vehicles operated by a mobility-impaired ~~persons~~individual. In that case, each temporarily reserved space must be indicated by a sign or other suitable means. A sign indicating that a space is reserved for the mobility impaired and blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space, unless the space is a temporary mobility-impaired parking space, is sufficient basis for the enforcement of this section. A law enforcement officer shall enforce this section in any parking lot or parking facility, whether publicly or privately owned.
10. ~~A person~~An individual may not stop, stand, or park any vehicle in any designated parking space that is reserved for the mobility impaired unless the vehicle displays a mobility-impaired identification certificate issued by the director to a mobility-impaired ~~person~~individual. A mobility-impaired ~~person~~individual may not permit the use of a certificate issued under this section by ~~a person~~an individual who is not mobility impaired when that use is not in connection with the transport of the mobility-impaired ~~person~~individual. The registered owner of a vehicle may not allow that vehicle to be used in a manner that violates this subsection. Proof of intent is not required to prove a registered owner's violation of this subsection. The registered owner, however, may be excused from a violation if the owner provides the citing authority with the name and address of the ~~person~~individual operating the vehicle at the time of the violation. A vehicle may temporarily use a space reserved for a mobility-impaired ~~persons~~individual without a mobility-impaired certificate for

the purpose of loading and unloading a mobility-impaired ~~persons~~individual. A violation of this subsection is a nonmoving violation for which a fee of one hundred dollars must be imposed. Notwithstanding section 29-27-02.1, fifty percent of the fee imposed and collected under this subsection is appropriated on a continuing basis to the local committee on persons with disabilities, if one exists in the city in which the violation occurred, for the development of job opportunities for disabled individuals in the community.

11. Any motor vehicle licensed in another state which displays a special authorized vehicle designation issued by the licensing authority of that state for vehicles used in the transportation of a mobility-impaired ~~persons~~individual must be accorded the same privilege provided in this section for similar vehicles licensed in this state if the laws of the other state provide the same privileges to North Dakota motor vehicles displaying the special identifying certificate authorized in this section.
12. An entity that violates the requirements of subsection 9 is guilty of an infraction if the entity does not comply with subsection 9 within sixty days after receiving official notification of the violation.
13. The department shall issue a mobility-impaired parking permit for a vehicle owned and operated by care providers licensed by the state, veterans-related organizations, and other entities that regularly transport mobility-impaired individuals for use by those providers and entities to park in designated parking spaces while transporting mobility-impaired individuals.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 284

HOUSE BILL NO. 1205

(Representatives Paur, Gruchalla, D. Johnson, Meier, Owens)
(Senator Lyson)

AN ACT to amend and reenact sections 39-04-10.3 and 39-04-10.14 and subdivisions j and o of subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to number plates for certain veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-10.3 of the North Dakota Century Code is amended and reenacted as follows:

39-04-10.3. Personalized plates.

~~The~~At the request of a registrant, the department may, ~~in its discretion,~~ provide special license plates marked with not more than seven numerals, letters, or ampersands, or combinations of numerals, letters, and ampersands, ~~at the request of the registrant,~~ upon application therefor for a special license plate and payment of an additional fee of twenty-five dollars per registration period, unless the plate is a gold star license plate or a prisoner of war license plate, then there is no additional charge. The department shall make the special license plates authorized by this section available for motor vehicles registered under section 39-04-10.6, trailers, travel trailers, and motorcycles. The fee for the special license plates issued under this section for vehicles registered under section 39-04-10.6 is a one-time fee of one hundred dollars. The special license plates for motorcycles may contain not more than six numerals, letters, or ampersands, or a combination of not more than six numerals, letters, and ampersands. In the event of sale or transfer of the vehicle, the owner must remove the special license plates in accordance with section 39-04-36. Upon payment of the applicable transfer fee, the special license plates may be transferred to a replacement motor vehicle.

SECTION 2. AMENDMENT. Section 39-04-10.14 of the North Dakota Century Code is amended and reenacted as follows:

39-04-10.14. North Dakota gold star number plates ~~–Definition–Description–Fee.~~

1. The director may issue distinctive number plates to a surviving spouse, parent, including stepmother, stepfather, parent through adoption, and foster parent who stands or stood in loco parentis, grandparents, child, including stepchild and child through adoption, and sibling, including half-brother and half-sister, of a member of the armed forces of the United States who died while serving on active duty during a time of military conflict. The director shall issue a number plate under this section upon receiving:
 - a. Payment 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; and~~
 - ~~c. Verification of subsequent payments of an annual surcharge of ten dollars paid to the adjutant general.~~
- ~~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 for the veterans' cemetery and adjutant general to the adjutant general monthly. Within ten days of receipt of the funds, the adjutant general shall deposit five dollars of each initial fee in the veterans' cemetery maintenance fund and shall apportion the ten dollar surcharge and deposit five dollars in the veterans' cemetery trust fund and five dollars in the veterans' cemetery maintenance fund in the state treasury. The state treasurer may invest the fund 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. Plates issued under this section must bear a gold star emblem logo on the left side of the plate and the letters "GS" before the number. The director shall cooperate with the director of the department of veterans' affairs to design the gold star emblem logo. The director may issue one set of plates per eligible owner of a passenger motor vehicle or a truck the registered gross weight of which does not exceed twenty thousand pounds [9071.85 kilograms].~~
- ~~4-3. On request of the director, the department of veterans' affairs shall certify those surviving family members of deceased members of the United States armed forces listed above as eligible to receive the plates.~~
- ~~5-4. Once declared eligible for a gold star plate, the department may not remove the eligibility of a surviving family member.~~
- ~~6-5. Once a plate number is issued to an eligible family member, the department may not assign the plate to another eligible person.~~

SECTION 3. AMENDMENT. Subdivisions j and o of subsection 2 of section 39-04-18 of the North Dakota Century Code are 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 disability as determined by the department of veterans' affairs, or a disabled veteran who has an extra-schedular rating to include individual unemployment that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs is entitled to display a distinctive license plate issued by the department upon the payment of a fee of five dollars. This exemption applies to no more than two such motor vehicles owned by a disabled veteran at any one time.~~

- o. Passenger motor vehicles, house cars, or pickup trucks not exceeding twenty thousand pounds [9071.84 kilograms] registered gross weight owned and operated by a resident who, while serving in the United States armed forces, was a prisoner of war and has received an honorable discharge from the United States armed forces; ~~provided, however, that the vehicle is entitled to display a distinctive license plate issued by the department upon the payment of five dollars.~~ This exemption also applies to any passenger motor vehicle, house car, or pickup truck not exceeding twenty thousand pounds [9071.84 kilograms] registered gross weight subsequently purchased or acquired by such a former prisoner of war; ~~provided, that the.~~ This exemption provided by this subdivision is allowed only with respect applies to one no more than two motor vehicle vehicles owned by such a former prisoner of war at any one time. A surviving spouse of a former prisoner of war who has not remarried retains the exemption of the deceased veteran who qualified under this subdivision for one vehicle.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 285

HOUSE BILL NO. 1125

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact section 39-04-17 of the North Dakota Century Code, relating to notarized certificates for vehicle registration; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-04-17 of the North Dakota Century Code is amended and reenacted as follows:

39-04-17. Certificate of notary showing compliance with registration is prima facie evidence - Penalty.

The possession of a certificate made out by a notary public or an authorized agent of a licensed vehicle dealer who took the acknowledgment of the application when the vehicle was first registered or required to be registered under the laws of this state, if such certificate shows the date of application, the make, registered weight, and year model of the motor vehicle, the manufacturer's number of the motor vehicle which such application describes, and further shows that such notary public, or authorized agent of a vehicle dealer, personally mailed the application with the remittance fee, is prima facie evidence of compliance with motor vehicle law with reference to the vehicle therein described, for a period of ~~forty-five~~seventy-five days from the date of such application. Any violation of this section is an infraction punishable by a fine of not less than fifty dollars.

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

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 286

HOUSE BILL NO. 1122

(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact section 39-04.2-04 of the North Dakota Century Code, relating to public transportation funding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁶ **SECTION 1. AMENDMENT.** Section 39-04.2-04 of the North Dakota Century Code is amended and reenacted as follows:

39-04.2-04. Distribution of funds.

1. Moneys appropriated by the legislative assembly to the public transportation fund must be disbursed under guidelines issued by the director. The funds must be used by transportation providers to establish and maintain public transportation, especially for the elderly and handicapped, and may be used to contract to provide public transportation, as matching funds to procure money from other sources for public transportation and for other expenditures authorized by the director.
2. Each county shall receive a base amount of four-tenths of one percent of the appropriation for the program plus one dollar and fifty cents per capita of population in the county, based upon the latest regular or special official federal census. Each year the director shall increase or decrease the one dollar and fifty cents per capita amount in order to distribute all funds appropriated for the biennium. If there are multiple transportation providers in one county, then the base amount must be divided equally among the providers and the additional per capita amount must be based upon the percentage of elderly and handicapped ridership provided by each transportation provider within the county. Funds not expended by a county during a contract period, or previous contract periods, may be redistributed under guidelines established by the director. In addition, unexpended funds may also be used by the director for transit coordination purposes.

Approved March 26, 2013
Filed March 27, 2013

¹¹⁶ Section 39-04.2-04 was also amended by section 1 of House Bill No. 1142, chapter 287.

CHAPTER 287

HOUSE BILL NO. 1142

(Representatives Delzer, Laning, Vigesaa, Weisz)
(Senator Oehlke)

AN ACT to amend and reenact section 39-04.2-04 of the North Dakota Century Code, relating to distributions from the public transportation fund; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁷ **SECTION 1. AMENDMENT.** Section 39-04.2-04 of the North Dakota Century Code is amended and reenacted as follows:

39-04.2-04. Distribution of funds - Continuing appropriation.

1. Moneys ~~appropriated by the legislative assembly to~~in the public transportation fund must be disbursed under guidelines issued by the director. The funds must be used by transportation providers to establish and maintain public transportation, especially for the elderly and handicapped, and may be used to contract to provide public transportation, as matching funds to procure money from other sources for public transportation and for other expenditures authorized by the director. Moneys in the public transportation fund are appropriated to the department of transportation on a continuing basis for distributions authorized under this section.
2. Each county shall receive a base amount of four-tenths of one percent of the appropriation for the program plus one dollar and fifty cents per capita of population in the county, based upon the latest regular or special official federal census. Each year the director shall increase or decrease the one dollar and fifty cents per capita amount in order to distribute all funds appropriated for the biennium. If there are multiple transportation providers in one county, then the base amount must be divided equally among the providers and the additional per capita amount must be based upon the percentage of elderly and handicapped ridership provided by each transportation provider within the county.

Approved April 2, 2013
Filed April 2, 2013

¹¹⁷ Section 39-04.2-04 was also amended by section 1 of House Bill No. 1122, chapter 286.

CHAPTER 288

HOUSE BILL NO. 1047

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact sections 39-05-02.2, 39-05-03, and 39-19-06 of the North Dakota Century Code, relating to the international registration plan and the unified carrier registration system; and to repeal section 39-19-06.1 of the North Dakota Century Code, relating to the single state insurance registration system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-05-02.2 of the North Dakota Century Code is amended and reenacted as follows:

39-05-02.2. Exclusions from the certificate of title requirement.

~~No~~A certificate of title need not be obtained for:

1. A vehicle owned by the United States unless it is registered in this state.
2. A vehicle owned by a manufacturer or dealer and held for sale, even ~~though~~if incidentally moved on the highway or used for purposes of testing or demonstration, or a vehicle used by a manufacturer solely for testing.
3. A vehicle owned by a nonresident of this state and not required by law to be registered in this state.
4. A vehicle regularly engaged in interstate transportation of persons or property ~~that~~which is registered in accordance with the international registration plan and for which a currently effective certificate of title has been issued in another state that has a reciprocal excise tax agreement with this state.
5. A vehicle moved solely by human or animal power.
6. Implements of husbandry.
7. Special mobile equipment.
8. A self-propelled ~~invalid~~ wheelchair or ~~invalid~~ tricycle for a mobility-impaired individual.
9. Any vehicle which is driven or moved upon a highway only for the purpose of crossing the highway from one property to another. The vehicle shall cross the highway at an angle of approximately ninety degrees to the direction of the highway.
10. Other vehicles not required to be registered in this state or not required to display distinctive plates.

11. A manufactured home with respect to which the requirements of subsections 1 through 3 of section 39-05-35, as applicable, have been satisfied.

SECTION 2. AMENDMENT. Section 39-05-03 of the North Dakota Century Code is amended and reenacted as follows:

39-05-03. Department not to license vehicle until application is made for a certificate of title.

The department may not register or renew the registration for license of any vehicle unless ~~and until~~ an application is made for an official certificate of title for the vehicle, ~~or unless~~ satisfactory evidence is presented that a certificate of title for the vehicle has been issued previously to the lienholder or owner by the department, ~~or when the vehicle is regularly engaged in interstate commerce and of persons or property, is registered in accordance with the international registration plan the vehicle is titled, and has a currently effective certificate of title that has been issued in another state that has a reciprocal excise tax agreement with this state.~~

SECTION 3. AMENDMENT. Section 39-19-06 of the North Dakota Century Code is amended and reenacted as follows:

39-19-06. Unified carrier registration system.

The director may adopt all rules necessary to enable this state to participate in the unified carrier registration system ~~for motor carriers authorized by subtitle C of the Safe, Accountable, Flexible, Efficient Transportation Act of 2005 [Pub. L. 109-59; 119 Stat. 1761; 49 U.S.C. 14504a] and by applicable rules and regulations. In determining whether to adopt rules as permitted by this section, the director shall consider the costs and benefits to the state of participating in the unified carrier registration program. Any moneys derived from participation in the unified carrier registration program must be deposited in the highway fund.~~

SECTION 4. REPEAL. Section 39-19-06.1 of the North Dakota Century Code is repealed.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 289

HOUSE BILL NO. 1126

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact section 39-05-20.2 of the North Dakota Century Code, relating to salvage certificates of title.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-05-20.2 of the North Dakota Century Code is amended and reenacted as follows:

39-05-20.2. Issuance of salvage certificate of title.

1. The owner of a vehicle that is damaged in excess of seventy-five percent of the vehicle's retail value as determined by the national automobile dealers association official used car guide shall forward the title for that vehicle to the department within ten days and the department shall issue a salvage certificate of title. Glass damage and hail damage must be excluded in the determination of whether a vehicle has been damaged in excess of seventy-five percent of the vehicle's retail value.
2. If a vehicle for which a salvage certificate of title has been issued is reconstructed, a regular certificate of title may be obtained by completing an application for the certificate. The applicant shall include with the application a certificate of inspection in the form required by the department, the salvage certificate of title, and a five dollar fee. The department shall place on the regular certificate of title and on all subsequent certificates of title issued for the vehicle the words "previously salvaged" and a notation that damage disclosure information is available from the department. The department may not issue a new certificate unless the vehicle identification number of the vehicle has been inspected and found to conform to the description given in the application or unless other proof of the identity of the vehicle has been provided to the satisfaction of the department.
3. The certificate of inspection required under this section must be completed by a business that is registered with the secretary of state, is in good standing, and offers motor vehicle repair to the public. The business completing the certificate of inspection may not be the business that reconstructed the vehicle and must state the vehicle is in compliance with the requirements of chapter 39-21.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 290

SENATE BILL NO. 2042

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact section 39-05-20.3 of the North Dakota Century Code, relating to the refusal to issue a certificate of title for unsafe and unfit vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-05-20.3 of the North Dakota Century Code is amended and reenacted as follows:

39-05-20.3. Grounds for refusing certificate of title.

The department ~~shall~~may not issue a certificate of title or transfer a certificate of title ~~upon any of the following grounds~~if:

1. ~~When the~~The application contains any false or fraudulent statements ~~or when~~, the applicant has failed to furnish required information or reasonable additional information requested by the department, ~~or when~~ the applicant is not entitled to the issuance of a certificate of title under this chapter.
2. ~~When the~~The vehicle is mechanically unfit or unsafe to be operated or moved upon the highways. A vehicle is unfit and unsafe if the vehicle has an out-of-state marked title that includes a certificate for destruction or a notation on the title that the vehicle is scrap, parts-only, junk, unrepairable, nonrebuildable, a dismantler, or any other similar notation.
3. ~~When the~~The department has reason to believe the vehicle is a stolen or embezzled vehicle or the granting of title would constitute a fraud against the rightful owner or other person having valid lien upon the vehicle.
4. ~~When the~~The certificate of title is suspended or revoked for any reason ~~as provided in the motor vehicle laws of this state.~~
5. ~~When the~~The required fee has not been paid.
6. ~~When any~~Any sales tax or motor vehicle excise tax, properly due, has not been paid.
7. ~~For~~There is failure to provide security for payment of basic no-fault benefits and the liabilities covered under motor vehicle liability insurance on a motor vehicle as required by chapter 26.1-41.

Approved March 18, 2013
Filed March 18, 2013

CHAPTER 291

SENATE BILL NO. 2039

(Legislative Management)
(Transportation Committee)

AN ACT to create and enact four new subsections to section 39-01-01, section 39-06-14.1, and a new subsection to section 39-06.2-09 of the North Dakota Century Code, relating to definitions and motorcycle and commercial licenses; to amend and reenact subsection 60 of section 39-01-01, sections 39-06-01, 39-06-01.1, 39-06-01.2, 39-06-02, 39-06-03, 39-06-03.1, 39-06-04, 39-06-05, 39-06-06, 39-06-07, 39-06-07.1, 39-06-07.2, 39-06-08, 39-06-09, 39-06-10, 39-06-11, 39-06-12, 39-06-13, 39-06-13.1, 39-06-14, 39-06-16, 39-06-17, 39-06-18, 39-06-19, 39-06-19.1, 39-06-20, 39-06-21, 39-06-22, 39-06-24, 39-06-25, 39-06-26, 39-06-27, 39-06-28, 39-06-31, 39-06-32, 39-06-32.1, 39-06-33, 39-06-34, 39-06-34.1, 39-06-35, 39-06-36, 39-06-37, 39-06-38, 39-06-40, 39-06-40.1, 39-06-42, 39-06-43, 39-06-44, 39-06-45, 39-06-46, 39-06-47, 39-06-48, 39-06-49, 39-06.1-08, and 39-06.1-09, subsection 3 of section 39-06.1-11, and section 39-16-03 of the North Dakota Century Code, relating to the privilege to operate a motor vehicle in this state; and to repeal sections 39-06-23, 39-06-30, 39-06-50, 39-06-52, and 39-16.1-02 of the North Dakota Century Code, relating to the privilege to operate a motor vehicle in this state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹⁸ **SECTION 1.** Four new subsections to section 39-01-01 of the North Dakota Century Code are created and enacted as follows:

"Cancellation" means a license is annulled and terminated because of an error or defect or because the licensee is no longer entitled to the operator's license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after the cancellation.

"Conviction" means a final order or judgment or conviction by the North Dakota supreme court, any lower court having jurisdiction, a tribal court, or a court in another state if an appeal is not pending and the time for filing a notice of appeal has elapsed. Subject to the filing of an appeal, the term includes:

- a. An imposed and suspended sentence;
- b. A deferred imposition of sentence under subsection 4 of section 12.1-32-02; or
- c. A forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.

¹¹⁸ Section 39-01-01 was also amended by section 1 of House Bill No. 1100, chapter 281, section 2 of Senate Bill No. 2039, chapter 291, section 1 of Senate Bill No. 2317, chapter 307, and section 2 of Senate Bill No. 2317, chapter 307.

"Revocation" means that the operator's license is terminated and may not be renewed or restored, except on application for a new license presented to and acted upon by the director after the expiration of the period of revocation.

"Suspension" means that the operator's license is temporarily withdrawn but only during the period of the suspension.

119 SECTION 2. AMENDMENT. Subsection 60 of section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

60. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to after the effective date of said the proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of ~~ten~~twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

SECTION 3. AMENDMENT. Section 39-06-01 of the North Dakota Century Code is amended and reenacted as follows:

39-06-01. Operators must be licensed - Additional licensing - Penalty.

1. ~~A person~~An individual, unless expressly exempted in this section, may not drive any 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 unless the ~~person~~individual has a valid license as an operator under the provisions of this chapter or a temporary operator's permit issued under chapter 39-20. A ~~person~~An individual may not receive an operator's license unless and until that ~~person~~individual surrenders to the director all operator's licenses and permits issued to the ~~person~~that individual by any jurisdiction. ~~When~~If a license issued by another jurisdiction is surrendered, the director shall notify the issuing jurisdiction of ~~its~~the surrender. A ~~person~~An individual may not have more than one valid operator's license at any one time.
2. ~~Any person~~An individual licensed as an operator hereunder may exercise the privilege ~~thereby granted upon all streets and highways by the license on any highway~~ in this state and may not be required to obtain any other license to exercise ~~such~~the privilege by any county, municipal, or local board, or ~~body~~political subdivision having authority to adopt local police regulations, except that municipalities may license ~~draymen, parcel deliverymen, busdrivers, taxi drivers, porters, expressmen, watermen, and others pursuing~~ like occupations; and ~~may regulate~~ the operation of taxicabs; ~~as provided by under~~ subsection 27 of section 40-05-01.

SECTION 4. AMENDMENT. Section 39-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

¹¹⁹ Section 39-01-01 was also amended by section 1 of House Bill No. 1100, chapter 281, section 1 of Senate Bill No. 2039, chapter 291, section 1 of Senate Bill No. 2317, chapter 307, and section 2 of Senate Bill No. 2317, chapter 307.

39-06-01.1. Special provisions for minor operators.

1. The director shall cancel the ~~permit or operator's license to operate a motor vehicle~~ of an individual who has committed acts resulting in an accumulated point total in excess of five points as provided for a violation under section 39-06.1-10 or has committed an alcohol-related offense or a drug-related offense while operating a motor vehicle, if:
 - a. The acts or offenses were committed while the individual was a minor; and
 - b. The individual admitted the violation, was found to have committed the violation by the official having jurisdiction, or pled guilty to, was found guilty of, or adjudicated to have committed the offense.
2. If an individual has had that individual's license ~~or permit to operate a motor vehicle~~ canceled under subsection 1, the director shall deem that individual to have never have had any license ~~or permit to operate a motor vehicle~~ and may not issue any license ~~or permit to drive/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 or permit to that individual until, while using the permit issued under this section,~~ that individual:
 - a. (1) Completes a course of classroom instruction and a course of behind-the-wheel instruction acceptable to the director;
 - (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 a course at an approved commercial driver training school; and
 - b. Satisfies all other requirements that apply to that individual for that ~~operator's license or permit~~.

SECTION 5. AMENDMENT. Section 39-06-01.2 of the North Dakota Century Code is amended and reenacted as follows:

39-06-01.2. Anatomical gifting.

The application for nondriver photo identification cards and ~~driver's/operator's~~ licenses ~~issued to operators~~ must include a statement making an anatomical gift and provide for the voluntary identification of the applicant as a donor under chapter 23-06.6. ~~Voluntary~~ In addition, identification of the applicant as a donor under chapter 23-06.6 ~~also~~ may be completed by an online registry approved by the director. If the applicant's donor intention is made by the online registry, the intention must be recorded on the applicant's record. The intention is not required on the identification card or license unless a duplicate card is obtained or at the time of renewal. The department may not be held civilly or criminally liable for any act or omission in implementing and maintaining the online registration of donors.

SECTION 6. AMENDMENT. Section 39-06-02 of the North Dakota Century Code is amended and reenacted as follows:

39-06-02. ~~What persons~~Individuals who are exempt from having an operator's license - Resident defined.

1. The following persons are exempt from having an operator's license hereunder:
 1. a. ~~Any~~An employee of the United States government while operating a motor vehicle owned by or leased to that government and being operated on official business.
 2. b. A nonresident who is at least sixteen years of age, who has in that ~~person's~~individual's immediate possession a valid operator's license issued to that ~~person~~individual in that ~~person's~~individual's home state or country, ~~may operate a motor vehicle in this state.~~
 3. c. A nonresident who is at least sixteen years of age, whose home state or country does not require the licensing of operators, ~~may operate a motor vehicle within this state~~ for a period of not more than thirty days in any calendar year without making an application for or obtaining an operator's license of this state; ~~provided, however, if that the person shall have~~individual has in that ~~person's~~individual's possession while driving in this state an official certificate showing the lawful registry of the motor vehicle and be able to prove that ~~person's~~individual's lawful possession or the right to operate ~~such~~the vehicle and to establish that ~~person's~~individual's identity.
 4. d. A member of the armed forces of the United States ~~may operate a motor vehicle in this state~~ while that ~~person~~individual is stationed in North Dakota, ~~provided~~if that ~~person~~individual has a valid current operator's license from another state.
 5. e. ~~A person~~An individual over sixteen years of age who becomes a resident of this state and who has in that ~~person's~~ possession a valid operator's license issued to that ~~person~~ individual ~~pursuant to~~ under the laws of some other state or country or by military authorities of the United States ~~may operate a motor vehicle~~ for a period of not more than sixty days after becoming a resident of this state, ~~without being required to have a North Dakota operator's license.~~
 6. f. A member of the North Dakota national guard ~~may operate~~operating any military vehicles as authorized by a national guard operator's license while on duty.
2. For purposes of this chapter, ~~a person must be an individual is~~ deemed a resident of this state when the ~~person~~individual has lived in the state for ninety consecutive days, unless ~~such person~~the individual is a nonresident student, a tourist, or a member of the armed forces.

SECTION 7. AMENDMENT. Section 39-06-03 of the North Dakota Century Code is amended and reenacted as follows:

39-06-03. ~~What persons may not be licensed~~No operator's license to certain individuals.

The director may not issue any an operator's license hereunder:

1. To ~~any person~~ 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 or license under sections 39-06-05 and, or a license under section 39-06-17 to any person who is less than sixteen years of age.
2. To ~~any person~~ an individual whose license has been suspended or revoked in this state or in any other state during ~~such~~ the suspension, except ~~as provided in~~ under section 39-06.1-03 or 39-06.1-11, ~~nor~~ to any person whose license has been revoked, except ~~as provided in~~ under sections 39-06-35, 39-06-36, and 39-06.1-11.
3. To ~~any~~ an individual who is a habitual drunkard, or 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 ~~driving~~ 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 ~~any person~~ 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. To ~~any person~~ an individual who is required by this chapter to take an examination, unless ~~such person~~ the individual has successfully passed such examination.
6. To ~~any person~~ 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 ~~such~~ the security or filed ~~such~~ the proof.
7. To ~~any person~~ when an individual if the director has good cause to believe that ~~such person~~ the individual by reason of physical or mental disability would not be able to operate a motor vehicle with safety ~~upon the~~ highways.
8. To ~~any person~~ an individual when the director has good cause to believe that the operation of a motor vehicle on the highways by ~~such person~~ that individual would be inimical to public safety or welfare.
9. Repealed by S.L. 1977, ch. 348, § 2.

¹²⁰ **SECTION 8. AMENDMENT.** Section 39-06-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-03.1. Nondriver photo identification card issued by director - Release of information - Penalty - Public awareness.

1. The director shall issue a nondriver color photo identification card to any North Dakota resident of this state who fulfills the requirements of this section. An

¹²⁰ Section 39-06-03.1 was also amended by section 7 of House Bill No. 1332, chapter 167.

application for an identification card must be made on a form furnished by the director. Within thirty days from receipt of a complete application that includes the applicant's social security number, unless the applicant is a nonimmigrant who is not eligible for a social security number, the director shall determine whether to issue and, if appropriate, issue a nondriver photo identification card to an applicant. The director may not withhold the issuance of a nondriver color photo identification card without reasonable cause. If the ~~person~~applicant is under the age of eighteen or at least the age of eighteen and under the age of twenty-one, the photo must be against the same color background required on a motor vehicle operator's license for an operator of that age. Subject to ~~subsection 1 of~~ section 39-06-19, identification cards expire eight years from the date of issue and may be renewed. The application must contain such other information as the director may require to improve identity security. ~~The director may require an applicant for an identification card to provide a social security card and proof of residence address.~~

2. To confirm the identity, date of birth, and legal presence of the applicant, the director or examining officer shall require satisfactory evidence be provided by the applicant. Satisfactory evidence includes a certified copy of the applicant's birth certificate or other evidence reasonably calculated to permit the determination of the date of birth, identification, and legal presence of the applicant by the director or examining officer. The director may require an applicant for an identification card to provide a social security card and proof of residence address.
3. ~~The application fee is eight dollars listed in section 39-06-49. Fees collected pursuant to this section must be paid monthly into the highway fund in the state treasury.~~
4. Any information obtained by the director from an applicant for the issuance, renewal, or replacement of an identification card ~~issuable pursuant to this chapter may only~~not be released in accordance with the provisions of ~~unless~~ allowed under section 39-16-03.
5. ~~It is a class B misdemeanor for any person, except the director or the director's authorized agent, to print or otherwise produce or reproduce cards or their components, which may be utilized as identification cards issued pursuant to this section.~~
6. The director may advertise the availability and the use of the card.
- 7-6. Identification cards issued pursuant to under this section are sufficient identification for all identification purposes.
8. ~~The director shall cancel any card upon determining that the holder is not entitled to the issuance of the card under the laws of this state, or the holder has failed to give the required or correct information to the director, or has committed fraud in making the application, or the fee was in the form of an insufficient or no account check. Upon cancellation, the holder shall surrender the card to the director. When a cancellation is in effect, any law enforcement officer may take custody of the card.~~
9. ~~A duplicate card may be obtained by making an application and paying an eight dollar fee. For a cardholder who has reached the age of eighteen or~~

~~twenty-one, a replacement card may be obtained by making an application and paying an eight dollar fee.~~

- ~~10. The director may not withhold the issuance of a nondriver color photo-identification card without reasonable cause.~~

¹²¹ **SECTION 9. AMENDMENT.** Section 39-06-04 of the North Dakota Century Code is amended and reenacted as follows:

39-06-04. ~~Instruction~~Class D instruction permit.

1. Any resident of this state who is at least fourteen years of age may apply to the director for a class D instruction permit.
2. The director may issue a class D instruction permit that entitles the applicant while having the permit in the permittee's immediate possession to drive a motor vehicle upon the public highways, if the individual:
 - a. Has successfully passed a standard written rules of the road knowledge test prescribed by the director;
 - b. Has successfully passed a vision examination; and
 - c. Has the written approval of the individual's parent or legal guardian.
3. ~~The permittee must be accompanied by a licensed operator who holds a an individual with a class A, B, C, or D license corresponding to their a vehicle the permittee operates allowed to be operated with a class D license, who is at least eighteen years of age, who has had at least three years of driving experience, and who is occupying a seat beside the driver. An individual other than the supervising driver and the permitholder may not be in the front seat unless the vehicle has only a front seat, in which case, the supervising driver must be seated next to the permitholder.~~
4. An individual who is not yet eighteen years of age is not eligible for a class D license until that individual has had an instruction permit issued for at least six months or at least twelve months if under the age of sixteen. The director may recognize an instruction permit issued by another jurisdiction in computing the six-month or twelve-month instructional period.
5. The permittee may not operate an electronic communication device to talk, compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.
6. ~~A resident of this state who is at least fourteen years of age may apply to the director for a class M learner's permit under section 39-06-14. An individual holding a class M learner's permit for the operation of a motorcycle may not operate the motorcycle during the hours when the use of headlights are required under section 39-21-01 or carry or transport any passenger. Any learner's permit may be renewed or a new permit issued for an additional period.~~

¹²¹ Section 39-06-04 was also amended by section 1 of Senate Bill No. 2046, chapter 298.

7. ~~The director may issue a commercial driver's instruction permit under section 39-06.2-07.~~

SECTION 10. AMENDMENT. Section 39-06-05 of the North Dakota Century Code is amended and reenacted as follows:

39-06-05. Restricted instruction permit - When instruction permit not required.

1. The director upon receiving proper application may issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is at least fourteen years of age and enrolled in a commercial driver training course ~~which that~~ includes practice driving and which is approved by the superintendent of the highway patrol pursuant ~~to under~~ chapter 39-25. ~~Such~~ The restricted instruction permit entitles the permittee when the permittee has ~~such a~~ the permit in the permittee's immediate possession to operate a motor vehicle ~~only with an approved instructor occupying a seat beside the permittee and~~ on a designated highway or within a designated area ~~but only when an approved instructor is occupying a seat beside the permittee.~~
2. Any student who is at least fourteen years of age and enrolled in behind-the-wheel driver's training through a high school program approved by the superintendent of public instruction may operate a motor vehicle, under the supervision of a driver training instructor certified by the superintendent of public instruction, without a permit or license to operate a motor vehicle; ~~provided, that if~~ the school district sponsoring the driver's training program has an insurance policy covering any damage ~~which that~~ may be done by ~~any such a~~ student while operating the vehicle; and ~~provided further that~~ proof of coverage is filed with the superintendent of public instruction by the school district's insurance carrier. The insurance coverage must be in the amount required under section 39-16.1-02.

SECTION 11. AMENDMENT. Section 39-06-06 of the North Dakota Century Code is amended and reenacted as follows:

39-06-06. Temporary operator's permit.

The director may issue a temporary operator's permit for the operation of a motor vehicle to an applicant for an operator's license pending an investigation and determination of facts relative to the applicant's right to receive an operator's license. The permit must be in the applicant's immediate possession while operating a motor vehicle and is invalid ~~when if~~ the applicant's license has been issued or denied.

SECTION 12. AMENDMENT. Section 39-06-07 of the North Dakota Century Code is amended and reenacted as follows:

39-06-07. Application for operator's license or instruction permit.

1. ~~Every application~~ An applicant for an ~~instruction permit or for an operator's license~~ must be made upon a form furnished by the director.
2. ~~Every application~~ An applicant must state on the application the full name, date of birth, sex, social security number, unless the applicant is a nonimmigrant who is not eligible for a social security number, residence and mailing address, and ~~briefly describe~~ provide a brief description of the applicant. ~~It~~ By

signing the application the applicant is deemed to have certified that all information contained on the application is true and correct. The application must be accompanied by the proper fee listed in section 39-06-49. The application must contain ~~such~~any other information as the director may require to improve identity security. The director may require an applicant for a license or instruction permit to provide a social security card and proof of residence address.

3. ~~Whenever~~If an application is received from a ~~person~~an individual previously licensed in another jurisdiction, the director may request a copy of the driver's record from ~~such~~the other jurisdiction. ~~When received, the~~A copy of another jurisdiction's driving record becomes a part of the driving record in this state with the same force and effect as though entered on the driving record in this state in the original instance.
4. ~~Whenever the director receives a request for a driving record from another licensing jurisdiction, the record must be forwarded without charge.~~

SECTION 13. AMENDMENT. Section 39-06-07.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-07.1. Proof of name, date of birth, and legal presence for operator's license application.

~~The~~An applicant must verify the applicant's name, date of birth, and legal presence on all applications must be verified any application by a certified birth certificate or ~~other satisfactory evidence~~. Applicants must produce documents which will be acceptable as listed below:

1. Certified birth certificate; or
2. Any other documentary evidence ~~which~~that confirms to the satisfaction of the director the true identity, date of birth, and legal presence of the applicant.

SECTION 14. AMENDMENT. Section 39-06-07.2 of the North Dakota Century Code is amended and reenacted as follows:

39-06-07.2. Medical advice - Use by director - Definition Driver's duty to report certain injuries.

1. The director is authorized to seek professional medical advice from a licensed medical care provider and to use that advice in decisions made by the director in regard to the issuance, renewal, suspension, revocation, or cancellation of ~~driver's licenses~~an operator's license under this chapter. ~~The director may receive~~ advice may be received in any manner deemed ~~advisable by the director or the director's authorized agent~~.
2. In addition to advice sought and received under subsection 1, the director may consider information and advice received from an ~~individual~~ applicant's or ~~driver's~~motor vehicle operator's licensed ~~medical~~health care provider. Any examination and report requested by the applicant ~~or driver, motor vehicle operator, or required to be taken and provided by the director~~ under this chapter ~~must be~~is at the expense of the applicant or ~~driver~~motor vehicle operator.

3. Any licensed ~~medical~~health care provider providing advice to the director or director's authorized agent under subsection 4 does not incur any liability for any opinion, recommendation, or advice provided to the director under subsection 1.
4. Advice and information received by the director or director's authorized agent under subsection 1 which relates to an individual applicant or driver~~motor vehicle operator~~ is for the confidential use of the director or director's authorized agent in making decisions on the individual's qualifications as a driver, and the information may not be divulged to any person or used in evidence in any trial or proceeding except in matters concerning the individual's qualifications to receive or retain a driver's~~an operator's~~ license.
5. ~~General~~In addition to other sources of information, general advice and information received by the director or director's authorized agent under this section, ~~in addition to other sources of information,~~ may be used by the director in the adoption of administrative rules concerning medical criteria for driver licensing.
6. ~~As used in this section, "licensed medical care provider" means doctor of medicine, doctor of osteopathy, doctor of chiropractic, optometrist, psychologist, advanced practice registered nurse, or physician assistant, who is licensed, certified, or registered in accordance with laws and regulations in this or another state. Before operating any motor vehicle the holder of an operator's license issued under this chapter who has suffered permanent loss of use of a hand, arm, foot, leg, or eye shall report the loss of use to the director who shall take reasonable action as may be proper under this chapter as to reexamination of the licensee to determine if the licensee is capable of operating vehicles for which the licensee is licensed.~~

SECTION 15. AMENDMENT. Section 39-06-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06-08. Application of minors.

The application of any minor for an ~~initial instruction permit or operator's license~~ must be signed and verified before a ~~person~~individual authorized to administer oaths or the director's agent~~director~~, by the father, mother, or legal guardian, or, ~~in the event if there is not a parent or legal guardian, then by another responsible adult who is willing to assume the obligation imposed under this chapter upon a person~~an individual signing the application of a minor.

SECTION 16. AMENDMENT. Section 39-06-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06-09. Liability for negligence of minor - General.

Any negligence of a minor when driving a motor vehicle upon a highway must be imputed to the ~~person~~individual who has signed the application of ~~such~~the minor for a ~~permit or an operator's license, which person must be. This individual is~~ jointly and severally liable with ~~such~~the minor for any damages caused by ~~such~~the negligence, except as ~~otherwise~~ provided in section 39-06-10.

SECTION 17. AMENDMENT. Section 39-06-10 of the North Dakota Century Code is amended and reenacted as follows:

39-06-10. Liability for negligence of minor - Proof of financial responsibility.

If a minor ~~deposits or there is deposited for the minor~~ provides proof of financial responsibility for the operation of a motor vehicle ~~owned by the minor, or for the operation of any motor vehicle, as required under the motor vehicle financial responsibility laws of this state,~~ then the director may accept the application of the minor.

SECTION 18. AMENDMENT. Section 39-06-11 of the North Dakota Century Code is amended and reenacted as follows:

39-06-11. Cancellation of minor's license or permit upon request.

~~Any person~~An individual who has signed the application of a minor for a license may thereafter file with the director a verified written request ~~that to cancel the operator's license of the minor so granted be canceled. Thereupon, the~~Upon receipt of the request, the director shall cancel the operator's license or permit of the minor and the ~~person~~individual who signed the application of the minor is relieved from the liability imposed under this chapter by reason of having signed ~~such~~the application on account of any subsequent negligence of the minor in operating a motor vehicle.

SECTION 19. AMENDMENT. Section 39-06-12 of the North Dakota Century Code is amended and reenacted as follows:

39-06-12. Cancellation of ~~minor's~~an operator's license or permit of a minor upon death of applicant.

The director upon receipt of satisfactory evidence of the death of the ~~person~~individual who signed the application of a minor for ~~an~~ operator's license shall cancel the operator's license or permit and may not issue a new license or permit until such time as a new application, ~~duly signed and verified, is made as required by this chapter. This provision does not apply in the event the minor has attained the age of eighteen years~~ is made by the minor.

SECTION 20. AMENDMENT. Section 39-06-13 of the North Dakota Century Code is amended and reenacted as follows:

39-06-13. Examination of applicants.

The

1. ~~Unless otherwise provided in this chapter, the~~ director shall examine every applicant for an operator's license, ~~except as otherwise provided in this chapter. The examination must include a test of the applicant's eyesight, ability to read and understand highway signs regulating, warning, and directing traffic, and knowledge of the traffic laws of this state. During testing, The director shall make any written portion of the examination, except writing on illustrations of signs, must be made available to an applicant in any widely practiced language. The director may waive the written portion of the examination for an applicant who has successfully passed a written examination in another state and has an operator's license that is not or in the process of being revoked, suspended, or canceled or in the process of being revoked, suspended, or canceled. An~~
2. ~~The examination must include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle is also required, but may be~~unless waived for an applicant who has successfully

~~passed an actual ability test in this or another state. Operators' examinations must be given at locations designated by the director. A minor may operate a motor vehicle no matter how owned for the actual ability test.~~

3. In lieu of an eyesight test, the applicant may provide a statement of examination from a licensed physician or an optometrist stating the corrected and uncorrected vision of the applicant, if the examination was within six months of the application.
4. The director may require any other physical or mental examination.

SECTION 21. AMENDMENT. Section 39-06-13.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-13.1. Fee for examination of applicants.

1. ~~Every~~An applicant for an operator's license who is required to be tested to determine the applicant's knowledge of highway signs, regulating, warning, and directing traffic and of the traffic laws of this state shall pay a fee of ~~five dollars~~listed in section 39-06-49.
2. ~~Every~~An applicant for an operator's license who is required to be tested to demonstrate the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle shall pay a fee of ~~five dollars~~listed in section 39-06-49.

SECTION 22. AMENDMENT. Section 39-06-14 of the North Dakota Century Code is amended and reenacted as follows:

39-06-14. Licenses issued to operators - General - Classified driver's operator's license.

1. ~~The~~Upon the payment of the application fee listed in section 39-06-49, the director, upon payment of a fifteen-dollar fee, shall issue to every qualified applicant an operator's license as applied for in the form prescribed by the director. An application for an operator's license must be made on a form furnished by the director. The operator's license must bear a distinguishing number assigned to the licensee, a color photograph of the licensee, the full name, date of birth, residence address, and a brief description of the licensee; and.
2. The license must bear either a facsimile of the signature of the licensee or a space upon which the licensee shall write the licensee's usual signature. An operator's license is not valid unless signed by the licensee with the licensee's usual signature. For purposes of verification, the director may require the licensee to write the licensee's signature in the presence of the director.
3. The operator's license must bear a distinguishing number assigned to the licensee. The director may not issue a distinguishing number that is, contains, can be converted to, or is an encrypted version of the applicant's social security number.
4. The operator's license must bear a color photograph of the licensee. The director may adopt rules relating to the manner in which photographs are to be obtained and placed on an operator's license. The photograph may be produced by digital imaging or other electronic means and is not a public

record. If the licensee is under the age of eighteen, the photograph must be against a color border or background that is different from the color used for other licensees. If the licensee is at least the age of eighteen and is under the age of twenty-one, the photograph must be against a color border or background that is different from the color used for other licensees. ~~No license is valid until it has been signed by the licensee with the licensee's usual signature. For purposes of verification, an officer may require the licensee to write the licensee's signature in the presence of the officer. The director may adopt rules, pursuant to chapter 28-32, relating to the manner in which photographs are to be obtained and placed on operator's licenses. The photograph may be produced by digital imaging or other electronic means and is not a public record.~~

5. Upon request and with adequate documentation, the director shall place an indicator on the face of an operator's license of a veteran. The veteran may make the request through the department of veterans' affairs.
- 2-6. An applicant holding a valid North Dakota operator's license issued by this state and making application for renewal must be issued a class D license without being subjected to a written or actual ability examination.
3. ~~An~~ The director shall issue to any other applicant, except an applicant holding a valid North Dakota operator's license who will be issued a class D license, applying for issuance of an operator's license must be issued a classified license after having been required to submit to a successful examination in the type of motor vehicle or combination of vehicles for which the particular class of license is desired and which the particular license shall authorize authorizes the holder to drive the particular class of vehicles as provided designated in section 39-06.2-09; or as follows: this chapter.
- a-7. ~~A driver~~ An individual with a class D license may operate any:
 - a. A single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or any such this vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] or a combination of vehicles with a gross combination weight or a gross combination weight rating in excess of twenty-six thousand pounds [11793.40 kilograms] if the individual is eighteen years of age or older, unless the individual is driving a farm vehicle and meets the requirements of subdivision e of subsection 7 of this section and subsection 3 of section 39-06.2-06. A driver with a class D license may operate a
 - b. A farm tractor towing another vehicle having a gross weight in excess of ten thousand pounds [4535.92 kilograms], and may operate a.
 - c. A truck towing a trailer in excess of ten thousand pounds [4535.92 kilograms] provided if the combined weight does not exceed twenty-six thousand pounds [11793.40 kilograms] gross combination weight rating. A driver with a class D license may operate a
 - d. A house car or a vehicle towing a travel trailer being used solely for personal purposes.

- e. A driver with a class D license must be eighteen years of age or older to operate a combination of vehicles with a gross combination weight or a gross combination weight rating in excess of twenty-six thousand pounds [11793.40 kilograms], unless the driver is driving a farm vehicle and meets the requirements of subdivision b of subsection 3 of section 39-06-14 and subsection 3 of section 39-06-2-06.
- b. A driver with a class D license may operate any two-axle or tandem-axle motor vehicle, a triple-axle motor vehicle, a farm tractor towing another vehicle having a gross weight in excess of six thousand pounds [2721.55 kilograms], and a truck or truck tractor towing a trailer, semitrailer, or farm trailer if the driver individual is exempted from a commercial driver's license under subsection 3 of section 39-06.2-06, except the driver individual may not operate a double trailer, or triple trailer, or, if and an individual under eighteen years of age, may not operate a truck tractor as defined in section 39-01-04 or a bus designed to carry sixteen or more passengers, including the driver.
- e. A driver with a class M license may operate any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding motorized bicycles and tractors. A class M vehicle may not be operated under a class A, B, C, or D license.
- (1) The holder of a class A, B, C, or D license may receive a class M endorsement upon successful completion of an examination. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director.
- (2) An applicant sixteen years of age and older, who does not hold a current valid operator's license may be issued a class M learner's permit after successful completion of a written examination. The class M license will be issued after the applicant has successfully completed a driver's examination. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director.
- (3) Applicants fourteen or fifteen years of age may be issued a motorcycle learner's permit if the applicant is enrolled in or has completed an approved motorcycle safety course. Applicants for a motorcycle operator's license who are under sixteen years of age shall hold an initial learner's permit for at least two months before applying for a class M operator's license, shall have completed an approved motorcycle safety course, and shall hold a valid motorcycle learner's permit at the time of application. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director. Any person under sixteen years of age who holds a permit or license is restricted to the operation of a motorcycle powered with an engine of two hundred fifty cubic centimeters, or less, displacement. Evidence that the applicant has satisfactorily completed a motorcycle safety course which meets the minimum requirements of the motorcycle safety foundation must accompany the application.

4. ~~The holder of a class A, B, or C license may drive any vehicle in that or a lesser classification, except a class M vehicle.~~
- 5-8. ~~Any holder of a classified license who drives a motor vehicle otherwise than as permitted by the class of license issued to the holder is deemed to be driving a motor vehicle without being duly licensed under this chapter. The holder of a classified license who desires to obtain a different class license in one of the classes provided by this chapter must exchange or renew the license. The director may adopt rules the director determines are necessary with respect to such on renewals or exchanges for the proper administration of this chapter. No class A, B, or C license may be issued to any person under eighteen years of age, except a class A, B, or C type license specially restricted to use for custom harvest purposes must be issued to a person at least sixteen years of age who satisfactorily completes the appropriate examinations.~~
6. ~~Before operating any motor vehicle or motorcycle, any holder of a license issued pursuant to this chapter who has suffered permanent loss of use of a hand, arm, foot, leg, or eye shall report the loss of use to the director who shall take reasonable action as may be proper under the provisions of this chapter as to reexamination of the licensee to determine if the licensee is capable of operating vehicles for which the licensee is licensed.~~
7. ~~The director may issue a motorized bicycle operator's permit to an applicant who is at least fourteen years of age. To obtain a permit, the applicant shall pay a fee of ten dollars and take a written examination of the applicant's knowledge of traffic laws and general rules of the road. If the applicant passes the written examination and the director is satisfied that the applicant has adequate eyesight, the director may issue the applicant a motorized bicycle operator's permit, even if the applicant does not have an operator's license. The permit expires in the same manner as an operator's license. A person who has an operator's license, a temporary permit, an instruction permit, or a motorcycle permit is not required to obtain a motorized bicycle operator's permit.~~

SECTION 23. Section 39-06-14.1 of the North Dakota Century Code is created and enacted as follows:

39-06-14.1. Motorcycle operator's licenses and motorized bicycles.

1. A resident of this state who is at least fourteen years of age may apply to the director for a class M learner's permit. An individual holding a class M learner's permit for the operation of a motorcycle may not operate the motorcycle during the hours when the use of headlights are required under section 39-21-01 or carry or transport any passenger. Any learner's permit may be renewed or a new permit issued for an additional period.
2. An individual with a class M license may operate any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding motorized bicycles and tractors.
 - a. The holder of a class A, B, C, or D license may receive a class M endorsement upon successful completion of an examination. The director may waive the skill portion of the examination if the applicant has

- successfully completed a motorcycle safety course approved by the director.
- b. An applicant sixteen years of age and older, who does not hold a current valid operator's license, may be issued a class M learner's permit after successful completion of a written examination. The class M license must be issued after the applicant has successfully completed a driver's examination. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director.
 - c. Applicants fourteen or fifteen years of age may be issued a motorcycle learner's permit if the applicant is enrolled in or has completed an approved motorcycle safety course. Applicants for a motorcycle operator's license who are under sixteen years of age must hold an initial learner's permit for at least two months before applying for a class M operator's license, must have completed an approved motorcycle safety course, and must hold a valid motorcycle learner's permit at the time of application. The director may waive the skill portion of the examination if the applicant has successfully completed a motorcycle safety course approved by the director. Any person under sixteen years of age who holds a permit or license may not operate a motorcycle powered with an engine in excess of two hundred fifty cubic centimeters displacement. Evidence that the applicant has satisfactorily completed a motorcycle safety course which meets the minimum requirements of the motorcycle safety foundation must accompany the application.
3. The director may issue a motorized bicycle operator's permit to an applicant who is at least fourteen years of age. To obtain a permit, the applicant shall pay a fee as listed in section 39-06-49 and take a written examination of the applicant's knowledge of traffic laws and general rules of the road. If the applicant passes the written examination and the director is satisfied that the applicant has adequate eyesight, the director may issue the applicant a motorized bicycle operator's permit, even if the applicant does not have an operator's license. The permit expires in the same manner as an operator's license. A person who has an operator's license, a temporary permit, an instruction permit, or a motorcycle permit is not required to obtain a motorized bicycle operator's permit.

SECTION 24. AMENDMENT. Section 39-06-16 of the North Dakota Century Code is amended and reenacted as follows:

39-06-16. License to be carried and exhibited on demand.

~~A licensee~~An individual licensed to operate a motor vehicle shall have the licensee's operator's license or permit in the licensee's individual's immediate possession at all times when operating a motor vehicle and shall physically surrender the ~~operator's license or permit,~~ upon demand of any ~~district court, municipal court, a patrolman, peace~~police officer, or a field deputy or inspector of the department. However, a ~~person~~an individual charged with violating this section may not be convicted or assessed any court costs if the ~~person~~individual produces in court, ~~to the chief of police, or in the office of the arresting officer~~ a valid operator's license or permit issued to that person and valid and individual that is not under suspension, revocation, or cancellation at the time of the ~~person's~~individual's arrest.

¹²² **SECTION 25. AMENDMENT.** Section 39-06-17 of the North Dakota Century Code is amended and reenacted as follows:

39-06-17. Restricted licenses - Penalty for violation.

1. ~~The director, upon~~Upon issuing an operator's license or a temporary restricted operator's license pursuant ~~to~~under section 39-06.1-11, ~~has authority to the director may~~ impose restrictions suitable to ~~the~~the licensee's driving ability with respect to the type of ~~or motor vehicle,~~ special mechanical control devices required on a motor vehicle ~~which that~~ the licensee may operate, or ~~such any~~ other restrictions applicable to the licensee as the director may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.
2. The director may either issue a special restricted class D license or may state the restrictions upon the usual license form. In the same manner, the director shall restrict licenses under section 39-16.1-09.
- 3-2. ~~A~~The director may issue a restricted operator's class D license ~~or permit~~ to operate the parent's, guardian's, grandparent's, sibling's, aunt's, or uncle's automobile, ~~or an automobile which is equipped with dual controls and while accompanied by a qualified instructor, may be issued to any child a~~ minor, who is at least ~~fourteen~~fifteen years of age, and otherwise qualified, upon the written recommendation of the parent or guardian. A ~~child~~minor may operate ~~an automobile a~~ motor vehicle that is not the parent's or guardian's to take the ~~road~~actual ability test. ~~No operator's~~The parent, guardian, grandparent, sibling, aunt, or uncle at all times is responsible for any and all damages growing out of the negligent operation of a motor vehicle by a minor. A restricted class D license may not be issued until the child to a minor unless the minor, accompanied by the parent or guardian, appears in person and satisfies the director that:
 - a. The ~~child~~minor is at least ~~fourteen~~fifteen years of age;
 - b. The ~~child~~minor is qualified to operate an automobile safely;
 - c. It is necessary for the child to drive the parent's, guardian's, grandparent's, sibling's, aunt's, or uncle's automobile without being accompanied by an adult;
 - d. The ~~child~~minor has:
 - (1) ~~Successfully~~ successfully completed an approved driver's education course that includes a course of classroom instruction and a course of behind-the-wheel instruction acceptable to the director; or
 - (2) ~~Successfully~~has successfully completed a course at an approved commercial driver training school; and
 - e. The ~~child~~minor has accumulated a minimum of fifty hours of supervised, behind-the-wheel driving experience in various driving conditions and situations that include night driving; driving on gravel, dirt, or aggregate surface road; driving in both rural and urban conditions; and winter driving conditions.

¹²² Section 39-06-17 was also amended by section 1 of House Bill No. 1027, chapter 292.

~~The parent, guardian, grandparent, sibling, aunt, or uncle at all times is responsible for any and all damages growing out of the negligent operation of a motor vehicle by any such child.~~

- ~~3.~~ 3. The provisions of this subsection 2 do not authorize the ~~child~~ minor to drive a commercial truck, motorbus, or taxicab except the holder of a restricted class D license, fourteen or fifteen years of age, may drive a farm motor vehicle having a gross weight of fifty thousand pounds [22679.62 kilograms] ~~when~~while used to transport agricultural products, farm machinery, or farm supplies to or from a farm when so operated within one hundred fifty miles [241.40 kilometers] of the driver's farm.
- ~~4.~~ 4. A minor with a restricted class D license issued under subsection 2 may operate the type or class of motor vehicle specified on the restricted license under the following conditions:
 - a. A restricted licenseholder must be in possession of the license while operating the motor vehicle.
 - b. An individual holding a restricted class D license driving a motor vehicle may not carry more passengers than the vehicle manufacturer's suggested passenger capacity.
 - c. An individual holding a restricted class D license driving a motor vehicle may not operate an electronic communication device to talk, compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.
 - d. An individual holding a restricted class D license may not operate a motor vehicle between the later of sunset or nine p.m. and five a.m. unless a parent, legal guardian, or an individual eighteen years of age or older is in the front seat of the motor vehicle or the motor vehicle is being driven directly to or from work, an official school activity, or a religious activity.
- ~~5.~~ 5. Upon receiving satisfactory evidence of any violation of the restrictions of a license, the director may suspend or revoke the license but the licensee is entitled to a hearing as upon a suspension or revocation under this chapter.
- ~~5-6.~~ 5-6. It is a class B misdemeanor for ~~any person~~ an individual to operate a motor vehicle in any manner in violation of the restrictions imposed ~~in a restricted license issued to that person other than restrictions imposed under subsection 6~~ under this section except for the restrictions in subsection 4.
- ~~7.~~ 7. If ~~the~~ a ~~temporary~~ restricted license was issued under section 39-06.1-11 and the underlying suspension was imposed for a violation of section 39-08-01 or equivalent ordinance, or is governed by chapter 39-20, punishment is as provided in subsection 2 of section 39-06-42 ~~and upon~~ Upon receiving notice of the conviction the director shall revoke, without opportunity for hearing, the licensee's temporary restricted license and shall extend the underlying suspension for a like period of not more than one year. The director may not issue a temporary restricted license for the extended period of suspension imposed under this subsection.

8. If the conviction referred to in this section is reversed by an appellate court, the director shall restore the person individual to the status held by the person prior to ~~the individual before~~ the conviction, including restoration of driving privileges if appropriate.
6. ~~A restricted license issued under subsection 3 to a child at least fourteen years of age to operate a parent's or guardian's automobile authorizes the licenseholder to drive the type or class of motor vehicle specified on the restricted license only under the following conditions:~~
 - a. ~~A restricted licenseholder must be in possession of the license while operating the motor vehicle.~~
 - b. ~~An individual holding a restricted driver's license driving a motor vehicle may not carry more passengers than the vehicle manufacturer's suggested passenger capacity.~~
 - c. ~~An individual holding a restricted driver's license driving a motor vehicle may not operate an electronic communication device to talk, compose, read, or send an electronic message while operating a motor vehicle that is in motion unless the sole purpose of operating the device is to obtain emergency assistance, to prevent a crime about to be committed, or in the reasonable belief that an individual's life or safety is in danger.~~
 - d. ~~An individual holding a restricted driver's license may not operate a motor vehicle between the later of sunset or nine p.m. and five a.m. unless a parent, legal guardian, or an individual eighteen years of age or older is in the front seat of the motor vehicle or the motor vehicle is being driven directly to or from work, an official school activity, or a religious activity.~~

SECTION 26. AMENDMENT. Section 39-06-18 of the North Dakota Century Code is amended and reenacted as follows:

39-06-18. Duplicate certificates Substitute operator's license.

~~In the event that a permit or an operator's license or nondriver photo identification card issued under this chapter is lost, mutilated, or destroyed, or contains erroneous information due to a change in name, address, or for any other reason, the person individual to whom the same operator's license or identification card was issued may obtain a duplicate, or substitute, upon by furnishing proof satisfactory to the director that the permit or operator's license or identification card has been lost, mutilated, or destroyed, or is erroneous, and upon payment of a fee listed in section 39-06-49. The fee is eight dollars for a duplicate or substitute permit or license for a license or permit that was lost, mutilated, or destroyed, or is being replaced for any other reason, except the fee is three dollars for a duplicate or substitute permit or license for a license or permit that contains erroneous information due to a change in name or address. If an individual has a name change, the individual shall obtain a substitute license or identification card with the correct name.~~

SECTION 27. AMENDMENT. Section 39-06-19 of the North Dakota Century Code is amended and reenacted as follows:

39-06-19. Expiration of license - Renewal.

1. Every operator's license issued under this chapter or chapter 39-06.2 expires and is renewed according to this section.

2. The expiration date of a noncommercial operator's license for a ~~person~~ individual whose birth occurred in a year ending in an odd numeral is twelve midnight on the anniversary of the birthday in the third subsequent year ending in an odd numeral, except for an individual who, at the time of renewal, is seventy-eight years of age or older is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of a noncommercial operator's license for a ~~person~~ individual whose birth occurred in a year ending in an even numeral is twelve midnight on the anniversary of the birthday in the third subsequent year ending in an even numeral, except for an individual who, at the time of renewal, is seventy-eight years of age or older is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral.
3. The expiration date of a commercial operator's license for a ~~person~~ individual whose birth occurred in a year ending in an odd numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an odd numeral. The expiration date of a commercial operator's license for a ~~person~~ individual whose birth occurred in a year ending in an even numeral is twelve midnight on the anniversary of the birthday in the second subsequent year ending in an even numeral. ~~A person~~
4. An individual who has a valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry into the United States, a pending application for asylum in the United States, a pending or approved application for temporary protected status in the United States, approved deferred action status, or a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence or conditional permanent residence status in the United States will be issued a temporary operator's license or nondriver photo identification card. The temporary operator's license or identification card is valid only during the period of time of the applicant's authorized stay in the United States or, if there is no definite end to the period of authorized stay, a period of one year. The license or card may be renewed only upon presentation of valid documentary evidence that the status has been extended.
- ~~2. If the licensee has reached the age of eighteen, and desires reissuance of a license with the distinctive background for licensees at least the age of eighteen and under the age of twenty-one, the applicant may apply at any time for a replacement license. If the licensee has reached the age of twenty-one and desires reissuance of a license without the distinctive color background required by section 39-06-14, the applicant may apply at any time for a replacement license.~~
- ~~3-5.~~ An applicant for renewal must present the application with the fee for renewal of license to the director not before ten months before the expiration date of the operator's license. The director may require an examination of an applicant as upon an original application. The director may require an applicant for renewal, ~~replacement~~, or a substitute to provide a social security card and proof of residence address. The director may not issue a distinguishing number that is, contains, can be converted to, or is an encrypted version of the applicant's social security number.
6. The director may not renew an operator's license if the license has been suspended under section 14-08.1-07. Upon the recommendation of the court,

the director may issue a temporary permit to the licensee under section 39-06.1-11 if the temporary permit is necessary for the licensee to work and the court has determined the licensee is making a good-faith effort to comply with the child support order.

- ~~4.7. Every application~~An applicant for renewal of ~~aan operator's license by an applicant must be accompanied by~~provide a certificate of examination from either the driver licensing or examining authorities or a statement as to the corrected and uncorrected vision of the applicant from a licensed physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant. The director shall provide visual examination equipment at each location where a license may be renewed. The initial application for a motor vehicle operator's license may be accompanied by a statement of examination from a licensed physician or an optometrist, stating the corrected and uncorrected vision of the applicant, in lieu of the department examination. This examination must be within six months of the driver's license application.
- ~~5.8. Every person~~An individual submitting an application and the fee for renewal of license one year or more after the expiration of a license, except an applicant whose military service has terminated less than thirty days prior to ~~such~~the application, must be treated as a ~~new driver~~an initial applicant.
6. The fee for renewal or replacement of an operator's license is ten dollars.

SECTION 28. AMENDMENT. Section 39-06-19.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-19.1. Extended term of license held by members of the armed forces - Limitations.

A valid operator's license issued under the provisions of this chapter to a resident of ~~North Dakota~~this state who enters or is in the United States armed forces and serving upon on active duty with such forces continues in full force and effect so long as the active service continues and the licensee remains absent from this state, and for not to exceed thirty days following the date on which the holder of ~~such~~this license is honorably separated from ~~such~~this service or returns to this state, unless the license is sooner suspended, canceled, or revoked for cause ~~as provided by law.~~ The license is valid only ~~when~~if in the immediate possession of the licensee while driving and the licensee has the licensee's discharge or separation papers, if the licensee has been discharged or separated from the service, or has documentation authorizing the licensee to be absent from the licensee's duty station in the licensee's immediate possession.

SECTION 29. AMENDMENT. Section 39-06-20 of the North Dakota Century Code is amended and reenacted as follows:

39-06-20. Notice of change of address or name.

~~Whenever a person~~If an individual after applying for or receiving an operator's license or permit moves from the address named in the application or ~~on~~in the license or permit issued to that person or ~~when~~if the name of a licensee is changed by marriage or otherwise, that ~~person shall~~individual within ten days ~~thereafter~~after moving or the name change shall notify the director in writing or in person of that ~~person's~~individual's old and new addresses or of ~~such~~the individual's former and new names and of the number of any operator's license or permit then held by that

person. ~~A person~~ An individual may obtain a corrected operator's license or permit by making an application as provided for in section 39-06-18. ~~In the event of a name change, a corrected license must be obtained.~~ The department may change the address based on information received from any authorized address correction service of the United States postal service. The department may also develop procedures for receiving notification of address changes by telephone or electronic means.

SECTION 30. AMENDMENT. Section 39-06-21 of the North Dakota Century Code is amended and reenacted as follows:

39-06-21. Filing application records.

The director shall file ~~every~~ and maintain each application for a license ~~and shall maintain each application for a license received and shall maintain with~~ suitable indexes containing:

1. All applications denied and on each ~~such~~ denied application note the reason for the denial;
2. All applications granted; and
3. The name of every licensee whose operator's license has been suspended, revoked, canceled, or restricted by the department and after each ~~such~~ name state the reasons for such actions.

SECTION 31. AMENDMENT. Section 39-06-22 of the North Dakota Century Code is amended and reenacted as follows:

39-06-22. Driving records of licensees.

The director shall file all accident reports and abstracts of court records of convictions received by the director under the laws of this state and ~~in connection therewith~~ maintain convenient records or make suitable notations in order that ~~an individual~~ each record of each licensee showing the convictions of ~~such~~ the licensee and the traffic accidents in which the licensee has been involved ~~shall be~~ readily ascertainable and available for the consideration of the director ~~upon any application for renewal of license and at other suitable times.~~

SECTION 32. AMENDMENT. Section 39-06-24 of the North Dakota Century Code is amended and reenacted as follows:

39-06-24. Authority to cancel licenses.

1. The director shall cancel any operator's license, ~~permit,~~ or nondriver photo identification card upon determining that the ~~person~~ individual is not entitled to the issuance of the document ~~under the laws of this state~~ or that ~~said person~~ the individual failed to give the required or correct information on the application or the fee was invalid. Invalid fees include being in the form of an insufficient fund or no-account check or a credit or debit card in which the transaction was canceled by the applicant before the department received correct payment. The making of a false statement in any application for an operator's license, ~~permit,~~ or nondriver photo identification card, concerning the applicant's age or the prior loss of driving privileges through a cancellation, suspension, revocation, or similar sanction in any state, is grounds for the

director to cancel any document or privilege issued on the basis of the application.

2. Upon cancellation, the holder shall surrender the nondriver photo identification card to the director or any police officer may take custody of the card.

SECTION 33. AMENDMENT. Section 39-06-25 of the North Dakota Century Code is amended and reenacted as follows:

39-06-25. Suspending privileges of nonresidents.

The privilege of driving a motor vehicle on the highways of this state given to a nonresident hereunder is subject to suspension or revocation by the director in like manner and for like cause as an operator's license issued hereunder in this title may be suspended or revoked.

SECTION 34. AMENDMENT. Section 39-06-26 of the North Dakota Century Code is amended and reenacted as follows:

39-06-26. Reporting convictions, suspensions, or revocations of nonresidents.

1. ~~The director may, upon~~Upon receiving a record of the conviction or adjudication in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, or ~~an equivalent ordinance of any of its political subdivisions~~ordinance, the director may notify the licensing authority in the state ~~wherein the person so convicted~~in which the nonresident resides or is licensed.
2. ~~When~~If a nonresident's operating privilege is suspended or revoked ~~pursuant to any~~under the law of this state, the director shall notify the licensing authority in the state ~~wherein such~~in which the nonresident resides or is licensed.

SECTION 35. AMENDMENT. Section 39-06-27 of the North Dakota Century Code is amended and reenacted as follows:

39-06-27. Suspending licenses upon conviction, suspension, or revocation in another jurisdiction.

1. The director may suspend or revoke the operator's license of any resident of this state or the privilege of a nonresident to ~~drive~~operate a motor vehicle in this state upon receiving notice of the conviction of that ~~person~~individual in a tribal court or in another state of an offense ~~therein which, which~~ if committed in this state, would be grounds for the suspension or revocation of ~~the~~an operator's license of an operator. The director may act on a report of a conviction in tribal court received from any tribal law enforcement agency. This section may not be construed as authorizing the assessment of points against a ~~resident driver's~~resident's driving record in accordance with chapter 39-06.1, except upon conviction of a resident driver for a criminal offense in a tribal court or in another state which is equivalent to one of those offenses defined in section 39-06.1-05. A suspension or revocation may not be imposed for convictions for driving under suspension or revocation on an Indian reservation or in another state if a valid ~~North Dakota license or permit~~operator's license from this state was in effect at the time of the violation. For purposes of this section, originals, photostatic copies, ~~or~~and electronic transmissions of the records of the driver's licensing or other

authority of the other jurisdiction are sufficient evidence ~~whether or not they are even if not certified copies.~~

2. Upon receipt of a certification that the operating privileges of a resident of this state have been suspended or revoked on an Indian reservation or in any other state ~~pursuant to~~ under a law providing for the suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident; if under circumstances that would require the director to suspend a nonresident's operating privileges had the accident occurred in this state, the director shall suspend the license of the resident if the resident was the driver of a motor vehicle involved in the accident. The suspension continues until the resident furnishes evidence satisfactory to the director of the ~~person's~~ resident's compliance with the laws of the Indian reservation or the other state relating to the deposit of security or payment of a judgment arising out of a motor vehicle accident, to the extent that compliance would be required if the accident had occurred in this state.

SECTION 36. AMENDMENT. Section 39-06-28 of the North Dakota Century Code is amended and reenacted as follows:

39-06-28. Courts to forward license to director upon certain convictions.

~~Whenever any person~~ If an individual is convicted of any offense for which this chapter makes mandatory ~~requires~~ the revocation of the operator's license of such ~~person~~ that individual by the director, the court in which such ~~of the~~ conviction is had shall require the surrender to it ~~the court~~ of any operator's license then held by the ~~person so convicted and the~~ convicted individual. The court shall thereupon ~~then~~ forward the same together with ~~operator's license and~~ a record of such ~~the~~ conviction to the director.

SECTION 37. AMENDMENT. Section 39-06-31 of the North Dakota Century Code is amended and reenacted as follows:

39-06-31. ~~Mandatory revocation~~ Revocation of licenses.

1. A period of revocation is at least thirty days and not more than one year, unless otherwise provided by law.
2. The director shall revoke ~~forthwith,~~ for a period of one year; or for such a period as may be recommended by the trial court, the operator's license of any ~~operator~~ an individual upon receiving a record of such ~~operator's~~ the individual's conviction of any of the following offenses:
 - 1- a. Any ~~A~~ felony, including a violation of chapter 12.1-16, in which a motor vehicle was used in the commission of which a motor vehicle is used ~~the~~ the felony.
 - 2- b. Any ~~A~~ misdemeanor resulting from the operation of a motor vehicle and causing serious bodily injury, as defined in section 12.1-01-04, to another ~~person~~ individual.
 - 3- c. The making of a false affidavit or statement under oath to the director under this chapter or under any other law relating to the ownership or operation of motor vehicles.

3. The revocation of the license under this section may be beyond any time of imprisonment or court-ordered addiction treatment.

SECTION 38. AMENDMENT. Section 39-06-32 of the North Dakota Century Code is amended and reenacted as follows:

39-06-32. Authority to suspend licenses.

1. The director may suspend the operator's license of an operator individual, after hearing, upon proof by a fair preponderance of the evidence, that any of the following apply to the licensee:
 1. a. Commission of an offense for which mandatory revocation of license is required upon conviction.
 2. b. Incompetence to drive a motor vehicle.
 3. c. Unlawful or fraudulent use of an operator's license.
 4. d. Refusal to submit to an implied consent chemical test on an Indian reservation or in another state. For purposes of this subsection, the specific requirements for establishing a refusal used on the Indian reservation or in the other state may not be considered, and photostatic copies of the records of the other jurisdiction's driver's licensing authority are sufficient evidence of the refusal whether or not those copies are certified. The suspension must be for the same length of time as the revocation in section 39-20-04. If the refusal arose out of an arrest or stop of a person an individual while operating a commercial motor vehicle, the period of suspension must be the same as the period of revocation provided in section 39-06.2-10.
- 5-2. Failure, as shown by the certificate of the court, to pay a fine or serve any other sentence as ordered by a court upon conviction for any criminal traffic offense.
- 6-3. Failure, as shown by the certificate of the court, to appear in court or post and forfeit bond after signing a promise to appear, if signing is required by law, in violation of section 39-06.1-04, willful violation of a written promise to appear in court, in violation of section 39-07-08, or violation of equivalent ordinances or laws in another jurisdiction. Upon resolution by the operator of the underlying cause for a suspension under this subsection, as shown by the certificate of the court, the director shall record the suspension separately on the driving record. This separate record is not available to the public.
- 7-4. An administrative decision on an Indian reservation or in another state that the licensee's privilege to drive on that Indian reservation or in that state is suspended or revoked because of a violation of that Indian reservation's or state's law forbidding motor vehicle operation with an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, or because of a violation of that Indian reservation's or state's law forbidding the driving or being in actual physical control of a commercial motor vehicle while having an alcohol concentration of at least four one-hundredths of one percent by weight. The specific requirements for establishing the violation on the Indian reservation or in the other state may not be considered and certified copies of the records of

the Indian reservation's or other state's driver's licensing authority are sufficient evidence of the violation. The suspension must be for the same duration as the suspension in section 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the violation involves a commercial motor vehicle, the period of suspension must be the same as the period of suspension provided in section 39-06.2-10. For purposes of this section, originals, photostatic copies, or electronic transmissions of the records of the driver's licensing or other authority of the other jurisdiction are sufficient evidence whether or not they are certified copies.

- 8-5. Conviction of an offense under this title and it appears from the director's records that the offense contributed to causing an accident which resulted in death or serious personal injury or serious property damage. ~~No~~ A suspension may not be imposed if the person/individual has been sanctioned for the same offense under section 39-06-31.

SECTION 39. AMENDMENT. Section 39-06-32.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-32.1. Juvenile delinquent's suspension of driving privileges.

Upon receipt of a copy of an order of a juvenile court ordering the suspension of a ~~juvenile's driving privileges~~child operator's license, the director shall suspend the ~~juvenile's driver's operator's license or permit~~ and make notation of the length of time of the suspension of ~~driving privileges~~. During the time of the ~~juvenile's suspension of driving privileges~~, ~~no~~ an application for a ~~driver's class D instruction permit~~ may ~~not~~ be accepted from the ~~juvenile~~child. For purposes of this section, "child" is defined by section 27-20-02.

SECTION 40. AMENDMENT. Section 39-06-33 of the North Dakota Century Code is amended and reenacted as follows:

39-06-33. Hearings on suspension or revocation.

1. ~~In matters of driver's license suspension or revocation arising is suspended or revoked under sections section 39-06-32 and/or 39-06.1-10 and chapters or chapter 39-16 and/or 39-16.1,~~ the director shall give notice of intention to suspend to the licensee by mailing the notice to the licensee at the address of record in the department under section 39-06-20. Actual notice of the opportunity for a hearing under this section must be deemed to have occurred seventy-two hours after the notice is mailed by regular mail. The licensee has ten days after the date of mailing of the notice to request, in writing or by other means authorized by the director, a hearing on the intended suspension or revocation.
2. Any hearing conducted under this section and any appeal from the decision of the hearing must be conducted under chapter 28-32, except the hearing must be heard within sixty days of the receipt of the request for hearing and in the county of the licensee's residence, unless the parties agree to a different time and place for the hearing. At the hearing, the regularly kept records of the director may be introduced and are prima facie evidence of their content without further foundation.
3. The mailing of the decision and the resulting order by regular mail to the address recorded in the files of the director under section 39-06-20 is

sufficient notice. If a suspension is ordered, a reexamination of the licensee may be required.

4. If a suspension is ordered under subdivision b of subsection 21 of section 39-06-32, the notice must include a specific description of the conditions which led to the conclusion that the licensee is incompetent to drive a motor vehicle. If during the suspension those conditions dissipate, the licensee may request another hearing on the issue of competence to drive a motor vehicle. The hearing must be held in the manner required under subsections 2 and 3 for the original suspension.

SECTION 41. AMENDMENT. Section 39-06-34 of the North Dakota Century Code is amended and reenacted as follows:

39-06-34. Director may require reexamination.

In addition to ~~any other powers set forth in this chapter~~power, the director, having good cause to believe that ~~a licensed operator~~an individual with an operator's license is incompetent or otherwise not qualified to be licensedfor the operator's license, may upon written notice of at least five days to the ~~licensee~~individual require the ~~licensee~~individual to submit to such physical, mental, or driver's examination as may be deemed necessary by the director. If the director has good cause to believe that the ~~licensed operator~~individual presents an immediate danger to the motoring public, the director may immediately, and without prior notice, suspend the operator's license of the individual pending the examination. The notice of suspension must provide the ~~operator~~individual with the opportunity for a hearing within five days of the receipt of the notice of suspension. When a hearing is requested ~~it~~, the hearing must be conducted under section 39-06-33 and the hearing officer's recommended decision must be rendered within two days of the conclusion of the hearing. Upon the conclusion of ~~such~~the examination, the director shall take action as may be appropriate and may suspend or revoke the license of ~~such person~~the individual or permit the ~~licensee~~individual to retain the license, or may issue a license subject to restrictions as permitted under section 39-06-17. ~~Refusal~~The director may suspend or revoke the operator's license of the individual for refusal or neglect of the ~~licensee~~individual to submit to ~~such an~~an examination shall be grounds for suspension or revocation of the license.

SECTION 42. AMENDMENT. Section 39-06-34.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-34.1. Court may require reexamination.

In addition to ~~any other powers set forth in this chapter~~, the court, upon finding of a moving motor vehicle violation which leads the court to believe the ~~licensed operator~~an individual with an operator's license is not qualified to be licensedfor the operator's license, may direct the director or director's duly authorized agent to require the ~~licensee~~individual to submit to reexamination pursuant to ~~under~~ section 39-06-13. Written notice of at least five days must be given to the ~~licensee~~individual by the director of ~~such~~the reexamination. Upon the conclusion of ~~such~~the examination, the director shall take action as may be appropriate and may suspend or revoke the license of ~~such person~~the individual or permit the ~~person~~individual to retain the ~~person's~~operator's license, or may issue a license subject to restrictions as permitted under section 39-06-17. ~~Refusal~~The director may suspend or revoke the operator's license of the individual for refusal or neglect of the ~~licensee~~individual to submit to ~~such~~the examination shall be grounds for suspension or revocation of the ~~licensee's~~license.

¹²³ **SECTION 43. AMENDMENT.** Section 39-06-35 of the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension.

When

1. ~~After the period of suspension imposed under this title ceases, the operator's license or driving privilege of an individual that has been suspended remains suspended and may not be returned or reinstated, and remains under suspension, until the operator individual pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if as listed in section 39-06-49. If applicable, the operator's license may not be returned until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator individual. If the individual submits payment of the reinstatement fee is submitted with a check or a credit card, or debit card and the operator individual stops payment on the transaction, the director shall reimpose the suspension will be reimposed until the director receives proper payment has been made to the director.~~
 1. After the period of suspension imposed under this title ceases, the operator's license or driving privilege of an individual that has been suspended remains suspended and may not be returned or reinstated, and remains under suspension, until the operator individual pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if as listed in section 39-06-49. If applicable, the operator's license may not be returned until compliance with subsection 3.1 of section 39-06.1-10. Upon payment of the reinstatement fee the license must be returned to the operator individual. If the individual submits payment of the reinstatement fee is submitted with a check or a credit card, or debit card and the operator individual stops payment on the transaction, the director shall reimpose the suspension will be reimposed until the director receives proper payment has been made to the director.
2. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20.

SECTION 44. AMENDMENT. Section 39-06-36 of the North Dakota Century Code is amended and reenacted as follows:

39-06-36. Restoration of revoked licenses.

~~Any personAn individual whose operator's license or privilege to drive a motor vehicle on the public highways has been revoked is not entitled to have such license or privilege the operator's license renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of the revocation period such personthe individual may make application for a new license as provided by law, but the director may not then issue a new license unless and until the director is satisfied after investigation of the individual's driving records, driving habits, and driving ability of such personthe individual that it will be safe to grant the privilege of driving a motor vehicle on the public highwaysan operator's license to that individual. A personAn individual whose operator's license or privilege to drive a motor vehicle has been revoked must pay to the director a revocation reinstatement fee of fifty dollars, or one hundred dollars if the revocation was imposed for violation of subsection 5 of section 39-06-17, section 39-06-31, 39-06-43, or 39-20-04as listed in section 39-06-49, in addition to any license renewal fee, for issuance of a new license. If the individual submits payment of a reinstatement fee is submitted with a check or a credit card, or debit card and the operator individual stops payment on the transaction, the director shall reimpose a suspension will be reimposed until the director receives proper payment has been made to the director. Until the reinstatement fee is paid the license and privilege to drive a motor vehicle remain under revocation. A reinstatement fee is not required if a revoked license is reinstated~~
 Any personAn individual whose operator's license or privilege to drive a motor vehicle on the public highways has been revoked is not entitled to have such license or privilege the operator's license renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of the revocation period such personthe individual may make application for a new license as provided by law, but the director may not then issue a new license unless and until the director is satisfied after investigation of the individual's driving records, driving habits, and driving ability of such personthe individual that it will be safe to grant the privilege of driving a motor vehicle on the public highwaysan operator's license to that individual. A personAn individual whose operator's license or privilege to drive a motor vehicle has been revoked must pay to the director a revocation reinstatement fee of fifty dollars, or one hundred dollars if the revocation was imposed for violation of subsection 5 of section 39-06-17, section 39-06-31, 39-06-43, or 39-20-04as listed in section 39-06-49, in addition to any license renewal fee, for issuance of a new license. If the individual submits payment of a reinstatement fee is submitted with a check or a credit card, or debit card and the operator individual stops payment on the transaction, the director shall reimpose a suspension will be reimposed until the director receives proper payment has been made to the director. Until the reinstatement fee is paid the license and privilege to drive a motor vehicle remain under revocation. A reinstatement fee is not required if a revoked license is reinstated

¹²³ Section 39-06-35 was also amended by section 1 of Senate Bill No. 2044, chapter 295.

due to the findings of a hearing, reexamination of hearing, or court or judicial review as provided under chapter 39-06, 39-06.1, or 39-20.

SECTION 45. AMENDMENT. Section 39-06-37 of the North Dakota Century Code is amended and reenacted as follows:

39-06-37. Surrender and return of license - Duration of multiple suspensions and revocations for separate violations.

1. The director upon canceling or revoking ~~aan operator's~~ license shall require that ~~such~~the license must be surrendered to and be retained by the director.
2. ~~If any person fails immediately to return to the director any license or permit which has been canceled or revoked, the order of the director shall authorize any peace officer or the director's designated agent to secure possession thereof and return the same to the director. A suspension, revocation, or cancellation ordered under this title must be deemed to have commenced when the order is delivered to the licensee at the address of record in the department pursuant to~~under section 39-06-20. Constructive delivery under this section must be considered as occurring forty-eight hours after the order is mailed to the person by regular mail.
3. Unless otherwise specifically provided in this title, any suspension, revocation, cancellation, or denial of licensing ordered under ~~any provision of~~ this title must be in addition to, and run consecutive to, any other or existing suspension, revocation, cancellation, or denial of licensing ordered for a separate violation.

SECTION 46. AMENDMENT. Section 39-06-38 of the North Dakota Century Code is amended and reenacted as follows:

39-06-38. No operation under foreign license during suspension or revocation in this state.

Any resident or nonresident whose operator's license ~~or right or privilege to operate a motor vehicle~~ in this state has been suspended or revoked ~~as provided in~~under this title may not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during ~~such~~the suspension or after ~~such~~the revocation until a new operator's license is obtained when and as permitted under this title.

SECTION 47. AMENDMENT. Section 39-06-40 of the North Dakota Century Code is amended and reenacted as follows:

39-06-40. Unlawful use of license - Penalty.

1. It is a class B misdemeanor for ~~any person~~an individual:
4. a. To display or cause or permit to be displayed or have in possession any canceled, revoked, fictitious, or fraudulently altered operator's license, ~~permit,~~ or nondriver photo identification card;
2. b. To lend ~~one's~~that individual's operator's license, ~~permit,~~ or nondriver photo identification card to any other ~~person~~individual or knowingly permit the use ~~thereof~~of that individual's operator's license or nondriver photo identification card by another individual;

3. c. To display or represent as ~~one's~~an individual's own any operator's license, ~~permit,~~ or nondriver photo identification card not issued to that ~~person~~individual;
4. d. To fail or refuse to surrender to the director upon demand any operator's license, ~~permit,~~ or nondriver photo identification card ~~which~~that has been suspended, revoked, or canceled;
5. e. To permit any unlawful use of an operator's license, ~~permit,~~ or nondriver photo identification card issued to that ~~person~~individual; or
6. f. To use a false or fictitious name in any application for an operator's license, ~~permit,~~ or nondriver photo identification card or to knowingly make a false statement or to conceal a material fact or otherwise commit a fraud in the application.

The director upon

2. Within five days of receiving a record of conviction or other satisfactory evidence of the violation of this section, ~~the director~~ shall revoke ~~within five days,~~ the ~~person's~~individual's operator's license, ~~driving privileges,~~ ~~permit,~~ or nondriver photo identification card. The director may set the period of revocation is ~~at the discretion of the director,~~ not to exceed six months.

SECTION 48. AMENDMENT. Section 39-06-40.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-40.1. Reproducing operator's ~~or driver's~~ license ~~or permit~~ - Penalty.

1. It is unlawful for ~~any person~~an individual to print, photograph, photostat, duplicate, alter, or in any way reproduce any operator's license, ~~permit,~~ nondriver photo identification card, or facsimile thereof ~~of an operator's license or card,~~ or to print, photograph, photostat, duplicate, alter, or in any way reproduce any document used in the production of any operator's ~~or driver's~~ license or ~~permit~~card or facsimile thereof ~~of an operator's license or card,~~ in ~~such~~ a manner that it would be mistaken for a valid license or document containing valid information, or to display or have in possession any ~~such~~ print, photograph, photostat, duplicate, reproduction, or facsimile unless authorized by law.
2. It is unlawful for ~~any person~~an individual to alter in any manner any operator's license, ~~permit,~~ or nondriver photo identification card or to display or have in possession ~~any such document~~an altered operator's license or nondriver photo identification card.
3. ~~Every person~~An individual violating the provisions of this section is guilty of a class B misdemeanor.
4. ~~The director upon~~Within five days of receiving a record of conviction or other satisfactory evidence of the violation of this section, the director shall immediately revoke the operator's license, ~~driving privileges,~~ ~~or permit~~ or cancel the nondriver photo identification card of the ~~person~~individual. ~~In like manner, a nondriver photo identification card shall be canceled.~~ The director may set the period of revocation is ~~at the discretion of the director,~~ not to exceed six months.

¹²⁴ **SECTION 49. AMENDMENT.** Section 39-06-42 of the North Dakota Century Code is amended and reenacted as follows:

39-06-42. Penalty for driving while license suspended or revoked - Impoundment of vehicle number plates - Authority of cities.

1. Except as provided in section 39-06.1-11, ~~any person~~ an individual who ~~drives~~ 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 while ~~that person's~~ an individual's operator's license or privilege ~~so to do~~ is suspended or revoked in any jurisdiction is guilty of a class B misdemeanor for the first, second, or third offense within a five-year period. Any subsequent offense within the same five-year period is a class A misdemeanor.
2. If the suspension or revocation was imposed for violation of section 39-08-01 or equivalent ordinance or was governed by section 39-06-31 or chapter 39-20, the sentence must be at least four consecutive days' imprisonment and ~~such~~ a fine as the court deems proper. The execution of sentence may not be suspended or the imposition of sentence deferred under subsection 3 or 4 of section 12.1-32-02. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.
3. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff for the duration of the period of suspension or revocation. ~~When~~ If a period of suspension has been extended under subsection ~~5~~ 6 of section 39-06-17, the court may order the number plates to be impounded ~~in accordance with~~ under this subsection. ~~The impounded number plates may be released, upon order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the director.~~
4. A city may, by ordinance, authorize its municipal judge to order impoundment of motor vehicle number plates in the manner provided in subsection 3.

SECTION 50. AMENDMENT. Section 39-06-43 of the North Dakota Century Code is amended and reenacted as follows:

39-06-43. Extension of license suspension or revocation.

1. The director upon receiving a record of the conviction of ~~any person~~ an individual upon a charge of driving a vehicle while the ~~operator's~~ operator's license or driving privileges of the ~~person~~ individual was suspended shall extend the period of that suspension for an additional:
 4. a. Like period not to exceed ninety days if the operator's record for the three years preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the ~~person's~~ individual's operator's license or privilege has not been suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance;

¹²⁴ Section 39-06-42 was also amended by section 2 of House Bill No. 1027, chapter 292, and section 1 of Senate Bill No. 2041, chapter 294.

2. ~~b.~~ One hundred eighty days if the operator's record for the three years preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the ~~person's~~individual's operator's license or privilege has been once suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance; or
3. ~~c.~~ One year if the operator's record for the three-year period preceding the most recent violation of section 39-06-42 or equivalent ordinance shows the ~~person's~~individual's operator's license or privilege has been at least twice suspended, revoked, or denied for a prior violation of section 39-06-42 or equivalent ordinance.
2. If the original suspension was imposed for violation of section 39-08-01 or equivalent ordinance, the director shall extend the period of that suspension for at least six months. If the suspension of ~~driving privileges~~the operator's license resulted solely from failure to appear in court or to post and forfeit bond on noncriminal traffic violations, there may be no additional period of suspension. Suspension periods for failure to appear or to post and forfeit bond on noncriminal traffic violations may be for an indefinite duration. If the conviction was upon a charge of driving while ~~aan operator's license or driving privileges were~~was revoked, the director may not issue a new operator's license for an additional period of one year from and after the date the ~~person~~individual would otherwise have been entitled to apply for a new license. Upon a conviction of ~~a person~~an individual for violating a restricted license issued under section 39-06.1-11 and in which the underlying suspension was imposed for violating section 39-08-01 or equivalent ordinance or is governed by chapter 39-20, the director shall extend the period of the underlying suspension in accordance with subsection ~~56~~ of section 39-06-17.

SECTION 51. AMENDMENT. Section 39-06-44 of the North Dakota Century Code is amended and reenacted as follows:

39-06-44. Permitting unauthorized minor to drive.

~~No person~~An individual may ~~not~~ cause or knowingly permit the ~~person's~~individual's ~~minor~~ child or ward under ~~the age of eighteen years to drive~~operate a motor vehicle upon any highway ~~when such~~if the minor is not authorized ~~hereunder~~under this chapter or in violation of ~~any of the provisions of this chapter.~~

SECTION 52. AMENDMENT. Section 39-06-45 of the North Dakota Century Code is amended and reenacted as follows:

39-06-45. Permitting unauthorized ~~person~~individual to drive.

~~No person~~An individual may ~~not~~ authorize or knowingly permit a motor vehicle owned by the ~~person~~individual or under the ~~person's~~individual's control to be ~~driven~~operated upon any highway by any ~~person~~individual who is not authorized ~~hereunder~~under this chapter or in violation of ~~any of the provisions of this chapter.~~

SECTION 53. AMENDMENT. Section 39-06-46 of the North Dakota Century Code is amended and reenacted as follows:

39-06-46. Renting motor vehicles - License of renter.

~~No~~A person may not rent a motor vehicle to ~~any other person~~ an individual unless the ~~latter person is then duly licensed hereunder~~ individual has an operator's license or, in the case of a nonresident, ~~then duly licensed~~ the individual has an operator's license under the laws of the state or country of the nonresident's residence except a nonresident whose home state or country does not require that an operator be licensed, or unless the renter certifies that the vehicle ~~shall~~ will be driven by a ~~duly licensed driver~~ individual with an operator's license.

SECTION 54. AMENDMENT. Section 39-06-47 of the North Dakota Century Code is amended and reenacted as follows:

39-06-47. Renting motor vehicle - License inspection.

~~No~~A person may not rent a motor vehicle to another individual until the lessor has inspected the operator's ~~or chauffeur's~~ license of the ~~person~~ individual to whom the vehicle is to be rented, or of the ~~person~~ individual by whom the vehicle shall be driven, and compared and verified the signature ~~thereon~~ on the operator's license with the signature of such ~~person~~ the individual written in the lessor's presence.

SECTION 55. AMENDMENT. Section 39-06-48 of the North Dakota Century Code is amended and reenacted as follows:

39-06-48. Renting motor vehicle - Records.

~~Every~~A person renting a motor vehicle to another person shall keep a record of the registration number of the motor vehicle so rented, the name and address of the lessee to whom the vehicle is rented, the number of the license of the lessee or the lessee's certified driver, and the date and place when and where said license was issued. ~~Such~~ This record must be open to inspection by any police officer or ~~officer~~ employee of the director.

SECTION 56. AMENDMENT. Section 39-06-49 of the North Dakota Century Code is amended and reenacted as follows:

39-06-49. Fees collected to be paid into state treasury - Deposit in state highway fund.

1. All money received under ~~the provisions of~~ this chapter must be paid monthly into the highway fund in the state treasury.
2. The fee for:
 - a. An application for a nondriver photo identification card is eight dollars.
 - b. Written testing for an application for an operator's license is five dollars.
 - c. Actual ability testing for an application for an operator's license is five dollars.
 - d. An application for an operator's license is fifteen dollars.
 - e. An application for a motorized bicycle operator's permit is ten dollars.

- f. A substitute operator's license is eight dollars unless the substitute is for erroneous information due to a change in name or address, then the fee is three dollars.
 - g. An operator's license renewal is fifteen dollars.
 - h. Reinstatement after suspension is fifty dollars unless the suspension was the result of a suspension under subsection 4, 5, or 7 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.
 - i. Reinstatement after revocation is fifty dollars, unless the revocation was imposed for a violation of subsection 6 of section 39-06-17 or section 39-06-31, 39-06-43, or 39-20-04, then the fee is one hundred dollars.
3. Any application for which there is a fee must be accompanied by the proper fee.

SECTION 57. AMENDMENT. Section 39-06.1-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-08. Nonmoving violation defined.

For the purposes of section 39-06.1-06, a "nonmoving violation" means:

1. A violation of section 39-04-11, subsection 1 of section 39-04-37 by an individual by becoming a resident of this state, subsection 64 of section 39-06-17, and section 39-06-44, 39-06-45, 39-10-47, 39-10-49, 39-10-50, 39-10-51, 39-10-54.1, 39-21-08, 39-21-10, 39-21-11, or 39-21-14, or a violation of any municipal ordinance equivalent to the foregoing sections.
2. A violation, discovered at a time when the vehicle is not actually being operated, of section 39-21-03, 39-21-05, 39-21-13, 39-21-19, 39-21-32, 39-21-37, 39-21-39, or 39-21-44.2, or a violation of any municipal ordinance equivalent to the foregoing sections.

¹²⁵ **SECTION 58. 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, 39-08-23, 39-08-24, 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, 39-24-02, 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 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.

¹²⁵ Section 39-06.1-09 was also amended by section 2 of House Bill No. 1263, chapter 296, and section 8 of Senate Bill No. 2044, chapter 295.

¹²⁶ **SECTION 59. AMENDMENT.** Subsection 3 of section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

3. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 56 of section 39-06-17 or section 39-06-31. A temporary restricted license may be issued for suspensions ordered under subsection 74 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.

¹²⁷ **SECTION 60.** A new subsection to section 39-06.2-09 of the North Dakota Century Code is created and enacted as follows:

A class A, B, or C license may not be issued to an individual under eighteen years of age, except a class A, B, or C type license specially restricted to use for custom harvest purposes must be issued to an individual at least sixteen years of age who satisfactorily completes the appropriate examinations.

SECTION 61. AMENDMENT. Section 39-16-03 of the North Dakota Century Code is amended and reenacted as follows:

39-16-03. Driving records - Not admissible in evidence - Fee.

1. The director upon request shall furnish any person a certified abstract of the operating record of any ~~person~~individual, source document ~~therefor~~for the abstract entry, or record of clearance, subject to this title. The abstract must include the convictions, adjudications, and admissions of commission of traffic offenses of any driver and suspensions, revocations, and restrictions of a ~~person's driving privileges~~an individual's operator's license. Any person, except the subject of the record ~~and~~a law enforcement ~~agency~~agency, a judicial ~~officer~~officer, or another licensing jurisdiction functioning in ~~their~~that person's official capacity, requesting the abstract, source documents in aggregate form, or record of clearance shall indicate in writing the reason for the request and shall identify the person ~~or firm~~ for whom or which the request is made and the intended recipient of the record.
2. Copies of abstracts are not admissible as evidence in any civil or criminal trial arising out of a motor vehicle accident. Upon request and subject to the provisions of this title, the director shall furnish an operating record or complete operating record to the subject of the record or to law enforcement or judicial officers.
- ~~2.3.~~ A fee of three dollars must be paid for each abstract of any operating record, operating record, complete operating record, or record of clearance, ~~and a~~A reasonable fee must be paid for each source document, ~~except no.~~The director may not assess a fee may be assessed to a law enforcement agenciesagency, a judicial officer, or another licensing jurisdiction. The director shall send an additional copy of the abstract, source document if requested in aggregate form, or record of clearance to the driver whose record was requested, accompanied by a statement identifying the person making

¹²⁶ Section 39-06.1-11 was also amended by section 3 of House Bill No. 1027, chapter 292, section 6 of House Bill No. 1302, chapter 301, and section 11 of Senate Bill No. 2044, chapter 295.

¹²⁷ Section 39-06.2-09 was also amended by section 3 of Senate Bill No. 2040, chapter 300, and section 7 of Senate Bill No. 2046, chapter 298.

the request, identifying the person ~~or firm~~ for whom or which the request is made, identifying the intended recipient of the record, and providing the reason for the request. ~~No~~An additional copy of the abstract or record of clearance may not be sent to a driver if the request for the record was made by the federal bureau of investigation or the United States central intelligence agency, or ~~their~~ agents, or by any law enforcement agency or judicial officer.

- ~~3-4.~~ A requester may provide the department with a list of names of drivers and may request any source documents from the department relating to the listed drivers for a set time period. The department shall provide this information in hard copy or electronic format. If in order to provide the information by electronic format the department sets up a computer program, the department may charge a requester a reasonable charge for a setup fee. This charge may not exceed the actual cost to set up the computer program. A requester of source documents in aggregate form shall pay the director a reasonable fee for making and mailing to the driver whose record was requested an additional copy of the document as it relates to that driver.

SECTION 62. REPEAL. Sections 39-06-23, 39-06-30, 39-06-50, 39-06-52, and 39-16.1-02 of the North Dakota Century Code are repealed.

Approved March 18, 2013

Filed March 18, 2013

CHAPTER 292

HOUSE BILL NO. 1027

(Legislative Management)
(Commission on Alternatives to Incarceration)

AN ACT to amend and reenact subsection 5 of section 39-06-17 and sections 39-06-42 and 39-06.1-11 of the North Dakota Century Code, relating to driving under suspension and the issuance of temporary restricted motor vehicle operator's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁸ **SECTION 1. AMENDMENT.** Subsection 5 of section 39-06-17 of the North Dakota Century Code is amended and reenacted as follows:

5. It is a class B misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to that person other than restrictions imposed under subsection 6. If the restricted license was issued under section 39-06.1-11 and the underlying suspension was imposed for a violation of section 39-08-01 or equivalent ordinance, or is governed by chapter 39-20, punishment is as provided in subsection 2 of section 39-06-42 and upon receiving notice of the conviction the director shall revoke, without opportunity for hearing, the licensee's restricted license and shall extend the underlying suspension for a like period of not more than one year. ~~The director may not issue a restricted license for the extended period of suspension imposed under this subsection.~~ If the conviction referred to in this section is reversed by an appellate court, the director shall restore the person to the status held by the person prior to the conviction, including restoration of driving privileges if appropriate.

¹²⁹ **SECTION 2. AMENDMENT.** Section 39-06-42 of the North Dakota Century Code is amended and reenacted as follows:

39-06-42. Penalty for driving while license suspended or revoked - Impoundment of vehicle number plates - Authority of cities.

1. Except as provided in section 39-06.1-11, any person who drives 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 while that person's license or privilege so to do is suspended or revoked in any jurisdiction is guilty of a class B misdemeanor for the first, second, or third offense within a five-year period. Any subsequent offense within the same five-year period is a class A misdemeanor.

¹²⁸ Section 39-06-17 was also amended by section 25 of Senate Bill No. 2039, chapter 291.

¹²⁹ Section 39-06-42 was also amended by section 49 of Senate Bill No. 2039, chapter 291, and section 1 of Senate Bill No. 2041, chapter 294.

2. If the suspension or revocation was imposed for violation of section 39-08-01 or equivalent ordinance or was governed by section 39-06-31 or chapter 39-20, the sentence must be at least four consecutive days' imprisonment and such fine as the court deems proper. The execution of sentence may not be suspended or the imposition of sentence deferred under subsection 3 or 4 of section 12.1-32-02. Forfeiture of bail is not permitted in lieu of the defendant's personal appearance in open court for arraignment on a charge under this subsection.
3. A court may dismiss a charge under this section upon motion by the defendant if the defendant's operator's license is reinstated within sixty days of the date of the offense and the defendant provides to the court satisfactory evidence of the reinstatement.
4. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be impounded by the sheriff for the duration of the period of suspension or revocation. When a period of suspension has been extended under subsection 5 of section 39-06-17, the court may order the number plates to be impounded in accordance with this subsection. The impounded number plates may be released, upon order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the director.
- 4-5. A city may, by ordinance, authorize its municipal judge to order impoundment of motor vehicle number plates in the manner provided in subsection 3.

¹³⁰ **SECTION 3. AMENDMENT.** Section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-11. Temporary restricted license - Ignition interlock device.

1. Except as provided under subsection 2 or 3, if the director has suspended a license under section 39-06.1-10 or has extended a suspension or revocation under section 39-06-43, upon receiving written application from the offender affected, the director may for good cause issue a temporary restricted operator's license valid for the remainder of the suspension period after seven days of the suspension period have passed.
2. If the director has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, upon written application of the offender the director may issue for good cause a temporary restricted license that takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20.
3. The director may not issue a temporary restricted license to any offender whose operator's license has been revoked under section 39-20-04 or suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued for good cause if the offender has not committed an offense for a period of ~~two years~~one year before the date of the filing of a written application ~~that~~. The application must be accompanied by:

¹³⁰ Section 39-06.1-11 was also amended by section 6 of House Bill No. 1302, chapter 301, section 59 of Senate Bill No. 2039, chapter 291, and section 11 of Senate Bill No. 2044, chapter 295.

- a. Proof of financial responsibility and a report from an appropriate licensed addiction treatment program and, if prescribed, proof of compliance with attendance rules in an appropriate licensed addiction treatment program; or if
- b. If the offender is participating in the drug court program and has not committed an offense for a period of three hundred sixty-five days before the date of the filing of a written application that must be accompanied by or other court-ordered treatment or sobriety program, a recommendation from the district court. The
4. For a temporary restricted license under subsection 3, the director may conduct a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior during the prerequisite period of time. The director may also require that an ignition interlock device be installed in the offender's vehicle and may require the applicant to submit proof of attendance at a driver training course approved by the director.
- 3-5. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 5 of section 39-06-17 or section 39-06-31. A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.
4. A
6. a. In addition to any restrictions authorized under section 39-06-17, the director may impose any of the following conditions upon the use of a restricted license issued under this section is solely for the use of a motor vehicle by the offender:
- (1) To use during the licensee's normal working hours and may contain any other restrictions authorized by section 39-06-17;
- (2) To use for attendance at an appropriate licensed addiction treatment program or a treatment program ordered by a court; or
- (3) To use as necessary to prevent the substantial deprivation of the educational, medical, or nutritional needs of the offender or an immediate family member of the offender.
- b. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.
- 5-7. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance and the offender's driver's license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted driver's permit to the offender only for the sole purpose of participation in the twenty-four seven sobriety program upon submission of proof of financial responsibility and proof of participation in the program by the offender. If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the temporary restricted driver's permit. The

court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted driver's permit. Revocation of a temporary restricted driver's permit for violation of a condition of the twenty-four seven sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 293

HOUSE BILL NO. 1187

(Representatives Ruby, Heller, Kasper, Meier, Thoreson)
(Senators Hogue, Larsen, J. Lee, Sitte)

AN ACT to create and enact a new section to chapter 39-06 of the North Dakota Century Code, relating to renewal of operator's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 39-06 of the North Dakota Century Code is created and enacted as follows:

Renewal of license held by out-of-state individual.

The director may renew an operator's license issued to an individual who is a resident of this state or to a spouse who is a resident of this state, if the individual or spouse is out of state as a result of the employment of the individual or the other spouse with a governmental entity or a business organization, including the United States armed forces or foreign service. The director shall develop procedures and requirements for a renewal under this section.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 294

SENATE BILL NO. 2041

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact subsections 3 and 4 of section 39-06-42, subsection 3 of section 39-08-01, and subsection 4 of section 39-08-20 of the North Dakota Century Code, relating to impounding and destroying number plates for certain offenses; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³¹ **SECTION 1. AMENDMENT.** Subsections 3 and 4 of section 39-06-42 of the North Dakota Century Code are amended and reenacted as follows:

3. In addition to any other punishment imposed, the court may order the number plates of the motor vehicle owned and operated by the offender at the time of the offense to be ~~impounded~~destroyed by the sheriff ~~for the duration of the period of suspension or revocation. When~~ if a period of suspension has been extended under subsection 5 of section 39-06-17, the court may order the number plates to be ~~impounded in accordance with~~destroyed under this subsection. ~~The impounded number plates may be released, upon order of the court, to a bona fide purchaser of the offender's motor vehicle, if that purchaser produces a new certificate of title to the motor vehicle issued by the director. 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 sheriff 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.~~
4. A city may authorize, by ordinance, authorize its municipal judge to order ~~impoundment~~destruction of motor vehicle number plates by the office of the police officer that made the arrest in the manner provided in subsection 3.

¹³² **SECTION 2. AMENDMENT.** Subsection 3 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

3. Upon conviction of a second or subsequent offense within five years under this section or equivalent ordinance, the court ~~must~~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 ~~impounded for the duration of the period of suspension or revocation of the offender's driving privilege by the licensing authority. The impounded number plates must be sent to the director who must retain them for the period of suspension or revocation, subject to their disposition by the court. The court may make an exception to this~~

¹³¹ Section 39-06-42 was also amended by section 2 of House Bill No. 1027, chapter 292, and section 49 of Senate Bill No. 2039, chapter 291.

¹³² Section 39-08-01 was also amended by section 7 of House Bill No. 1302, chapter 301.

~~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, but not including the offender 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.~~

¹³³ **SECTION 3. AMENDMENT.** Subsection 4 of section 39-08-20 of the North Dakota Century Code is amended and reenacted as follows:

4. Violation of subsection 1 is a class B misdemeanor 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 ~~impound~~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 department. 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 department. A person who does not provide the number plates to the court at the appropriate time is guilty of a class B misdemeanor.

Approved April 11, 2013
Filed April 11, 2013

¹³³ Section 39-08-20 was also amended by section 7 of House Bill No. 1263, chapter 296.

CHAPTER 295

SENATE BILL NO. 2044

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact sections 39-06-35, 39-06.1-01, 39-06.1-02, 39-06.1-03, 39-06.1-04, 39-06.1-06, 39-06.1-07, 39-06.1-09, 39-06.1-10, 39-06.1-10.1, 39-06.1-11, 39-06.1-12, 39-06.1-13, 39-06.1-14, and 39-06.1-15 of the North Dakota Century Code, relating to traffic offense administration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁴ **SECTION 1. AMENDMENT.** Section 39-06-35 of the North Dakota Century Code is amended and reenacted as follows:

39-06-35. Period of suspension.

~~When the~~After a period of suspension imposed under this title ceases, the operator's license ~~or driving privilege~~ that has been suspended may not be returned or reinstated, and remains under suspension, until the operator pays to the director a reinstatement fee of fifty dollars, or twenty-five dollars if the suspension was the result of a suspension under subsection 4, 5, or 7 of section 39-06-03 or subsection 2 of section 39-06-32, or one hundred dollars if the suspension was the result of a violation under section 39-08-01 or chapter 39-20, and, if applicable, until compliance with subsection ~~3-14~~ of section 39-06.1-10. ~~Upon~~The director shall return the operator's license upon payment of the reinstatement fee ~~the license must be returned to the operator~~. If payment of the reinstatement fee is submitted with a check or a credit or debit card and the operator stops payment on the transaction, the suspension will be reimposed until proper payment has been made to the director. A reinstatement fee is not required for a license to be returned to the operator if the return of the license is due to the findings of a hearing, reexamination of hearing, or court or judicial review under chapter 39-06, 39-06.1, or 39-20.

SECTION 2. AMENDMENT. Section 39-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-01. Definitions.

As used in this title:

1. "Adjudication" and "admission" means an official determination, in the manner provided by law, that a traffic violation has been committed by a named driver.
2. "Equivalent ordinance" ~~or "equivalent ordinances"~~ means an ordinance of a city, state, or other jurisdiction ~~ordinances which are~~ comparable to the cited statute, and ~~defined~~defines essentially the same offense, ~~despite the fact that even if the language of the ordinance may differ,~~differ or differing procedural points or methods of proof ~~may be provided~~differ.

¹³⁴ Section 39-06-35 was also amended by section 43 of Senate Bill No. 2039, chapter 291.

3. ~~"Halting officer" means a law enforcement officer charged with and acting under the officer's authority to halt and, if appropriate, arrest persons suspected or known to be violating statutes or ordinances regulating the operation or equipment of vehicles, or the regulation of traffic.~~
4. ~~"Licensing authority" means the state agency authorized to issue operators' licenses.~~
5. ~~"Point" or "points" refers to~~ "Official" means a municipal judge or a magistrate or other qualified individual appointed by the presiding judge of the judicial district to serve for all or part of the judicial district.
4. "Points" means the number of demerits assigned to particular types of traffic violations, the accumulation of which will, at a stated level, result in suspension of the offender's operator's license.

SECTION 3. AMENDMENT. Section 39-06.1-02 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-02. Traffic violations noncriminal - Exceptions - Procedures.

1. ~~Any person~~An individual cited, in accordance with sections 39-07-07 and 39-07-08, for a traffic violation under state law or municipal ordinance, other than an offense listed in section 39-06.1-05, is deemed to be charged with a noncriminal offense.
 - a. The ~~person~~individual may appear before the designated official and pay the statutory fee for the violation charged at or before the time scheduled for a hearing.
 - b. If the ~~person~~individual has posted bond in person or by mail, the ~~person~~individual may forfeit bond by not appearing at the designated time.
2. If the ~~person~~individual is cited for a traffic violation under state law and posts bond by mail, the bond must be submitted within fourteen days of the date of the citation. ~~When posting bond by mail, and~~ the ~~person~~individual cited shall indicate on the envelope or citation whether a hearing is requested. If the ~~person~~individual does not request a hearing within fourteen days of the date of the citation, the bond is deemed forfeited and the violation admitted. If the ~~person~~individual requests a hearing, the court for the county in which the citation is issued shall issue a summons to the ~~person~~individual requesting the hearing notifying the ~~person~~individual of the date of the hearing before the designated official in accordance with section 39-06.1-03.
3. Upon appearing at the hearing scheduled in the citation or otherwise scheduled at the ~~person's~~individual's request, the ~~person~~individual may make a statement in explanation of the ~~person's~~individual's action. The official may at that time waive, reduce, or suspend the statutory fee or bond, or both. If the ~~person~~individual cited follows the foregoing procedures, the ~~person~~individual is deemed to have admitted the violation and to have waived the right to a hearing on the issue of commission of the violation.
4. The bond required to secure appearance must be identical to the statutory fee established by section 39-06.1-06.

5. Within ten days after forfeiture of bond or payment of the statutory fee, the official having jurisdiction over the violation shall certify to the ~~licensing authority~~director:
1. a. Admission of the violation; and
2. b. In speeding violations, whether the speed charged was in excess of the lawful speed limit by more than nine miles [14.48 kilometers] per hour and the miles [kilometers] per hour by which the speed limit was exceeded.

This

6. ~~Under this section does not allow a halting a citing police officer to may not receive the statutory fee or bond, unless the officer is otherwise authorized by law to do so.~~

SECTION 4. AMENDMENT. Section 39-06.1-03 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-03. Administrative hearing - Procedures - Appeals - Stay orders.

1. ~~A person~~An individual cited for a traffic violation, other than an offense listed in section 39-06.1-05, who does not follow one of the procedures set forth in section 39-06.1-02, may request a hearing on the issue of commission of the charged violation ~~charged~~. The hearing must be held at the time scheduled in the citation, at the time scheduled in response to the ~~person's~~individual's request, or at some future time, not to exceed ninety days later, set at that first appearance.
2. At the time of a request for a hearing on the issue of commission of the violation, the ~~person~~individual charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the charged violation ~~charged~~.
3. If ~~a person~~an individual cited for a traffic violation, other than an offense listed in section 39-06.1-05, has requested a hearing on the issue of the commission of the charged violation ~~charged~~ and appears at the time scheduled for the hearing, and the ~~state or city, as the case may be,~~prosecution does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.
4. If the official finds that the ~~person~~individual had committed the traffic violation, the official shall notify the ~~licensing authority~~director of that fact, and whether the ~~person~~individual was driving more than nine miles [14.48 kilometers] per hour in excess of the lawful limit, stating specifically the miles [kilometers] per hour in excess of the lawful limit, if charged with a speeding violation, within ten days of the date of the hearing. The fact that ~~a person~~an individual has admitted a violation, or has, in any proceeding, been found to have committed a violation, may not be referred to in any way, nor be admissible as evidence in any court, civil, equity, or criminal, except in an action or proceeding involving that ~~person's driving~~individual's operator's license or privilege.
5. a. ~~A person~~An individual may not appeal a finding from a district judge or magistrate that the ~~person~~individual committed the violation. If ~~a person~~an individual is aggrieved by a finding in the municipal court that the ~~person~~individual committed the violation, the ~~person~~individual may, without

payment of a filing fee, appeal that finding to the district court for trial anew. If, after trial in the appellate court, the ~~person~~individual is again found to have committed the violation, there ~~may be~~ no further appeal. Notice of appeal under this subsection must be given within thirty days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that the official adjudges that a violation has been committed. Otherwise, notice of appeal must be in writing and filed with the official, and a copy of the notice must be served upon the prosecuting attorney. An appeal taken under this subsection may not operate to stay the reporting requirement of subsection 4, nor to stay appropriate action by the ~~licensing authority~~director upon receipt of that report.

b. The appellate court upon application by the appellant may:

- (1) Order a stay of any action by the ~~licensing authority~~director during pendency of the appeal, but not to exceed a period of one hundred twenty days;
- (2) Order a stay and that the appellant be issued a temporary restricted driving certificate by the ~~licensing authority~~director to be effective for no more than one hundred twenty days; or
- (3) Deny the application.

An application for a stay or temporary certificate under this subdivision must be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the ~~licensing authority~~director may charge a fee of three dollars. Any order granting a stay or a temporary certificate must be immediately forwarded ~~forthwith~~ by the clerk of court to the ~~licensing authority~~director, ~~which~~who immediately shall issue a temporary certificate in accordance with the order in the manner provided by law. A court may not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. ~~A person~~An individual who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued ~~pursuant to~~under this subdivision is guilty of a traffic violation and must be assessed a fee of twenty dollars.

c. If the ~~person~~individual charged is found not to have committed the violation by the appellate court, the clerk of court shall report that fact to the ~~licensing authority~~director immediately. Unless the appropriate state's attorney consents to prosecute the appeal, if an appeal under this subsection is from a violation of a city ordinance, the city attorney for the city wherein the alleged violation occurred shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.

6. The state or the city, as ~~the case may be~~appropriate, must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection 5, the court and parties shall follow, to the extent applicable, the North Dakota Rules of Civil Procedure. If on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.
7. ~~As used in sections 39-06.1-02, 39-06.1-03, and 39-06.1-04, the word "official"~~ means a municipal judge, or a magistrate or other qualified person appointed

~~by the presiding judge of the judicial district, to serve as such official for all or a specified part of the judicial district.~~

SECTION 5. AMENDMENT. Section 39-06.1-04 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-04. Failure to appear, pay statutory fee, post bond - Procedure - Penalty.

If ~~a person~~ an individual fails to choose one of the methods of proceeding set forth in section 39-06.1-02 or 39-06.1-03, ~~the person must be individual~~ is deemed to have admitted to commission of the ~~charged~~ violation charged, and the official having jurisdiction shall report ~~such fact~~ the admission to the licensing authority ~~director~~ within ten days after the date set for the hearing. Failure to appear at the time designated, after signing a promise to appear, if signing is required by law, or failure to appear without paying the statutory fee or posting and forfeiting bond is a class B misdemeanor. Failure to appear without just cause at the hearing ~~must also be~~ is deemed an admission of commission of the ~~charged~~ violation charged.

¹³⁵ **SECTION 6. AMENDMENT.** Section 39-06.1-06 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-06. Amount of statutory fees.

The fees required for a noncriminal disposition ~~pursuant to either under~~ section 39-06.1-02 or 39-06.1-03 must be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee of ~~any amount not to exceed twenty dollars except for a violation of any traffic parking regulation on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars, excluding a violation of subsection 10 of section 39-01-15.~~
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, 39-10-42, 39-10-46, or 39-10-46.1, 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.

¹³⁵ Section 39-06.1-06 was also amended by section 1 of House Bill No. 1321, chapter 297.

- 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.
3. For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.
4. Except as provided in subsections 7 and 11, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 5	\$ 5
6 - 10	\$ 5 plus \$1/each mph over 5 mph over limit
11 - 15	\$ 10 plus \$1/each mph over 10 mph over limit
16 - 20	\$ 15 plus \$2/each mph over 15 mph over limit
21 - 25	\$ 25 plus \$3/each mph over 20 mph over limit
26 - 35	\$ 40 plus \$3/each mph over 25 mph over limit
36 - 45	\$ 70 plus \$3/each mph over 35 mph over limit
46 +	\$100 plus \$5/each mph over 45 mph over limit

4. ~~For a violation of section 39-09-01, or an ordinance defining careless driving, a fee of thirty dollars.~~
5. ~~For a violation of section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.~~
6. ~~For a violation of any traffic parking regulations, except a violation of subsection 10 of section 39-01-15, on any state charitable or penal institution property or on the state capitol grounds, a fee in the amount of five dollars.~~
- 7-5. On a highway on which the speed limit is a speed higher than fifty-five miles [88.51 kilometers] an hour, for a violation of section 39-09-02, or an equivalent ordinance, a fee established as follows:

Miles per hour over lawful speed limit	Fee
1 - 10	\$2/each mph over limit
11 +	\$20 plus \$5/each mph over 10 mph over limit

8. ~~For a violation of section 39-21-41.4, a fee not to exceed twenty dollars.~~
9. ~~For a violation of section 39-21-44 or a rule adopted under that section, a fee of two hundred fifty dollars.~~
- 10-6. For a violation of subsection 3 of section 39-21-46, a fee established as follows:
- a. Driving more than eleven hours since the last ten hours off duty, driving after fourteen hours on duty since the last ten hours off duty, driving after sixty hours on duty in seven days or seventy hours in eight days, no record

of duty status or log book in possession, failing to retain previous seven-day record of duty status or log book, or operating a vehicle with four to six out-of-service defects, one hundred dollars;

- b. False record of duty status or log book or operating a vehicle with seven to nine out-of-service defects, two hundred fifty dollars;
- c. Operating a vehicle after driver placed out of service, operating a vehicle with ten or more out-of-service defects, or operating a vehicle that has been placed out of service prior to its repair, five hundred dollars; and
- d. All other violations of motor carrier safety rules adopted under subsection 3 of section 39-21-46, fifty dollars.

~~14-7.~~ On a highway on which the speed limit is posted in excess of sixty-five miles [104.61 kilometers] an hour, for a violation of section 39-09-02, or equivalent ordinance, a fee of five dollars for each mile per hour over the limit.

~~14-8.~~ For a violation of a school zone speed limit under subdivision b of subsection 1 of section 39-09-02, or, notwithstanding subsection 2 of section 40-05-06 or section 40-05.1-06, of an ordinance in a city or home rule city for a violation of a speed limit dependent upon being on or near a school, fees for a noncriminal disposition area fee of forty dollars for one through ten miles per hour over the posted speed; and forty dollars, plus one dollar for each additional mile per hour over ten miles per hour over the limit unless a greater fee would be applicable under this section.

~~14-9.~~ For a violation of a highway construction zone speed limit under subsection 2 of section 39-09-02, a fee of eighty dollars for one through ten miles per hour over the posted speed; and eighty dollars plus two dollars for each mile per hour over ten miles per hour over the limit, unless a greater fee would be applicable under this section. The fee in this subsection does not apply to a highway construction zone unless individuals engaged in construction are present at the time and place of the violation and the posted speed limit sign states "Minimum Fee \$80".

SECTION 7. AMENDMENT. Section 39-06.1-07 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-07. Notification to offenders - Duties of licensing authority director.

The licensing authority ~~director~~ shall prepare notification forms and a temporary operator's permit as ~~provided in~~ under section 39-20-03.1 or 39-20-03.2 to be delivered to ~~persons charged along~~ the charged individual with the uniform traffic summons and complaint as ~~provided in~~ under section 29-05-31. The notification forms must contain language, approved by the attorney general, informing ~~persons an~~ an individual charged with a traffic violations violation, other than offenses listed in section 39-06.1-05, of the procedures available to ~~them~~ that individual under sections 39-06.1-02 and 39-06.1-03 and informing ~~persons an individual~~ an individual who ~~refuses~~ refuses a chemical test or onsite screening test under chapter 39-20 or who, on taking a chemical test, ~~are~~ is found to be in violation of subdivision a of subsection 1 of section 39-08-01, of the procedures available under chapter 39-20. The notification must ~~also~~ contain a schedule of points to be charged against ~~a person's an individual's~~ an individual's driving record or other operator's license penalties as provided by law and a schedule of statutory fees and bond amounts as determined in accordance with ~~sections 39-06.1-06 and 39-06.1-02~~ this chapter. A notification form separate from the uniform

traffic summons and complaint may be delivered to a ~~person~~ individual charged with a violation of subsection 3 of section 39-21-46.

¹³⁶ **SECTION 8. 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, 39-06-16, 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, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5, 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 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.

¹³⁷ **SECTION 9. AMENDMENT.** Section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-10. Entries against driving record - ~~Licensing authority~~ Director duties - Hearings - Demerit schedule - Suspension.

1. ~~When~~ if a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the ~~licensing authority~~ director, the ~~licensing authority~~ director shall proceed to enter the proper number of points on the licensee's driving record, unless the number points assigned to the violation are two or less. If the number points assigned to the violation are two or less, the violation and points may not be entered on the driving record but must be recorded separately, and the separate record ~~shall~~ is not be available to the public. Points from ~~violations~~ a violation in which the assigned number points are two or less shall ~~be~~ be considered a part of the driving record ~~only for purposes~~ the sole purpose of point reduction ~~pursuant to~~ under section 39-06.1-13 and for purposes of license suspension. ~~When~~ if the driving record shows that the licensee has an accumulated ~~point~~ total of twelve or more points, assigned on the basis of the schedule contained in subsection 3, the ~~authority~~ director shall notify the licensee of ~~its~~ the director's intention to suspend the operator's license ~~according to the provisions of~~ under section 39-06-33. For the purposes of this chapter, the ~~licensing authority~~ may ~~may~~ director also may receive and act on reports of traffic offense convictions forwarded by federal, military, and tribal courts in this state.
2. If the ~~licensing authority~~ director confirms, after hearing or opportunity for hearing, that the licensee's driving record has an accumulated point total of twelve or more points, the ~~licensing authority~~ director shall suspend the licensee's operator's license according to the following schedule:

¹³⁶ Section 39-06.1-09 was also amended by section 2 of House Bill No. 1263, chapter 296, and section 58 of Senate Bill No. 2039, chapter 291.

¹³⁷ Section 39-06.1-10 was also amended by section 3 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1302, chapter 301, and section 5 of House Bill No. 1302, chapter 301.

Accumulated Point Total:	Period of Suspension:
a. Twelve	7 days
b. Thirteen and above	7 days for each point over eleven

Surrender and return of licenses ~~a license~~ suspended pursuant to ~~under~~ this section ~~must be~~ governed by the provisions of section 39-06-37.

3. Points must be assigned and accumulated on the basis of the following schedule:

a. Noncriminal Violations

Noncriminal Adjudication or Admission of:	Points Assigned:
(1) Overtime and double parking in violation of city ordinances	0 points
(2) Failure to display license plates	1 point
(3) Permitting unauthorized minor to drive	2 points
(4) Permitting unauthorized person individual to drive	2 points
(5) Unlawful stopping, standing, or parking on open highway in violation of section 39-10-47	2 points
(6) Unlawful parking in prohibited place	1 point
(7) Leaving motor vehicle improperly unattended on an open highway	1 point
(8) Opening or leaving motor vehicle doors open when unsafe to do so	1 point
(9) Except as provided in sections 39-21-44 and 39-21-45.1, knowingly driving with defective, nonexistent, or unlawful equipment in violation of section 39-21-46, or equivalent ordinances	2 points
(10) Careless driving in violation of section 39-09-01, or equivalent ordinance	6 points
(11) Violating or exceeding restrictions contained in a restricted certificate issued pursuant to under section 39-06.1-03	4 points
(12) Racing or drag racing motor vehicles in violation of section 39-08-03.1, or equivalent ordinance	10 points
(13) Exhibition driving in violation of section 39-08-03.1, or equivalent ordinance	3 points

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- | | |
|---|----------|
| (14) Failing to yield right of way in violation of section 39-10-20, 39-10-22 through 39-10-26, 39-10-28, 39-10-33.3, 39-10-44, or 39-10-72, or equivalent ordinances | 2 points |
| (15) Disobeying an official traffic-control device in violation of section 39-10-04, 39-10-05, or 39-10-07, or equivalent ordinances | 2 points |
| (16) Driving on wrong side of road in violation of section 39-10-08, 39-10-14, or 39-10-16, or equivalent ordinances | 2 points |
| (17) Failing to dim headlights in violation of section 39-21-21, or equivalent ordinance | 1 point |
| (18) Failing to stop at railroad crossing in violation of section 39-10-41 or 39-10-42, or equivalent ordinances | 3 points |
| (19) Knowingly driving with defective brakes in violation of section 39-21-32 or 39-21-33, or equivalent ordinances | 2 points |
| (20) Disregarding the lawful commands of a police officer in violation of section 39-10-02, or equivalent ordinance | 2 points |
| (21) Overtaking where prohibited or in an unsafe manner in violation of section 39-10-11, 39-10-12, 39-10-13, or 39-10-15, or equivalent ordinances | 2 points |
| (22) Overtaking and passing a schoolbus in violation of section 39-10-46, or equivalent ordinance | 6 points |
| (23) Operating a motor vehicle without a license in violation of section 39-06-01, or equivalent ordinance | 4 points |
| (24) Improperly operating or unlawfully carrying passengers or packages on a motorcycle in violation of section 39-10.2-02, or equivalent ordinance | 2 points |
| (25) Improperly operating a motorcycle in laned traffic in violation of section 39-10.2-03, or equivalent ordinance | 2 points |
| (26) Clinging to other vehicles while riding a motorcycle in violation of section 39-10.2-04, or equivalent ordinance | 4 points |
| (27) Carrying a passenger on a motorcycle not equipped with passenger footrests in violation of section 39-10.2-05, or equivalent ordinance | 2 points |
| (28) Operating a motorcycle without protective headgear in violation of subsection 1 of section 39-10.2-06, or equivalent ordinance | 2 points |
| (29) Failing to use the care required in section 39-09-01.1, or equivalent ordinance | 2 points |

- (30) Except as provided in paragraph 33, operating a motor vehicle in excess of speed limit in violation of section 39-09-02, or equivalent ordinance
- | | |
|------------------------|-----------|
| 6 - 10 mph over limit | 0 points |
| 11 - 15 mph over limit | 1 point |
| 16 - 20 mph over limit | 3 points |
| 21 - 25 mph over limit | 5 points |
| 26 - 35 mph over limit | 9 points |
| 36 - 45 mph over limit | 12 points |
| 46 + mph over limit | 15 points |
- (31) Driving in violation of section 39-08-18 2 points
- (32) Driving in violation of section 39-08-09 6 points
- (33) On a highway on which the speed limit is posted in excess of sixty-five miles [104.61 kilometers] an hour, operating a motor vehicle in excess of the speed limit in violation of section 39-09-02, or equivalent ordinance
- | Miles per hour over lawful speed limit | Points |
|--|--------|
| 1 - 5 | 0 |
| 6 - 10 | 1 |
| 11 - 15 | 3 |
| 16 - 20 | 5 |
| 21 - 25 | 7 |
| 26 - 30 | 10 |
| 31 - 35 | 12 |
| 36 + | 15 |
- (34) Failing to have a minor in a child restraint system or seatbelt in violation of section 39-21-41.2 1 point
- (35) Failure or refusal to comply with rules of the superintendent of the highway patrol in violation of subsection 3 of section 39-21-46 0 points
- (36) Violation of section 39-21-44 or any rule adopted under that section 2 points

b. Criminal Violations

- | Conviction of: | Points Assigned: |
|--|------------------|
| (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 involving property 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) Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20 | 6 points |
| (8) Knowingly driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance | 2 points |
| (9) Operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the violation was discovered as the result of investigation of an accident in which the driver is the owner | 14 points |
| (10) Except as provided in paragraph 9 of subdivision a, knowingly operating an unsafe vehicle in violation of section 39-21-46, or equivalent ordinance | 2 points |
| (11) Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance | 24 points |
| (12) Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the driving record shows that the licensee has within the eighteen months preceding the violation previously violated section 39-08-20 | 12 points |
| (13) 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 |
| (14) Driving in violation of the conditions of an instruction permit | 2 points |

3-1-4. a. If the director is informed by a court that a person an individual has been convicted of violating section 39-08-01, or equivalent ordinance, the director, subject to the offender's opportunity for hearing under subsection 1, shall suspend that ~~person's driving privileges~~ individual's operator's license until the offender furnishes to the director the written statement of the counselor or instructor of an appropriate licensed addiction treatment program that the offender does not require either an education or treatment program or that the offender has physically attended the prescribed program and has complied with the attendance

- rules. The director shall send notice to the offender informing the offender of the provisions of this subsection.
- b. If within the seven years preceding the most recent violation of section 39-08-01, or equivalent ordinance, the offender has previously violated section 39-08-01, or equivalent ordinance, at least three times, the driving privileges shall ~~must~~ be suspended and ~~can~~ may be restored only after that ~~person~~ individual has completed addiction treatment through an appropriate licensed addiction treatment program and has had no alcohol-related or drug-related offense for two consecutive years after completion of treatment.
- ~~4-5.~~ If judicial disposition of a traffic violation includes an order or recommendation of suspension or revocation of an operator's license, the suspension or revocation runs concurrently with any suspension ordered under this section. After a conviction of a ~~person~~ individual for violating section 39-08-01, the director shall, in suspending the ~~person's~~ individual's operator's license, shall give credit for the time in which license suspension or revocation has been or is being imposed under chapter 39-20 in connection with the same offense.
- ~~5-6.~~ A suspension must be deemed to have commenced twenty days after the order of suspension is delivered to the licensee at the licensee's address of record in the department. Constructive delivery under this section must be considered as occurring seventy-two hours after proper deposit in the mails.
- ~~6-7.~~ Points assigned pursuant to ~~under~~ this section must be recorded against an operator's driving record regardless of whether the operator has ever had an operator's license issued in this state, and the ~~licensing authority~~ director shall maintain records on all violators regardless of ~~whether they are licensed~~ license. Upon the assignment of twelve or more points, any unlicensed operator must be deemed to be driving under suspension if the operator has never had an operator's license or if the operator has failed to renew the operator's license.
- ~~7-8.~~ The period of suspension imposed for a violation of section 39-08-01 or equivalent ordinance is:
- a. Ninety-one days if the operator's record shows the ~~person~~ individual has not violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
- b. One hundred eighty days if the operator's record shows the ~~person~~ individual has not violated section 39-08-01 or equivalent ordinance within five years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
- c. Three hundred sixty-five days if the operator's record shows the ~~person~~ individual has once violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
- d. Two years if the operator's record shows the ~~person~~ individual has at least once violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation and the violation was for an alcohol

- concentration of at least eighteen one-hundredths of one percent by weight.
- e. Two years if the operator's record shows the ~~person~~individual has at least twice violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation.
 - f. Three years if the operator's record shows the ~~person~~individual has at least twice violated section 39-08-01 or equivalent ordinance within the five years preceding the last violation and the violation is for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

SECTION 10. AMENDMENT. Section 39-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-10.1. Alternative disposition - Driver training course - Exceptions.

~~A person~~

1. An individual issued a summons or notice to appear under section 39-07-07 may appear before the court and elect to attend a driver training course approved by the director in lieu of entry of points on the licensee's driving record. ~~A person~~An individual who elects to attend the course must so notify the court at the time of posting the bond, which is forfeited even though an election is made under this section. The ~~person~~individual who makes the election shall pay the driver training course fee to the driver training course sponsor. ~~When a person~~If an individual elects to attend the course, the point penalty of five points or fewer ~~as provided~~ for the violation by section 39-06.1-10 may not be assessed; ~~provided, that if proof of completion of the course is presented to the department within thirty days after the~~ provided, that if proof of completion of the course is presented to the department within thirty days after the ~~person~~individual notifies the court of the election. ~~A person~~An individual may not make an election under this section if:
 1. a. That ~~person~~individual has made an election under this section within the twelve months preceding the date of issuance of the summons or notice to appear;
 2. b. The offense is assigned six or more points; or
 3. c. The offense is an offense listed in section 39-06.1-05.

~~A person~~

2. An individual making an election under this section forfeits any point reduction option under section 39-06.1-13.

¹³⁸ **SECTION 11. AMENDMENT.** Section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-11. Temporary restricted license - Ignition interlock device.

¹³⁸ Section 39-06.1-11 was also amended by section 3 of House Bill No. 1027, chapter 292, section 6 of House Bill No. 1302, chapter 301, and section 59 of Senate Bill No. 2039, chapter 291.

1. Except as provided under subsection 2 or 3, if the director has suspended a license under section 39-06.1-10 or has extended a suspension or revocation under section 39-06-43, upon receiving written application from the offender affected, the director may for good cause issue a temporary restricted operator's license valid for the remainder of the suspension period after seven days of the suspension period have passed.
2. If the director has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, upon written application of the offender the director may issue for good cause a temporary restricted license that takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20.
3. The director may not issue a temporary restricted license to any offender whose operator's license has been revoked under section 39-20-04 or suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued for good cause if the offender has not committed an offense for a period of two years before the date of the filing of a written application that must be accompanied by a report from an appropriate licensed addiction treatment program or if the offender is participating in the drug court program and has not committed an offense for a period of three hundred sixty-five days before the date of the filing of a written application that must be accompanied by a recommendation from the district court. ~~The~~
4. For a temporary restricted license under subsection 3, the director may conduct a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior during the prerequisite period of time. The director may also require that an ignition interlock device be installed in the offender's vehicle.
- 3-5. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 5 of section 39-06-17 or section 39-06-31. A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.
- 4-6. A temporary restricted license issued under this section is solely for the use of a motor vehicle during the licensee's normal working hours and may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.
- 5-7. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance and the offender's ~~driver's operator's~~ license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted ~~driver's~~ permit license to the offender ~~only for the sole purpose of participation in the twenty-four seven sobriety program upon submission of proof of financial responsibility and proof of participation in the program by the offender. If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit license be revoked and take possession of the temporary restricted driver's permit license.~~ The court or the parole board shall send a copy of the order to the director who shall record the revocation

of the temporary restricted driver's permit license. Revocation of a temporary restricted driver's permit license for violation of a condition of the twenty-four seven sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section.

SECTION 12. AMENDMENT. Section 39-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-12. Completion of suspension - Reduction of point total.

~~When~~If a licensee completes a period of suspension ordered pursuant to ~~under~~ section 39-06.1-10 or as ordered or recommended by a court of competent jurisdiction, the ~~licensing authority~~director shall reduce the point total shown on the licensee's driving record to eleven points. ~~Thereafter,~~A suspension must be ordered ~~when~~if that licensee's point total again reaches twelve or more points.

SECTION 13. AMENDMENT. Section 39-06.1-13 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-13. Reduction of point total - Other methods.

1. The ~~licensing authority~~director shall reduce the point total shown on any licensee's driving record by one point for each three-month period during which ~~no~~ points are not recorded against the licensee's driving record for a moving violation or a violation listed in paragraphs 12 through 16 of subdivision a of subsection 3 of section 39-06.1-10. The three-month period must be calculated from the date of entry of the last points against that licensee's driving record.
2. The point total shown on a licensee's driving record must, during any twelve-month period, be reduced by three points when the licensee mails or delivers a certificate to the ~~licensing authority~~director indicating successful completion of instruction in a driver training course approved by the ~~licensing authority~~director. Successful completion of instruction must be certified to by the sponsoring agency or organization of the driver training course. The reduction in points ~~authorized by~~under this subsection must ~~only~~ be solely from a point total accumulated ~~prior to~~before completion of the necessary hours of driver training instruction, and may not exceed nine points during any three-year period commencing on the date of entry of the last points against the ~~person's individual's~~ driving record. If on the date the ~~licensing authority~~director receives the certificate of completion of the driver training course from the licensee, that licensee's driving record contains twelve or more points or, as a minor, the licensee's driving record contains six points or more, the point reduction ~~authorized by~~under this subsection must be applied ~~only~~ after serving the period of suspension or cancellation required by the number of points ~~then on the driver's~~licensee's record ~~has been served~~.

SECTION 14. AMENDMENT. Section 39-06.1-14 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-14. Failure to surrender license.

The director shall extend the period of revocation in all cases that involve a time period, within this title, ~~when~~if the ~~person individual~~ whose ~~operator's~~ license or permit has been revoked fails to surrender ~~such the operator's~~ license or permit within forty-eight hours after delivery of the order of revocation. ~~Such~~The period of

revocation must be extended by one day for each day ~~such person~~ the individual fails to surrender ~~such~~ the operator's license. Delivery of the order ~~must be~~ is deemed to have occurred seventy-two hours after the order is mailed by regular mail to the address of record in the department under section 39-06-20.

SECTION 15. AMENDMENT. Section 39-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

39-06.1-15. Diplomatic immunities and privileges.

1. This section applies only to an individual who displays ~~a driver's~~ an operator's license issued by the United States department of state to a ~~law enforcement~~ police officer or who otherwise claims immunities or privileges under chapter 6 of title 22 of the United States Code with respect to the individual's violation of any law or ordinance that relates to the operation of a motor vehicle.
2. If a driver who is subject to this section is stopped by a ~~law enforcement~~ police officer who has probable cause to believe that the driver has committed a violation, the ~~law enforcement~~ police officer shall record all relevant information from any ~~driver's~~ operator's license or identification card, including ~~a driver's~~ an operator's license or identification card issued by the United States department of state; as soon as practicable contact the United States department of state office in order to verify the driver's status and immunity, if any; and forward the following to the bureau of diplomatic security office of foreign missions of the United States department of state:
 - a. A vehicle accident report, if the driver was involved in a vehicle accident;
 - b. A copy of the citation or other charging document if a citation or other charging document was issued to the driver; and
 - c. A written report of the incident if a citation or other charging document was not issued to the driver.
3. This section does not prohibit or limit the application of any law to a criminal or motor vehicle violation by an individual who has or claims immunities or privileges under title 22 of the United States Code.

Approved March 18, 2013

Filed March 18, 2013

CHAPTER 296

HOUSE BILL NO. 1263

(Representatives Gruchalla, Keiser, Kempenich, Larson, Silbernagel, Mock)
(Senators G. Lee, J. Lee, Sinner)

AN ACT to create and enact paragraphs 37, 38, and 39 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to demerit points for driving without liability insurance; 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 section 39-08-20 of the North Dakota Century Code, relating to procedures and demerit points for driving without liability insurance.

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. ~~Driving without liability insurance in violation of section 39-08-20.~~
9. Operating an unsafe vehicle in violation of subsection 2 of section 39-21-46.
- ~~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.

139 **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, 39-06-16, 39-08-20, 39-08-23, 39-08-24, 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, 39-24-02, or 39-24-09, except subdivisions b and c of subsection 5, 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 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.

140 **SECTION 3.** Paragraph 37 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

(37) Except as provided in paragraph 39, operating a motor vehicle without liability insurance, in violation of section 39-08-20 6 points

141 **SECTION 4.** Paragraph 38 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

(38) Except as provided in paragraph 39, operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the driving record shows that the licensee has within the eighteen months preceding the violation previously violated section 39-08-20 12 points

142 **SECTION 5.** Paragraph 39 to subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

(39) Operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the violation was discovered as the result of investigation of an accident in which the driver is the owner 14 points

139 Section 39-06.1-09 was also amended by section 58 of Senate Bill No. 2039, chapter 291, and section 8 of Senate Bill No. 2044, chapter 295.

140 Section 39-06.1-10 was also amended by section 4 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1302, chapter 301, section 5 of House Bill No. 1302, chapter 301, and section 9 of Senate Bill No. 2044, chapter 295.

141 Section 39-06.1-10 was also amended by section 3 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1302, chapter 301, section 5 of House Bill No. 1302, chapter 301, and section 9 of Senate Bill No. 2044, chapter 295.

142 Section 39-06.1-10 was also amended by section 3 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1263, section 5 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1302, chapter 301, section 5 of House Bill No. 1302, chapter 301, and section 9 of Senate Bill No. 2044, chapter 295.

SECTION 6. 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

Conviction of:	Points Assigned:
(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 involving property 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) Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20	6 points
(8) Knowingly driving a modified motor vehicle in violation of section 39-21-45.1, or equivalent ordinance	2 points
(9) Operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the violation was discovered as the result of investigation of an accident in which the driver is the owner	14 points
(10) (8) Except as provided in paragraph 9 of subdivision a, knowingly operating an unsafe vehicle in violation of section 39-21-46, or equivalent ordinance	2 points
(11) (9) Fleeing in a motor vehicle from a peace officer in violation of section 39-10-71, or equivalent ordinance	24 points
(12) Except as provided in paragraph 9, operating a motor vehicle without liability insurance, in violation of section 39-08-20, if the driving record shows that the licensee has within the eighteen months preceding the violation previously violated section 39-08-20	12 points
(13) (10) Causing an accident with an authorized emergency vehicle or a vehicle operated by or under the control	2 points

of the director used for maintaining the state highway system in violation of subsection 5 of section 39-10-26, or equivalent ordinance

- (14)(11) Driving in violation of the conditions of an instruction permit 2 points

¹⁴³ **SECTION 7. 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 fails to submit satisfactory evidence of the policy to the officer or the officer's agency within twenty days from the date of the request; however, during the investigation of an accident, the person may be charged with a violation of this section if that person fails to provide the satisfactory evidence within three business days from the date of the request.~~ 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 officer, the officer's agency, or a office of the court under which the matter will be heard, that person may not be convicted or assessed any administration fee for violation of subsection 1.
3. Notwithstanding section 26.1-30-18, a person may be convicted 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 ~~a class B misdemeanor~~ 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 ~~impose~~ order the motor vehicle number plates of the motor vehicle owned and operated by the person at the time of the

¹⁴³ Section 39-08-20 was also amended by section 3 of Senate Bill No. 2041, chapter 294.

violation to be impounded until that person provides proof of insurance and a twenty dollar fee to the department 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 department 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 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 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 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 April 18, 2013
Filed April 18, 2013

CHAPTER 297

HOUSE BILL NO. 1321

(Representatives Bellew, Gruchalla, Heller, Monson, Sanford, Trottier)

AN ACT to amend and reenact subsection 2 of section 39-06.1-06 of the North Dakota Century Code, relating to the penalty for overtaking a schoolbus.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁴ **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, ~~39-10-46, or 39-10-46.1~~, 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 39-10-46 or 39-10-46.1, a fee of one hundred dollars.

Approved March 27, 2013
Filed March 27, 2013

¹⁴⁴ Section 39-06.1-06 was also amended by section 6 of Senate Bill No. 2044, chapter 295.

CHAPTER 298

SENATE BILL NO. 2046

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact subsection 7 of section 39-06-04, section 39-06.2-02, subsection 1 of section 39-06.2-06, and sections 39-06.2-07, 39-06.2-08, 39-06.2-08.1, 39-06.2-09, 39-06.2-09.1, 39-06.2-10, 39-06.2-10.5, 39-06.2-12, and 39-06.2-16 of the North Dakota Century Code, relating to commercial driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁵ **SECTION 1. AMENDMENT.** Subsection 7 of section 39-06-04 of the North Dakota Century Code is amended and reenacted as follows:

7. The director may issue a commercial ~~driver's instruction~~learner's permit under section 39-06.2-07.

SECTION 2. 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 ~~driver's instruction~~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.

¹⁴⁵ Section 39-06-04 was also amended by section 9 of Senate Bill No. 2039, chapter 291.

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 [11794.11793.86 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] or such lesser rating as determined by federal regulation, 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 ~~a person~~ 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 ~~person's~~ 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. "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.
10. "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.
11. "Drive" means to drive, operate, or be in physical control of a motor vehicle.

12. "Driver" means ~~any person~~ 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.
13. "Driver's license" means a license issued by a state to an individual which authorizes the individual to drive a motor vehicle.
14. "Drug" means any drug or substance or combination of drugs or substances which renders ~~a person~~ an individual incapable of safely driving, and includes any controlled substance.
15. "Electronic device" includes a cellular telephone, personal digital assistant, pager, computer, or any other device used to input, write, send, receive, or read text.
16. "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 ~~a person~~ an individual to drive a commercial motor vehicle.
17. "Fatality" means the death of ~~a person~~ an individual as a result of a motor vehicle accident.
18. "Felony" means any offense under state or federal law which is punishable by death or imprisonment for a term exceeding one year.
19. "Foreign jurisdiction" means any jurisdiction other than a state of the United States.
20. "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. "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. "Imminent hazard" means the existence of a condition that 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. "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. "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.

- 24-25. "Noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles not defined by the term commercial motor vehicle.
- 25-26. "~~Nonresident~~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).
- 26-27. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.
- 27-28. "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 ~~persons~~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 ~~or~~ endorsement, ~~or~~ both commercial learner's permit, for the specific vehicle group being operated or for the passengers or type of cargo being transported; ~~or~~
 - 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.
- 28-29. "State" means a state of the United States or the District of Columbia.
30. "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.

29-31. "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. Reading, selecting, or entering a telephone number, an extension number, or voice mail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call using voice commands to initiate or receive a telephone call. 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. "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. "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.

30-34. "United States" means the fifty states and the District of Columbia.

35. "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.

¹⁴⁶ **SECTION 3. 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 driver's instruction learner's permit and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, ~~no person an individual~~ may not drive a commercial motor vehicle on the highways of this state unless the ~~person~~ individual holds

¹⁴⁶ Section 39-06.2-06 was also amended by section 1 of Senate Bill No. 2348, chapter 299.

and is in immediate possession of a commercial driver's license with applicable endorsements valid for the vehicle the ~~person~~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).

¹⁴⁷ **SECTION 4. 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. ~~Testing.~~

a. ~~General.~~ ~~No person~~An individual may ~~not~~ be issued a commercial driver's license unless that ~~person~~individual is a resident of this state ~~and~~; has passed a knowledge and skills test, ~~including a skills test administered 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 ~~in addition to other requirements imposed by state law or federal regulation.~~ The tests must be prescribed and conducted by the director. The applicant ~~must~~shall pay a fee of five dollars for each of the tests.

~~b.2. Third-party testing.~~ The director may authorize a ~~person, including an agency of this or another state, an employer, a private driver's training facility, or other private institution, or a department, agency, or instrumentality of local government,~~ to administer the skills test specified by this section, ~~provided~~third-party testing, if:

~~(1)~~a. The test is the same as that which would otherwise be administered by ~~the~~this state; and

~~(2)~~b. The third party has entered ~~into~~ an agreement with this state which complies with requirements of 49 CFR part 383.75.

~~2.3. Waiver of skills test.~~ 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.

~~3.4. Limitations on issuance of license.~~ A commercial driver's license, or commercial driver's instruction~~learner's~~ permit, may not be issued to a ~~person~~an individual while the ~~person~~individual is subject to a disqualification from driving a commercial motor vehicle; or while the ~~person's~~individual's driver's license is suspended, revoked, or canceled in any state; ~~nor may a~~A commercial driver's license ~~may not~~ be issued to a ~~person~~an individual who

¹⁴⁷ Section 39-06.2-07 was also amended by section 1 of Senate Bill No. 2040, chapter 300.

has a commercial driver's license issued by any other state unless the ~~person~~individual first surrenders ~~all such licenses~~that license. The director shall notify the issuing state of the surrender of the license.

4. ~~Commercial driver's instruction permit.~~

- a. A commercial ~~driver's instruction~~learner's permit may be issued to an individual who holds a valid class D ~~driver's~~operator's license who has passed the vision and written tests required for an equivalent commercial driver's license.
- b. The commercial ~~driver's instruction~~learner's permit may not be issued for a period to exceed ~~six months~~one hundred eighty days. Only one renewal or reissuance may be granted within a two-year 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 is used after an if all allowable number of permits have been issued.~~ The holder of a ~~commercial driver's instruction permit~~ may, 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.

¹⁴⁸ **SECTION 5. AMENDMENT.** Section 39-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-08. Application for commercial driver's license.

1. The application for a commercial driver's license or commercial ~~driver's instruction~~learner's permit must include the following:
 - a. The full name and current mailing address of the applicant;
 - b. A physical description of the applicant, including sex, height, weight, and eye and hair color;
 - c. Date of birth;
 - d. The applicant's social security number, unless the application is for a ~~nonresident~~nondomiciled commercial driver's license and the applicant is a resident of a foreign jurisdiction;
 - e. The applicant's signature;
 - f. The certifications including those required by 49 CFR part 383.71;
 - g. Any other information required by the director; and
 - h. A consent to release driving record information.

¹⁴⁸ Section 39-06.2-08 was also amended by section 2 of Senate Bill No. 2040, chapter 300.

2. The application must be accompanied by an application fee of fifteen dollars. The application must contain any other information as the director may require to improve identity security. The director may require an applicant for a commercial license or commercial ~~instruction~~learner's permit to provide a social security card and proof of residence address.
3. When the holder of a commercial driver's license changes the holder's name or mailing address, an application for a duplicate license must be made as provided in section 39-06-18.
4. 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.
5. Any individual who knowingly falsifies information or certifications required under subsection 1 is subject to suspension, revocation, cancellation, or disqualification of the individual's commercial driver's license or pending application for a period of at least sixty consecutive days.

SECTION 6. AMENDMENT. Section 39-06.2-08.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-08.1. Commercial driver's license medical certification requirements.

1. The director may issue a commercial ~~driver's instruction~~learner's permit or commercial driver's license to a North Dakota resident who meets the medical qualification and certification requirements pursuant to the limitations of 49 CFR parts 383 and 391.
2. Every individual who makes application for a commercial ~~driver's instruction~~learner's permit or commercial driver's license ~~must~~shall certify that the individual meets the qualification requirements contained in 49 CFR part 391 or certify that the individual's commercial transportation is entirely in intrastate commerce and is not subject to 49 CFR part 391.
3. The application will contain the following categories to comply with the commercial driver's certification requirements:
 - a. Interstate and subject to 49 CFR part 391.
 - b. Interstate, but operating exclusively in transportation or operations excepted under 49 CFR part 390.3(f), 391.2, 391.68, or 398.3.
 - c. Intrastate and subject to state driver's qualification requirements.
 - d. Intrastate, but operating exclusively in transportation or operations excepted from all or part of the state driver's qualification requirements.
4. Every individual who makes application for or holds a commercial ~~driver's instruction~~learner's permit or commercial driver's license ~~must~~shall submit a copy of the individual's medical certificate to the director unless the commercial transportation is not subject to 49 CFR part 391.
5. The director will downgrade or remove the commercial driving privilege from the license if the medical certificate expires and the driver does not change the driver's certification if the driver is no longer subject to 49 CFR part 391.

6. If the driver provides a current medical certification, the director shall upgrade without retesting the license of a driver which was downgraded under this section.

¹⁴⁹ **SECTION 7. AMENDMENT.** Section 39-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09. Commercial driver's license.

1. The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. ~~#~~The license must include the following information:
 - a. The name and residential address of the ~~person~~individual;
 - b. The ~~person's~~individual's color photograph;
 - c. A physical description of the ~~person~~individual, including sex, height, and eye color;
 - d. Date of birth;
 - e. A distinguishing number assigned to the ~~person~~individual;
 - f. The ~~person's~~individual's signature;
 - g. The class or type of commercial motor vehicle or vehicles which the ~~person~~individual is authorized to drive together with any endorsements or restrictions;
 - h. The name of this state; and
 - i. The dates between which the license is valid.
2. The director may issue a ~~nonresidentnondomiciled~~ commercial driver's license pursuant to the limitations of 49 CFR 383 including waiving the social security number requirement. The face of the license must be marked "~~nonresidentnondomiciled~~" in accordance with ~~49 CFR 383.153(b)~~49 CFR 383.153(c).
3. Commercial driver's licenses may be issued with the following classifications, endorsements, and restrictions; ~~the~~ The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles for which an endorsement is required may not be driven unless the proper endorsement appears on the license. The requirements of placarding vehicles transporting hazardous materials under subparagraph b of paragraph 3 of subdivision a and the endorsement required under paragraph 1 of subdivision b do not apply to ~~a person who is~~ the operator of a farm vehicle, ~~provided such~~ if the vehicle is controlled and operated by a farmer and used to transport hazardous materials in the form of farm supplies within one hundred fifty miles [241.40 kilometers] of the farm; and is not used in the operations of a common or contract carrier.

¹⁴⁹ Section 39-06.2-09 was also amended by section 60 of Senate Bill No. 2039, chapter 291, and section 3 of Senate Bill No. 2040, chapter 300.

a. ClassificationsThe classifications of commercial driver's licenses are:

- (1) Class A class A license. AnyThis license allows the operation of any combination of vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], provided~~if~~ the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds [4535.92 kilograms].
- (2) Class A class B license. AnyThis license allows the operation of a single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], and ~~any such~~this vehicle towing a vehicle not in excess of ten thousand pounds [4535.92 kilograms].
- (3) Class A class C license. AnyThis license allows the operation of a single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or ~~any such~~this vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] comprising:
 - (a) Vehicles designed to transport sixteen or more passengers, including the driver; and
 - (b) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 CFR part 172, subpart F.

b. Endorsements and restrictions include:

- (1) "H" ~~-that~~ authorizes the driver to drive a vehicle transporting hazardous materials.
- (2) "T" ~~-that~~ authorizes driving double and triple trailers.
- (3) "P" ~~-that~~ authorizes driving vehicles carrying passengers.
- (4) "N" ~~-that~~ authorizes driving tank vehicles.
- (5) "X" ~~-that~~ authorizes driving combinations of tank vehicles and hazardous material vehicles.
- (6) "S" ~~-that~~ authorizes driving a schoolbus.

c. Other restrictions may be placed upon a commercial driver's license, ~~as provided in~~under section 39-06-17. The applicant shall pay a fee of three dollars for each endorsement.

4. Before issuing a commercial driver's license, the director shall obtain driving record information through the commercial driver's license information system, the national driver's register, and from each state in which the ~~person~~individual has been licensed.
5. Within ten days after issuing a commercial driver's license, the director shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the ~~person~~individual.

6. A commercial driver's license issued under this chapter expires in the manner provided for operator's licenses under section 39-06-19.
7. ~~Every person~~An individual applying for renewal of a commercial driver's license must complete the application form required by subsection 1 of section 39-06.2-08, ~~providing and provide~~ updated information and required certifications. ~~If the~~For an applicant wishes to retain a hazardous materials endorsement, ~~the applicant must take and pass~~ the written test for a hazardous materials endorsement ~~must be taken and passed~~.

¹⁵⁰ **SECTION 8. AMENDMENT.** Section 39-06.2-09.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09.1. Nonresident~~Non~~Nondomiciled commercial license.

1. The department may issue a ~~nonresidentnondomiciled~~ commercial driver's license to an applicant who does not present a social security card as required by section 39-06.2-08 but who otherwise meets the requirements for a ~~nonresidentnondomiciled~~ commercial driver's license. A license issued under this subsection is valid only during the period of time of the applicant's authorized stay in the United States. The license may be renewed only upon presentation of valid documentary evidence that the status has been extended. The department shall renew without a skills or knowledge test a ~~nonresidentnondomiciled~~ commercial license that has been expired for a duration not longer than one year.
2. The fee for a ~~nonresidentnondomiciled~~ commercial driver's license is twenty dollars.

SECTION 9. AMENDMENT. Section 39-06.2-10 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-10. Disqualification and cancellation.

1. ~~Disqualification offenses. Any person~~An individual is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:
 - a. Driving a commercial motor vehicle under the influence of alcohol or drugs;
 - b. Leaving the scene of an accident involving a commercial motor vehicle driven by the ~~person~~individual in violation of section 39-08-04, 39-08-05, 39-08-07, or 39-08-09;
 - c. Using a commercial motor vehicle in the commission of any felony as defined in this chapter;
 - d. Refusal to submit to a test to determine the driver's alcohol concentration while driving a commercial motor vehicle; or

¹⁵⁰ Section 39-06.2-09.1 was also amended by section 4 of Senate Bill No. 2040, chapter 300.

- e. Driving or being in actual physical control of a commercial motor vehicle while the alcohol concentration of the ~~person's~~individual's blood, breath, or urine is four one-hundredths of one percent or more by weight.

If any of the above violations occurred while transporting a hazardous material required to be placarded, the ~~person~~individual is disqualified for a period of not less than three years.

2. An individual is disqualified for a period of not less than sixty days for providing false information to the department related to the issuance of a commercial permit or commercial license or for a period of not less than one year if convicted of fraud related to the issuance of a commercial driver's permit or license.
3. ~~A person~~An individual is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection 1, ~~78, 910, or 4412~~, or any combination of those offenses, arising from two or more separate incidents. Only offenses committed while operating a commercial motor vehicle after July 1, 1989, may be considered in applying this subsection. Only offenses committed while operating a noncommercial motor vehicle after August 1, 2003, may be considered in applying this subsection.
- ~~3-4.~~ The director may adopt rules under section 39-06.2-14, establishing guidelines, including conditions, under which a disqualification for life under subsections ~~23, 89, 4011, and 4213~~ may be reduced to a period of not less than ten years.
- ~~4-5.~~ ~~A person~~An individual is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.
- ~~5-6.~~ ~~A person~~An individual is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations, or one hundred twenty days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.
- ~~6-7.~~ Disqualification for railroad-highway grade crossing violation:
 - a. A driver who is convicted of driving a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to any one of the following six offenses at a railroad-highway grade crossing is disqualified for the period of time specified in subdivision b:
 - (1) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;
 - (2) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;
 - (3) For drivers who are always required to stop, failing to stop before driving onto the crossing;

- (4) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping;
 - (5) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing; and
 - (6) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.
- b. Duration of disqualification for a railroad-highway grade crossing violation:
- (1) ~~First violation.~~ A driver is disqualified for not less than sixty days if the driver is convicted of a first violation of a railroad-highway grade crossing violation.
 - (2) ~~Second violation.~~ A driver is disqualified for not less than one hundred twenty days if, during any three-year period, the driver is convicted of a second railroad-highway grade crossing violation in separate incidents.
 - (3) ~~Third or subsequent violation.~~ A driver is disqualified for not less than one year if, during any three-year period, the driver is convicted of a third or subsequent railroad-highway grade crossing violation in separate incidents.
- 7-8. For a first conviction of driving while under the influence of alcohol or being under the influence of a controlled substance or refusal to be tested while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
- 8-9. For a second or subsequent conviction of driving while under the influence or being under the influence of a controlled substance or refusal to be tested while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for life.
- 9-10. For a first conviction for leaving the scene of an accident while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
- 10-11. For a second or subsequent conviction for leaving the scene of an accident while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for life.
- 11-12. For a first conviction for using a vehicle to commit a felony while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for one year.
- 12-13. For a second or subsequent conviction for using a vehicle to commit a felony while operating a noncommercial motor vehicle, a holder of a commercial driver's licenseholderlicense or learner's permit must be disqualified from operating a commercial motor vehicle for life.

- ~~43-14.~~ For a conviction for using a vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance while operating a commercial motor vehicle or a noncommercial motor vehicle, a holder of a commercial driver's license, holder license or learner's permit must be disqualified from operating a commercial motor vehicle for life.
- ~~44-15.~~ ~~A person~~ An individual is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of any combination of two serious traffic violations within a three-year period while operating a noncommercial motor vehicle, and either conviction results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license.
- ~~45-16.~~ ~~A person~~ An individual is disqualified from driving a commercial motor vehicle for a period of not less than one hundred twenty days if convicted of any combination of three or more serious traffic violations within a three-year period while operating a noncommercial motor vehicle, and any of the convictions results in the revocation, cancellation, or suspension of an operator's license, including a commercial driver's license.
- ~~46-17.~~ ~~Notice and hearing. Prior to~~ Before suspending, revoking, or disqualifying a driver under this section, the director must provide the driver with notice of opportunity for hearing, in accordance with section 39-06-33, and the hearing requested must be held in accordance with section 39-06-33.
- ~~47-18.~~ After suspending, revoking, disqualifying, or canceling a commercial driver's license, the director shall update the director's records to reflect that action within ten days. After suspending, revoking, or canceling a ~~nonresident, nondomiciled~~ commercial driver's privileges, the director shall notify the licensing authority of the state that issued the commercial driver's license or commercial driver's ~~instruction~~ learner's permit within ten days.

SECTION 10. AMENDMENT. Section 39-06.2-10.5 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-10.5. Revocation of privilege to drive commercial motor vehicle upon refusal to submit to testing.

If a person refuses to submit to testing under section 39-06.2-10.2, the law enforcement officer shall immediately take possession of the person's driver's license and issue to that person a temporary driver's permit. The director, upon the receipt of that person's driver's license and a certified written report of the law enforcement officer in the form required by the director, forwarded by the officer within five days after issuing the temporary driver's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle while in violation of section 39-06.2-10.1 or, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully detained, and that the person had refused to submit to the screening test under section 39-06.2-10.2, shall revoke that person's commercial driver's license or permit to drive and any ~~nonresident, nondomiciled~~ commercial driver's privilege for the appropriate period under section 39-06.2-10, or if the person is a resident without a commercial driver's license or permit, the director shall deny to the person the issuance of a commercial driver's license or permit for the appropriate period under section 39-06.2-10 after the

date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's driver's license the director shall give credit for time in which the person was without a driver's license after the day of the person's refusal to submit to the test except that the director may not give credit for time in which the person retained driving privileges through a temporary driver's permit.

SECTION 11. AMENDMENT. Section 39-06.2-12 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-12. Notification of traffic convictions.

Within ten days after receiving a report of the conviction of any ~~nonresident~~non-domiciled holder of a commercial driver's license for any violation of state or local ordinance relating to motor vehicle traffic control, other than parking violations, committed in a commercial motor vehicle, the director shall notify the driver's licensing authority in the licensing state of the conviction.

SECTION 12. AMENDMENT. Section 39-06.2-16 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-16. Reciprocity.

1. Notwithstanding any other provision of law, ~~a person~~an individual may drive a commercial motor vehicle in this state if the ~~person~~individual has a valid commercial driver's license or commercial ~~driver's license instruction~~learner's permit issued by any state, or province or territory of Canada, or licencia federal de conductor issued by Mexico in accordance with the minimum federal standards for the issuance of a commercial motor vehicle driver's license, if the ~~person's~~individual's license or permit is not suspended, revoked, or canceled, and if the ~~person~~individual is not disqualified from driving a commercial motor vehicle.
2. The director must give all out-of-state convictions full faith and credit if the driver is licensed by this state at the time of the conviction or becomes licensed by this state at a later time and treat them for sanctioning purposes under this chapter as if they occurred in this state. For purposes of this section, originals, photostatic copies, or electronic transmissions of the records of the driver's licensing or other authority of the other jurisdiction are sufficient evidence whether or not they are certified copies.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 299**SENATE BILL NO. 2348**

(Senator Miller)
(Representative Headland)

AN ACT to amend and reenact subsection 5 of section 39-06.2-06 of the North Dakota Century Code, relating to restricted commercial driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵¹ **SECTION 1. AMENDMENT.** Subsection 5 of section 39-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

5. Pursuant to the limitations imposed by 49 CFR part 383.3, the required knowledge and skills tests may be waived and a restricted commercial driver's license issued for a single period of one hundred eighty days or two periods of ninety days within a twelve-month period to employees of agrichemical businesses, custom harvesters, farm retail outlets and suppliers, including retailers and suppliers of trees, and livestock feeders.

Approved April 3, 2013
Filed April 3, 2013

¹⁵¹ Section 39-06.2-06 was also amended by section 3 of Senate Bill No. 2046, chapter 298.

CHAPTER 300

SENATE BILL NO. 2040

(Legislative Management)
(Transportation Committee)

AN ACT to create and enact section 39-06.2-19 of the North Dakota Century Code, relating to fees for commercial driver's licenses; and to amend and reenact sections 39-06.2-07, 39-06.2-08, 39-06.2-09, 39-06.2-09.1, and 39-06.2-13.1 of the North Dakota Century Code, relating to commercial driver's licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵² **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. ~~Testing.~~
 - a. ~~General. No person~~An individual may ~~not~~ be issued a commercial driver's license unless that ~~person~~individual is a resident of this state ~~and~~; has passed a knowledge and skills test 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 law and federal law, including the Commercial Motor Vehicle Safety Act in addition to other requirements imposed by state law or federal regulation.~~ The tests must be prescribed and conducted by the director. The applicant must pay ~~at the~~ the fee of ~~five dollars listed in section 39-06.2-19~~ for each of the tests.
 - ~~b.2. Third party testing.~~ The director may authorize a person, including an agency of ~~this or another~~ state, an employer, a private driver's training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section, ~~provided if:~~
 - ~~(1)~~a. The test is the same as that which would otherwise be administered by ~~the~~this state; and
 - ~~(2)~~b. The third party has entered into an agreement with this state which complies with requirements of 49 CFR part 383.75.
 - ~~2.3. Waiver of skills test.~~ 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.
 - ~~3.4. Limitations on issuance of license.~~ A commercial driver's license, or commercial driver's instruction permit, may not be issued to ~~a person~~an individual while the ~~person~~individual is subject to a disqualification from driving

¹⁵² Section 39-06.2-07 was also amended by section 4 of Senate Bill No. 2046, chapter 298.

a commercial motor vehicle, or while the ~~person's individual's~~ driver's license is suspended, revoked, or canceled in any state; ~~nor may a~~. A commercial driver's license may not be issued to a person an individual who has a commercial driver's license issued by any other state unless the ~~person individual~~ first surrenders all ~~such licenses from other states~~. The director shall notify the issuing state of the surrender of the license.

~~4-5. Commercial driver's instruction permit.~~ 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 driver's instruction permit may be issued to an individual who holds a valid class D driver's license who has passed the vision and written tests required for an equivalent commercial driver's license.
- b. ~~The commercial driver's instruction permit may not be issued for a period to exceed six months one hundred eighty days. Only one renewal or reissuance may be granted within a two-year 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 is used after an if all allowable number of permits have been issued. The holder of a commercial driver's instruction permit may, unless otherwise disqualified, 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.~~

¹⁵³ **SECTION 2. AMENDMENT.** Section 39-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-08. Application for commercial driver's license.

1. The application for a commercial driver's license or commercial driver's instruction permit must include the following:
 - a. The full name and current mailing address of the applicant;
 - b. A physical description of the applicant, including sex, height, weight, and eye and hair color;
 - c. Date of birth;
 - d. The applicant's social security number, unless the application is for a nonresident commercial driver's license and the applicant is a resident of a foreign jurisdiction;
 - e. The applicant's signature;
 - f. The certifications including those required by 49 CFR part 383.71;
 - g. Any other information required by the director; and

¹⁵³ Section 39-06.2-08 was also amended by section 5 of Senate Bill No. 2046, chapter 298.

- h. A consent to release driving record information.
2. The application must be accompanied by an application fee of ~~fifteen dollars listed in section 39-06.2-19~~. The application must contain any other information as the director may require to improve identity security. The director may require an applicant for a commercial license or commercial instruction permit to provide a social security card and proof of residence address.
3. When the holder of a commercial driver's license changes the holder's name or mailing address, an application for a duplicate license must be made as ~~provided in~~under section 39-06-18.
4. ~~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.~~
5. Any individual who knowingly falsifies information or certifications required under subsection 1 is subject to suspension, revocation, cancellation, or disqualification of the individual's commercial driver's license or pending application for a period of at least sixty consecutive days.

¹⁵⁴ **SECTION 3. AMENDMENT.** Section 39-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09. Commercial driver's license.

1. The commercial driver's license must be marked "commercial driver's license", and must be, to the maximum extent practicable, tamper proof. It must include the following information:
 - a. The name and residential address of the ~~person~~individual;
 - b. The ~~person's~~individual's color photograph;
 - c. A physical description of the ~~person~~individual, including sex, height, and eye color;
 - d. Date of birth;
 - e. A distinguishing number assigned to the ~~person~~individual;
 - f. The ~~person's~~individual's signature;
 - g. The class or type of commercial motor vehicle or vehicles which the ~~person~~individual is authorized to drive together with any endorsements or restrictions;
 - h. The name of this state; and
 - i. The dates between which the license is valid.

¹⁵⁴ Section 39-06.2-09 was also amended by section 60 of Senate Bill No. 2039, chapter 291, and section 7 of Senate Bill No. 2046, chapter 298.

2. The director may issue a nonresident commercial driver's license pursuant ~~to~~under the limitations of 49 CFR 383 including waiving the social security number requirement. The face of the license must be marked "nonresident" in accordance with 49 CFR 383.153(b).
3. Commercial driver's licenses may be issued with the following classifications, endorsements, and restrictions;~~the~~. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles for which an endorsement is required may not be driven unless the proper endorsement appears on the license. The requirements of placarding vehicles transporting hazardous materials under subparagraph b of paragraph 3 of subdivision a and the endorsement required under paragraph 1 of subdivision b do not apply to ~~a person who is~~ the operator of a farm vehicle, ~~provided such if~~ the vehicle is controlled and operated by a farmer and used to transport hazardous materials in the form of farm supplies within one hundred fifty miles [241.40 kilometers] of the farm, and not used in the operations of a common or contract carrier.
 - a. ClassificationsThe classifications of commercial driver's licenses are:
 - (1) ~~Class~~A class A license. AnyThis license allows the operation of any combination of vehicles with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], ~~provided if~~ the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds [4535.92 kilograms].
 - (2) ~~Class~~A class B license. AnyThis license allows the operation of a single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds [11793.40 kilograms], and ~~any such~~this vehicle towing a vehicle not in excess of ten thousand pounds [4535.92 kilograms].
 - (3) ~~Class~~A class C license. AnyThis license allows the operation of a single vehicle with a gross vehicle weight rating of twenty-six thousand pounds [11793.40 kilograms] or less or ~~any such~~this vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand pounds [4535.92 kilograms] comprising:
 - (a) Vehicles designed to transport sixteen or more passengers, including the driver; and
 - (b) Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 CFR part 172, subpart F.
 - b. Endorsements and restrictions include:
 - (1) "H" ~~-that~~ authorizes the driver to drive a vehicle transporting hazardous materials.
 - (2) "T" ~~-that~~ authorizes driving double and triple trailers.
 - (3) "P" ~~-that~~ authorizes driving vehicles carrying passengers.

- (4) "N" ~~that~~ authorizes driving tank vehicles.
- (5) "X" ~~that~~ authorizes driving combinations of tank vehicles and hazardous material vehicles.
- (6) "S" ~~that~~ authorizes driving a schoolbus.
- c. Other restrictions may be placed upon a commercial driver's license, ~~as provided in under~~ section 39-06-17. The applicant shall pay a fee of ~~three dollars~~ listed in section 39-06.2-19 for each endorsement.
4. Before issuing a commercial driver's license, the director shall obtain driving record information through the commercial driver's license information system, the national driver's register, and from each state in which the ~~person~~ individual has been licensed.
 5. Within ten days after issuing a commercial driver's license, the director shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the ~~person~~ individual.
 6. A commercial driver's license issued under this chapter expires in the manner provided for operator's licenses under section 39-06-19.
 7. ~~Every person~~ An individual applying for renewal of a commercial driver's license must complete the application form required by subsection 1 of section 39-06.2-08, ~~providing and provide~~ updated information and required certifications. ~~If the~~ For an applicant wishes to retain a hazardous materials endorsement, the applicant must take and pass the written test for a hazardous materials endorsement ~~must be taken and passed~~.

¹⁵⁵ **SECTION 4. AMENDMENT.** Section 39-06.2-09.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06.2-09.1. Nonresident commercial license.

1. The department may issue a nonresident commercial driver's license to an applicant who does not present a social security card as required by section 39-06.2-08 but who otherwise meets the requirements for a nonresident commercial driver's license. A license issued under this subsection is valid only during the period of time of the applicant's authorized stay in the United States. The license may be renewed only upon presentation of valid documentary evidence that the status has been extended. The department shall renew without a skills or knowledge test a nonresident commercial license that has been expired for a duration not longer than one year.
2. The fee for a nonresident commercial driver's license is ~~twenty dollars~~ listed in section 39-06.2-19.

SECTION 5. AMENDMENT. Section 39-06.2-13.1 of the North Dakota Century Code is amended and reenacted as follows:

¹⁵⁵ Section 39-06.2-09.1 was also amended by section 8 of Senate Bill No. 2046, chapter 298.

39-06.2-13.1. Driving record information to be furnished.

Notwithstanding any other provision of law, ~~the director shall furnish, and upon request and payment of a fee of three dollars listed in section 39-06.2-19, the director shall provide~~ full information regarding the driving record of ~~a person~~ an individual who has been issued a commercial driver's license to an employer or to a prospective employer if the ~~person~~ individual has given written consent to the prospective employer for this information.

SECTION 6. Section 39-06.2-19 of the North Dakota Century Code is created and enacted as follows:

39-06.2-19. Fees - Deposit in highway fund.

1. All money received under this chapter must be paid monthly to the highway fund in the state treasury.
2. The fee for:
 - a. A commercial driver's license test is five dollars.
 - b. An application for a commercial driver's license or permit is fifteen dollars.
 - c. Each endorsement is three dollars.
 - d. A nonresident commercial driver's license is twenty dollars.
 - e. The driving record for an employer or prospective employer is three dollars.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 301

HOUSE BILL NO. 1302

(Representatives K. Koppelman, Keiser, Kiefert, Klemin, Ruby, Delmore)
(Senators Hogue, Luick, Lyson, Dotzenrod, O'Connell)

AN ACT to create and enact a new subsection to sections 27-20-10, 27-20-31, and 39-06.1-10 and a new section to chapter 39-20 of the North Dakota Century Code, relating to the twenty-four seven sobriety program; to amend and reenact subsection 3 of section 29-06-15, subsection 7 of section 39-06.1-10, sections 39-06.1-11, 39-08-01, 39-08-01.2, 39-08-01.3, 39-08-01.4, 39-20-01, 39-20-01.1, 39-20-03.1, 39-20-04, 39-20-04.1, and 39-20-05, subsections 6, 9, and 10 of section 39-20-07, and sections 39-20-14 and 40-05-06 of the North Dakota Century Code, relating to driving while under the influence and city penalties; to provide for an underage drinking prevention program; to provide for a legislative management study; to provide a penalty; and to provide appropriations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 27-20-10 of the North Dakota Century Code is created and enacted as follows:

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.

SECTION 2. A new subsection to section 27-20-31 of the North Dakota Century Code is created and enacted as follows:

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. AMENDMENT. Subsection 3 of section 29-06-15 of the North Dakota Century Code is amended and reenacted as follows:

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.

¹⁵⁶ **SECTION 4. AMENDMENT.** Subsection 7 of section 39-06.1-10 of the North Dakota Century Code is amended and reenacted as follows:

7. The period of suspension imposed for a violation of section 39-08-01, 39-08-01.2, or 39-08-01.4 or equivalent ordinance is:
- a. Ninety-one days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation.
 - b. One hundred eighty days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within ~~five~~the seven years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
 - c. Three hundred sixty-five days if the operator's record shows the person has once violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation.
 - d. Two years if the operator's record shows the person has at least once violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation and the violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
 - e. Two years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation.
 - f. Three years if the operator's record shows the person has at least twice violated section 39-08-01 or equivalent ordinance within the five~~seven~~ years preceding the last violation and the violation is for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.

¹⁵⁷ **SECTION 5.** A new subsection to section 39-06.1-10 of the North Dakota Century Code is created and enacted as follows:

If an individual has a temporary restricted driver's license with the restriction the individual participates in the twenty-four seven sobriety program under chapter 54-12, the individual may operate a motor vehicle during the suspension periods under this section.

¹⁵⁸ **SECTION 6. AMENDMENT.** Section 39-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

¹⁵⁶ Section 39-06.1-10 was also amended by section 3 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1302, chapter 301, and section 9 of Senate Bill No. 2044, chapter 295.

¹⁵⁷ Section 39-06.1-10 was also amended by section 3 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1263, chapter 296, section 5 of House Bill No. 1263, chapter 296, section 4 of House Bill No. 1302, chapter 301, and section 9 of Senate Bill No. 2044, chapter 295.

39-06.1-11. Temporary restricted license - Ignition interlock device.

1. Except as provided under subsection 2, if the director has suspended a license under section 39-06.1-10 or has extended a suspension or revocation under section 39-06-43, upon receiving written application from the offender affected, the director may for good cause issue a temporary restricted operator's license valid for the remainder of the suspension period after seven days of the suspension period have passed.
2. If the director has suspended a license under chapter 39-20, or after a violation of section 39-08-01 or equivalent ordinance, upon written application of the offender the director may issue ~~for good cause~~ a temporary restricted license that takes effect after thirty days of the suspension have been served after a first offense under section 39-08-01 or chapter 39-20, but if the offender is participating in the twenty-four seven sobriety program under chapter 54-12, the director may issue a temporary restricted license that takes effect after fourteen days of the suspension have been served if the driver is not subject to any unrelated suspension or revocation. The director may not issue a temporary restricted license to any offender whose operator's license has been revoked under section 39-20-04 or suspended upon a second or subsequent offense under section 39-08-01 or chapter 39-20, except that a temporary restricted license may be issued ~~for good cause~~ in accordance with subsection 5 if the offender is participating in the twenty-four seven sobriety program under chapter 54-12 or if the offender has not committed an offense for a period of two years before the date of the filing of a written application that must be accompanied by a report from an appropriate licensed addiction treatment program or if the offender is participating in the drug court program and has not committed an offense for a period of three hundred sixty-five days before the date of the filing of a written application that must be accompanied by a recommendation from the district court. The director may conduct a hearing for the purposes of obtaining information, reports, and evaluations from courts, law enforcement, and citizens to determine the offender's conduct and driving behavior during the prerequisite period of time. The director may also require that an ignition interlock device be installed in the offender's vehicle.
3. The director may not issue a temporary restricted license for a period of license revocation or suspension imposed under subsection 5 of section 39-06-17 or section 39-06-31. A temporary restricted license may be issued for suspensions ordered under subsection 7 of section 39-06-32 if it could have been issued had the suspension resulted from in-state conduct.
4. A restricted license issued under this section is solely for the use of a motor vehicle during the licensee's normal working hours, or as provided under subsection 5, and may contain any other restrictions authorized by section 39-06-17. Violation of a restriction imposed according to this section is deemed a violation of section 39-06-17.
5. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance, or if the offender's license is subject to suspension under chapter 39-20 and the offender's

¹⁵⁸ Section 39-06.1-11 was also amended by section 3 of House Bill No. 1027, chapter 292, section 59 of Senate Bill No. 2039, chapter 291, and section 11 of Senate Bill No. 2044, chapter 295.

driver's license is not subject to an unrelated suspension or revocation, the director shall issue a temporary restricted driver's permit license to the offender ~~only for the purpose of participation upon the restriction the offender participate~~ in the twenty-four seven sobriety program ~~upon~~ under chapter 54-12. The offender shall submit an application to the director for a temporary restricted license along with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program by the offender to receive a temporary restricted license. If a court or the parole board finds that an offender has violated a condition of the twenty-four seven sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the temporary restricted driver's permit. The court or the parole board shall send a copy of the order to the director who shall record the revocation of the temporary restricted driver's permit. Revocation of a temporary restricted driver's permit for violation of a condition of the twenty-four seven sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of this section.

159 **SECTION 7. 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:
 - 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

159 Section 39-08-01 was also amended by section 2 of Senate Bill No. 2041, chapter 294.

- (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.

- ~~2.~~ Unless as otherwise provided in section 39-08-01.2, 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.
- ~~3.~~ An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a ~~five-year~~seven-year period, of a class A misdemeanor for a third offense in a ~~five-year~~seven-year period, of a class A misdemeanor for the fourth offense in a seven-year period, and of a class C felony for a fifth or subsequent offense in a seven-year period~~C felony for any fourth or subsequent offense regardless of the length of time since the previous offense.~~ The minimum penalty for violating this section is as provided in subsection 4~~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.
- ~~3-4.~~ Upon conviction of a second or subsequent offense within ~~five~~seven years under this section or equivalent ordinance, the court ~~must~~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 impounded for the duration of the period of suspension or revocation of the offender's driving privilege by the licensing authority. The impounded number plates must be sent to the director who must retain them for the period of suspension or revocation, subject to their disposition by the court. 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, ~~but not including or if the offender is participating in the twenty-four seven sobriety program.~~
- ~~4-5.~~ 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 ~~two hundred fifty~~ 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 ~~five~~ seven years, the sentence must include at least ~~five~~ ten days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively, or ~~thirty~~ days' community service; a fine of at least ~~one~~ one thousand five hundred dollars; and 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 ~~five~~ seven years, the sentence must include at least ~~sixty~~ one hundred twenty days' imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; a fine of ~~one~~ at least two thousand dollars; and 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.
- d. For a fourth or subsequent offense within ~~seven~~ years, the sentence must include at least one hundred eighty days' year and one day's imprisonment or placement in a minimum security facility, of which forty-eight hours must be served consecutively; a fine of ~~one~~ at least two thousand dollars; and 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 ~~execution or~~ imposition of sentence under this section may not be suspended or deferred under subsection 3 or 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 offense is subject to subdivision c or d, the district court may suspend a sentence,

~~except for ten days' imprisonment, under subsection 3 or 4 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 shall 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.~~

f.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 ~~subsection~~section.

g-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.

5-6. As used in ~~subdivision b~~subdivisions b and c of subsection 4, 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 in which and the defendant is tested at least twice daily for the consumption of alcohol shall participate in the twenty-four seven sobriety program. The defendant shall defray all costs associated with the electronic home detention. This subsection does not apply to individuals committed to or under the supervision and management of the department of corrections and rehabilitation. 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.
8. 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.

SECTION 8. AMENDMENT. Section 39-08-01.2 of the North Dakota Century Code is amended and reenacted as follows:

39-08-01.2. Special punishment for causing injury or death while operating a vehicle while under the influence of alcohol.

- ~~1. If an individual is convicted of an offense under chapter 12.1-16 and the conviction is based in part on the evidence of the individual's operation of a motor vehicle while under the influence of alcohol or drugs, the sentence imposed must include at least one year's imprisonment if the individual was an adult at the time of the offense.~~
- ~~2. If an individual is convicted of violating section 39-08-01, or section 39-08-03 based in part on the evidence of the individual's operation of a motor vehicle while under the influence of alcohol or drugs, and the violation caused serious bodily injury, as defined in section 12.1-01-04, to another individual, that individual is guilty of a class A misdemeanor and the sentence must include at least ninety days' imprisonment if the individual was an adult at the time of the offense.~~
- ~~3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. If the finding of guilt is by jury verdict, the verdict form must indicate that the jury found the elements that create the minimum sentence.~~
1. An individual is guilty of criminal vehicular homicide if the individual commits an offense under section 39-08-01 or equivalent ordinance and as a result the individual causes a death of another individual to occur, including the death of an unborn child, unless the individual who causes the death of the unborn child is the mother. A violation of this subsection is a class A felony. If an individual commits a violation under this subsection, the court shall impose at least three years' imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03, or equivalent ordinance, the court shall impose at least ten years' imprisonment. An individual may not be prosecuted and found guilty of this and an offense under chapter 12.1-16 if the conduct arises out of the same incident.
2. An individual is guilty of criminal vehicular injury if the individual violates section 39-08-01 or equivalent ordinance and as a result that individual causes substantial bodily or serious bodily injury to another individual. Violation of this subsection is a class C felony. If an individual violates this

subsection, the court shall impose at least one year's imprisonment. If the individual violates this section after having been previously convicted of a violation of section 39-08-01 or 39-08-03 or equivalent ordinance, the court shall impose at least two years' imprisonment.

3. The sentence under this section may not be suspended unless the court finds that manifest injustice would result from the imposition of the sentence. Before a sentence under this section applies, a defendant must be notified of the minimum mandatory sentence. The elements of an offense under this section are the elements of an offense for a violation of section 39-08-01 and the additional elements that create an offense in each subsection of this section.

SECTION 9. AMENDMENT. Section 39-08-01.3 of the North Dakota Century Code is amended and reenacted as follows:

~~39-08-01.3. Alcohol-related traffic offenses - Ignition interlock devices and the seizure~~Seizure, forfeiture, and sale of motor vehicles.

A motor vehicle owned and operated by a ~~person~~individual upon a highway or upon public or private areas to which the public has a right of access for vehicular use may be seized, forfeited, and sold or otherwise disposed of pursuant to an order of the court at the time of sentencing if the ~~person~~individual is in violation of section 39-08-01, 39-08-01.2, or 39-08-01.4, or an equivalent ordinance and has been convicted of violating section 39-08-01 or an equivalent ordinance at least one other time within the ~~five~~seven years preceding the violation. ~~The court may also require that an ignition interlock device be installed in the person's vehicle for a period of time that the court deems appropriate.~~

SECTION 10. 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.

SECTION 11. 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.
3. The law enforcement officer shall also 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 determined appropriate will directed by the law enforcement officer may result in a revocation for a minimum of one hundred eighty days and up to fourthree years of the individual's driving privileges. The law enforcement officer shall determine which of the tests is to be used.
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 12. AMENDMENT. Section 39-20-01.1 of the North Dakota Century Code is amended and reenacted as follows:

39-20-01.1. Chemical test of driver in serious bodily injury or fatal crashes.

1. ~~Notwithstanding section 39-20-01 or 39-20-04, when~~ If the driver of a vehicle is involved in an accident a crash resulting in the death of another person individual, and there is probable cause to believe that the driver is in violation of section 39-08-01 or has committed a moving violation as defined in section 39-06.1-09, the driver must be compelled by a police law enforcement officer shall request the driver to submit to a chemical test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both.
2. ~~Notwithstanding section 39-20-01 or 39-20-04, when~~ If the driver of a vehicle is involved in an accident a crash resulting in the serious bodily injury, as defined in section 12.1-01-04, of another person individual, and there is probable

cause to believe that the driver is in violation of section 39-08-01, a law enforcement officer ~~may compel~~ shall request the driver to submit to a test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both. ~~The methods and techniques established by the director of the state crime laboratory must be followed in collecting and preserving a specimen or conducting a test.~~

3. If the driver refuses to submit to a chemical test or tests of the driver's blood, breath, or urine and exigent circumstances are not present, the law enforcement officer shall request a search warrant to compel the driver to submit to a chemical test or tests of the driver's blood, breath, or urine to determine the alcohol concentration or the presence of other drugs or substances, or both.
4. The approved methods of the director of the state crime laboratory or the director's designee must be followed in collecting and preserving a sample of the driver's blood, breath, or urine and conducting a chemical test or tests to determine the alcohol concentration or the presence of other drugs or substances, or both.

SECTION 13. AMENDMENT. Section 39-20-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-20-03.1. Action following test result for a resident operator.

If a person submits to a test under section 39-20-01, 39-20-02, or 39-20-03 and the test shows that person to have an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two 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, the following procedures apply:

1. The law enforcement officer shall immediately issue to that person a temporary operator's permit if the person then has valid operating privileges, extending driving privileges for the next twenty-five days, or until earlier terminated by the decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the director's official notification to the person of the director's intent to revoke, suspend, or deny driving privileges in this state.
2. If a test administered under section 39-20-01 or 39-20-03 was by urine sample or by drawing blood as provided in section 39-20-02 and the individual tested is not a resident of an area in which the law enforcement officer has jurisdiction, the law enforcement officer shall, on receiving the analysis of the urine or blood from the director of the state crime laboratory or the director's designee and if the analysis shows that 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, either proceed in accordance with subsection 1 during that individual's reappearance within the officer's jurisdiction, proceed in accordance with subsection 3, or notify a law enforcement agency having jurisdiction where the individual lives. On that notification, that law enforcement agency shall, within twenty-four

hours, forward a copy of the temporary operator's permit to the law enforcement agency making the arrest or to the director. The law enforcement agency shall issue to that individual a temporary operator's permit as provided in this section, and shall sign and date the permit as provided in subsection 1.

3. If the test results indicate an alcohol concentration at or above the legal limit, the law enforcement agency making the arrest may mail a temporary operator's permit to the individual who submitted to the blood or urine test, whether or not the individual is a resident of the area in which the law enforcement officer has jurisdiction. The third day after the mailing of the temporary operator's permit is considered the date of issuance. Actual notice of the opportunity for a hearing under this section is deemed to have occurred seventy-two hours after the notice is mailed by regular mail to the address submitted by the individual to the law enforcement officer. The temporary operator's permit serves as the director's official notification to the individual of the director's intent to revoke, suspend, or deny driving privileges in this state.
4. The law enforcement officer, within five days of the issuance of the temporary operator's permit, shall forward to the director a certified written report in the form required by the director. If the individual was issued a temporary operator's permit because of the results of a test, the report must show that the officer had reasonable grounds to believe the individual had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01, or equivalent ordinance, that the individual was lawfully arrested, that the individual was tested for alcohol concentration under this chapter, and that the results of the test show that 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. In addition to the operator's license and report, the law enforcement officer shall forward to the director a certified copy of the operational checklist and test records of a breath test and a copy of the certified copy of the analytical report for a blood or urine test for all tests administered at the direction of the officer.
5. An individual charged with a violation of section 39-08-01 or equivalent ordinance may elect to participate in the twenty-four seven sobriety program under chapter 54-12 in lieu of the administrative hearing under this chapter if the individual's driver's license is not subject to an unrelated suspension or revocation. 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. The director shall issue a temporary restricted driver's license with the restriction the individual participate in the twenty-four seven sobriety program upon application by the individual with submission of proof of financial responsibility and proof of participation in the twenty-four seven sobriety program under chapter 54-12.

SECTION 14. AMENDMENT. Section 39-20-04 of the North Dakota Century Code is amended and reenacted as follows:

39-20-04. Revocation of privilege to drive motor vehicle upon refusal to submit to testing.

1. If a person refuses to submit to testing under section 39-20-01 or 39-20-14, none may be given, but the law enforcement officer shall immediately take possession of the person's operator's license if it is then available and shall immediately issue to that person a temporary operator's permit, if the person then has valid operating privileges, extending driving privileges for the next twenty-five days or until earlier terminated by a decision of a hearing officer under section 39-20-05. The law enforcement officer shall sign and note the date on the temporary operator's permit. The temporary operator's permit serves as the director's official notification to the person of the director's intent to revoke driving privileges in this state and of the hearing procedures under this chapter. The director, upon the receipt of that person's operator's license and a certified written report of the law enforcement officer in the form required by the director, forwarded by the officer within five days after issuing the temporary operator's permit, showing that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while in violation of section 39-08-01 or equivalent ordinance or, for purposes of section 39-20-14, had reason to believe that the person committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or accident the officer has, through the officer's observations, formulated an opinion that the person's body contains alcohol, that the person was lawfully arrested if applicable, and that the person had refused to submit to the test or tests under section 39-20-01 or 39-20-14, shall revoke that person's license or permit to drive and any nonresident operating privilege for the appropriate period under this section, or if the person is a resident without a license or a permit to operate a motor vehicle in this state, the director shall deny to the person the issuance of a license or permit for the appropriate period under this section after the date of the alleged violation, subject to the opportunity for a prerevocation hearing and postrevocation review as provided in this chapter. In the revocation of the person's operator's license the director shall give credit for time in which the person was without an operator's license after the day of the person's refusal to submit to the test except that the director may not give credit for time in which the person retained driving privileges through a temporary operator's permit issued under this section or section 39-20-03.2. The period of revocation or denial of issuance of a license or permit under this section is:
 - a. ~~One year~~hundred eighty days if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has not previously been suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
 - b. ~~Three~~Two years if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has been once previously suspended, revoked, or issuance denied for a violation of this chapter or section 39-08-01 or equivalent ordinance.
 - c. ~~Four~~Three years if the person's driving record shows that within the ~~five~~seven years preceding the most recent violation of this section, the person's operator's license has at least twice previously been suspended,

- revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination of the same, and the suspensions, revocations, or denials resulted from at least two separate arrests.
2. A person's driving privileges are not subject to revocation under subdivision a of subsection 1 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; and
 - f. ~~The person has never been convicted under section 39-08-01 or equivalent ordinance.~~
 3. The court must mail a copy of an order granting a withdrawal of a guilty plea to violating section 39-08-01, or equivalent ordinance, to the director within ten days after it is ordered. Upon receipt of the order, the director shall immediately revoke the person's driving privileges as provided under this section without providing an administrative hearing.

SECTION 15. AMENDMENT. Section 39-20-04.1 of the North Dakota Century Code is amended and reenacted as follows:

39-20-04.1. Administrative sanction for driving or being in physical control of a vehicle while having certain alcohol concentration.

1. After the receipt of the certified report of a law enforcement officer and if no written request for hearing has been received from the arrested person under section 39-20-05, or if that hearing is requested and the findings, conclusion, and decision from the hearing confirm that the law enforcement officer had reasonable grounds to arrest the person and test results show that the arrested person was driving or in physical control of a vehicle while having an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight at the time of the performance of a test within two hours after driving or being in physical control of a motor vehicle, the director shall suspend the person's driving privileges as follows:
 - a. For ninety-one days if the person's driving record shows that, within the ~~five~~seven years preceding the date of the arrest, the person has not previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has not previously been suspended or revoked under this chapter and the violation was for an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, and under eighteen one-hundredths of one percent by weight.
 - b. For one hundred eighty days if the operator's record shows the person has not violated section 39-08-01 or equivalent ordinance within ~~five~~the seven years preceding the last violation and the last violation was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
 - c. For three hundred sixty-five days if the person's driving record shows that, within the ~~five~~seven years preceding the date of the arrest, the person has once previously violated section 39-08-01 or equivalent ordinance or the person's operator's license has once previously been suspended or revoked under this chapter with the last violation or suspension for an alcohol concentration under eighteen one-hundredths of one percent by weight.
 - d. For two years if the person's driving record shows that within the ~~five~~seven years preceding the date of the arrest, the person's operator's license has once been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, with the last violation or suspension for an alcohol concentration of at least eighteen one-hundredths of one percent by weight or if the person's driving record shows that within the ~~five~~seven years preceding the date of arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests with the last violation or suspension for an alcohol concentration of under eighteen one-hundredths of one percent by weight.

- e. For three years if the operator's record shows that within ~~five~~the seven years preceding the date of the arrest, the person's operator's license has at least twice previously been suspended, revoked, or issuance denied under this chapter, or for a violation of section 39-08-01 or equivalent ordinance, or any combination thereof, and the suspensions, revocations, or denials resulted from at least two separate arrests and the last violation or suspension was for an alcohol concentration of at least eighteen one-hundredths of one percent by weight.
2. In the suspension of the person's operator's license the director shall give credit for the time the person was without an operator's license after the day of the offense, except that the director may not give credit for the time the person retained driving privileges through a temporary operator's permit issued under section 39-20-03.1 or 39-20-03.2.

SECTION 16. AMENDMENT. Section 39-20-05 of the North Dakota Century Code is amended and reenacted as follows:

39-20-05. Administrative hearing on request - Election to participate in the twenty-four seven sobriety program.

1. Before issuing an order of suspension, revocation, or denial under section 39-20-04 or 39-20-04.1, the director shall afford that person an opportunity for a hearing if the person mails or communicates by other means authorized by the director a request for the hearing to the director within ten days after the date of issuance of the temporary operator's permit. Upon completion of the hearing, an individual may elect to participate in the twenty-four seven sobriety program under chapter 54-12. The hearing must be held within thirty days after the date of issuance of the temporary operator's permit. If no hearing is requested within the time limits in this section, and no affidavit is submitted within the time limits under subsection 2 of section 39-20-04, and if the individual has not provided the director with written notice of election to participate in the twenty-four seven sobriety program under chapter 54-12, the expiration of the temporary operator's permit serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state.
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.
4. At a hearing under this section, the regularly kept records of the director and state crime laboratory may be introduced. Those records establish prima facie their contents without further foundation. For purposes of this chapter, the following are deemed regularly kept records of the director and state crime laboratory:
 - a. Any copy of a certified copy of an analytical report of a blood or urine sample received by the director 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, and received from, a law enforcement officer or an 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 received by the director from a certified breath test operator; and
- b. Any copy of a certified copy of a certificate of the director of the state crime laboratory or the director's designee relating to approved methods, devices, operators, materials, and checklists used for testing for alcohol concentration or the presence of drugs received by the director from the director of the state crime laboratory or the director's designee, or that have been electronically posted with the state crime laboratory division of the attorney general at the attorney general website; and
 - c. Any copy of a certified copy of a certificate of the director of the state crime laboratory designating the director's designees.
5. At the close of the hearing, the hearing officer shall notify the person of the hearing officer's findings of fact, conclusions of law, and decision based on the findings and conclusions and shall immediately deliver to the person a copy of the decision. If the hearing officer does not find in favor of the person, the copy of the decision serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. If the hearing officer finds, based on a preponderance of the evidence, that the person refused a test under section 39-20-01 or 39-20-14 or that the person had an alcohol concentration of at least eight one-hundredths of one percent by weight or, with respect to a person under twenty-one years of age, an alcohol concentration of at least two one-hundredths of one percent by weight, the hearing officer shall immediately take possession of the person's temporary operator's permit issued under this chapter. If the hearing officer does not find against the person, the hearing officer shall sign, date, and mark on the person's permit an extension of driving privileges for the next twenty days and shall return the permit to the person. The hearing officer shall report the findings, conclusions, and decisions to the director within ten days of the conclusion of the hearing. If the hearing officer has determined in favor of the person, the director shall return the person's operator's license by regular mail to the address on file with the director under section 39-06-20.
6. If the person who requested a hearing under this section fails to appear at the hearing without justification, the right to the hearing is waived, and the hearing officer's determination on license revocation, suspension, or denial will be based on the written request for hearing, law enforcement officer's report, and other evidence as may be available. The hearing officer shall, on the date for which the hearing is scheduled, mail to the person, by regular mail, at the address on file with the director under section 39-06-20, or at any other address for the person or the person's legal representative supplied in the request for hearing, a copy of the decision which serves as the director's official notification to the person of the revocation, suspension, or denial of driving privileges in this state. Even if the person for whom the hearing is scheduled fails to appear at the hearing, the hearing is deemed to have been held on the date for which it is scheduled for purposes of appeal under section 39-20-06.

SECTION 17. AMENDMENT. Subsection 6 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

6. The director of the state crime laboratory or the director's designee may appoint, train, certify, and supervise field inspectors of breath testing

equipment and its operation, and the inspectors shall report the findings of any inspection to the director of the state crime laboratory or the director's designee for appropriate action. Upon approval of the methods or devices, or both, required to perform the tests and the individuals qualified to administer them, the director of the state crime laboratory or the director's designee shall prepare, certify, and electronically post a written record of the approval with the state crime laboratory division of the attorney general at the attorney general website, and shall include in the record:

- a. An annual register of the specific testing devices currently approved, including serial number, location, and the date and results of last inspection.
 - b. An annual register of currently qualified and certified operators of the devices, stating the date of certification and its expiration.
 - c. The operational checklist and forms prescribing the methods currently approved by the director of the state crime laboratory or the director's designee in using the devices during the administration of the tests.
 - d. The certificate of the director of the state crime laboratory designating the director's designees.
 - e. The certified records electronically posted under this section may be supplemented when the director of the state crime laboratory or the director's designee determines it to be necessary, and any certified supplemental records have the same force and effect as the records that are supplemented.
- e-f. The state crime laboratory shall make the certified records required by this section available for download in a printable format on the attorney general website.

SECTION 18. AMENDMENT. Subsection 9 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

9. Notwithstanding any statute or rule to the contrary, a defendant who has been found to be indigent by the court in the criminal proceeding at issue may subpoena, without cost to the defendant, the individual who conducted the chemical analysis referred to in this section to testify at the trial on the issue of the amount of alcohol concentration or presence of other drugs, or a combination thereof in the defendant's blood, breath, or urine at the time of the alleged act. If the ~~state toxicologist, the director of the state crime laboratory, or any employee of either, or designee~~ is subpoenaed to testify by a defendant who is not indigent and the defendant does not call the witness to establish relevant evidence, the court shall order the defendant to pay costs to the witness as provided in section 31-01-16. ~~An indigent defendant may also subpoena the individual who withdrew the defendant's blood by following the same procedure.~~

SECTION 19. AMENDMENT. Subsection 10 of section 39-20-07 of the North Dakota Century Code is amended and reenacted as follows:

10. ~~A signed statement from the individual medically qualified to draw the blood sample for testing as set forth in subsection 5 is prima facie evidence that the blood sample was properly drawn and no further foundation for the admission~~

of this evidence may be required. A law enforcement officer who has witnessed an individual who is medically qualified to draw the blood sample for testing may sign a verified statement that the law enforcement officer witnessed the individual draw the blood sample and the individual followed the approved methods of the state toxicologist. Further foundation is not required to establish that the blood sample was drawn according to the approved method of the state toxicologist.

SECTION 20. AMENDMENT. Section 39-20-14 of the North Dakota Century Code is amended and reenacted as follows:

39-20-14. Screening tests.

1. Any individual who operates a motor vehicle upon the public highways of this state is deemed to have given consent to submit to 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 who has reason to believe that the individual committed a moving traffic violation or was involved in a traffic accident as a driver, and in conjunction with the violation or the accident the officer has, through the officer's observations, formulated an opinion that the individual's body contains alcohol.
2. An individual may not be required to submit to a screening test or tests of breath while at a hospital as a patient if the medical practitioner in immediate charge of the individual's case is not first notified of the proposal to make the requirement, or objects to the test or tests on the ground that such would be prejudicial to the proper care or treatment of the patient.
3. The screening test or tests must be performed by an enforcement officer certified as a chemical test operator by the director of the state crime laboratory or the director's designee and according to methods and with devices approved by the director of the state crime laboratory or the director's designee. The results of such screening test must be used only for determining whether or not a further test shall be given under the provisions of section 39-20-01. The officer shall inform the individual that North Dakota law requires the individual to take the screening test to determine whether the individual is under the influence of alcohol, that refusal to take the screening test is a crime, and that refusal of the individual to submit to a screening test will may result in a revocation for at least one hundred eighty days and up to four ~~three~~ years of that individual's driving privileges. If such individual refuses to submit to such screening test or tests, none may be given, but such refusal is sufficient cause to revoke such individual's license or permit to drive in the same manner as provided in section 39-20-04, and a hearing as provided in section 39-20-05 and a judicial review as provided in section 39-20-06 must be available. ~~However, the~~
4. The director must not revoke an individual's driving privileges for refusing to submit to a screening test requested under this section if the individual provides a sufficient breath, blood, or urine sample for a chemical test requested under section 39-20-01 for the same incident.
5. No provisions of this section may supersede any provisions of chapter 39-20, nor may any provision of chapter 39-20 be construed to supersede this section except as provided herein.

6. For the purposes of this section, "chemical test operator" means an individual certified by the director of the state crime laboratory or the director's designee as qualified to perform analysis for alcohol in an individual's blood, breath, or urine.

SECTION 21. A new section to chapter 39-20 of the North Dakota Century Code is created and enacted as follows:

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 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 22. AMENDMENT. Section 40-05-06 of the North Dakota Century Code is amended and reenacted as follows:

40-05-06. City fines and penalties limited.

1. Except as provided in subsections 2 and 3, the fine or penalty for the violation of any ordinance, resolution, or regulation of a city may not exceed one thousand five hundred dollars, and the imprisonment may not exceed thirty days for one offense.
2. For every violation of a city ordinance regulating the operation or equipment of motor vehicles or regulating traffic, except those ordinances listed in section 39-06.1-05, a fee may be established, by ordinance, which may not exceed the limits, for equivalent categories of violations, set forth in section 39-06.1-06.
3. For every violation of a city ordinance enforcing the requirements of 40 CFR 403 relating to publicly owned treatment works, or prohibiting shoplifting, vandalism, criminal mischief, or malicious mischief, the penalty may not exceed a fine of one thousand dollars, imprisonment for thirty days, or both such fine and imprisonment.

This section does not prohibit the use of the sentencing alternatives, other than a fine or imprisonment, provided by section 12.1-32-02 for the violation of a city ordinance, nor does this section limit the use of deferred or suspended sentences under subsections 3 and 4 of section 12.1-32-02.

SECTION 23. LEGISLATIVE MANAGEMENT STUDY - ADMINISTRATIVE PROCEDURE FOR DRIVING UNDER THE INFLUENCE. During the 2013-14 interim, the legislative management shall consider studying the administrative procedure for driving under the influence of alcohol and drugs. The study must include a review of the use of ignition interlock devices and of the effect of an individual refusing to submit to chemical testing. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 24. DEPARTMENT OF HUMAN SERVICES - UNDERAGE DRINKING PREVENTION PROGRAM. The department of human services shall facilitate the continuation of the parents listen, educate, ask, discuss program, a multiagency collaboration among the department of human services, department of transportation, North Dakota state university extension service, and North Dakota university system which has the goal of reducing the consumption of alcohol by minors by providing developmentally appropriate strategies and evidence-based underage drinking prevention services to parents and professionals throughout the state. Through this program the department of human services shall collaborate with the governor's prevention advisory council on drugs and alcohol in pursuing prevention activities.

SECTION 25. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$360,000, or so much of the sum as may be necessary, to the department of human services for the purpose of funding the underage drinking prevention program provided for under section 24 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 26. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,200,000, or so much of the sum as may be necessary, to the attorney general for the purpose of purchasing secure continuous remote alcohol monitors for individuals in the twenty-four seven sobriety program, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 302

HOUSE BILL NO. 1123

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact section 39-08-09 of the North Dakota Century Code, relating to immediate notification of an accident.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-08-09 of the North Dakota Century Code is amended and reenacted as follows:

39-08-09. Immediate notice of accident - Penalty.

1. The driver of a vehicle involved in an accident resulting in injury to or death of any person, or property damage to an apparent extent of at least one thousand dollars, shall immediately give notice of the accident to the local police department if the accident occurs within a municipality, otherwise to the office of the county sheriff or the state highway patrol. Any person who violates this section must be assessed a fine of fifty dollars. The name of the motor vehicle insurance policy carrier and the policy number of the driver, or if the driver is not the owner of the vehicle, then the motor vehicle insurance policy carrier and the policy number of the owner of the vehicle, must be furnished to the law enforcement officer investigating the accident. If the driver does not have the required information concerning insurance to furnish to the investigating law enforcement officer, then within five days of the accident the driver shall supply that information to the driver's license division in the form the division requires.
2. The director may suspend the license or permit to drive and any nonresident operating privileges of any person failing to comply with the duties as provided in sections 39-08-06 through 39-08-09 until those duties have been fulfilled, and the director may extend the suspension not to exceed thirty days.
3. The driver of a vehicle involved in an accident with an undomesticated animal resulting in property damage only to the driver's vehicle is exempt from the notice requirements of this section, regardless of the amount of damage to the driver's vehicle.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 303

SENATE BILL NO. 2310

(Senator Oehlke)

AN ACT to amend and reenact subsections 4 and 6 of section 39-08-13 of the North Dakota Century Code, relating to accident report forms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁰ **SECTION 1. AMENDMENT.** Subsection 4 of section 39-08-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The reports required to be forwarded by law enforcement officers and the information contained therein ~~shall not be in the reports is not~~ privileged or held confidential. If, however, the investigating officer expresses an opinion as to fault or responsibility for the accident, the opinion is confidential and not open to public inspection, except as provided in subsection 5. In addition, the following information contained in the report is an exempt record as defined in section 44-04-17.1 unless the requester is a party to the accident, a party's legal representative, the insurer of any party to the accident, the agent of that insurer, or the legal representative or insurer of an individual involved in defending or investigating a prior or subsequent claim or accident involving a party to the accident:
 - a. Driver identification number of a party in the report;
 - b. Telephone number of a party in the report;
 - c. Insurance company name and policy number of a party in the report; and
 - d. Day and month of birth of a party in the report.

¹⁶¹ **SECTION 2. AMENDMENT.** Subsection 6 of section 39-08-13 of the North Dakota Century Code is amended and reenacted as follows:

6. Upon request of any person and upon payment of a fee of two dollars, the director or the law enforcement agency may furnish to a requester a copy of that portion of an investigating officer's accident report which does not disclose the opinion of the reporting officer or contain any exempt information that may not be disclosed, if the report shows that the accident is one for which a driver is required to file a report under section 39-08-09.

Approved April 19, 2013
Filed April 19, 2013

¹⁶⁰ Section 39-08-13 was also amended by section 2 of Senate Bill No. 2310, chapter 303.

¹⁶¹ Section 39-08-13 was also amended by section 1 of Senate Bill No. 2310, chapter 303.

CHAPTER 304

HOUSE BILL NO. 1124

(Transportation Committee)
(At the request of the Highway Patrol)

AN ACT to amend and reenact subsection 1 of section 39-12-02 of the North Dakota Century Code, relating to permits for oversize and overweight vehicles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-12-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The highway patrol and local authorities in their respective jurisdictions, upon application and payment of the appropriate charges and for good cause shown, may issue a special written permit authorizing the applicant to operate or move a vehicle, mobile home, or modular unit of a size or weight exceeding the maximum specified by this chapter, upon a highway under the jurisdiction of the body granting the permit. Every permit may designate the route to be traversed and may contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit must be carried in the vehicle to which it refers in printed or electronic format and must be opened to inspection by any peace officer or agent of the superintendent of the highway patrol unless prior approval is obtained from the highway patrol. It is a violation of this chapter for any person to violate any of the terms or conditions of the permit. The highway patrol and local authorities may adopt rules governing the movement of oversize and overweight vehicles.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 305

HOUSE BILL NO. 1139

(Representatives Belter, Brandenburg, Boe)
(Senators Campbell, Schaible, Dotzenrod)

AN ACT to create and enact a new subsection to section 39-12-05.3 of the North Dakota Century Code, relating to weight exemption for implements of husbandry.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 39-12-05.3 of the North Dakota Century Code is created and enacted as follows:

The axle weight limitations in subsection 1 do not apply to movements of implements of husbandry or equipment with pneumatic tires used for construction which is used by an agricultural producer while using the equipment for the producer's agricultural, horticultural, or livestock operations if the maximum wheel load does not exceed five hundred fifty pounds [249.48 kilograms] for each inch [2.54 centimeters] of tire width and if the gross weight limitation in this section is not exceeded.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 306

SENATE BILL NO. 2025

(Legislative Management)
(Advisory Commission on Intergovernmental Relations)

AN ACT to amend and reenact sections 39-12-14.1 and 39-12-20 of the North Dakota Century Code, relating to extraordinary road use fees; to provide a continuing appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-12-14.1 of the North Dakota Century Code is amended and reenacted as follows:

39-12-14.1. Voluntary settlement of extraordinary road use fee charges.

Before the complaint is issued pursuant to ~~under~~ section 39-12-14, the owner, or the owner's driver or agent, may voluntarily pay the amount of the extraordinary road use fee, or may provide proof of surety coverage to ensure payment of the extraordinary road use fee, provided under section 39-12-17, plus any towing or storage costs. Any settlement, whether made by the owner, or the owner's driver or agent, ~~must be~~ presumed to be of a voluntary nature. A peace officer or a peace officer's designee is authorized to receive the settlement payment on behalf of the authority having jurisdiction ~~efover~~ the road ~~whereon~~ on which the violation occurred. The extraordinary road use fees for a violation on an interstate or on a state highway must be deposited with the state treasurer to be credited to the state highway fund. Extraordinary road use fees for a violation that did not occur on an interstate or a state highway must be deposited in the general fund of the jurisdiction having authority over the road on which the violation occurred and must be used for the support of the road system of that jurisdiction.

SECTION 2. AMENDMENT. Section 39-12-20 of the North Dakota Century Code is amended and reenacted as follows:

39-12-20. Proceeds of sale - Continuing appropriation.

The proceeds of sale must be deposited with the state treasurer. ~~The~~ For a violation on an interstate or a state highway, the state treasurer shall deposit in the state highway fund an amount equal to the amount of the charges assessed pursuant ~~to~~ under section 39-12-17 after paying the costs to the county. ~~An~~ For any violation, an amount equal to the costs of the proceedings, including attorney's and witness fees and costs, is appropriated on a continuing basis out of the funds collected to the county ~~in which the of~~ prosecution took place for the purpose of defraying the costs of prosecution. From the proceeds of sale for a violation that did not occur on an interstate or a state highway, the amount of charges assessed under section 39-12-17 is appropriated on a continuing basis and must be deposited in the general fund in the jurisdiction in which the violation occurred and must be used for the support of the road system of that jurisdiction. The balance of the proceeds of any sale after the payment of costs and charges is appropriated on a continuing basis out of the funds collected to be paid to the person entitled ~~thereto~~ to the proceeds as

determined by the court or must be deposited with the clerk of court for such payment to that person.

SECTION 3. EXPIRATION DATE. This Act is effective through June 30, 2017, and after that date is ineffective.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 307

SENATE BILL NO. 2317

(Senators Poolman, Klein)
(Representatives Dockter, Drovdal)

AN ACT to create and enact two new subsections to section 39-01-01 of the North Dakota Century Code, relating to definitions; and to amend and reenact sections 39-18-01, 39-18-02, 39-18-06, and 39-18-08 of the North Dakota Century Code, relating to mobile home and manufactured home dealer regulation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶² **SECTION 1.** A new subsection to section 39-01-01 of the North Dakota Century Code is created and enacted as follows:

"Manufactured home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected on site, is three hundred twenty square feet [29.73 square meters] or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to whether the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under title 42 of the United States Code.

¹⁶³ **SECTION 2.** A new subsection to section 39-01-01 of the North Dakota Century Code is created and enacted as follows:

"Mobile home" means a structure, either single or multisectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet [8.23 meters] or more in length.

SECTION 3. AMENDMENT. Section 39-18-01 of the North Dakota Century Code is amended and reenacted as follows:

¹⁶² Section 39-01-01 was also amended by section 1 of House Bill No. 1100, chapter 281, section 1 of Senate Bill No. 2039, chapter 291, section 2 of Senate Bill No. 2039, chapter 291, and section 2 of Senate Bill No. 2317, chapter 307.

¹⁶³ Section 39-01-01 was also amended by section 1 of House Bill No. 1100, chapter 281, section 1 of Senate Bill No. 2039, chapter 291, section 2 of Senate Bill No. 2039, chapter 291, and section 1 of Senate Bill No. 2317, chapter 307.

39-18-01. Mobile home and manufactured home dealer's license - Fees - Dealer's plates - Penalty.

1. ~~No~~ ~~A~~ ~~person, partnership, corporation, or limited liability company~~ may ~~not~~ engage in the business of buying, selling, or exchanging of mobile homes, manufactured homes, or travel trailers, or advertise or hold ~~oneself or itself~~ ~~that~~ person out to the public as being in the business of buying, selling, or exchanging of mobile homes, manufactured homes, or travel trailers without first being licensed ~~to do so as hereinafter provided~~.
2. Application for a dealer's license and renewal license must be made to the department on such forms as the department prescribes and furnishes, and the application must be accompanied by an annual fee of thirty-five dollars for which must be issued one dealer plate. A dealer's license expires on December thirty-first of each year, and application for renewal of a dealer's license must be made on or before the expiration of the current dealer's license.
3. A mobile home or manufactured home dealer's license must be issued only to those who will maintain a permanent office and place of business, and an adequate service department, during the licensing year, and will abide by all the provisions of law pertaining to mobile home or manufactured home dealers.
4. In addition, the dealer shall maintain that person's business records in one central location.
5. Upon the payment of the fee of ten dollars for each additional plate, the department shall register and issue dealer's license plates for use on any mobile or manufactured homes owned by the licensed dealer, and the mobile and manufactured homes bearing the dealer's license plates may be lawfully operated upon the public highways of the state of North Dakota by the dealer, and the dealer's agents and servants, during the year of the registration. A dealer's license plates expire on December thirty-first of each year.
6. The term "mobile home" as used in this chapter includes and has the same meaning as "housetrailer", and both terms have the meaning prescribed in section 39-01-01. The ~~term~~ ~~terms~~ "travel trailer" and "manufactured home" as used in this chapter ~~has~~ have the meaning as prescribed in section 39-01-01.
7. Any mobile home or manufactured home dealer licensed under ~~the provisions~~ of this chapter may sell house cars without being licensed under ~~the provisions~~ of chapter 39-22. A mobile home or manufactured home dealer plate displayed on a house car must be displayed on the rear of the vehicle.
8. Any dealer violating this chapter must be assessed a one hundred dollar fee by the department for a first violation and a two hundred dollar fee by the department for a second violation within two years of the first violation. The department shall suspend the license of a mobile home or manufactured home dealer licensed under this chapter if a third or subsequent violation of this chapter occurs within five years of the first violation.

SECTION 4. AMENDMENT. Section 39-18-02 of the North Dakota Century Code is amended and reenacted as follows:

39-18-02. Bond required.

Before the issuance of a mobile home or manufactured home dealer's license, as provided by law, the applicant for such the license shall furnish a continuous surety bond executed by the applicant as principal and executed by a surety company licensed and qualified to do business within the state of North Dakota, which this state. The bond must be in the amount of ten fifty thousand dollars, and be conditioned upon the faithful compliance by said the applicant as a dealer, if such the license be is issued to the dealer, that such the dealer will comply with all the laws of the state of North Dakotathis state pertaining to such the business, and regulating or being applicable to the business of said the dealer as a dealer in mobile homes or manufactured homes, and indemnifying any person dealing or transacting business with such the dealer in connection with any mobile home or manufactured home from any loss or damage occasioned by the failure of such the dealer to comply with the provisions of the laws of the state of North Dakota, including this state. This includes the furnishing of a proper and valid certificate of title to the vendee of a mobile home within fifteen days of the sale of such a mobile home, and to the vendee of a travel trailer as defined by section 57-55-01 within fifteen days of the sale of such a travel trailer; and that such. In addition, this includes furnishing to the vendee of a manufactured home within fifteen days of the sale of a manufactured home an affidavit of affixation that is obtained from the county recorder in the county where the real property is affixed, a letter of confirmation, and a bill of sale that includes a statement as to whether there are any liens or encumbrances on the manufactured home. The bond must be filed with the director prior to before the issuance of the license herein provided for under this chapter. Provided, however, that the The aggregate liability of the surety to all such persons for all such losses or damages may, in no event, not exceed the amount of such the bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to any such proceedings proceeding. The bond may be canceled by the surety, as to future liability, by giving written notice by certified mail, addressed to the principal at the address stated in the bond, and to the department. Thirty days after the mailing of the notice, the bond is null and void as to any liability thereafter arising. The surety remains liable, subject to the terms, conditions, and provisions of the bond, until the effective date of the cancellation.

SECTION 5. AMENDMENT. Section 39-18-06 of the North Dakota Century Code is amended and reenacted as follows:

39-18-06. Suspension or revocation of dealer's license.

The department may suspend or revoke any dealer's license for failure of the licensee to comply with any of the laws of the state of North Dakotathis state governing mobile home or manufactured home dealers, or for failure to comply with the reasonable rules and regulations of the department set up under chapter 28-32, but ~~near~~ order suspending or revoking a dealer's license may ~~not~~ be made before a hearing at which the licensee must be given an opportunity to be heard.

SECTION 6. AMENDMENT. Section 39-18-08 of the North Dakota Century Code is amended and reenacted as follows:

39-18-08. Sales by real estate broker or salesperson of used mobile home or manufactured home - Penalty.

Notwithstanding any other provision of law, a person licensed as a real estate broker or salesperson may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain listings of, or negotiate the purchase, sale, or

exchange of any used mobile home or manufactured home. For the purposes of this section, a used mobile home is a mobile home which has been previously sold by a mobile home dealer and a used manufactured home is a manufactured home that has been previously sold by a manufactured home dealer. Any person, including a person licensed as a real estate broker or salesperson, who obtains a listing for the sale or exchange of a used mobile home which or manufactured home that is located in a mobile home park, as defined in section 23-10-01, shall provide notice of ~~such~~the listing within seven days after the listing is obtained, in writing, to the owner or operator of the mobile home park.

~~No~~A real estate broker who engages in the activities authorized by this section may not maintain any place of business where two or more mobile homes are displayed and offered for sale by the broker, unless the broker is also licensed as a mobile home or manufactured home dealer ~~pursuant to~~under this chapter. A person who violates this section is guilty of an infraction.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 308

SENATE BILL NO. 2191

(Senators G. Lee, Oehlke, Sinner)
(Representatives Ruby, Silbernagel, Gruchalla)

AN ACT to amend and reenact section 39-21-06 of the North Dakota Century Code, relating to stop lamps and turn signals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-21-06 of the North Dakota Century Code is amended and reenacted as follows:

39-21-06. Stop lamps and turn signals required on new motor vehicle.

1. ~~No~~ person may not sell or offer for sale, or operate on the highways any motor vehicle registered in this state and manufactured or assembled after January 1, 1964, unless it is equipped with at least two stop lamps meeting that are in good working order when lighted, are mounted on the rear on the same level and as widely spaced laterally as practicable, and meet the requirements of section 39-21-19 and this section, except that a truck tractor manufactured or assembled after January 1, 1964, must be equipped with at least one stop lamp meeting the requirements of section 39-21-19.
2. ~~No~~ person may not sell or offer for sale, or operate on the highways any motor vehicle, trailer, or semitrailer registered in this state and manufactured or assembled after January 1, 1952, unless it is equipped with electrical turn signals in good working order, ~~meeting which meet~~ the requirements of section 39-21-19. This subsection does not apply to any trailer or semitrailer of less than three thousand pounds [1360.78 kilograms] gross weight.
3. A stop lamp on a vehicle must be located at a height of not more than seventy-two inches [182.88 centimeters] nor less than fifteen inches [38.10 centimeters] from the ground.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 309

HOUSE BILL NO. 1152

(Representatives N. Johnson, Gruchalla, Vigesaa)
(Senators Flakoll, Miller)

AN ACT to amend and reenact subsection 1 of section 39-22-15 of the North Dakota Century Code, relating to motor vehicle dealer records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 39-22-15 of the North Dakota Century Code is amended and reenacted as follows:

39-22-15. Established place of business - Penalty.

1. A dealer license may not be issued until the applicant furnishes proof satisfactory to the director that the applicant has, does, and will continue to maintain in North Dakota an established place of business adjacent to the primary motor vehicle display lot maintained by the dealer. An established place of business means a permanent enclosed building of at least two hundred fifty square feet [23.22 square meters] either owned, rented, or leased at which a permanent business of bartering, trading, and selling of motor vehicles will be conducted and does not mean a residence, tents, temporary stands, or other temporary quarters. The established place of business and primary motor vehicle display lot must cover at least two thousand five hundred square feet [232.26 square meters] and be located on property zoned or otherwise approved for this purpose by the appropriate zoning authority. The established place of business must be adequately heated and lighted so as to be comfortable for customers and employees and be equipped with standard office equipment necessary for the conduct of the business. All records related to the business, including titles or other documents showing ownership of the vehicles, must be kept and maintained at the established place of business, or if multiple dealer licenses are held by a person, records may be kept and maintained at one established place of business for that person.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 310

SENATE BILL NO. 2043

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact subsection 8 of section 39-24-01, subsection 2 of section 39-29-01, and subsection 1 of section 39-29-09 of the North Dakota Century Code, relating to off-highway vehicles and snowmobiles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 8 of section 39-24-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Snowmobile" means a self-propelled vehicle ~~designed for travel on snow, ice, or a natural terrain and steered by skis or runners intended for off-road travel primarily on snow, having a curb weight of not more than one thousand two hundred pounds [544.31 kilograms], driven by track or tracks in contact with the snow, steered by a ski or skis in contact with the snow, and which is not wider than forty-eight inches [121.92 centimeters]. The term does not include an off-highway vehicle as defined in chapter 39-29 converted to operate on tracks.~~

SECTION 2. AMENDMENT. Subsection 2 of section 39-29-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Off-highway vehicle" means any ~~wheeled~~ motorized vehicle not designed for use on a highway and capable of cross-country travel on land, snow, ice, marsh, swampland, or other natural terrain. An off-highway vehicle must be classified into one of the following categories:
 - a. Class I off-highway vehicle is a vehicle that does not qualify as road capable under chapters 39-21 and 39-27, has a seat or a saddle designed to be straddled by the operator, and has handlebars for steering control of two wheels.
 - b. Class II off-highway vehicle is ~~less than fifty inches [1270.00 millimeters] or less in width, weighs one thousand two hundred pounds [544.31 kilograms] or less, and travels on three or more low-pressure nonhighway tires, has a saddle designed to be straddled by the operator, and has handlebars for steering control; or is sixty-five inches [1651 millimeters] or less in width, weighs two thousand pounds [907.19 kilograms] or less, and travels on four or more nonhighway tires.~~
 - c. Class III off-highway vehicle weighs less than eight thousand pounds; ~~[3628.74 kilograms]; travels on skis, runners, tracks, or four or more tires; has a seat and; has a wheel, handlebars, or t steering for steering control; and is designated for or capable of cross-country on or over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, unless but does not include a vehicle registered by the department under chapter 39-04 or 39-24.~~

SECTION 3. AMENDMENT. Subsection 1 of section 39-29-09 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual may not operate an off-highway vehicle on the roadway, shoulder, or inside bank or slope of any road, street, or highway except as provided in this chapter. Except in emergencies, an individual may not operate an off-highway vehicle within the right of way of any controlled-access highway. An individual may operate a registered off-highway vehicle on a gravel, dirt, or loose surface roadway. An individual may operate a registered off-highway vehicle on a paved highway designated and posted at a speed not exceeding fifty-five miles [88.51 kilometers] per hour. A licensed driver over sixteen years of age may operate a registered class III off-highway vehicle on a paved highway designated and posted at a speed not exceeding sixty-five miles [104.61 kilometers] per hour. An individual may not operate an off-highway vehicle on a paved highway if the vehicle is unable to attain a speed, on a paved level surface, of at least thirty miles [48.28 kilometers] per hour.

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 311

SENATE BILL NO. 2045

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact sections 39-25-01, 39-25-02, 39-25-03, 39-25-04, 39-25-05, 39-25-06, and 39-25-07 of the North Dakota Century Code, relating to commercial driver training schools.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-25-01 of the North Dakota Century Code is amended and reenacted as follows:

39-25-01. Definitions.

1. "Commercial driver training school" or "school" means a business enterprise conducted by ~~an individual, association, partnership, corporation, or limited liability company~~ a person for the education and training of ~~persons~~ individuals, either practically or theoretically, or both, to operate or drive a motor vehicle ~~vehicles~~, and ~~charging a for which accepts consideration or charges~~ tuition for such services ~~the service~~.
2. "Instructor" means ~~any person~~ an individual, whether acting on that ~~person's~~ individual's own behalf as an operator of a commercial driver training school or for ~~such~~ a school for compensation, who teaches, conducts ~~classes of a class for~~, gives demonstrations to, or supervises practice of, ~~persons~~ an individual learning to operate or drive a motor vehicle ~~vehicles~~.

SECTION 2. AMENDMENT. Section 39-25-02 of the North Dakota Century Code is amended and reenacted as follows:

39-25-02. Duties of ~~superintendent~~ director - Regulations.

1. The ~~superintendent of the state highway patrol~~ director shall adopt and prescribe such regulations concerning the administration and enforcement of this chapter ~~as which~~ are necessary to protect the public. The ~~superintendent~~ director shall inspect the school facilities ~~and~~, equipment of applicants and licensees, and examine applicants for instructor's ~~and examiner's~~ licenses ~~or certifications~~.
2. The ~~superintendent~~ director shall administer and enforce this chapter and shall ~~formulate and promulgate~~ theadopt regulations for ~~its~~ the administration and enforcement of this chapter.

SECTION 3. AMENDMENT. Section 39-25-03 of the North Dakota Century Code is amended and reenacted as follows:

39-25-03. School - License required - Contents of application for license.

1. ~~No~~A commercial driver training school may not be established nor may any existing school continue to operate ~~on or after July 1, 1969,~~ unless ~~such~~the school applies for and obtains from the ~~superintendent~~director a license in the manner and form prescribed by the ~~superintendent~~director.
2. The application for license must include a statement of the location of the school, the equipment, courses of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators, insurance, and ~~such~~any other ~~matters~~matter as the ~~superintendent~~director may prescribe for the protection of the public.

SECTION 4. AMENDMENT. Section 39-25-04 of the North Dakota Century Code is amended and reenacted as follows:

39-25-04. Instructor - License required - Contents of application for license.

1. ~~No person~~An individual may not act as an instructor ~~on or after July 1, 1969,~~ unless ~~such person~~the individual applies for and obtains a license in the manner and form prescribed by this chapter.
2. The regulations must state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles, previous personal and employment records, and ~~such~~any other ~~matters~~matter as the ~~superintendent~~director may prescribe for the protection of the public.

SECTION 5. AMENDMENT. Section 39-25-05 of the North Dakota Century Code is amended and reenacted as follows:

39-25-05. Expiration and renewal of licenses - Fees.

~~All licenses expire~~A license expires on the last day of the calendar year and may be renewed upon application to the ~~superintendent~~director as prescribed by the ~~superintendent's~~director's regulations. Each application for an original or renewal school license must be accompanied by a fee of twenty-five dollars, and each application for an original or renewal instructor's license must be accompanied by a fee of ten dollars. ~~Such~~These fees must be deposited in the state treasury in the state highway fund. ~~No license~~License fees may not be refunded in the event any license is rejected, suspended, or revoked.

SECTION 6. AMENDMENT. Section 39-25-06 of the North Dakota Century Code is amended and reenacted as follows:

39-25-06. Refusal, suspension, or revocation of license.

The ~~superintendent~~director may refuse to issue, or may suspend or revoke a license in any case when the ~~superintendent~~director finds the applicant or licensee has violated any of the provisions of this chapter or the regulations adopted by the ~~superintendent~~director. A suspended or revoked license must be returned to the ~~superintendent~~director by the licensee.

SECTION 7. 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 ~~their~~that employer's employees ~~only~~, nor to ~~schools~~a school or ~~classes~~a class conducted by ~~colleges~~a college, ~~universities~~a university, and ~~high schools~~or a high school for a regularly enrolled full-time or part-time ~~students~~student as a part of a normal program ~~for such institutions~~of the institution.

Approved March 26, 2013

Filed March 27, 2013

MUNICIPAL GOVERNMENT

CHAPTER 312

HOUSE BILL NO. 1391

(Representatives Brabandt, Beadle, Froseth)
(Senator Larsen)

AN ACT to amend and reenact section 40-08-05 of the North Dakota Century Code, relating to qualifications of city council members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-08-05 of the North Dakota Century Code is amended and reenacted as follows:

40-08-05. Qualifications of council members.

~~A person~~An individual is not eligible to the office of council member if the ~~person~~:

1. ~~Is~~individual is not a qualified elector of and resident within the ward for which the ~~person~~individual was elected, except that in cities where council members are elected at large and not required to be a resident of the ward for which the ~~person~~individual is elected pursuant to section 40-08-04.2, the ~~person~~individual must be a qualified elector of and a resident within the city; ~~or~~
2. ~~Has been convicted of malfeasance, bribery, or other corrupt practice or crime.~~

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 313

HOUSE BILL NO. 1346

(Representatives Hunskor, Drovdal, Guggisberg)
(Senators Oehlke, Schaible, O'Connell)

AN ACT to amend and reenact subsection 2 of section 40-08-09 and section 40-09-17 of the North Dakota Century Code, relating to permitting a volunteer firefighter or ambulance crew member receiving compensation from a city to serve as a member of the city council or city commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 40-08-09 of the North Dakota Century Code is amended and reenacted as follows:

2. A member of the city council may serve as an ambulance driver, crew member employed by the city or under a contract with the city; and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls.

SECTION 2. AMENDMENT. Section 40-09-17 of the North Dakota Century Code is amended and reenacted as follows:

40-09-17. Restrictions on members of board.

No

1. Except as provided in subsection 2, a member of the board of city commissioners shall may not:
 4. a. Be eligible to any other office the salary of which is payable out of the city treasury;
 2. b. Hold any other office under the city government; and
 3. c. Hold a position of remuneration in the employment of the city.
2. A member of a board of city commissioners may serve as an ambulance crew member employed by the city or under a contract with the city and be remunerated for those services or as a volunteer firefighter or ambulance crew member for the city and be compensated for attending training or responding to emergency calls or may be reimbursed for expenses incurred in attending training or in responding to emergency calls.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 314

HOUSE BILL NO. 1468

(Representatives Beadle, Brabandt, Hanson, Louser, Steiner)
(Senator Laffen)

AN ACT to amend and reenact subsection 2 of section 40-57-02 of the North Dakota Century Code, relating to authorized municipal industrial development bond projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 40-57-02 of the North Dakota Century Code is amended and reenacted as follows:

2. "Project" means any real property, buildings, and improvements on real property ~~or, including water and sewer lines and other underground infrastructure, and the buildings thereon on the real property,~~ and any equipment located on the real property or in the buildings, or elsewhere, or personal property, including working capital, which is used or useful in connection with a revenue-producing enterprise, or any combination of two or more revenue-producing enterprises, engaged or to be engaged in:
 - a. Assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products, or any combination thereof.
 - b. Storing, warehousing, distributing, or selling any products of agriculture, mining, or manufacture.
 - c. Providing child care facilities or hospital, nursing home, or other health care facilities and service.
 - d. Improvements or equipment used or to be used for the abatement or control of environmental pollution in connection with any new or existing revenue-producing enterprise.
 - e. Public career and technical education.
 - f. Any other industry or business not prohibited by the constitution or laws of the state of North Dakota.

In no event, however, does the term "project" include those undertakings defined in chapter 40-35, with the exception of projects referred to in this subsection.

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 315

HOUSE BILL NO. 1046

(Legislative Management)
(Taxation Committee)

AN ACT to amend and reenact section 40-57.1-03 of the North Dakota Century Code, relating to city or county authority to reduce or revoke a previously granted property tax exemption or option to make payments in lieu of taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁴ **SECTION 1. AMENDMENT.** Section 40-57.1-03 of the North Dakota Century Code is amended and reenacted as follows:

40-57.1-03. 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

¹⁶⁴ Section 40-57.1-03 was also amended by section 1 of Senate Bill No. 2314, chapter 316.

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.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2013, regardless of the date a property tax exemption or the option to make payments in lieu of taxes was approved.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 316

SENATE BILL NO. 2314

(Senators Grindberg, Dotzenrod, Oehlke)
(Representatives Belter, Streyle, Williams)

AN ACT to amend and reenact section 40-57.1-03 of the North Dakota Century Code, relating to determination of whether a project is a primary sector or retail sector business before a city or county may grant a property tax exemption for that project; to provide for a legislative management study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁵ **SECTION 1. AMENDMENT.** Section 40-57.1-03 of the North Dakota Century Code is amended and reenacted as follows:

40-57.1-03. Municipality's authority to grant 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

¹⁶⁵ Section 40-57.1-03 was also amended by section 1 of House Bill No. 1046, chapter 315.

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. 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. 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.
6. A city or county may not supersede or expand the provisions of this section under home rule authority.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY. During the 2013-14 interim, the legislative management shall study methods to assure that an accurate and reliable means is developed to measure effectiveness and accountability of property tax exemptions and other economic development incentives granted by cities and counties and to determine whether other taxpayers in the city or county ultimately derive a measurable benefit from granting of the incentives. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 3. EFFECTIVE DATE. This Act is effective for property tax exemptions granted by a municipality to initially become effective for taxable years beginning after December 31, 2014.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 317

HOUSE BILL NO. 1166

(Representative Keiser)
(Senator Cook)

AN ACT to amend and reenact subsection 2 of section 40-63-04 of the North Dakota Century Code, relating to the business or investment income tax exemption for the purchase, lease, or rehabilitation of property within a renaissance zone; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁶ **SECTION 1. AMENDMENT.** Subsection 2 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~Any~~A taxpayer that purchases, leases, rehabilitates, or makes leasehold improvements to residential, public utility infrastructure, or commercial property for any business or investment purpose as a zone project is exempt from ~~any~~ tax on income derived from the business or investment locations within the zone for five taxable years, beginning with the date of purchase, lease, or completion of rehabilitation.
 - a. The maximum amount of income that a taxpayer may exempt from tax under this subsection for any taxable year is five hundred thousand dollars. The limitation in this subdivision applies to the sum of the exempt income derived from the taxpayer's business and investment interests in all zone projects.
 - b. If a zone project consists of a physical expansion of an existing building owned and used by the taxpayer for business or investment purposes, the amount of income exempt from tax under this subsection is limited to an amount equal to the income derived from the business, or from the investment use of the building, during the taxable year multiplied by a ratio equal to the square footage added by the expansion divided by the total square footage of the building after expansion.

SECTION 2. EFFECTIVE DATE. This Act is effective for zone projects approved after July 31, 2013.

Approved April 24, 2013
Filed April 24, 2013

¹⁶⁶ Section 40-63-04 was also amended by section 3 of Senate Bill No. 2325, chapter 449.

OCCUPATIONS AND PROFESSIONS

CHAPTER 318

SENATE BILL NO. 2087

(Human Services Committee)
(At the request of the Board of Podiatric Medicine)

AN ACT to amend and reenact sections 43-05-15 and 43-05-16.3 of the North Dakota Century Code, relating to the renewal of licenses and disciplinary investigations of podiatrists.

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 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 ~~twenty-five dollars~~ 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 43-05-16.3 of the North Dakota Century Code is amended and reenacted as follows:

43-05-16.3. Subpoena power - 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.

Approved April 19, 2013
Filed April 19, 2013

CHAPTER 319

SENATE BILL NO. 2051

(Government and Veterans Affairs Committee)
(At the request of the State Board of Chiropractic Examiners)

AN ACT to amend and reenact sections 43-06-08, 43-06-12, and 43-06-13 of the North Dakota Century Code, relating to chiropractic licensure fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 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 ~~two~~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 2. AMENDMENT. Section 43-06-12 of the North Dakota Century Code is amended and reenacted as follows:

43-06-12. Reexamination - Fee.

If an applicant for a license to practice chiropractic fails to pass the examination, the board, within one year after rejection, may permit that person to retake the examination, upon the payment of a fee, to be determined by the board from time to time, of an amount not to exceed ~~two~~five hundred dollars.

SECTION 3. 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 ~~two~~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, 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 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.

Approved March 19, 2013

Filed March 19, 2013

CHAPTER 320**SENATE BILL NO. 2184**

(Senators Larsen, Berry, Hogue)
(Representative Heller)

AN ACT to amend and reenact section 43-06-17 of the North Dakota Century Code, relating to chiropractors practicing in hospitals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-06-17 of the North Dakota Century Code is amended and reenacted as follows:

43-06-17. Right of chiropractor to practice in public and private hospitals and institutions.

A licensed chiropractor may practice under the same standards as other health practitioners in any public or private hospital or other institution in this state, when requested so to do by any patient or the guardian of any patient.

Approved March 14, 2013
Filed March 15, 2013

CHAPTER 321

HOUSE BILL NO. 1091

(Human Services Committee)
(At the request of the State Board of Nursing)

AN ACT to amend and reenact sections 43-12.1-02, 43-12.1-03, 43-12.1-05, 43-12.1-06, 43-12.1-08, 43-12.1-09, 43-12.1-09.1, 43-12.1-11, 43-12.1-13, and 43-12.1-14 and subsection 1 of section 43-12.1-17 of the North Dakota Century Code, relating to definitions concerning advanced practice registered nurses, licensed practical nurses, registered nurses, and specialty practice registered nurses, license and registration requirements, composition of the state board of nursing, qualifications of state board of nursing members, duties of the state board of nursing, initial licensure and registration, criminal history record checks, duties of licensees and registrants, disciplinary proceedings, and nursing education programs; and to repeal sections 43-12.1-18 and 43-12.1-20 of the North Dakota Century Code, relating to nursing practice standards and continuing education requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-12.1-02 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-02. Definitions.

In this chapter, unless the context otherwise requires:

1. "Advanced practice registered nurse" means an individual who holds a current license to practice in this state as an advanced practice registered nurse within one of the roles of certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or certified clinical nurse specialist, and who functions in one of the population foci as approved by the board.
2. "Board" means the North Dakota board of nursing.
3. "Licensed practical nurse" means an individual who holds a current license to practice in this state as a licensed practical nurse and who practices dependently under the supervision of a registered nurse, specialty practice registered nurse, advanced practice registered nurse, or licensed practitioner.
4. "Nurse" means an individual who is currently licensed as an advanced practice registered nurse, specialty practice registered nurse, registered nurse, or licensed practical nurse.
5. "Nursing" means the performance of acts utilizing specialized knowledge, skills, and abilities for people in a variety of settings. The term includes the following acts, which may not be deemed to include acts of medical diagnosis or treatment or the practice of medicine as defined in chapter 43-17:

- a. The maintenance of health and prevention of illness.
 - b. ~~Diagnosing~~Assessing and diagnosing human responses to actual or potential health problems.
 - c. Providing supportive and restorative care and nursing treatment, medication administration, health counseling and teaching, case finding and referral of individuals who are ill, injured, or experiencing changes in the normal health processes.
 - d. Administration, teaching, supervision, delegation, and evaluation of health and nursing practices.
 - e. Collaboration with other health care professionals in the implementation of the total health care regimen and execution of the health care regimen prescribed by a health care practitioner licensed under the laws of this state.
6. "Prescriptive practices" means assessing the need for drugs, immunizing agents, or devices and writing a prescription to be filled by a licensed pharmacist.
 7. "Registered nurse" means an individual who holds a current license to practice in this state as a registered nurse and who practices nursing independently and interdependently through the application of the nursing process.
 8. "Specialty practice registered nurse" means an individual who holds a current license to practice in this state as a specialty practice registered nurse and who has current certification from a national certifying body in a specific area of nursing practice.
 9. "Unlicensed assistive person" means an assistant to the nurse, ~~other than an individual who is registered on the state department of health nurse aide registry; who regardless of title is authorized by the board to perform nursing interventions delegated and supervised by a nurse.~~

SECTION 2. AMENDMENT. Section 43-12.1-03 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-03. License or registration required - Title - Abbreviation.

Any person who provides nursing care to a resident of this state must hold a current license or registration issued by the board. It is unlawful for a person to practice nursing, offer to practice nursing, assist in the practice of nursing, or use any title, abbreviation, or designation to indicate that the person is practicing nursing or assisting in the practice of nursing in this state unless that person is currently licensed or registered under this chapter. ~~A currently licensed advanced practice registered nurse or specialty practice registered nurse may use titles approved by the board.~~An advanced practice registered nurse shall use the abbreviation "APRN" and may use the applicable role designation of certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or certified clinical nurse specialist inclusive of population foci. A currently licensed specialty practice registered nurse shall use the abbreviation "SPRN"; a currently licensed registered nurse shall use the abbreviation "R.N."; a currently licensed practical nurse shall use the abbreviation "L.P.N."; and an unlicensed assistive person with current registration may use the title

identified by the employer. A person may not use the title "nurse" or be referred to as a "nurse" unless the person is currently licensed by the board or exempt under section 43-12.1-04.

SECTION 3. AMENDMENT. Section 43-12.1-05 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-05. Board of nursing - Composition - Term of office.

There is a state board of nursing whose members must be appointed by the governor which must consist of five registered nurses, ~~three~~one advanced practice registered nurse, two licensed practical nurses, and one public member. Each board member must be appointed for a term of four years. No appointee may be appointed for more than two consecutive terms. An appointment for an unexpired term of more than eighteen months will constitute a full term. Terms of nurse board members must be evenly distributed to allow two licensed nurse board members to be appointed or reappointed each year.

SECTION 4. AMENDMENT. Section 43-12.1-06 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-06. Qualifications of board members.

1. Each registered nurse must be an eligible voting resident of this state, possess an unencumbered registered nurse license under this chapter, and be currently engaged in practice as a registered nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
2. Each licensed practical nurse must be an eligible voting resident of this state, possess an unencumbered practical nurse license under this chapter, and be currently engaged in practice as a licensed practical nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
3. Each advanced practice registered nurse must be an eligible voting resident of this state, possess an unencumbered advanced practice registered nurse license under this chapter, and be currently engaged in practice as an advanced practice registered nurse.
- ~~3-4.~~ Each public member must be an eligible voting resident of this state and have no employment, professional license, or financial interest with any health care entity.
- ~~4-5.~~ Each member appointed to the board shall maintain the qualifications for appointment for the duration of the appointment. The governor may remove any member of the board for cause upon recommendation of two-thirds of the members of the board.

SECTION 5. AMENDMENT. Section 43-12.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-08. Duties of the board.

1. The board shall regulate the practice of nursing. ~~Regulation of the practice of nursing must ensure that a person may not practice or offer to practice nursing~~

~~or use titles of advanced practice registered nurse, specialty practice registered nurse, registered nurse, licensed practical nurse, or unlicensed assistive person, or titles of a similar nature which denote the practice of nursing to the general public unless licensed or registered as provided in this chapter.~~

2. The board shall:

- a. Enforce this chapter.
- b. Adopt and enforce administrative rules necessary to administer this chapter after collaborating and consulting with North Dakota nursing associations~~organizations~~ and other affected parties.
- c. Appoint and employ a registered nurse to serve as executive director and approve any additional staff positions necessary to administer this chapter.
- d. Establish fees and receive all moneys collected under this chapter and authorize all expenditures necessary to conduct the business of the board. Any balance of fees after payment of expenditures must be used to administer this chapter.
- e. Collect and analyze data regarding nursing education, nursing practice, and nursing resources.
- f. Issue and renew limited licenses or registrations to individuals requiring accommodation to practice nursing or assist in the practice of nursing.
- ~~g. Establish confidential programs for the rehabilitation of nurses with workplace impairments.~~
- ~~h.~~ Establish a nursing student loan program funded by license fees to encourage individuals to enter and advance in the nursing profession.
- ~~i-h.~~ Establish a registry of individuals licensed or registered by the board.
- ~~j-i.~~ Report annually to the governor and nursing profession regarding the regulation of nursing in the state.
- ~~k-j.~~ Conduct and support projects pertaining to nursing education and practice.
- ~~l.~~ Notify the board of pharmacy on an annual basis, or more frequent basis if necessary, of advanced practice registered nurses authorized to write prescriptions.
- ~~m-k.~~ Adopt and enforce administrative rules to allow nurses licensed by another state to receive short-term clinical education in North Dakota health care facilities.
 - l. License qualified applicants for nurse licensure.
 - m. Register qualified applicants for the unlicensed assistive person registry.
 - n. Adopt and enforce rules for continuing competence of licensees and registrants.

- o. Adopt and enforce rules for nursing practices.
- p. Issue practice statements regarding the interpretation and application of this chapter.

SECTION 6. AMENDMENT. Section 43-12.1-09 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-09. Initial licensure and registration.

1. The board shall license nurses and register ~~nursing and~~ unlicensed assistive person applicants. The board shall adopt and enforce administrative rules establishing qualifications for initial nursing licensure and unlicensed assistive person registration and for issuing limited licenses and registrations pursuant to subsection 3.
2. Each applicant who successfully meets the requirements of this section is entitled to initial licensure or registration as follows:
 - a. An applicant for licensure by examination to practice as a registered nurse or licensed practical nurse shall:
 - (1) Submit a completed application and appropriate fee as established by the board.
 - (2) Submit an official transcript ~~showing that verifies~~ completion of ~~an~~ board-approved in-state nursing education program that prepares the graduate for the level of licensure sought; or a ~~board-approved~~ submit an official transcript that verifies completion of an out-of-state nursing education program ~~preparing that is approved by the state board of nursing of the jurisdiction in which the program is headquartered and that prepares the graduate~~ for the level of licensure sought. The board shall adopt rules establishing standards for the approval of out-of-state nursing education programs. ~~These standards for out-of-state programs must include consideration of whether the program is accredited by the national league for nursing accrediting commission, incorporated, or the commission on collegiate nursing education and whether the program meets the requirements of the state in which the program is provided.~~
 - (3) Pass an examination approved by the board.
 - b. An applicant for licensure by endorsement to practice as a registered nurse or licensed practical nurse shall:
 - (1) Submit a completed application and appropriate fee as established by the board.
 - (2) Submit an official transcript ~~showing that verifies~~ completion of a nursing education program approved by the state board of nursing of the jurisdiction in which the program is headquartered and preparing the graduate for the level of licensure sought.
 - (3) Submit proof of initial licensure by examination with the examination meeting North Dakota requirements for licensure examinations in effect at the time the applicant qualified for initial licensure.

- (4) Submit evidence of current unencumbered licensure in another state or jurisdiction or meet continued competency requirements as established by the board.
 - (5) Notwithstanding the foregoing requirements of this subdivision, if an applicant for licensure as a licensed practical nurse is not required to meet any additional academic educational requirements for licensure as a licensed practical nurse if the applicant has been licensed in another state as a licensed practical nurse based upon completion of a registered nurse education program and if the applicant has had at least twenty-four months of unencumbered practice as a licensed practical nurse in another state within the five-yearfour-year period immediately preceding the application, ~~then the applicant is not required to meet any additional educational requirements for licensure as a licensed practical nurse.~~
- c. An applicant for licensure as an advanced practice registered nurse shall:
- (1) Submit a completed application and appropriate fee as established by the board.
 - (2) Submit evidence of appropriate education and current certification in an advanced nursing role by a national nursing organization meeting criteria as established by the board. An advanced practice registered nurse applicant must have a graduate degree with a nursing focus or must have completed the educational requirements in effect when the applicant was initially licensed.
 - (3) Possess or show evidence of application for a current unencumbered registered nurse license.
- d. An applicant for licensure as an advanced practice registered nurse who completed an advanced nursing education program and was licensed or certified in advanced practice ~~by another state before January 1, 2001, or who completed an advanced nursing education program and was licensed or certified as a women's health care nurse practitioner by another state before January 1, 2007~~December 31, 2015, may apply for and receive an advanced practice license if that applicant meets the requirements that were in ~~place in this state~~effect at the time the applicant qualified for initial advanced practice licensure ~~in that state~~.
- e. An applicant for unlicensed assistive person registration shall:
- (1) Submit a completed application and the appropriate fee as established by the board.
 - (2) Provide verification of appropriate training or evidence of certification or evaluation in the performance of basic nursing interventions.
- f. An applicant for licensure as a specialty practice registered nurse shall:
- (1) Submit a completed application and appropriate fee as established by the board.

(2) Submit evidence of appropriate education and current certification in a specialty nursing role by a national nursing organization meeting criteria as established by the board. A specialty practice registered nurse applicant must have the educational preparation and national certification within a defined area of nursing practice.

(3) Possess or show evidence of application for a current unencumbered registered nurse license.

3. For good cause shown, the board may issue a limited license or registration to an applicant.

SECTION 7. AMENDMENT. Section 43-12.1-09.1 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-09.1. Nursing licensure or registration - Criminal history record checks.

The board ~~may~~shall require each applicant for initial or renewed nursing licensure and registration to submit to a statewide and nationwide criminal history record check. ~~The board may require any licensee or registrant who is renewing a license or registration and any licensee or registrant who is the subject of a disciplinary investigation or proceeding 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, licensee, or registrant. The board may grant a nonrenewable temporary permit to an applicant for initial or renewed license or registration who submits to a criminal history record check as required by this chapter if the applicant has met all other licensure or registration requirements in accordance with subsection 2 of section 43-12.1-09.

SECTION 8. AMENDMENT. Section 43-12.1-11 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-11. Duties of licensees and registrants.

Each individual licensed or registered by the board shall provide information requested by the board at the time of renewal or reactivation. Each individual licensed or registered by the board shall report to the board any knowledge of the performance ~~by others~~ of those acts or omissions that are violations of this chapter or grounds for disciplinary action as set forth in section 43-12.1-14. Each licensee or registrant shall report to the board any judgment or settlement in a professional or occupational malpractice action to which the licensee or registrant is a party. Any person, other than a licensee or registrant alleged to have violated this chapter, participating in good faith in making a report, assisting in an investigation, or furnishing information to an investigator, is immune from any civil or criminal liability that otherwise may result from reporting required by this section. For the purpose of any civil or criminal proceeding the good faith of any person required to report under this section is presumed.

SECTION 9. AMENDMENT. Section 43-12.1-13 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-13. Disciplinary proceedings.

Disciplinary proceedings under this chapter must be conducted in accordance with chapter 28-32. Fees for each separate violation or the assessment of costs and disbursements, or both, may be imposed against a respondent in addition to any licensure or registration sanctions the board may impose. An appeal from the final decision of the board may be taken to the district court of Burleigh County under chapter 28-32. The board shall furnish to ~~the boards of nursing of other states by means including the data bank of the national council of state boards of nursing, to data banks as required by federal law and to health care agencies of this state, the required state and federal databanks~~ a list of the names and addresses of licensees or registrants individuals who have been disciplined by the board.

SECTION 10. AMENDMENT. Section 43-12.1-14 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-14. Grounds for discipline - Penalties.

The board may deny, limit, revoke, encumber, or suspend any license or registration to practice nursing issued by the board or applied for in accordance with this chapter; reprimand, place on probation, or otherwise discipline a licensee, registrant, or applicant; deny admission to licensure or registration examination; ~~provide an alternative to discipline in situations involving impairments of chemical dependency or psychiatric or physical disorders;~~ require evidence of evaluation and treatment; or issue a nondisciplinary letter of concern to a licensee, registrant, or applicant, upon proof that the person:

1. Has been arrested, charged, or convicted by a court, or has entered a plea of nolo contendere to a crime in any jurisdiction that relates adversely to the practice of nursing and the licensee or registrant has not demonstrated sufficient rehabilitation under section 12.1-33-02.1;
2. Has been disciplined by a board of nursing in another jurisdiction, or has had a license or registration to practice nursing or to assist in the practice of nursing or to practice in another health care occupation or profession denied, revoked, suspended, or otherwise sanctioned;
3. Has engaged in any practice inconsistent with the standards of nursing practice;
4. Has obtained or attempted to obtain by fraud or deceit a license or registration to practice nursing, or has submitted to the board any information that is fraudulent, deceitful, or false;
5. Has engaged in a pattern of practice or other behavior that demonstrates professional misconduct;
6. Has diverted or attempted to divert supplies, equipment, drugs, or controlled substances for personal use or unauthorized use;
7. Has practiced nursing or assisted in the practice of nursing in this state without a current license or registration or as otherwise prohibited by this chapter;
8. Has failed to report any violation of this chapter or rules adopted under this chapter; or

9. Has failed to observe and follow the duly adopted standards, policies, directives, and orders of the board, or has violated any other provision of this chapter.

SECTION 11. AMENDMENT. Subsection 1 of section 43-12.1-17 of the North Dakota Century Code is amended and reenacted as follows:

1. The board shall adopt and enforce administrative rules establishing standards for ~~in-state~~ nursing education programs leading to initial or advanced licensure. ~~A nursing education program may not be provided in this state unless the board has approved the program.~~In-state programs must be approved by the board. Out-of-state programs must be approved by the state board of nursing of the jurisdiction in which the program is headquartered. The board shall approve, review, and reapprove nursing education programs in this state. The board may not require a statement of intent as part of the approval process under this section.

SECTION 12. REPEAL. Sections 43-12.1-18 and 43-12.1-20 of the North Dakota Century Code are repealed.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 322

SENATE BILL NO. 2342

(Senator Anderson)
(Representative K. Koppelman)

AN ACT to create and enact sections 43-15.3-10, 43-15.3-11, and 43-15.3-12 of the North Dakota Century Code, relating to wholesale drug distribution; to amend and reenact sections 43-15.3-01, 43-15.3-02, 43-15.3-03, 43-15.3-04, 43-15.3-07, 43-15.3-08, and 43-15.3-09 of the North Dakota Century Code, relating to wholesale drug distribution; and to provide a penalty.

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 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 wholesale distributor and a manufacturer when 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 has a written agreement currently in effect with the manufacturer evidencing the ongoing relationship; and
 - b. The wholesale distributor 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.

- 5-6. "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.
- 6-8. "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.
- 7-10. "Facility" means a facility of a wholesale distributor where prescription drugs, medical gases, or medical equipment are stored, handled, repackaged, or offered for sale.
- 8-11. "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.

- 9-12. "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.
- 40-16. "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.
- 44-17. "Pedigree" means a document or an electronic file containing information that records each distribution of any given prescription drug.
18. "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.

- 42-19. "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)].
- 43-20. "Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, ~~excluding~~. The term does not include actions completed by the pharmacists responsible for dispensing product to the patient.
- 44-21. "Repackager" means a person ~~wh~~that repackages.
- 45-22. "Third-party logistics provider" means ~~anyone who~~ a person that contracts with a prescription drug, medical gas, or medical equipment manufacturer to provide or coordinate warehousing, 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 under this chapter and to be considered part of the normal distribution channel must also be an authorized distributor of record.
23. "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. "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. "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. "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.
- 46-27. "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:
- 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.
 - d-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.
 - e-h. The sale of minimal quantities of prescription drugs, medical gases, or medical equipment by retail pharmacies to licensed practitioners for office use.
 - f-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.
 - g-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.
 - h-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.

i.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.

j.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.

17-28. "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; manufacturer's 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 43-15.3-02 of the North Dakota Century Code is amended and reenacted as follows:

43-15.3-02. Rulemaking authority.

The board shall adopt rules that conform with wholesale drug distributor licensing guidelines adopted by the federal food and drug administration, including rules necessary to carry out the purposes of this chapter, that incorporate and set detailed standards for meeting each of the license prerequisites set forth in this chapter, and that establish reasonable fees to carry out this chapter.

SECTION 3. AMENDMENT. Section 43-15.3-03 of the North Dakota Century Code is amended and reenacted as follows:

43-15.3-03. Wholesale drug distributor licensing requirement - Minimum requirements for licensure.

1. A wholesale distributor that engages in the wholesale distribution of prescription drugs, medical gases, or medical equipment shall pay the annual fee required by the board, must be licensed by the board under this chapter, and must be properly licensed in any other state in which the wholesale distributor engages in the distribution of prescription drugs, medical gases, or medical equipment before engaging in wholesale distributions of wholesale prescription drugs, medical gases, or medical equipment in this state. The licensee shall operate in a manner prescribed by law and according to rules adopted by the board. However, information and qualification requirements for licensure beyond that required by federal law or regulation do not apply to manufacturers distributing ~~their~~the manufacturers' own United States food and drug administration-approved drugs, gases, or equipment, unless particular requirements are deemed necessary and appropriate following rulemaking. The board may grant a temporary license when the wholesale distributor or

pharmacy distributor first applies for a license to operate within this state. A temporary license is valid until the board finds that the applicant meets the requirements for regular licensure.

2. A person may not engage in wholesale distributions of prescription drugs without obtaining and maintaining accreditation or certification from the national association of boards of pharmacy's verified accredited wholesale distributor or an accreditation body approved by the board, obtaining and maintaining a license issued by the board, and paying fees as may be required by the board.
3. The board shall require the following minimum information from each wholesale distributor applying to get a license under subsection 1:
 - a. The name, full business address, and telephone number of the licensee.
 - b. All trade or business names used by the licensee.
 - c. Addresses, telephone numbers, and the names of contact persons for all facilities used by the licensee for the storage, handling, and distribution of prescription drugs.
 - d. The type of ownership or operation.
 - e. The name of every owner and operator of the licensee, including:
 - (1) If an individual, the name of the individual;
 - (2) If a partnership, the name of each partner, and the name of the partnership;
 - (3) If a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the state of incorporation; and
 - (4) If a sole proprietorship, the full name of the sole proprietor and the name of the business entity.
 - f. A list of all licenses and permits issued to the applicant by any other state that authorizes the applicant to purchase or possess prescription drugs, medical gases, or medical equipment.
 - g. The name of the applicant's designated representative for the facility, together with and for a prescription drug wholesaler applicant, the personal information statement and fingerprints; required pursuant to subdivision h for the individual identified as the prescription drug wholesaler applicant's designated representative for the facility.
 - h. Each individual identified by a prescription drug wholesaler applicant as a designated representative for a facility and therefore required by subdivision g to provide a personal information statement and fingerprints shall provide the following information to the state:
 - (1) The individual's places of residence for the past seven years;

- (2) The individual's date and place of birth;
- (3) The individual's occupations, positions of employment, and offices held during the past seven years;
- (4) The principal business and address of any business, corporation, or other organization in which each office of the individual was held or in which each occupation or position of employment was carried on;
- (5) Whether the individual has been, during the past seven years, the subject of any proceeding for the revocation of any license or any criminal violation and, if so, the nature of the proceeding and the disposition of the proceeding;
- (6) Whether, during the past seven years, the individual has been enjoined, either temporarily or permanently, by a court of competent jurisdiction from violating any federal or state law regulating the possession, control, or distribution of prescription drugs or criminal violations, together with details concerning any of those events;
- (7) A description of any involvement by the individual with any business, including any investments, other than the ownership of stock in a publicly traded company or mutual fund, during the past seven years, which manufactured, administered, prescribed, distributed, or stored pharmaceutical products and any lawsuits in which the businesses were named as a party;
- (8) A description of any misdemeanor or felony criminal offense of which the individual, as an adult, was found guilty, regardless of whether adjudication of guilt was withheld or whether the individual pled guilty or nolo contendere. If the individual indicates that a criminal conviction is under appeal and submits a copy of the notice of appeal of that criminal offense, the applicant must, within fifteen days after the disposition of the appeal, submit to the state a copy of the final written order of disposition; and
- (9) A photograph of the individual taken in the previous one hundred eighty days.

3-4. The information required under subsection 23 must be provided under oath.

4-5. The board may not issue a wholesale distributor license to an applicant, unless the board:

- a. Inspects or appoints a third party recognized by the board for the purpose of inspecting the wholesale distribution operations of the facility before initial licensure and continues to inspect periodically thereafter in accordance with a schedule to be determined by the board, but not less than every three years. Manufacturing facilities are exempt from inspection by the board if the manufacturing facilities are currently registered with the federal food and drug administration in accordance with section 510 of the federal Food, Drug, and Cosmetic Act [21 U.S.C. 301]; and
- b. Determines that the designated representative meets the following qualifications:

- (1) Is at least twenty-one years of age;
 - (2) Has been employed full time for at least three years in a pharmacy or with a wholesale distributor in a capacity related to the dispensing and distribution of, and recordkeeping relating to, prescription drugs, medical gases, or medical equipment;
 - (3) Is employed by the applicant full time in a managerial level position;
 - (4) Is actively involved in and aware of the actual daily operation of the wholesale distributor;
 - (5) Is physically present at the facility of the applicant during regular business hours, except when the absence of the designated representative is authorized, including sick leave and vacation leave;
 - (6) Is serving in the capacity of a designated representative for only one applicant at a time, except where more than one licensed wholesale distributor is colocated in the same facility and the wholesale distributors are members of an affiliated group, as defined in section 1504 of the Internal Revenue Code [26 U.S.C. 1504];
 - (7) Does not have any convictions under any federal, state, or local laws relating to wholesale or retail prescription drug, medical gas, or medical equipment distribution or distribution of controlled substances; and
 - (8) Does not have any felony conviction under federal, state, or local laws.
- ~~5-6.~~ The board shall submit the fingerprints provided by an individual with a license application for a statewide and nationwide criminal history background record check. The nationwide criminal history background record check must be conducted in the manner provided in section 12-60-24. All costs associated with the background check are the responsibility of the applicant.
- ~~6-7.~~ The board shall require every wholesale prescription drug distributor applying for a license to submit a bond of at least one hundred thousand dollars, or other equivalent means of security acceptable to the state, including an irrevocable letter of credit or a deposit in a trust account or financial institution, payable to a fund established by the state under subsection 7. Obtaining and maintaining accreditation or certification from the national association of boards of pharmacy's verified accredited wholesale distributor satisfies this requirement. A chain pharmacy warehouse that is engaged only in intracompany transfers is not subject to the bond requirement. The purpose of the bond is to secure payment of any fines or penalties imposed by the state and any fees and costs incurred by the state regarding that license which are authorized under state law and which the licensee fails to pay thirty days after the fines, penalties, or costs become final. The state may make a claim against the bond or security until one year after the licensee's license ceases to be valid. A single bond may cover all facilities operated by the applicant in the state. Any chain pharmacy warehouse that is engaged only in intracompany transfers is exempt from the bond requirement.
- ~~7.~~ The board shall establish a fund in which to deposit the wholesale distributor bonds. Money in the fund is appropriated to the board on a continuing basis.

8. If a wholesale distributor distributes prescription drugs, medical gases, or medical equipment from more than one facility, the wholesale distributor shall obtain a license for each facility.
9. If a manufacturer manufactures prescription drugs, medical gases, or medical equipment in more than one facility but does not engage in wholesale distribution to North Dakota from those facilities, the manufacturer is not required to obtain a license for each facility.
10. The board shall mail or e-mail a notice for license renewal to each licensee before the first day of the month in which the license expires. If application for renewal of the license, along with the required fee, is not received by the board before the first day of the following month, the license expires on the last day of that month. Timely renewal is the responsibility of the licensee.
11. In accordance with each licensure renewal, the board shall send ~~to make available on the board's website for each wholesale distributor licensed under this section a form setting forth~~ the information that the wholesale distributor provided pursuant to subsection 23. Within thirty days of receiving the ~~form~~ notice, the wholesale distributor ~~must~~ shall identify and state under oath to the state licensing authority all changes or corrections to the information that was provided under subsection 23. Changes in, or corrections to, any information in subsection 23 must be submitted to the board as required by that authority. The board may suspend, revoke, or refuse to renew the license of a wholesale distributor if the board determines that the wholesale distributor no longer qualifies for the license issued under this section.
- 40-12. The designated representative identified pursuant to subdivision g of subsection 23 must receive and complete continuing training in applicable federal and state laws governing wholesale distribution of prescription drugs, medical gases, or medical equipment.
- 44-13. Information provided under subdivision h of subsection 23 may not be disclosed to any person other than a government agency that needs the information for licensing or monitoring purposes.

SECTION 4. AMENDMENT. Section 43-15.3-04 of the North Dakota Century Code is amended and reenacted as follows:

43-15.3-04. Requirements to distribute prescription drugs, medical gases, or medical equipment.

1. A person may not engage in wholesale distributions of prescription drugs without, ~~after December 31, 2007,~~ obtaining and maintaining accreditation or certification from the national association of boards of pharmacy's verified accredited wholesale distributor or an accreditation body approved by the board under subsection 4, obtaining and maintaining a license issued by the board, and paying any reasonable fee required by the board. ~~By action of the board, the deadline may be extended through December 31, 2008.~~
2. The board may not issue or renew the license of a wholesale ~~drug~~ distributor that does not comply with this chapter. The board shall require a separate license for each facility or location where wholesale distribution operations are conducted. An agent or employee of any licensed wholesale ~~drug~~ distributor does not need a license and may lawfully possess pharmaceutical drugs, medical gases, or medical equipment when acting in the usual course of

business or employment. The issuance of a license under this chapter does not affect tax liability imposed by the tax department on any wholesale drug distributor.

3. An out-of-state wholesale distributor or pharmacy distributor or a principal or agent of the distributor may not conduct business in this state unless the distributor has obtained the necessary license from the board, paid the fee required by the board, and registered with the secretary of state. Application for a license must be made on a form furnished by the board and when submitted by the applicant to the board must include a copy of the certificate of authority from the secretary of state. The issuance of a license under this section does not affect tax liability imposed by the tax department on any out-of-state wholesale distributor or pharmacy distributor. The board may adopt rules that permit out-of-state wholesale drug distributors to obtain a license on the basis of reciprocity if an out-of-state wholesale drug distributor possesses a valid license granted by another state and the legal standards for licensure in the other state are comparable to the standards under this chapter and the other state extends reciprocity to wholesale drug distributors licensed in this state. However, if the requirements for licensure under this chapter are more restrictive than the standards of the other state, the out-of-state wholesale drug distributor must shall comply with the additional requirements of this chapter to obtain a license under this chapter.
4. The board may adopt rules to approve an accreditation body to evaluate a wholesale drug distributor's operations to determine compliance with professional standards, this chapter, and any other applicable law, and perform inspections of each facility and location where wholesale distribution operations are conducted by the wholesale drug distributor.
5. The board or a designee of the board may conduct inspections during normal business hours upon all open premises purporting or appearing to be used by a wholesale distributor or pharmacy distributor in this state. A distributor that provides adequate documentation of the most recent satisfactory inspection less than three years old by the United States food and drug administration is exempt from further inspection for a period of time determined by the board. This exemption does not bar the board from initiating an investigation pursuant to a complaint regarding a wholesale distributor or pharmacy distributor. A wholesale distributor or pharmacy distributor may keep records at a central location apart from the principal office of the wholesale distributor or pharmacy distributor or the location at which the drugs are stored and from which they were shipped, provided that the records are made available for inspection within three business days of a request by the board. The records may be kept in any form permissible under federal law applicable to prescription recordkeeping.

SECTION 5. AMENDMENT. Section 43-15.3-07 of the North Dakota Century Code is amended and reenacted as follows:

43-15.3-07. Order to cease distribution.

1. The board shall issue an order requiring the appropriate person, including the distributors or retailers of the drug, gas, or equipment to immediately cease distribution of the drug, gas, or equipment within the state if the board finds that there is a reasonable probability that:

- a. A wholesale distributor, other than a manufacturer, has violated a provision in this chapter or falsified a pedigree or sold, distributed, transferred, manufactured, repackaged, handled, or held a counterfeit prescription drug, medical gas, or medical equipment intended for human use;
 - b. The prescription drug, medical gas, or medical equipment at issue as a result of a violation in subdivision a could cause serious, adverse health consequences or death; and
 - c. Other procedures would result in unreasonable delay.
2. An order under subsection 1 must provide the individual subject to the order with an opportunity for an informal hearing, to be held not later than ten days after the date of the issuance of the order, on the actions required by the order. If, after providing an opportunity for such a hearing, the board determines that inadequate grounds exist to support the actions required by the order, the board shall vacate the order.

SECTION 6. AMENDMENT. Section 43-15.3-08 of the North Dakota Century Code is amended and reenacted as follows:

43-15.3-08. Prohibited acts - Penalty.

1. Except as otherwise provided under section 43-15.3-09, it is a class B misdemeanor for a person to perform or cause the performance of or aid and abet any of the following acts in this state:
 - a. Failing to obtain a license under this chapter or operating without a valid license when a license is required by this chapter.
 - b. If the requirements of subsection 1 of section 43-15.3-05 are applicable and are not met, purchasing or otherwise receiving a prescription drug, medical gas, or medical equipment from a pharmacy.
 - c. If a state license is required under subsection 2 of section 43-15.3-05, selling, distributing, or transferring a prescription drug, medical gas, or medical equipment to a person that is not authorized under the law of the jurisdiction in which the person receives the prescription drug, medical gas, or medical equipment to receive the prescription drug, medical gas, or medical equipment.
 - d. Failing to deliver prescription drugs, medical gases, or medical equipment to specified premises, as required by subsection 3 of section 43-15.3-05.
 - e. Accepting payment or credit for the sale of prescription drugs, medical gases, or medical equipment in violation of subsection 5 of section 43-15.3-05.
 - f. Failing to maintain or provide pedigrees as required by this chapter.
 - g. Failing to obtain, pass, or authenticate a pedigree, as required by this chapter.
 - h. Providing the board or any of the board's representatives or any federal official with false or fraudulent records or making false or fraudulent statements regarding any matter within the provisions of this chapter.

- i. Obtaining or attempting to obtain a prescription drug, medical gas, or medical equipment by fraud, deceit, misrepresentation, or engaging in misrepresentation or fraud in the distribution of a prescription drug, medical gas, or medical equipment.
 - j. Except for the wholesale distribution by manufacturers of a prescription drug, medical gas, or medical equipment that has been delivered into commerce pursuant to an application approved under federal law by the federal food and drug administration, manufacturing, repacking, selling, transferring, delivering, holding, or offering for sale any prescription drug, medical gas, or medical equipment that is adulterated, misbranded, counterfeit, suspected of being counterfeit, or has otherwise been rendered unfit for distribution.
 - k. Except for the wholesale distribution by a manufacturer of a prescription drug, medical gas, or medical equipment that has been delivered into commerce under an application approved under federal law by the federal food and drug administration, adulterating, misbranding, or counterfeiting any prescription drug, medical gas, or medical equipment.
 - l. Receiving any prescription drug, medical gas, or medical equipment that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected of being counterfeit, and the delivery or proffered delivery of such drug, gas, or equipment for pay or otherwise.
 - m. Altering, mutilating, destroying, obliterating, or removing the whole or any part of the labeling of a prescription drug, medical gas, or medical equipment or the commission of any other act with respect to a prescription drug that, medical gas, or medical equipment which results in the prescription drug, medical gas, or medical equipment being misbranded.
2. The prohibited acts in subsection 1 do not include a prescription drug, medical gas, or medical equipment manufacturer or agent of a prescription drug, medical gas, or medical equipment manufacturer obtaining or attempting to obtain a prescription drug, medical gas, or medical equipment for the sole purpose of testing the prescription drug, medical gas, or medical equipment for authenticity.

SECTION 7. AMENDMENT. Section 43-15.3-09 of the North Dakota Century Code is amended and reenacted as follows:

43-15.3-09. Penalties.

1. The board may impose the following sanctions if, after a hearing under chapter 28-32, the board finds that a person has violated section 43-15.3-08:
 - a. Revoke, suspend, or limit the wholesale drug distributor's license issued under this chapter if the person is a wholesale drug distributor; or
 - b. Assess a civil penalty against the person. A civil penalty assessed may not exceed ten thousand dollars per violation.
2. The board, upon a showing of a violation of this chapter, may revoke, suspend, or limit a license issued under this chapter after a proceeding under chapter 28-32. After a proceeding under chapter 28-32, the board may assess

a civil penalty against a licensed wholesale drug distributor of not more than ten thousand dollars for each occurrence. If the licensed wholesale drug distributor fails to pay the civil penalty within the time specified by the board, the board may suspend the license without additional proceedings.

3. Upon application by the board, a court may grant an injunction, a restraining order, or other order to enjoin a person from offering to engage or engaging in the performance of any practices for which a permit or license is required by any applicable federal or state law including this chapter, upon a showing that the practices were or are likely to be performed or offered to be performed without a permit or license. An action brought under this subsection must be commenced either in the county where the conduct occurred or is likely to occur or in the county in the state where the defendant resides. An action brought under this subsection is in addition to any other penalty provided by law and may be brought concurrently with other actions to enforce this chapter.
4. A person that knowingly purchases or receives a prescription drug, medical gas, or medical equipment through any source other than a person licensed under this chapter, including a wholesale distributor, manufacturer, pharmacy distributor, or pharmacy commits a class A misdemeanor. A subsequent unrelated violation of this subsection is a class C felony.
5. A person that knowingly fails to provide a duly authorized individual the right of entry as provided in subsection 5 of section 43-15.3-04 is guilty of a class A misdemeanor for the first conviction and a class C felony for each subsequent conviction.
6. A person ~~whethat~~ knowingly or intentionally engages in the wholesale distribution of a prescription drug, medical gas, or medical equipment without a license issued under this chapter commits a class C felony. A person is guilty of a class C felony if that person engages in the wholesale distribution of a prescription drug and with intent to defraud or deceive fails to obtain or deliver to another person a complete and accurate required pedigree concerning a prescription drug before obtaining the prescription drug from another person or transferring the prescription drug to another person or falsely swears or certifies that the person has authenticated any documents to the wholesale distribution of prescription drugs.
- ~~6.7.~~ A person is guilty of a class C felony if that person engages in the wholesale distribution of a prescription drug, medical gas, or medical equipment and knowingly or intentionally:
 - a. Destroys, alters, conceals, or fails to maintain a complete and accurate required pedigree concerning a prescription drug in the person's possession;
 - b. Purchases or receives prescription drugs, medical gases, or medical equipment from a person not authorized to distribute prescription drugs, medical gases, or medical equipment in wholesale distribution;
 - c. Sells, barter, brokers, or transfers a prescription drug, medical gas, or medical equipment to a person not authorized to purchase the prescription drug, medical gas, or medical equipment in the jurisdiction in which the

- person receives the prescription drug, medical gas, or medical equipment in a wholesale distribution;
- d. Forges, counterfeits, or falsely creates a pedigree;
 - e. Falsely represents a factual matter contained in a pedigree; or
 - f. Fails to record material information required to be recorded in a pedigree.
- 7-8. A person is guilty of a class C felony if that person engages in the wholesale distribution of a prescription drug and possesses a required pedigree concerning a prescription drug, knowingly or intentionally fails to authenticate the matters contained in the pedigree as required, and distributes or attempts to further distribute the prescription drug.

SECTION 8. Section 43-15.3-10 of the North Dakota Century Code is created and enacted as follows:

43-15.3-10. Retail medical gas retailers - Reciprocity.

1. A person may not sell or deliver medical gases and related medical equipment directly to a consumer unless licensed by the board as a retail medical gas retailer.
 - a. As a term of licensure under this section, a licensee shall employ or contract with an in-state licensed respiratory therapist or other health care professional authorized by that professional's practice act to prescribe or administer the medical gases and related medical equipment. The applicant shall furnish on the application the name and license number of the individual or licensee the applicant employees or with which the applicant contracts. Within thirty days of a change, a retailer shall provide the board with notice of any change in the licensee.
 - b. A retail medical gas retailer may sell or deliver to a patient's home medical gases and related equipment in accordance with a practitioner's prescription or drug order. The retail medical gas retailer shall keep the original drug order or an electronic copy of each drug order at the licensed location or must have available for inspection an electronic copy of the original drug order or electronic copy of the drug order. A prescription or drug order is not valid after one year, except a prescription or order for maintenance equipment may be perpetual. A retail medical gas retailer shall maintain a prescription or drug order for five years.
2. An out-of-state retail medical gas 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 medical gas 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 application 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 medical gas retailer.
3. The board may adopt rules that permit an out-of-state retail medical gas 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 medical gas 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 medical gas retailer shall comply with the additional requirements of this chapter to obtain a license under this chapter.

SECTION 9. Section 43-15.3-11 of the North Dakota Century Code is created and enacted 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 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 10. Section 43-15.3-12 of the North Dakota Century Code is created and enacted as follows:

43-15.3-12. Fees.

The board shall charge and collect the following fees under this chapter:

<u>Chain drug warehouse</u>	<u>\$200</u>
<u>Chain pharmacy warehouse</u>	<u>\$200</u>
<u>Durable medical equipment distributor, medical gas distributor, or both</u>	<u>\$200</u>
<u>Durable medical equipment retailer, medical gas retailer and distributor, or both</u>	<u>\$300</u>
<u>Hospital offsite warehouse</u>	<u>\$200</u>
<u>Jobber or broker</u>	<u>\$400</u>
<u>Manufacturer</u>	<u>\$400</u>
<u>Medical gas retailer, durable medical equipment retailer, or both</u>	<u>\$200</u>
<u>Medical gas durable medical equipment distributor and retailer</u>	<u>\$300</u>
<u>Own label distributor</u>	<u>\$400</u>
<u>Pharmacy distributor</u>	<u>\$200</u>
<u>Private label distributor</u>	<u>\$400</u>
<u>Repackager</u>	<u>\$400</u>
<u>Reverse distributor</u>	<u>\$200</u>
<u>Third-party logistic provider</u>	<u>\$400</u>
<u>Veterinary-only distributor</u>	<u>\$200</u>
<u>Virtual manufacturer</u>	<u>\$400</u>
<u>Virtual wholesaler or distributor</u>	<u>\$400</u>
<u>Wholesaler or distributor</u>	<u>\$400</u>

Approved April 12, 2013
 Filed April 12, 2013

CHAPTER 323

SENATE BILL NO. 2135

(Senators Dever, J. Lee, Axness)
(Representatives Porter, Rohr, Hogan)

AN ACT to create and enact chapter 43-17.3 of the North Dakota Century Code, relating to a physician health program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 43-17.3 of the North Dakota Century Code is created and enacted as follows:

43-17.3-01. Definitions.

As used in this chapter:

1. "Board" means the state board of medical examiners.
2. "Committee or designated agency" means a committee or delegated agency of the physician health program which is composed of physicians and other professionals who have expertise in the areas of alcoholism, drug abuse, or mental illness and which is designated by the physician health program to perform any or all of the activities set forth in section 43-17.3-02 pursuant to agreement with the board.
3. "Impairment" means the presence of any physical, mental, or behavioral disorder or pattern of alcohol or substance abuse which interferes with a licensee's ability to engage safely in professional activities.
4. "Licensee" means a physician or other other health professional under the jurisdiction of the board, and includes an applicant for licensure or regulation by the board.
5. "Physician health program" or "program" means a board-sanctioned program for the detection, intervention, and monitoring of licensees with conditions that could result in impairment.
6. "Treatment plan" means a plan of care, rehabilitation, monitoring and maintenance, followup, or aftercare services or combination of any of these services provided by an organization or by an individual authorized by the board or the physician health program to provide such services for a licensee taking part in the physician health program.

43-17.3-02. Physician health program.

1. The board may enter an agreement with the physician health program for the program to undertake those functions and responsibilities specified in the agreement. The functions and responsibilities of the agreement may include any or all of the following:

- a. Contracting with agencies or providers of diagnostic, monitoring, or treatment services;
 - b. Receiving and evaluating reports of licensees who may be experiencing potentially impairing conditions;
 - c. Intervening in cases in which a licensee is determined to be in need of treatment;
 - d. Referring licensees to appropriate services;
 - e. Monitoring the treatment and aftercare services provided to licensees;
 - f. Educating licensees and the public about the functions of the program and the program's relationship to the board; and
 - g. Performing other activities as agreed upon by the board and the physician health program.
2. The board may participate, through its licensing fees or other specified funds, in the funding of the physician health program.

43-17.3-03. Physician health program requirements.

In consultation with the board, the physician health program shall develop procedures for:

1. Periodic reporting of statistical information regarding physician health program activity.
2. Periodic disclosure and joint review of information the board deems appropriate regarding reports received, contacts of investigations made, and the disposition of each case. Except as expressly provided under this chapter, the physician health program may not disclose any personally identifiable information about licensee participants.
3. Immediate reporting to the board the identity and results of any contact or investigation concerning an impaired licensee who is believed to constitute an imminent danger to the public or to the licensee.
4. Reporting to the board, in a timely fashion, the identity and results of any contact or investigation concerning a potentially impaired licensee:
 - a. Who refuses to cooperate with the program;
 - b. Who refuses to submit to evaluation or treatment;
 - c. Who is not in compliance with a contractual treatment plan; or
 - d. Whose possible impairment is not substantially alleviated through treatment and:
 - (1) Who the program determines is unable to practice professionally with reasonable skill and safety by reason of illness related to the abuse of alcohol or other substances or as a result of any physical or mental condition; or

(2) Who may pose a threat to the health or safety of any individual.

5. Reporting to the board, in a timely fashion, the identity of any licensee participant regarding whom the program learns of the filing of any disciplinary charges or actions or violations of chapter 43-17.
6. Entering contractual agreements with each participant in the program which make clear the program procedures, the responsibilities of program participants, and the consequences of noncompliance with the program or with contractual agreements, including the program's reporting obligations to the board.

43-17.3-04. Evaluation.

If the board determines a licensee currently exhibits possible impairment, the board may direct that an evaluation of the licensee be conducted by the physician health program or by the committee or designated agency for the purpose of determining whether there is a current need for treatment or monitoring of the licensee to assure the licensee is able to practice safely. The physician health program shall report the findings of this evaluation to the board. As a condition of application, every applicant for initial licensure or renewal of licensure shall agree to submit to such an evaluation for cause within a specified timeframe, and to the release of the results of the evaluation to the board.

43-17.3-05. Self-reporting and self-referral.

1. A licensee may voluntarily self-refer or self-report to the physician health program or the board that the licensee may have a potentially impairing condition.
2. A licensee:
 - a. Who under this section voluntarily seeks the assistance of the physician health program in assessing or dealing with a condition that could possibly lead to impairment will not be reported to the board solely on the basis of this self-referral. However, if a licensee who self-refers or self-reports refuses evaluation by the program; if the evaluation reveals evidence of a condition or impairment that could affect the licensee's ability to practice or constitutes a threat to the safety of patients or the public; or the licensee refuses to cooperate with the treatment plan, monitoring and followup, or aftercare devised by the program, including any recommendation about current continuation in practice, the program shall report the identity and findings of the evaluation of the licensee to the board. Participation in the program does not protect a licensee from board action resulting from a report of the licensee's possible violations of chapter 43-17.
 - b. Who self-reports or self-refers to the board for a potentially impairing condition may be referred by the board to the physician health program in the manner prescribed by board policies, and subsequent reporting by the program to the board will be at the discretion and in the manner prescribed by the board.
 - c. Who is participating in or who has completed a contract for treatment with and has been discharged from the physician health program, who is in full compliance with all facets of the treatment plan or has completed treatment and is compliant with aftercare, may answer in the negative on

any question on the application to the board for licensure or licensure renewal regarding current impairment by that condition or those conditions for which the licensee is currently participating in or has been discharged from the physician health program. However, any recurrence of the impairing condition or conditions or the existence of other potentially impairing conditions that are not currently known to the physician health program must be reported on the application.

43-17.3-06. Mandated reporting.

A report by a health professional, including a self-report or self-referral by a licensee to the physician health program, must be deemed to be a report to the board for the purposes of mandated reporting of physician impairment.

43-17.3-07. Confidentiality of records.

1. Notwithstanding section 44-04-18, except as otherwise provided in this chapter, all physician health program records containing identifying information about a licensee participant are confidential and may not be disclosed:
 - a. To any third person, unless disclosure is reasonably necessary for the accomplishment of the purposes of intervention, rehabilitation, referral assistance, or support services; or
 - b. In any legal or administrative proceeding, unless privilege or disclosure is otherwise required by law.
2. Except as provided under this section, a staff member handling records for administrative purposes; a person engaged by the program to perform evaluations, monitoring, or followup; and a person in attendance at any meeting of a physician health program or of a committee or designated agency may not be required to testify as to the content of any findings, committee discussion, or proceedings.

43-17.3-08. Liability.

1. Notwithstanding any other provision of law, the board, the physician health program, committee or designated agency, or delegated individuals and members of any of these entities are not liable to any person for any acts, omissions, or recommendations made in good faith within the scope of responsibilities pursuant to this chapter.
2. A person that in good faith and without malice which makes a report to the physician health program or the board under this section is not liable to any person for that report.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 324

SENATE BILL NO. 2110

(Industry, Business and Labor Committee)
(At the request of the North Dakota Real Estate Appraiser
Qualifications and Ethics Board)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 and a new section to chapter 43-23.3 of the North Dakota Century Code, relating to criminal history record checks of appraisers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁷ **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 real estate appraiser qualifications and ethics board for applicants for permits or permittees under chapter 43-23.3, except that criminal history record checks for permittees need not be made unless required by the board.

SECTION 2. A new section to chapter 43-23.3 of the North Dakota Century Code is created and enacted as follows:

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, 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 14, 2013
Filed March 15, 2013

¹⁶⁷ Section 12-60-24 was also amended by section 7 of House Bill No. 1012, chapter 12, section 1 of House Bill No. 1327, chapter 491, section 1 of House Bill No. 1389, chapter 325, and section 1 of Senate Bill No. 2304, chapter 232.

CHAPTER 325

HOUSE BILL NO. 1389

(Representatives Wieland, Beadle, Hanson, Larson, Louser, Streyle)
(Senators Heckaman, J. Lee)

AN ACT to create and enact chapter 43-23.5 of the North Dakota Century Code, relating to appraisal management company regulation; to amend and reenact the new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code as created by section 1 of Senate Bill No. 2110, as approved by the sixty-third legislative assembly, relating to criminal history background checks; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁶⁸ **SECTION 1. AMENDMENT.** The new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code as created by section 1 of Senate Bill No. 2110, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

The North Dakota real estate appraiser qualifications and ethics board for applicants for permits or registration or permittees, registrants, owners, or controlling persons under ~~chapter~~ 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.

SECTION 2. Chapter 43-23.5 of the North Dakota Century Code is created and enacted as follows:

43-23.5-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Appraisal firm" means any person or entity that exclusively employs persons on an employer and employee basis for the performance of real estate appraisal services in the normal course of its business and the real estate appraisal services being performed are in accordance with the uniform standards of professional appraisal practices.
2. "Appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party that oversees a network or panel of more than fifteen certified or licensed appraisers in this state or twenty-five or more nationally within a given year, that is authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by

¹⁶⁸ Section 12-60-24 was also amended by section 7 of House Bill No. 1012, chapter 12, section 1 of House Bill No. 1327, chapter 491, section 1 of Senate Bill No. 2110, chapter 324, and section 1 of Senate Bill No. 2304, chapter 232.

an underwriter or other principal in the secondary mortgage markets that engages in appraisal management services.

3. "Appraisal management services" means to, directly or indirectly, perform any of the following functions on behalf of a lender, financial institution, client, or any other person in conjunction with a consumer credit transaction that is secured by a consumer's primary dwelling:
 - a. Administer an appraiser panel.
 - b. Recruit, retain, or select appraisers.
 - c. Qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel.
 - d. Contract with appraisers to perform appraisal assignments.
 - e. Receive an order for an appraisal from one person, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion.
 - f. Manage the process of having an appraisal performed, including providing administrative duties, such as receiving appraisal orders and reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed.
 - g. Track and determine the status of appraisal orders.
 - h. Conduct an appraisal review or other quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal.
 - i. Provide a completed appraisal performed by an appraiser to one or more clients.
4. "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the uniform standards of professional appraisal practice. This term does not include:
 - a. A general examination for grammatical, typographical, or other similar errors.
 - b. A general examination for completeness, including regulatory and/or client requirements as specified in the agreement process that does not communicate an opinion.
5. "Appraiser panel" means a network of licensed or certified appraisers who have:
 - a. Responded to an invitation, request, or solicitation from an appraisal management company, in any form, to perform appraisals for persons that

- have ordered appraisals through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as requested and assigned by the appraisal management company.
- b. Been selected and approved by an appraisal management company to perform appraisals for any client of the appraisal management company that has ordered an appraisal through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.
6. "Board" means the North Dakota real estate appraiser qualifications and ethics board.
7. "Controlling person" means:
- a. An officer, director, or owner of greater than a ten percent interest of a corporation, partnership, or other business entity seeking to act as an appraisal management company in this state.
- b. An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter a contractual relationship with other persons for performance of services requiring registration as an appraisal management company and has the authority to enter agreements with appraisers for the performance of appraisals.
- c. An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.
8. "Federal financial institutions regulatory agencies" includes the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of the comptroller of the currency, and the national credit union administration.
9. "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency or the resolution trust corporation engages in, contracts for, or regulates, and requires the services of an appraiser.
10. "Real estate-related financial transaction" means any transaction involving:
- a. The sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof.
- b. The refinancing of real property or interests in real property.
- c. The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

43-23.5-02. Rulemaking authority.

The board shall have the authority to adopt rules that are reasonably necessary to implement, administer, and enforce the provisions of this chapter.

43-23.5-03. Registration required.

It is unlawful for a person to directly or indirectly engage or to attempt to engage in business as an appraisal management company, to directly or indirectly perform or to attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a registration issued by the board.

43-23.5-04. Registration process.

An applicant for registration as an appraisal management company shall submit to the board an application on forms prescribed by the board and pay a fee established by the board.

The forms shall require information necessary to determine eligibility for registration.

43-23.5-05. Consent to service of process.

An applicant for registration as an appraisal management company that is not domiciled in this state shall complete an irrevocable consent to service of process, as prescribed by the secretary of state.

43-23.5-06. Expiration of registration.

Registrations will expire on September thirtieth of each year. The expiration date of the registration must appear on the registration and no other notice of its expiration need be given to the registrant.

43-23.5-07. Exemptions.

The provisions of this chapter shall not apply to:

1. An appraisal firm.
2. A financial institution, including a department or unit within the institution, that is regulated by an agency of this state or the United States government.
3. A person who enters an agreement with an appraiser for the performance of an appraisal that upon completion results in a report signed by both the appraiser who completed the appraisal and the appraiser who requested completion of the appraisal.
4. An appraisal management company with an appraisal panel of not more than fifteen certified or licensed appraisers in this state or twenty-five or more nationally within a given year.
5. An appraisal management company that is a subsidiary owned and controlled by a financial institution that is subject to appraisal independence standards at least as stringent as those under chapter 43-23.5-21, if regulated by an agency of this state, or the Truth in Lending Act [15 U.S.C. Section 1601 et seq.], if regulated by the United States government.

43-23.5-08. Owner requirements.

1. An appraisal management company applying for, holding, or renewing a registration under this chapter shall not be more than ten percent owned by:

- a. A person who has had an appraiser license or certification in this state or in any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.
 - b. An entity that is more than ten percent owned by any person who has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.
2. Each person that owns more than ten percent of an appraisal management company applying for, holding, or renewing a registration under this chapter shall:
 - a. Be of good moral character.
 - b. Submit to a criminal background investigation for an initial application or as required by the board.
 3. Each appraisal management company applying for a registration or for renewal of a registration under this chapter shall certify to the board on a form prescribed by the board that the company has reviewed each entity that owns more than ten percent of the appraisal management company and that no entity that owns more than ten percent of the appraisal management company is more than ten percent owned by any person that has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.

43-23.5-09. Controlling person.

An appraisal management company applying for a registration or for renewal of a registration in this state shall designate one controlling person that shall serve as the main contact for all communication between the board and the company. The controlling person shall:

1. Remain in good standing in this state or in any other state that the controlling person holds a licensure or certification permit from; however, nothing in this chapter shall require that a designated controlling person hold an appraiser license or certification in any jurisdiction.
2. Have never had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted.
3. Be of good moral character.
4. Submit to a criminal background investigation for an initial application or as required by the board.

43-23.5-10. Employee requirements.

An appraisal management company that applies to the board for a registration or to renew a registration to do business in this state as an appraisal management company may not:

1. Knowingly employ any person for the performance of appraisal or appraisal management services who has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted.
2. Knowingly enter any independent contractor arrangement, whether in verbal, written, or other form, for the performance of appraisal or appraisal management services, with any person that has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted.
3. Knowingly enter any contract, agreement, or other business relationship, whether in verbal, written, or any other form, with any entity that employs, has entered an independent contract arrangement, or has entered any contract, agreement, or other business relationship, whether in verbal, written, or any other form, for the performance of appraisal or appraisal management services, with any person that has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted.

43-23.5-11. Appraiser engagement.

Before or at the time of placing an assignment with an appraiser on the appraiser panel of an appraisal management company, the appraisal management company shall verify that the appraiser receiving the assignment holds a permit in good standing in this state.

43-23.5-12. Appraisal review.

Any employee of, or independent contractor to, the appraisal management company that performs an appraisal review for a property located in this state must be:

1. A certified or licensed appraiser in good standing in this state.
2. A certified or licensed appraiser in good standing in another state.

43-23.5-13. Verification of licensure or certification.

1. An appraisal management company registered in this state may not enter any contract or agreement with an appraiser for the performance of appraisals unless the company verifies that the appraiser is licensed or certified in good standing in this state.
2. An appraisal management company seeking to be registered in this state or to renew a registration in this state shall certify to the board on a form prescribed by the board that the company has a system and process in place to verify that an individual being added to the appraiser panel of the company for appraisal services holds a permit in good standing in this state.

43-23.5-14. Appraisal management company certification of appraisal review system.

Each appraisal management company seeking to be registered or to renew a registration in this state shall certify to the board on a form prescribed by the board that the company has a system in place to perform an appraisal review of the work product of a statistically significant number of appraisal reports submitted by independent appraisers performing appraisals for the appraisal management company on a periodic basis to validate that the appraisals are being conducted in accordance with the uniform standards of professional appraisal practice, and chapter 43-23.3, and the rules adopted under this chapter. An appraisal management company shall report to the board the results of any appraisal reviews in which an appraisal is found to be substantially noncompliant with the uniform standards of professional appraisal practice.

43-23.5-15. Retention of records.

1. Each appraisal management company seeking to be registered or to renew an existing registration in this state shall certify to the board on a form prescribed by the board that the company maintains a detailed record of each service request that the company receives for appraisal of real property located in this state.
2. An appraisal management company registered in this state shall retain for five years all records required to be maintained under this chapter as described in rules. This five-year period shall commence on the date of the final action by the appraisal management company for each individual transaction or, if the appraisal management company is notified that the transaction is involved in litigation, the five-year period shall commence on the date the litigation is finally disposed.
3. All records required to be maintained by the registered appraisal management company may be made available for inspection and copying by the board on reasonable notice to the appraisal management company.

43-23.5-16. Fee disclosure system requirement.

1. An appraisal management company registered in this state shall disclose to its clients the fees paid for appraisal management services and the fees paid to the independent appraiser for the completion of an appraisal assignment.
2. An appraisal management company registered in this state shall not prohibit an independent appraiser that is part of an appraiser panel from recording the fee that the appraiser was paid by the appraisal management company for the performance of the appraisal within the communication of the appraisal.

43-23.5-17. Requirement of appraisal management company's payment to appraiser.

1. An appraisal management company shall, except in bona fide cases of breach of contract or substandard performance of services, make payment to an independent appraiser for the completion of an appraisal or valuation assignment within forty-five days of the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation assignment to the company or its assignee unless a mutually agreed-upon alternate arrangement has been previously established.

2. An appraisal management company seeking to be registered or to renew an existing registration in this state shall certify that the company will require appraisals to be conducted independently as required by the appraisal independence standards under section 129E of the Truth in Lending Act, including the requirements of payment or a reasonable and customary fee to independent appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer.

43-23.5-18. Appraisal management company registration numbers.

1. The board shall issue a registration number to each appraisal management company that is registered in this state.
2. The board shall maintain a list of the appraisal management companies that are registered with the board.
3. An appraisal management company registered in this state shall place its registration number on engagement documents utilized by the appraisal management company for procurement of appraisal services in this state.

43-23.5-19. Fees - Bonds.

1. The board may charge the appraisal management company reasonable fees to help offset costs of operating the board. The board shall establish fees by rule.
2. The board may require by rule a surety bond of not more than twenty-five thousand dollars.

43-23.5-20. Mandatory reporting.

An appraisal management company that has a reasonable basis to believe an appraiser has failed to comply with applicable laws or rules or has substantially violated the uniform standards of professional appraisal practice shall refer the matter to the board.

43-23.5-21. Prohibited conduct.

A violation of this section may constitute grounds for discipline against an appraisal management company registered in this state. However, an appraisal management company may request an appraiser provide additional information about the basis for a valuation, correct objective factual errors in an appraisal report, or consider additional appropriate property information. No employee, director, officer, agent, independent contractor, or other third party acting on behalf of an appraisal management company may:

1. Procure or attempt to procure a registration by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for registration, or through fraud or misrepresentation.
2. Willfully violate this chapter or rules of the board.
3. Improperly influence or attempt to improperly influence the development, reporting, result, or a review of an appraisal through intimidation, coercion, extortion, bribery, or any other manner, including:

- a. Withholding payment for appraisal services.
 - b. Threatening to exclude an appraiser from future work or threatening to demote or terminate in order to improperly obtain a desired result.
 - c. Conditioning payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached.
 - d. Requesting an appraiser to report a predetermined opinion, conclusion, or valuation or the desired valuation of any person or entity.
4. Require an appraiser to provide the appraisal management company with the appraiser's digital signature or seal.
 5. Alter, amend, or change an appraisal report submitted by an appraiser without the appraiser's knowledge and written consent.
 6. Except within the first ninety days after an independent appraiser is added to an appraiser page, remove an independent appraiser from an appraiser panel without prior written notice to the appraiser, with the prior written notice including evidence of the following, if applicable:
 - a. The appraiser's illegal conduct.
 - b. A violation of the uniform standards of professional appraisal practice, this chapter, or the rules adopted by the board.
 - c. Improper or unprofessional conduct.
 7. Require an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents or employees for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.
 8. Prohibit lawful communications between the appraiser and any other person who the appraiser, in the appraiser's professional judgment, believes possesses information that would be relevant.
 9. Engage in any other act or practice that impairs or attempts to impair a real estate appraiser's independence, objectivity, and impartiality.
 10. Submit or attempt to submit false, misleading, or inaccurate information in any application for registration or renewal.
 11. Fail to timely respond to any subpoena or any other request for information.
 12. Fail to timely obey an administrative order of the board.
 13. Fail to fully cooperate in any investigation.

43-23.5-22. Disciplinary proceedings.

The board may deny, suspend, revoke, impose a monetary penalty, issue a letter of reprimand, refuse to issue or renew the registration of an appraisal management company, or take other disciplinary action when:

1. The applicant or any partner has, within twelve months preceding the date of the application, violated any provision of this chapter.
2. The applicant is not of good moral character.
3. The applicant has been the holder of a registration revoked or suspended for cause, or surrendered in lieu of disciplinary proceedings.
4. The applicant, in the case of an application for renewal of any registration, would not be eligible for such registration on a first application.
5. The issuance of the registration applied for would result in a violation of any provision of this chapter or the rules adopted by the board.
6. In the conduct of affairs under the registration, demonstrated incompetency, or untrustworthiness, or conduct or practices rendering the registrant unfit to carry on appraisal management services or making continuance in the business detrimental to the public interest, or that the licensee is no longer in good faith carrying on appraisal management services, and for this conduct is found by the board to be a source of detriment, injury, or loss to the public.
7. Committed any act in violation of this chapter.
8. Violated any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of this chapter.
9. Procured a registration or a renewal of a registration for the appraisal management company or committed any other act by fraud, misrepresentation, or deceit.

43-23.5-23. Criminal history background checks.

The board shall require an applicant for registration under section 43-23.5-03, an owner under section 43-23.5-08, or a controlling person under section 43-23.5-09 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 the regulated individual.

43-23.5-24. Penalty.

Any person who performs appraisal management services without a certificate of registration as required by this chapter is guilty of a class A misdemeanor.

SECTION 3. EFFECTIVE DATE. Notwithstanding any other provision of this Act, an appraisal management company conducting business in this state on or before January 1, 2014, may continue to conduct business in this state without registering pursuant to this Act until sixty days after the date rules implementing the registration process created by the board take effect.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 326

SENATE BILL NO. 2082

(Human Services Committee)
(At the request of the Board of Massage)

AN ACT to amend and reenact subsection 2 of section 43-25-04, sections 43-25-05 and 43-25-07, subsection 3 of section 43-25-09, subsection 1 of section 43-25-10, and section 43-25-18 of the North Dakota Century Code, relating to massage therapy licensure and the board of massage.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 43-25-04 of the North Dakota Century Code is amended and reenacted as follows:

2. Any student of a school of massage who is practicing massage in the course of fulfilling a required massage therapy practicum under the direct supervision of a licensed massage therapist or in the course of participating in a school-supervised student massage clinic under the direct supervision of a licensed massage therapist, a school may charge a fee and students may accept tips under a policy set by the school. Students may practice homework unsupervised on other students, family, or friends, but no fee or tip may be charged or accepted. These massages may only be performed at the school or at the residence of the student, family member, or friend.

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.

The governor shall appoint a board of massage, to consist of five members. Three of the members of the board must be massage therapists who are licensed in this state. The members must be appointed for 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, must be appointed as consumer members for two-year terms, staggered so that the term of one member expires each year. 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.

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 43-25-07 of the North Dakota Century Code is amended and reenacted as follows:

43-25-07. Requisites for licensure and examination - Subjects - Minimum passing grade - Fee for reexamination.

1. Any person who is eighteen years of age or more, ~~a high school graduate or legal equivalent~~, and of good moral character and temperate habits is entitled to apply to the board. An applicant may receive a license from the board as a massage therapist if the applicant:
 - a. Presents a diploma or credentials issued by a school of massage that meets the standards set by the board;
 - b. Passes an examination conducted or approved by the board; and
 - c. Pays the required fees, which must accompany the application to the board.
2. Any applicant failing to obtain licensure within six months of the initial application is entitled to reapply within six months after notification that the application was rejected, upon payment of a fee of fifty dollars or a lesser amount established by the board. Two applications exhaust the privilege under the original application.
3. Conviction of an offense does not disqualify a person from licensure under this chapter unless the board determines the offense has a direct bearing upon a person's ability to serve the public as a massage therapist or the person is not sufficiently rehabilitated under section 12.1-33-02.1.
4. The board may approve alternate educational methods or methodology for applicants to complete educational requirements if the applicant has graduated from a school of massage that is accredited by a national or regional accrediting agency recognized by the United States department of education.

SECTION 4. AMENDMENT. Subsection 3 of section 43-25-09 of the North Dakota Century Code is amended and reenacted as follows:

3. Continuing education of at least thirty-two continuing education hours, or equivalent college credits, submitted every two years is a further requirement for renewal of the license. The board may accept continuing education attained by remote means. No more than twelve 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 report their continuing education in odd-numbered years and even-numbered licensed individuals report their continuing education in even-numbered years, based on the calendar year.
 - b. This subdivision applies for the initial licensure period. Individuals licensed on or before 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 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 licensees would follow the normal renewal reporting cycle.

- e. ~~This subdivision applies to renewing licensees, for the implementation of the continuing education reporting cycle. On or before January 1, 2010, even-numbered licensees would submit at least sixteen hours of continuing education. On or before January 1, 2011, odd-numbered licensees would submit at least thirty-two hours of continuing education.~~

SECTION 5. AMENDMENT. Subsection 1 of section 43-25-10 of the North Dakota Century Code is amended and reenacted as follows:

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 ~~willful~~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.

SECTION 6. AMENDMENT. Section 43-25-18 of the North Dakota Century Code is amended and reenacted as follows:

43-25-18. Reciprocity.

1. Any person 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 ~~this 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, certifying to the fact of registration 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 March 19, 2013
Filed March 19, 2013

CHAPTER 327

HOUSE BILL NO. 1285

(Representatives Louser, Delmore, Sanford)
(Senators Andrist, G. Lee, Nelson)

AN ACT to amend and reenact subsection 1 of section 43-26.1-04 and subsection 4 of section 43-26.1-11 of the North Dakota Century Code, relating to physical therapy licensure and supervision of physical therapy assistants; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 43-26.1-04 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~An applicant~~Before being approved for a license as a physical therapist or physical therapist assistant, ~~an applicant~~ shall:
 - a. Be of good moral character.
 - b. Complete the application process.
 - c. Be a graduate of a professional physical therapy education program accredited by a national accreditation agency approved by the board.
 - d. Pass the examination approved by the board.

SECTION 2. AMENDMENT. Subsection 4 of section 43-26.1-11 of the North Dakota Century Code is amended and reenacted as follows:

4. For each patient on each date of service, a physical therapist shall provide all of the therapeutic intervention that requires the expertise of a physical therapist and shall determine the use of physical therapist assistants or physical therapy aides that provide for the delivery of care that is safe, effective, and efficient.
 - a. A physical therapist assistant shall work under the supervision of a physical therapist. A physical therapist assistant may document care provided without the cosignature of the supervising physical therapist.
 - b. A physical therapist may use physical therapy aides for designated routine tasks. A physical therapy aide shall work under the ~~onsite~~direct supervision of a physical therapist ~~who is onsite and present in the facility~~. This supervision may extend to offsite supervision of the aide only when the physical therapy aide is accompanying and working directly with a physical therapist assistant with a specific patient or when performing non-patient-related tasks.

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

Approved March 12, 2013
Filed February 19, 2013

CHAPTER 328

SENATE BILL NO. 2084

(Human Services Committee)

(At the request of the State Board of Dental Examiners)

AN ACT to create and enact a new subsection to section 43-28-06 of the North Dakota Century Code, relating to powers of the state board of dental examiners; and to amend and reenact subsection 7 of section 43-20-01.4, section 43-20-03, subsection 3 of section 43-28-06, section 43-28-10.1, and subsection 3 of section 43-28-25 of the North Dakota Century Code, relating to the practice and licensing of dental hygienists and dentists and the ownership of a practice.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 43-20-01.4 of the North Dakota Century Code is amended and reenacted as follows:

7. The board may select a random sample of the license renewal applications for audit of continuing education credits. Each licensee shall maintain certificates or records of continuing education activities for three years. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in, the continuing education activities listed on the licensee's continuing education form. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

SECTION 2. AMENDMENT. Section 43-20-03 of the North Dakota Century Code is amended and reenacted as follows:

43-20-03. Dental hygienists - Practice by.

As used in this chapter, "dental hygiene" and the practice thereof means the removal of accumulated matter from the natural and restored surfaces of teeth and from restorations in the human mouth, the polishing of such surfaces, and the topical application of drugs to the surface tissues of the mouth and to the surface of teeth if such acts are performed under the direct, ~~modified general~~indirect, or general supervision of a licensed dentist. General supervision may be used if the procedures are authorized in advance by the supervising dentist, except procedures which may only be used under direct supervision as established by the board by rule.

Only a person licensed as a dental hygienist may be referred to as a dental hygienist. Additional tasks permitted to be performed by licensed dental hygienists may be outlined by the board of dental examiners by appropriate rules.

¹⁶⁹ **SECTION 3. AMENDMENT.** Subsection 3 of section 43-28-06 of the North Dakota Century Code is amended and reenacted as follows:

¹⁶⁹ Section 43-28-06 was also amended by section 4 of Senate Bill No. 2084, chapter 328.

3. Issue, suspend, revoke, limit, cancel, restrict, and reinstate licenses to practice dentistry or dental hygiene and the biennial certificates of registration upon any grounds authorized by this chapter or rules adopted by the board.

¹⁷⁰ **SECTION 4.** A new subsection to section 43-28-06 of the North Dakota Century Code is created and enacted as follows:

Enter an agreement with the same professional organization with which the state board of medical examiners has entered an agreement under subsection 6 of section 43-17-07.1.

SECTION 5. AMENDMENT. Section 43-28-10.1 of the North Dakota Century Code is amended and reenacted as follows:

43-28-10.1. Requirements for licensure.

The board may grant a license to practice dentistry to an applicant who has met all of the following requirements:

1. The applicant has a doctorate of dental surgery or doctorate of dental medicine degree from an accredited dental school.
2. The applicant has passed the examination administered by the joint commission on national dental examinations or the national dental examining board of Canada.
3. The applicant has passed a clinical competency examination administered by a regional dental testing service approved by the board by rule.
4. The applicant has passed, within one year of making application, a written examination on the laws and rules governing the practice of dentistry in this state ~~administered by the board at a meeting.~~
5. Grounds for denial of the application under section 43-28-18 do not exist.
6. The applicant has met any requirement for licensure established by the board by rule.

SECTION 6. AMENDMENT. Subsection 3 of section 43-28-25 of the North Dakota Century Code is amended and reenacted as follows:

3. For any person, except a ~~North Dakota licensed practicing~~ dentist, to own more than forty-nine percent of an office practice or business at which the practice of dentistry is performed. This provision does not apply to a board-approved medical clinic, hospital, or public health setting with which a dentist is associated; a board-approved nonprofit organization created to serve the dental needs of an underserved population; or the heir or personal representative of a deceased dentist. The board may inspect and approve a medical clinic, hospital, public health setting, or nonprofit organization at which the practice of dentistry is performed. The heir or personal representative may operate an office under the name of the deceased dentist for a period of not longer than two years from the date of the dentist's death.

Approved March 19, 2013

Filed March 19, 2013

¹⁷⁰ Section 43-28-06 was also amended by section 3 of Senate Bill No. 2084, chapter 328.

CHAPTER 329

SENATE BILL NO. 2116

(Agriculture Committee)

(At the request of the State Board of Veterinary Medical Examiners)

AN ACT to amend and reenact section 43-29-02 of the North Dakota Century Code, relating to membership of the state board of veterinary medical examiners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-29-02 of the North Dakota Century Code is amended and reenacted as follows:

43-29-02. State board of veterinary medical examiners - Appointments - Qualifications - Terms - Vacancies.

1. ~~The state board of veterinary medical examiners consists of three five gubernatorially appointed members appointed by the governor for terms of three years each, with their terms of office so arranged that one term, and only one, expires each year. Members of the board shall hold their respective offices until their successors are appointed and qualified. Each member must be a reputable, practicing, and licensed veterinarian in North Dakota for five years immediately prior to the appointment, and must be the holder of a diploma or degree granted by a veterinary school, or by a college or university recognized by the board.~~

~~If any vacancy occurs on the board due to resignation, death, removal from the state, or suspension as herein provided, or for any other reason, the governor shall fill such vacancy. In appointing the board members, the governor shall appoint three veterinarians, one veterinarian technician, and one individual representing the public. In appointing the veterinarian members of the board, the governor shall make an effort to appoint:~~

- a. ~~One veterinarian whose practice has a predominant focus on large animals;~~
 - b. ~~One veterinarian whose practice has a predominant focus on small animals; and~~
 - c. ~~One veterinarian whose practice focuses on both large and small animals.~~
2. a. ~~Each veterinarian on the board must be licensed in this state and must have practiced in this state for at least five years immediately preceding the appointment.~~
 - b. ~~The veterinary technician on the board must be licensed in this state and must have practiced in this state for at least five years immediately preceding the appointment.~~

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- c. The individual representing the public:
- (1) Must be a resident of this state;
 - (2) Must have resided in this state for at least five years immediately preceding the appointment;
 - (3) May not be a veterinarian, a veterinary technician, or the spouse of a veterinarian or a veterinary technician;
 - (4) May not ever have been a veterinarian, a veterinary technician, or the spouse of a veterinarian or a veterinary technician; and
 - (5) May not have any direct financial interest in the provision of veterinary services and may not be engaged in any activity directly related to the veterinary profession.
3. a. The term of office for each member is three years. Terms must be staggered by lot so that no more than two terms expire each year. Each term of office begins on July first.
- b. Each member of the board shall hold office until a successor is appointed and qualified.
4. If at any time during a member's term, the member ceases to possess any of the qualifications provided in this section or if the member resigns, the member's office is deemed vacant and the governor shall appoint another qualified individual for the remainder of the term.
5. The governor may, after due notice and hearing, remove any member of the board of veterinary examiners for ~~misconduct, incapacity, or neglect of duty~~cause.

Approved April 12, 2013

Filed April 12, 2013

CHAPTER 330

HOUSE BILL NO. 1154

(Representatives Schmidt, Brabandt, Brandenburg, Rohr)
(Senators Larsen, Schaible)

AN ACT to amend and reenact section 43-36-10 of the North Dakota Century Code, relating to application requirements for registration as a professional soil classifier; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-36-10 of the North Dakota Century Code is amended and reenacted as follows:

43-36-10. General requirements for registration - Professional soil classifier.

To be eligible for registration as a professional soil classifier or certification as a soil classifier-in-training, an applicant must be of good character and reputation and shall submit a written application to the board containing such information as the board may require, together with ~~five~~three references, ~~three~~one of which must be ~~from a professional soil classifiers~~classifier having personal knowledge of the applicant's soil classifying experience; or in the case of an application for certification as a soil classifier-in-training, by three character references.

SECTION 2. PROFESSIONAL SOIL CLASSIFIERS - LEGISLATIVE MANAGEMENT STUDY. The legislative management shall consider studying those provisions of the North Dakota Century Code that relate to professional soil classifiers, including their qualifications and examinations, and the powers and duties of the state board of registration for professional soil classifiers, for the purpose of recommending changes to 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-fourth legislative assembly.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 331

HOUSE BILL NO. 1092

(Human Services Committee)
(At the request of the Board of Examiners on
Audiology and Speech-Language Pathology)

AN ACT to create and enact a new section to chapter 43-37 of the North Dakota Century Code, relating to licensing out-of-state audiologists and speech-language pathologists; to amend and reenact section 43-37-04 and subsection 2 of section 43-37-05 of the North Dakota Century Code, relating to the licensing of audiologists and the composition of the board of examiners on audiology and speech-language pathology; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-37-04 of the North Dakota Century Code is amended and reenacted as follows:

43-37-04. Eligibility for licensure.

To be eligible for licensure by the board as an audiologist or speech-language pathologist, an applicant shall meet all the following requirements:

1. Be of good moral character.
2. Possess an appropriate degree from an educational institution recognized by the board.
 - a. An applicant for a speech-language pathologist license shall possess at least a master's degree in speech-language pathology.
 - b. An applicant for an audiologist license shall possess at least a master's or a doctorate degree in audiology.
3. Submit evidence showing qualifications prescribed by rules of the board.
4. Pass an examination approved by the board within one year of application. ~~The board may waive the examination requirement if the applicant presents proof of licensure in another state which has professional standards equivalent to those required by the board.~~
5. Pay the prescribed fee.

SECTION 2. A new section to chapter 43-37 of the North Dakota Century Code is created and enacted as follows:

Licensing of out-of-state practitioners.

1. The board may adopt rules establishing licensure requirements for applicants who hold a current license in good standing to practice as an audiologist or speech-language pathologist in a state or jurisdiction other than this state and

who are not the subject of a pending disciplinary action in any state or jurisdiction.

2. Notwithstanding section 43-37-04, as it relates to the licensure eligibility of an out-of-state audiologist or speech-language pathologist, the board's rules may allow for:
 - a. Waiver of the examination requirement if the applicant meets the requirements established by the board.
 - b. Consideration of education and experience in order to meet the education requirements.

SECTION 3. AMENDMENT. Subsection 2 of section 43-37-05 of the North Dakota Century Code is amended and reenacted as follows:

2. The board must be composed of eight members appointed by the governor. Appointees must be residents of this state for at least one year immediately preceding their appointment and, except for the consumer member, must be engaged in rendering services to the public, in teaching, or in research in audiology or speech-language pathology for at least three years preceding their appointment. Two board members must be audiologists, ~~three~~four must be speech-language pathologists, one must be an otolaryngologist, ~~one must be a hearing aid specialist,~~ and one must be a consumer.

SECTION 4. EFFECTIVE DATE. Section 3 of this Act becomes effective on July 1, 2014.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 332

SENATE BILL NO. 2088

(Human Services Committee)

(At the request of the North Dakota Board of Athletic Trainers)

AN ACT to amend and reenact sections 43-39-05 and 43-39-08, subsection 3 of section 43-39-09, subsection 2 of section 43-39-10, and section 43-39-11 of the North Dakota Century Code, relating to athletic trainers; to repeal section 43-39-07 of the North Dakota Century Code, relating to grandfathering initial licensees; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-39-05 of the North Dakota Century Code is amended and reenacted as follows:

43-39-05. Qualifications.

To be eligible for an athletic trainer license, an applicant must meet all the requirements of certification established by the ~~national athletic trainers association~~ board of certification, incorporated.

SECTION 2. AMENDMENT. Section 43-39-08 of the North Dakota Century Code is amended and reenacted as follows:

43-39-08. Examination required.

All license applicants must ~~pass~~ have previously passed the board of certification, incorporated, examination prescribed by the board unless they show proof of passage of a board-approved equivalent examination. The athletic trainer's examination must embrace such criteria as may be determined by the board.

SECTION 3. AMENDMENT. Subsection 3 of section 43-39-09 of the North Dakota Century Code is amended and reenacted as follows:

- ~~A previously licensed person who leaves the person's position of employment as an athletic trainer for any reason for one year or more and has requested license renewal must show continued education credits as established and approved by the board~~ have active status from the board of certification, incorporated.

SECTION 4. AMENDMENT. Subsection 2 of section 43-39-10 of the North Dakota Century Code is amended and reenacted as follows:

- 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; 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 ~~masseurs or masseuses~~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 5. AMENDMENT. Section 43-39-11 of the North Dakota Century Code is amended and reenacted as follows:

43-39-11. Penalty.

Any person violating any of the provisions of practicing as an athletic trainer without a license as required by this chapter is guilty of a class B misdemeanor.

SECTION 6. REPEAL. Section 43-39-07 of the North Dakota Century Code is repealed.

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 333

HOUSE BILL NO. 1094

(Human Services Committee)
(At the request of the State Board of Respiratory Care)

AN ACT to amend and reenact sections 43-42-01, 43-42-03, 43-42-04, and 43-42-05 of the North Dakota Century Code, relating to respiratory care practitioners.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-42-01 of the North Dakota Century Code is amended and reenacted as follows:

43-42-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Board" means the state board of respiratory care.
2. "Bona fide respiratory care training program" means a program of respiratory care education which is accredited by the commission on accreditation of ~~allied health educational programs~~respiratory care, or the commission's successor organization.
3. "Certification examination" means the entry level examination for respiratory therapists administered by the national board for respiratory care or its successor organization.
4. "Certified respiratory therapist" means a person licensed by the board to practice respiratory care under the direction or supervision of a physician or registered respiratory therapist.
5. "National board for respiratory care" means the body issuing credentials for the respiratory care profession, or the board's successor organization.
6. "Polysomnography" means the practice of attending, monitoring, and recording physiologic data during sleep for the purpose of identifying and assisting in the treatment of sleep-wake disorders.
7. "Registered polysomnographic technologist" means an individual licensed by the board to practice polysomnography under supervision as prescribed by the board by rule.
8. "Registered respiratory therapist" means a person licensed by the board to practice respiratory care.
9. "Registry examination" means the advanced level examination for respiratory therapists administered by the national board for respiratory care.
10. "Respiratory care" means the health specialty involving the treatment, management, control, and care of patients with deficiencies and abnormalities

of the cardiorespiratory systems. Respiratory care is implemented on an order from a licensed physician, certified nurse practitioner, or physician's assistant and includes the use of medical gases, air and oxygen administering apparatuses, environmental control systems, humidification and aerosols, drugs and medications, apparatuses for cardiorespiratory support and control, postural drainage, chest percussion and vibration and breathing exercises, pulmonary rehabilitation, assistance with cardiopulmonary resuscitation, maintenance of natural and artificial airways, and insertion of artificial airways. The term also includes testing techniques to assist in diagnosis, monitoring, treatment, and research, including the measurement of cardiorespiratory volumes, pressures and flows, and the drawing and analyzing of samples of arterial, capillary, and venous blood.

11. "Respiratory therapist" means a certified respiratory therapist or a registered respiratory therapist.
12. "Respiratory therapy" means respiratory care.
13. ~~"Temporary respiratory therapist" means any individual who has successfully completed a bona fide respiratory care training program and is licensed by the board to practice respiratory care under the supervision or direction of either a physician, certified respiratory therapist, or registered respiratory therapist.~~

SECTION 2. AMENDMENT. Section 43-42-03 of the North Dakota Century Code is amended and reenacted as follows:

43-42-03. Respiratory therapist and polysomnographic technologist licensing - Fees.

1. The board shall license as a registered respiratory therapist any applicant whom the board determines to be qualified to perform the duties of a registered respiratory therapist. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program and has passed the registry examination. The board shall establish fees not in excess of one hundred dollars for the issuance and renewal of a registered respiratory therapist license.
2. The board shall license as a certified respiratory therapist any applicant whom the board determines to be qualified to perform the duties of a certified respiratory therapist. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program and has passed the certification examination. The board shall establish fees not in excess of ~~seventy~~^{ninety} dollars for the issuance and renewal of a certified respiratory therapist license.
3. ~~The board shall license as a temporary respiratory therapist any applicant whom the board determines to be qualified to perform duties as a temporary respiratory therapist. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program. The board shall establish fees not in excess of seventy dollars for the issuance of a temporary respiratory therapist license.~~
4. The board shall license as a registered polysomnographic technologist any applicant whom the board determines to be qualified to perform the duties of a registered polysomnographic technologist. In making this determination, the board shall require evidence that the applicant has complied with the rules

adopted by the board under section 43-42-04.1. The board shall establish fees not in excess of ~~seventynine~~ninety dollars for issuance and for renewal of a registered polysomnographic technologist license.

- 5-4. The board may assess a late fee not in excess of twenty-five dollars for all license renewal applications that are postmarked after December thirty-first of the year prior to the year of renewal.
- 6-5. The board shall refuse to license any applicant or shall suspend or revoke any license after proper notice and a hearing, if the applicant:
- a. Is not qualified or competent to perform the duties of a registered respiratory therapist, a certified respiratory therapist, ~~a temporary respiratory therapist~~, or a registered polysomnographic technologist.
 - b. Has attempted to obtain or has obtained licensure under this chapter by fraud or material misrepresentation.
 - c. Has been found by the board to have been grossly negligent as a registered respiratory therapist, certified respiratory therapist, ~~temporary respiratory therapist~~, or registered polysomnographic technologist.
 - d. Has engaged in conduct as a registered respiratory therapist, certified respiratory therapist, ~~temporary respiratory therapist~~, or registered polysomnographic technologist which is unethical, unprofessional, or detrimental to the health of the public.
 - e. Has failed to demonstrate satisfactory completion of such continuing courses of study in respiratory care as the board may require.
 - f. Has been convicted or adjudged guilty of an offense, as defined by section 12.1-01-04, determined by the board to have a direct bearing upon that individual's ability to practice respiratory care and is not sufficiently rehabilitated as determined by the board in accordance with section 12.1-33-02.1.
 - g. Is habitually drunk or is addicted to the use of a controlled substance as defined in chapter 19-03.1.
 - h. Has been declared mentally incompetent by a court of competent jurisdiction, and who has not thereafter been lawfully declared competent.
- 7-6. The board may impose a fee on any person subject to regulation under this chapter to reimburse the board for all or part of the costs of administrative actions resulting in disciplinary action, which are not reversed on appeal, including the amount paid by the board for services from the office of administrative hearings, attorney's fees, court costs, witness fees, staff time, and other expenses.
- 8-7. Licenses issued under this chapter expire annually, but may be renewed upon application to the board and payment of the annual renewal fee established by the board. Licenses which have expired, been suspended, or been revoked may be renewed or reissued upon satisfaction of any conditions that may be established by the board, and after payment of a fee established by the board. ~~Temporary licenses may not be renewed.~~

- 9-8. The board shall require as a condition of renewal and relicensure that the applicant demonstrate satisfactory completion of continuing courses of study in respiratory care.

SECTION 3. AMENDMENT. Section 43-42-04 of the North Dakota Century Code is amended and reenacted as follows:

43-42-04. Respiratory care practice.

The practice of respiratory care may be performed in hospitals, as ambulatory or in-home care, and in other settings where respiratory care is provided in accordance with a prescription of a licensed physician, certified nurse practitioner, or physician's assistant. In addition, respiratory care may be provided during the transportation of a patient, and under any circumstances in which an epidemic or public disaster necessitates respiratory care. A person may not practice, nor represent that the person is able to practice, as a registered respiratory therapist without being licensed as a registered respiratory therapist, or as a certified respiratory therapist without being licensed as a certified respiratory therapist, in accordance with this chapter.

SECTION 4. AMENDMENT. Section 43-42-05 of the North Dakota Century Code is amended and reenacted as follows:

43-42-05. Application of chapter.

1. This chapter does not prohibit a person enrolled in a bona fide respiratory care training program from performing those duties essential for completion of a student's clinical service; provided, that the duties are performed under the supervision or direction of a physician or registered respiratory therapist and the person is identified as a "student respiratory therapist".
2. ~~A graduate of a bona fide respiratory care training program, who has applied for licensure under this chapter may practice respiratory care under the supervision or direction of a physician or a registered or certified respiratory therapist; provided, that the graduate holds a temporary respiratory therapist's license and is identified as a "graduate respiratory therapist". An applicant shall take the entry level certification examination within six months following eligibility. Failure to pass any examination that is taken results in termination of the privileges provided under this subsection.~~
3. If examinations prepared by the national board for respiratory care are no longer available or become unacceptable to the board, the board may develop, approve, and use examinations for the licensure of registered respiratory therapists and certified respiratory therapists.
- 4-3. This chapter does not prevent a licensed and qualified member of another health care profession from performing any of the duties of a registered respiratory therapist or a certified respiratory therapist that are consistent with the accepted standards of that person's profession, provided the person is not represented as a registered respiratory therapist or certified respiratory therapist.
- 5-4. This chapter does not prohibit self-care by a patient or the gratuitous care by a friend or member of the family who does not represent or hold out to be a registered or certified respiratory therapist.

- 6-5. This chapter does not prohibit a respiratory therapist from performing advances in the art or techniques of respiratory care learned through formal or specialized training.
- 7-6. This chapter does not prohibit an individual licensed or registered as a respiratory therapist in another state or country from providing respiratory care in an emergency in this state, providing respiratory care as a member of an organ harvesting team, or from providing respiratory care on board an ambulance as part of the ambulance treatment team.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 334

SENATE BILL NO. 2083

(Human Services Committee)

(At the request of the North Dakota Board of Clinical Laboratory Practice)

AN ACT to create and enact three new subsections to section 43-48-03 of the North Dakota Century Code, relating to exemptions from clinical laboratory practice licensing requirements; to amend and reenact subsection 3 of section 43-48-05 of the North Dakota Century Code, relating to terms of North Dakota board of clinical laboratory practice members; and to repeal section 43-48-12 of the North Dakota Century Code, relating to clinical laboratory practice licensing grandfather provisions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Three new subsections to section 43-48-03 of the North Dakota Century Code are created and enacted as follows:

Perfusionists performing clinical laboratory tests for hematology, coagulation, and chemistry during the course of a patient's perfusion procedures.

Personnel of the division of laboratory services of the state department of health participating in the centers for disease control and prevention's chemical terrorism toxic metals determination program.

A person licensed or registered under another chapter of this title and carrying out the therapy or practice for which the person is licensed or registered.

SECTION 2. AMENDMENT. Subsection 3 of section 43-48-05 of the North Dakota Century Code is amended and reenacted as follows:

3. The members of the board shall serve for terms of three years, ~~except that members of the first board must be appointed as provided in this chapter within sixty days after July 12, 1989, for the following terms:~~
 - a. ~~A nonphysician laboratory director member and a consumer member, each for a term of three years.~~
 - b. ~~A clinical laboratory technician member and clinical laboratory scientist member, each for a term of two years.~~
 - c. ~~A physician laboratory director member and a consumer member, each for a term of one year.~~
 - d. ~~The state officer member or such officer's designee must be appointed and serve ex officio during such term of office in the state department of health.~~

SECTION 3. REPEAL. Section 43-48-12 of the North Dakota Century Code is repealed.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 335

HOUSE BILL NO. 1246

(Representatives Meier, Becker, Grande, Rohr, Ruby, Steiner, Weisz)
(Senators Dever, J. Lee)

AN ACT to create and enact a new section to chapter 43-51 of the North Dakota Century Code, relating to occupational and professional licensure of military spouses; to amend and reenact section 43-51-01 of the North Dakota Century Code, relating to occupational and professional licensure of military spouses; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-51-01 of the North Dakota Century Code is amended and reenacted as follows:

43-51-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Board" means a board, commission, or other agency of state government created or identified in this title to regulate a particular occupation or profession, ~~except for the:~~
 - a. ~~The term does not include the:~~
 - (1) State board of accountancy;
 - ~~b.(2)~~ State electrical board;
 - ~~e.(3)~~ North Dakota real estate appraiser qualifications and ethics board;
 - ~~d.(4)~~ State real estate commission;
 - ~~e.(5)~~ Secretary of state with respect to contractor licensing;
 - ~~f.(6)~~ State board of medical examiners; and
 - ~~g.(7)~~ State board of dental examiners.
 - b. "Board" also includes any agency of state government which is created or identified outside this title to regulate a particular occupation or profession if the agency elects, by administrative rule, to invoke the authority in this chapter.
2. "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in an occupation or profession in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.

3. "Good standing" means a foreign practitioner holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked.
4. "License" means a license, certificate, permit, or similar authorization to practice an occupation or profession which is issued by a government agency in another state or jurisdiction that imposes requirements for obtaining and maintaining a license which are at least as stringent as the requirements imposed in this state to obtain and maintain a license to practice the same profession or occupation.
5. "Military spouse" means a foreign practitioner who is the spouse of a member of the armed forces of the United States or a reserve component of the armed forces of the United States stationed in this state in accordance with military orders or stationed in this state before a temporary assignment to duties outside of this state.
6. "Occupation or profession" means activity for which a license is required from a board or similar activity for which a license is required in another state or jurisdiction.

SECTION 2. A new section to chapter 43-51 of the North Dakota Century Code is created and enacted as follows:

Military spouses - Licensure.

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.
2. Under subsection 1, a board may issue a provisional license or temporary permit to a military spouse for which one or more of the licensure requirements have not been met. A provisional license or temporary permit issued under this subsection remains valid while the military spouse is making progress toward satisfying the necessary unmet licensure requirements. A military spouse may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:
 - a. The board grants or denies the military spouse a North Dakota license under subsection 1 or grants a North Dakota license under the traditional licensure method;
 - b. The provisional license or temporary permit expires; or

- c. The military spouse fails to comply with the terms of the provisional license or temporary permit.
3. A board that is exempted from this chapter under subdivision a of subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to a military spouse in the same manner as provided under subsections 1 and 2. A board that may elect to subject the board to this chapter under subdivision b of subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to a military spouse in the same manner as provided under subsections 1 and 2 regardless of whether the board has adopted rules to subject the board to this chapter. The state board of architecture and landscape architecture is exempt from the mandate in subsection 1; however, the board voluntarily may issue a license, provisional license, or temporary permit under subsections 1 and 2.
4. A military spouse issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.

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

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 336

SENATE BILL NO. 2131

(Senators J. Lee, Berry, Mathern)
(Representatives Hofstad, Weisz, Hogan)

AN ACT to create and enact a new chapter to title 43 of the North Dakota Century Code, relating to genetic counseling; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 43 of the North Dakota Century Code is created and enacted as follows:

Definitions.

In this chapter:

1. "ABGC" means the American board of genetic counseling.
2. "ABMG" means the American board of medical genetics.
3. "Board" means the state board of medical examiners.
4. "Genetic counseling" means a communication process, conducted by appropriately trained individuals which includes:
 - a. Assisting an individual, the individual's family, a health care provider, or the public with comprehending the issues inherent to genetic counseling. Such assistance may include:
 - (1) Appreciating the medical, psychological, and social implications of a disorder, including features, variability, usual course, and management options;
 - (2) Learning how genetic factors contribute to the disorder and affect the chance for recurrence of the condition in other family members;
 - (3) Understanding available options for coping with, preventing, or reducing the chance of occurrence or recurrence of a condition;
 - (4) Selecting the most appropriate, accurate, and cost-effective methods to determine risk for genetic conditions and diseases; and
 - (5) Understanding genetic tests, including diagnostic genetic tests, screening tests, or predispositional genetic tests; coordinating testing for inherited disorders; and explaining complex genetic test results;
 - b. Assessing the likelihood of the occurrence or recurrence of an abnormality in the pregnancy in structure, function, or metabolism or of any potentially inherited or genetically influenced condition. Such assessment may include the following:

- (1) Obtaining and analyzing a complete health history of an individual and the individual's family;
 - (2) Reviewing pertinent medical records;
 - (3) Evaluating the risks from exposure to possible mutagens or teratogens; and
 - (4) Discussing genetic testing or other evaluations to identify a condition or determine the carrier status of one or more family members; and
- c. Facilitating an individual's or family's:
- (1) Exploration of the perception of risk and burden associated with a genetic disorder;
 - (2) Decisionmaking regarding testing or medical interventions consistent with the individual's or family's beliefs, goals, needs, or resources or with the individual's or family's cultural, ethical, or moral views; and
 - (3) Adjustment and adaptation to the condition or the genetic risk by addressing needs for psychological, social, and medical support.
5. "Genetic counselor" means an individual licensed under this chapter to engage in the practice of genetic counseling.
6. "Supervision" means ongoing direct clinical review for the purposes of training or teaching, by a supervisor approved by the board who monitors the performance or an individual's supervised interaction with a client and provides regular documented face-to-face consultation, guidance, and instructions with respect to the clinical skills and competencies of the supervised individual. This supervision may be by personal contact or indirect contact by telecommunication.

Practice of genetic counseling - Exemptions.

1. A person may not engage in the practice of genetic counseling, act or represent to be a genetic counselor, or use such titles as genetic counselor, licensed genetic counselor, gene counselor, genetic associate, or any words, letters, abbreviations, or insignia, such as certified genetic counselor or CGC, indicating or implying that person is a genetic counselor, unless the person is an individual who holds a license or temporary license issued by the board under this chapter and otherwise complies with the provisions of this chapter. An individual who is exempt from the licensure requirements of this chapter may not use a title indicating or implying the individual is a genetic counselor.
2. Genetic testing may be provided by a licensed genetic counselor only when ordered by a North Dakota licensed health care provider acting within the provider's scope of practice and privileged to do so. The referring or primary provider shall maintain supervision of patient care and the licensed genetic counselor shall provide reports to the referring or primary health care provider ordering such testing.
3. The following individuals may engage in the practice of genetic counseling without being licensed under this chapter:

- a. A licensed health care professional practicing within the professional's scope of practice;
- b. A student or intern from a board-recognized school;
- c. An individual trained as a Ph.D. medical geneticist;
- d. A consultant from another state who is board-certified by the ABGC or the ABMG, for the limited purpose of consulting with a genetic counselor;
- e. An employee of the state department of health in the provision of education regarding single gene conditions, including sickle cell, cystic fibrosis, and hemoglobinopathies; and
- f. An individual acting within the scope of religious ministerial duties.

Application for licensure.

1. An applicant for licensure under this chapter shall pay any filing fee and file an application, on forms provided by the board, to the satisfaction of the board that the applicant is of good moral character and satisfies all of the requirements of this chapter, including:
 - a. Education at one of the following levels:
 - (1) Master of science degree from a genetic counseling training program that is accredited by the ABGC or an ABGC-approved equivalent organization and approved by the board; or
 - (2) Doctoral degree from a medical genetics training program that is accredited by the ABMG and approved by the board; and
 - b. Successful completion of all requirements of the certification examination within a period not to exceed four years from initial examination to successful completion and with no more than three attempts;
 - c. Physical, mental, and professional capability for the practice of genetic counseling in a manner acceptable to the board; and
 - d. A history free of any finding by the board, by any other state licensing board, or by any court of competent jurisdiction which would constitute grounds for disciplinary action under this chapter. The board may modify this restriction for cause.
2. In compliance with chapter 43-17, the board may refuse to grant a license under this chapter if any of the license requirements are not met.

Temporary license.

1. The board may issue a temporary license to an applicant who pays the temporary license fee and meets all the qualifications for licensure, except the successful completion of the certification examination if the applicant submits evidence to the board that the applicant is a candidate accepted to write the certification examination.

2. A temporary licensee shall take the certification examination within eighteen months of obtaining the temporary license. If a temporary licensee fails the first sitting of the certification examination or the temporary license expires, the temporary licensee may reapply for another temporary license. A temporary license may not be issued or reissued if the applicant failed the certification examination three times.
3. A temporary license expires on the occurrence of the following:
 - a. Issuance of a regular license;
 - b. Failure to pass the board-approved examination; or
 - c. Expiration of the term for which the temporary license was issued.
4. A temporary licensee's practice is limited to practice under the supervision of a licensed genetic counselor or under the supervision of a physician approved by the board if that physician has a current ABMG certification in clinical genetics.

License renewal.

A license issued under this chapter must be renewed annually on a date designated by the board. The board shall renew a license upon payment of the renewal fee, submission of a renewal application in a form approved by the board, and submission of evidence satisfactory to the board of the applicant's current certification by the ABGC or ABMG.

Board duties.

The board shall adopt rules pertaining to fees, licensure, investigations, and disciplinary proceedings.

Disciplinary actions.

1. The board may cancel, revoke, suspend, or restrict the license of a genetic counselor; may issue public reprimands; and may issue fines, not to exceed one thousand dollars, if the board is satisfied by proof by a preponderance of the evidence, in compliance with chapter 43-17, of any of the following grounds for disciplinary action:
 - a. 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.
 - b. The making of false or misleading statements by a genetic counselor about the counselor's skill.
 - c. The conviction of any misdemeanor determined by the board to have a direct bearing upon the genetic counselor's ability to serve the public as a practitioner of genetic counseling.
 - d. The conviction of a felony, if the requirements of section 12.1-33-02.1 are met.
 - e. Habitual use of alcohol or drugs.

- f. Physical or mental disability materially affecting the ability to perform the duties of a genetic counselor in a competent manner.
 - g. The performance of any dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public.
 - h. Obtaining any fee by fraud, deceit, or misrepresentation.
 - i. Aiding or abetting the practice of genetic counseling by an unlicensed, incompetent, or impaired person.
 - j. The violation of any provision of this chapter or the rules adopted by the board or the violation of any action, stipulation, condition, or agreement imposed by the board or the board's investigative panels.
 - k. The practice of genetic counseling under a false or assumed name.
 - l. The advertising for the practice of genetic counseling in an untrue or deceptive manner.
 - m. The willful or negligent violation of the confidentiality between genetic counselor and patient, except as required by law.
 - n. Gross negligence in the practice of genetic counseling.
 - o. Sexual abuse, misconduct, or exploitation related to the genetic counselor's practice of genetic counseling.
 - p. The use of any false, fraudulent, or deceptive statement in any document connected with the practice of genetic counseling.
 - q. The imposition by another state or jurisdiction of disciplinary action against a license or other authorization to practice genetic counseling based upon acts or conduct by the genetic counselor which would constitute grounds for disciplinary action as set forth in this section. A certified copy of the record of the action taken by the other state or jurisdiction is conclusive evidence of that action.
 - r. The failure to furnish the board or the board's investigative panel or the board's or investigative panel's investigators or representatives information legally requested by the board or the investigative panel.
2. The board shall keep a record of all the board's proceedings in the matter of suspending, revoking, or refusing licenses together with the evidence offered.
3. The board shall deposit in the general fund any fines collected under this section.

Reinstatement and renewal.

Upon application, the board may reinstate or renew a license of an applicant whose license has been canceled, suspended, or revoked. The board may establish the protocol for reinstatement and renewal under this section and may impose conditions for reinstatement and renewal.

Genetic counselor advisory committee.

1. The board shall appoint a genetic counselor advisory committee composed of at least one genetic counselor and at least two physicians licensed under chapter 43-17. Except for initial appointments, each committee member shall serve a term of three years. The term of initial appointees must be staggered so that expiration of terms is evenly distributed. A committee member may not be appointed to more than three consecutive full terms. If a vacancy occurs, the board shall appoint an individual to fill the unexpired term.
2. The advisory committee shall meet as necessary to conduct business, but at least annually. The advisory committee shall make recommendations to the board regarding board rules adopted under this chapter.

Penalty.

It is a class B misdemeanor to knowingly violate this chapter.

Approved April 26, 2013
Filed April 26, 2013

OFFICES AND OFFICERS

CHAPTER 337

SENATE BILL NO. 2113

(Judiciary Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact section 44-04-18.1 of the North Dakota Century Code, relating to confidentiality of emergency responder peer or group counseling session records relating to critical incident stress management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-04-18.1 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.1. Public employee personal, medical, and employee assistance records - Confidentiality - Personal information maintained by state entities - Exempt.

1. Any record of a public employee's medical treatment or use of an employee assistance program is not to become part of that employee's personnel record and is confidential and, except as otherwise authorized by law, may not be used or disclosed without the written authorization of the employee. As used in this section, the term "public employee" includes any individual who has applied for employment, is employed, or has been employed by a public entity.
2. Except as otherwise specifically provided by law, personal information regarding a public employee contained in an employee's personnel record or given to the state or a political subdivision by the employee in the course of employment is exempt. As used in this section, "personal information" means a person's home address; home telephone number or personal cell phone number; photograph; medical information; motor vehicle operator's identification number; public employee identification number; payroll deduction information; the name, address, telephone number, and date of birth of any dependent or emergency contact; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution.
3. Nonconfidential information contained in a personnel record of an employee of a public entity as defined in subdivision c of subsection 13 of section 44-04-17.1 is exempt.
4. Except as otherwise specifically provided by law, personal information regarding a licensee maintained by an occupational or professional board, association, state agency, or commission created by law is exempt. As used in this section, "licensee" means an individual who has applied for, holds, or has held in the past an occupational or professional license, certificate, credential,

permit, or registration issued by a state occupational or professional board, association, agency, or commission.

5. Information relating directly to persons engaged in an organized public safety peer counseling or a public safety peer debriefing is exempt.

Approved April 19, 2013
Filed April 19, 2013

CHAPTER 338

SENATE BILL NO. 2115

(Judiciary Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact section 44-04-18.4 of the North Dakota Century Code, relating to exemption of technical, financial, or marketing records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-04-18.4 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.4. Confidentiality of trade secret, proprietary, commercial, and financial information.

1. Trade secret, proprietary, commercial, and financial information is confidential if it is of a privileged nature and it has not been previously publicly disclosed.
2. Under this section, unless the context otherwise requires:
 - a. "Commercial information" means information pertaining to buying or selling of goods and services that has not been previously publicly disclosed and that if the information were to be disclosed would impair the public entity's future ability to obtain necessary information or would cause substantial competitive injury to the person from which the information was obtained.
 - b. "Financial information" means information pertaining to monetary resources of a person that has not been previously publicly disclosed and that if the information were to be disclosed would impair the public entity's future ability to obtain necessary information or would cause substantial competitive injury to the person from which the information was obtained.
 - c. "Proprietary information" includes:
 - (1) Information shared between a sponsor of research or a potential sponsor of research and a public entity conducting or negotiating an agreement for the research.
 - (2) Information received from a private business that has entered or is negotiating an agreement with a public entity to conduct research or manufacture or create a product for potential commercialization.
 - (3) A discovery or innovation generated by the research information, technical information, financial information, or marketing information acquired under activities described under paragraph 1 or 2.
 - (4) A document specifically and directly related to the licensing or commercialization resulting from activities described under paragraph 1, 2, or 6.

- (5) Technical, financial, or marketing records that are received by a public entity, which are owned or controlled by the submitting person, are intended to be and are treated by the submitting person as private, and the disclosure of which would cause harm to the submitting person's business.
 - (6) A discovery or innovation produced by the public entity that an employee or the entity intends to commercialize.
 - (7) A computer software program and components of a computer software program that are subject to a copyright or a patent and any formula, pattern, compilation, program, device, method, technique, or process supplied to a public entity that is the subject of efforts by the supplying person to maintain its secrecy and that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that might obtain economic value from its disclosure or use.
 - (8) A discovery or innovation that is subject to a patent or a copyright, and any formula, pattern, compilation, program, device, combination of devices, method, technique, technical know-how or process that is for use, or is used, in the operation of a business and is supplied to or prepared by a public entity that is the subject of efforts by the supplying or preparing person to maintain its secrecy and provides the preparing person an advantage or an opportunity to obtain an advantage over those who do not know or use it or that may derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, a person that might obtain economic value from its disclosure or use.
- d. "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, technical know-how, or process, that:
- (1) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons that can obtain economic value from its disclosure or use; and
 - (2) Is the subject of efforts that are reasonable under the circumstances to maintain the secrecy of the information.
3. This section does not limit or otherwise affect a record pertaining to any rule of the state department of health or to any record pertaining to the application for a permit or license necessary to do business or to expand business operations within this state, except as otherwise provided by law.
 4. This section does not limit the release or use of records obtained in an investigation by the attorney general or other law enforcement official.
 5. Unless made confidential under subsection 1, the following economic development records and information are exempt:

- a. Records and information pertaining to a prospective location of a business or industry, including the identity, nature, and location of the business or industry, when no previous public disclosure has been made by the business or industry of the interest or intent of the business or industry to locate in, relocate within, expand within this state, or partner with a public entity to conduct research or to license a discovery or innovation. This exemption does not include records pertaining to the application for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.
 - b. Trade secrets and proprietary, commercial, or financial information received from a person that is interested in applying for or receiving financing, technical assistance, or other forms of business assistance.
6. Unless made confidential under subsection 1 or made exempt under subsection 5, bids or proposals received by a public entity in response to a request for proposals by the public entity are exempt until all of the proposals have been received and opened by the public entity or until all oral presentations regarding the proposals, if any, have been heard by the public entity. Records included with any bid or proposal naming and generally describing the entity submitting the proposal are open.
 7. Unless made confidential under subsection 1, records received by the state department of emergency services under chapter 37-17.1 from the federal government and any public or private agency or entity for disaster mitigation, preparation, response, and recovery are exempt.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 339**HOUSE BILL NO. 1186**

(Representative Carlson)
(Senator Wardner)

AN ACT to create and enact a new section to chapter 44-04 of the North Dakota Century Code, relating to access to records relating to legislative bill tracking systems; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 44-04 of the North Dakota Century Code is created and enacted as follows:

Legislative bill tracking records - Exempt.

Any record maintained within a legislative bill tracking system administered or operated by a public entity is an exempt record.

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

Approved January 17, 2013

Filed January 17, 2013

CHAPTER 340

HOUSE BILL NO. 1207

(Representatives Klemin, Becker, Haak)
(Senators Hogue, Poolman, Sitte)

AN ACT to create and enact a new subsection to section 44-06.1-09 of the North Dakota Century Code, relating to notarial acts performed in this state and bordering states; to amend and reenact subsection 1 of section 44-06.1-16, subsection 5 of section 44-06.1-21, and section 44-06.1-22 of the North Dakota Century Code, relating to notary stamps, the use of civil penalties collected by the secretary of state, and implementation of a notary public database; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 44-06.1-09 of the North Dakota Century Code is created and enacted as follows:

A notarial act performed in this state by a notarial officer of a bordering state has the same effect as if the act were performed by a notarial officer of this state, if the bordering state grants notarial officers of this state similar authority within that state.

SECTION 2. AMENDMENT. Subsection 1 of section 44-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

1. The secretary of state, upon receipt of the proper fee, oath, and bond, shall issue a certificate of authorization with which the notary public may obtain an official notary stamping device. A notary stamp vendor may provide a notary with an official stamping device only upon presentation by the notary of a certificate of authorization. The notary public shall place an impression of the notary's stamp on the certificate of authorization and return the certificate of authorization to the secretary of state. After the certificate of authorization is received, approved, and filed, the secretary of state shall issue a notary commission that authorizes the notary to commence the duties of the office of notary public. A notary being commissioned must obtain a stamping device approved by the secretary of state which must be designed to leave a clear impression, be photographically reproducible, include the words "State of North Dakota" and "Notary Public", contain the name and commission expiration date of the notary public exactly as shown on the notary's commission, and which may not contain any other words, numbers, symbols, or a reproduction of the great seal of the state. All notary stamps must be surrounded by a border and, except as otherwise permitted by the secretary of state, may be either up to or equal to one and five-eighths inch [41.28 millimeters] in diameter or if of a rectangular design, may be up to or equal to seven-eighths inch [22.23 millimeters] vertically by two and five-eighths inches [66.68 millimeters] horizontally.

SECTION 3. AMENDMENT. Subsection 5 of section 44-06.1-21 of the North Dakota Century Code is amended and reenacted as follows:

5. The secretary of state may impose a lesser sanction for a violation of any provision of this chapter if determined appropriate by the secretary of state under the pertinent facts and circumstances. A lesser sanction includes imposition of a civil penalty not to exceed five hundred dollars or a letter of reprimand. Any civil penalty collected by the secretary of state must be deposited in the secretary of state's general services operating fund.

SECTION 4. AMENDMENT. Section 44-06.1-22 of the North Dakota Century Code is amended and reenacted as follows:

44-06.1-22. (Effective after July 31, 2013) Database of notaries public.

TheWhen the secretary of state acquires or develops the technical capability to maintain an electronic database of notaries public, the secretary of state shall maintain an electronic database of notaries public:

1. Through which an individual may verify the authority of a notary public to perform notarial acts; and
2. Which indicates whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records.

SECTION 5. EMERGENCY. Section 1 of this Act is declared to be an emergency measure.

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 341

HOUSE BILL NO. 1368

(Representatives Boehning, Beadle, Dockter, Maragos, Delmore)
(Senators Carlisle, Krebsbach, Sorvaag)

AN ACT to amend and reenact section 44-08-04 of the North Dakota Century Code, relating to travel expenses for state employees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-08-04 of the North Dakota Century Code is amended and reenacted as follows:

44-08-04. Expense account - Amount allowed - Verification.

1. Except as provided in section 44-08-04.1, each elective or appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, may make claim for meals and lodging while engaged in the discharge of a public duty away from the claimant's normal working and living residence for all or any part of any quarter of a day. Claims may also be made for meals that are included as part of a registration fee for a conference, seminar, or other meeting and for meals attended at the request of and on behalf of the state or any of its subdivisions, agencies, bureaus, boards, or commissions; however, if a meal is included in a registration fee, the applicable quarter allowance cannot be claimed for that meal. Claims for meals specifically included in a registration fee for a conference, seminar, or other meeting must be allowed even if the city at which the conference, seminar, or meeting is held or the meal is provided is the claimant's normal working and living residence. If a higher education athletic team or other organized institution organization group meal is attended at the request of and on behalf of the institution, actual expenses for the entire group, including coaches, trainers, and other employees, may be paid or submitted for payment on a team or group travel expense report; subsection 2 does not apply; and officers and employees are not required to document individual expenses or submit individual travel reimbursement vouchers. Reimbursement is allowed only for overnight travel or other travel, away from the normal place of employment, for four hours or more. Verification of expenses by receipt is required only for lodging expenses.
2. For travel within the state, the following rates for each quarter of any twenty-four-hour period must be used:
 - a. First quarter is from six a.m. to twelve noon and the sum must be ~~six~~six ~~seven~~seven dollars. First quarter reimbursement may not be made if travel began after seven a.m.
 - b. Second quarter is from twelve noon to six p.m. and the sum must be ~~nineteen~~nineteen dollars ~~and fifty cents~~and fifty cents.
 - c. Third quarter is from six p.m. to twelve midnight and the sum must be ~~fifteen~~fifteen ~~seventeen~~seventeen dollars ~~and fifty cents~~and fifty cents.

- d. Fourth quarter is from twelve midnight to six a.m. and the sum must be the actual lodging expenses not to exceed an amount established by policy by the director of the office of management and budget plus any additional applicable state or local taxes. The director shall establish a policy to set the lodging reimbursement at an amount equal to ninety percent of the rate established by the United States general services administration for lodging reimbursement in this state. A political subdivision may reimburse an elective or appointive officer, employee, representative, or agent for actual lodging expenses.
3. The allowance for out-of-state meals, within the continental United States, is equal to the per diem meals rate in the city for which a claim is made on that day as established by rule for federal employees by the United States general services administration and must be allocated twenty percent to the first quarter, thirty percent to the second quarter, and fifty percent to the third quarter.
4. The allowance for meals in noncontinental United States and overseas nonforeign areas, including Alaska, Hawaii, and Guam, is equal to the per diem meals rate in the city for which a claim is made on that day as established by rule for federal employees established by the United States per diem committee.
5. The allowance for meals outside the United States is equal to the per diem meals rate in the city for which a claim is made on that day as established by rule for federal employees established by the United States department of state.
6. The allowance for lodging outside the state must be the actual lodging expense.
7. A department, institution, or agency of this state may set a rate for travel expenses outside the state less than those set forth in this section. Verification of any other type of expense not prescribed by this section must be as prescribed by the office of the budget except no receipt may be required for taxi or cab fares of ten dollars or less. The office of management and budget shall disapprove any claim it determines to be in error or unlawful or not within the limits of legislative appropriations.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 342

HOUSE BILL NO. 1193

(Representatives N. Johnson, Kretschmar, Glassheim)
(Senators Lyson, Sorvaag, Murphy)

AN ACT to create and enact a new section to chapter 44-11 of the North Dakota Century Code, relating to appointment of a special commissioner to preside over removal proceedings; to amend and reenact sections 44-11-01, 44-11-02, 44-11-03, 44-11-04, 44-11-06, 44-11-07, 44-11-09, 44-11-10, 44-11-11, and 44-11-12 of the North Dakota Century Code, relating to proceedings to remove officials from office; and to repeal sections 44-11-05, 44-11-13, and 44-11-14 of the North Dakota Century Code, relating to taking of testimony, appeals, and assessment of costs on removal proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 44-11-01 of the North Dakota Century Code is amended and reenacted as follows:

44-11-01. What officers removable by governor - Grounds.

The governor may remove from office any county commissioner, sheriff, coroner, county auditor, recorder, state's attorney, county treasurer, superintendent of schools, county commissioner, surveyor, public administrator, city auditor, city commissioner, mayor, chief of police, deputy sheriff, or other police officer, township officer, rural fire protection district board member, school board member, or any custodian of public moneys, except the state treasurer, whenever it appears to the governor by competent preponderance of the evidence and after a hearing as provided in this chapter, that the officer has been guilty of misconduct, malfeasance, crime in office, neglect of duty in office, or of habitual drunkenness substance abuse or gross incompetency.

SECTION 2. AMENDMENT. Section 44-11-02 of the North Dakota Century Code is amended and reenacted as follows:

44-11-02. Charges - How made - By whom prosecuted.

1. The ~~complaint or charges~~ petition against any official authorized to be removed by the governor must be entitled in the name of this state and must be filed with the ~~governor~~ attorney general.
2. The ~~complaint or charges~~ against any official, other than a school board member, may be made upon the ~~relation~~ petition of fifty qualified electors of the county in which the person charged is an officer, or upon the ~~relation~~ petition of ten percent of the qualified electors voting at the preceding general election for the office of governor in that political subdivision or district in which the person charged is an officer, whichever is least, or by the state's attorney of such county.
3. The ~~complaint or charges~~ against a school board member must be made upon ~~the relation of~~ a petition containing the signatures of qualified electors of the

school district equal in number to twenty percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, unless such census is greater than four thousand in which case only fifteen percent of the number of persons enumerated in the school census are required. However, not fewer than twenty-five signatures are required unless the district has fewer than twenty-five qualified electors, in which case the petition must be signed by not less than twenty-five percent of the qualified electors of the district. In those districts with fewer than twenty-five qualified electors, the number of qualified electors in the district must be determined by the county superintendent for such county in which such school is located.

4. ~~The complaint and charges must be filed by the attorney general when directed to do so by the governor.~~When the petition is filed, the attorney general shall conduct an investigation within thirty days. Upon completion of the investigation, the attorney general shall make a recommendation to the governor whether a removal proceeding should be conducted by a special commissioner, and if so, whether the accused officer should be suspended during the pendency of the proceeding.
5. Upon receipt of the recommendation of the attorney general, the governor shall determine whether to proceed with the appointment of a special commissioner. If the governor decides not to appoint a special commissioner, the governor shall notify the individuals who filed the petition and summarize the reasons for the decision. If the governor decides to appoint a special commissioner, the governor shall request that a prosecutor draft and serve the official complaint against the officer.
 5. a. When the officer sought to be removed is other than the state's attorney, the state's attorney or other competent attorney, upon request of the governor, shall appear and prosecute.
 - b. When the proceedings are brought to remove the state's attorney, the governor shall request the attorney general or other competent attorney to appear on behalf of the state and prosecute such proceedings.

SECTION 3. AMENDMENT. Section 44-11-03 of the North Dakota Century Code is amended and reenacted as follows:

44-11-03. ~~Complaint~~Petition and complaint - Requisites.

The petition and thereafter the ~~complaint or charges~~ must state the charges against the accused, and, unless filed by the state's attorney or attorney general, must be verified and may be amended as in ordinary actions. If such amendment of the complaint or charges includes any new or additional charge, then ~~a reasonable time~~the accused must be allowed ~~the accused a~~ a reasonable time to prepare a defense thereto.

SECTION 4. AMENDMENT. Section 44-11-04 of the North Dakota Century Code is amended and reenacted as follows:

44-11-04. ~~Special commissioner to hear and take testimony~~ - Suspension of officer - Notice to governing body.

~~Whenever charges are filed against any officer mentioned in section 44-11-01, the governor shall appoint as a special commissioner a competent person learned in the~~

law to hear and report the testimony for and against the accused and to file that person's report of the testimony, to be used on the hearing. The testimony must be reduced to writing, and when the testimony is not taken by a shorthand reporter, each witness shall subscribe the witness's name to the witness's testimony when the same is so reduced. If the governor judges that the best interests of the state require it to be done, the governor by written order to be delivered to such officer, may suspend the accused officer from the performance of duty during the pendency of the hearing removal proceedings. If the governor suspends the accused, the governor immediately shall notify the board or persons authorized to fill a vacancy in that office, and that board or those persons, within five days after receipt of such notice, shall appoint a competent person to fill the office and perform the duties thereof ~~ad interim~~ of the officer during the suspension.

SECTION 5. A new section to chapter 44-11 of the North Dakota Century Code is created and enacted as follows:

Appointment of special commissioner - Filing of complaint.

The governor shall appoint as a special commissioner a retired or former judge, or other competent person learned in the law to preside over the removal proceedings. The prosecutor shall file with the special commissioner a complaint containing the allegations against the officer, which may consist of the charges alleged in the petition or any charge justified by the investigation conducted by the attorney general. The prosecutor shall also file proof that the complaint was served on the officer.

SECTION 6. AMENDMENT. Section 44-11-06 of the North Dakota Century Code is amended and reenacted as follows:

44-11-06. Hearing - Report to governor - Time of hearing fixed.

Whenever testimony has been taken upon charges filed against any officer, as provided by this chapter, the special commissioner forthwith shall report all such testimony and proceedings to the governor and shall file the same in the governor's office. Thereupon the governor shall fix a time and place for the hearing on a day not more than ten days from the date of the filing of the commissioner's report, and not less than five days from the date of the service of notice of such hearing upon the accused. At such hearing the accused is entitled to be heard in person or by attorney. Within thirty days of the appointment of the special commissioner, a hearing shall be held in open court on the allegations of the complaint. The proceedings shall be recorded by a court reporter or court recorder. The accused is entitled to be present and be heard in person or through the accused's attorney. The commissioner has the same powers as are conferred upon district judges to take testimony and may rule on, admit, or exclude testimony accordingly. Within ten days of the conclusion of the hearing, the commissioner shall forward to the governor a report of the proceedings, including a summary of testimony, findings as to whether any allegations were proven by a preponderance of the evidence, exhibits and evidence received, and a recommendation whether the accused should be removed from office. The governor may request a transcript be prepared if review of testimony is necessary for a final determination on removal.

SECTION 7. AMENDMENT. Section 44-11-07 of the North Dakota Century Code is amended and reenacted as follows:

44-11-07. Removal from office upon hearing - Filling vacancy.

If upon a hearing the charges are sustained after reviewing the report and recommendation, the governor determines that removal is in the best interests of the state, the governor forthwith shall make an order in writing removing the accused officer from office, and shall cause a copy of the order to be delivered to the accused and one copy to be delivered to the board or persons having the authority to fill a vacancy in that office. Thereupon that board or person, within five days thereafter, shall appoint a competent person to fill the office and perform the duties thereof, unless the accused, prior to the final hearing, had been suspended as provided by this chapter, and an ad interim appointment made. In such case the person appointed to the office ad interim during the suspension shall continue until the expiration of the term for which the accused was elected or appointed. If the governor decides that removal is not in the best interests of the state, the governor shall notify the individuals who filed the petition and summarize the reasons for the decision.

SECTION 8. AMENDMENT. Section 44-11-09 of the North Dakota Century Code is amended and reenacted as follows:

44-11-09. Appeal - Notification of governor - Proceedings.

The clerk of the district court shall notify the governor of the filing of an appeal by registered or certified mail. The governor, within ten days after the receipt of such notice, shall mail to the clerk of said court the testimony in such removal proceedings, together with a copy of any order made by the governor in such proceedings. Said appeal must be heard by the judge of said court upon the record in such proceedings, without a jury, at the next regular term of court or prior to said term, in the discretion of the judge of said court. After such hearing by the district judge, the district judge shall make an order affirming the order of the governor or an order reinstating the defendant officer if the decision is clearly erroneous.

SECTION 9. AMENDMENT. Section 44-11-10 of the North Dakota Century Code is amended and reenacted as follows:

44-11-10. Fees of special commissioner - Stenographer - Witnesses.

The fees of the special commissioner provided for by this chapter must be ~~one~~two hundred dollars per day, and in addition thereto, the special commissioner shall receive mileage from the commissioner's residence to the place of trial the same as is allowed by law to sheriffs. The special commissioner may employ a stenographer and pay the expenses of the stenographer. Such expenses must be itemized by the commissioner and filed with the commissioner's report and findings and audited and allowed by the governor. Witnesses giving testimony before such commissioner, the number to be limited by the commissioner, must be allowed the same fees as witnesses in district court. In proceedings to remove a county officer, such fees must be paid by the county upon allowance by the board of county commissioners in the same manner as other claims against the county, and if a municipal or township officer, then by the city council, board of city commissioners, or board of township supervisors, in the same manner as other claims against the municipality are paid.

SECTION 10. AMENDMENT. Section 44-11-11 of the North Dakota Century Code is amended and reenacted as follows:

44-11-11. Oath of commissioner - Contents - Filing.

When a special commissioner has been appointed as provided in this chapter, the commissioner forthwith shall take an oath and shall file the same with the governor that:

1. The commissioner, impartially and to the best of the commissioner's knowledge and ability, without fear, favor, or prejudice, will hear and cause to be taken all the testimony and evidence offered and received at the hearing for and in behalf of the prosecution and accused, together with all papers and other exhibits offered by either party, and carefully will preserve the same.
2. The commissioner will cause all of the oral testimony offered and received at the hearing to be ~~correctly and fully~~ available to be transcribed ~~at the request of the governor,~~ and as speedily as may be after the hearing will ~~attest the same as a full, true~~ prepare a report of the proceedings, summary of testimony, findings of fact, and complete record of all evidence and testimony, including all exhibits offered and received at said hearing by either party, and will cause the same to be filed with the governor.

SECTION 11. AMENDMENT. Section 44-11-12 of the North Dakota Century Code is amended and reenacted as follows:

44-11-12. Powers of commissioner - Subpoenas - Service - Fees.

After taking and filing the oath of office, the commissioner has authority to issue subpoenas for persons and subpoenas duces tecum and to administer oaths to witnesses the same as is conferred upon district judges. The subpoenas may be directed to any sheriff, or chief of police, who immediately shall serve the subpoenas. The officer is entitled to such fees as are allowed to sheriffs for serving subpoenas in district court. The fees must be paid in the same manner as is provided in this chapter for witness fees and commissioner's fees. ~~The commissioner has the same powers as are conferred upon district judges to take testimony and may rule on, admit, or exclude testimony accordingly.~~ The commissioner may punish for contempt in the same manner as the district court.

SECTION 12. REPEAL. Sections 44-11-05, 44-11-13, and 44-11-14 of the North Dakota Century Code are repealed.

Approved April 10, 2013
Filed April 10, 2013

PARTNERSHIPS

CHAPTER 343

HOUSE BILL NO. 1158

(Representative Klemin)
(Senator Hogue)

AN ACT to create and enact a new section to chapter 45-13 of the North Dakota Century Code, relating to treatment of a partnership's omitted assets.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 45-13 of the North Dakota Century Code is created and enacted as follows:

Omitted assets.

Title to assets remaining after payment of all debts, obligations, or liabilities and after distributions to partners may be transferred by a court in this state.

Approved April 1, 2013
Filed April 1, 2013

PRINTING LAWS

CHAPTER 344

HOUSE BILL NO. 1129

(Judiciary Committee)
(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact chapter 46-03.1 of the North Dakota Century Code, relating to the enactment of the Uniform Electronic Legal Material Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 46-03.1 of the North Dakota Century Code is created and enacted as follows:

46-03.1-01. Definitions.

1. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
2. "Legal material" means, whether or not in effect:
 - a. The Constitution of North Dakota.
 - b. The North Dakota Century Code.
 - c. The North Dakota Session Laws, also known as the Laws of North Dakota.
 - d. The North Dakota Administrative Code.
3. "Official publisher" means the North Dakota legislative council, for the Constitution of North Dakota, North Dakota Century Code, North Dakota Session Laws, and North Dakota Administrative Code.
4. "Publish" means to display, present, or release to the public, or cause to be displayed, presented, or released to the public, by the official publisher.
5. "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.
6. "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.

46-03.1-02. Applicability.

This chapter applies to all legal material in an electronic record that is designated as official under section 46-03.1-03 and published electronically after July 31, 2013.

46-03.1-03. Legal material in official electronic record.

1. If an official publisher publishes legal material only in an electronic record, the publisher shall:
 - a. Designate the electronic record as official; and
 - b. Comply with sections 46-03.1-04, 46-03.1-06, and 46-03.1-07.
2. An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the electronic record as official if the publisher complies with sections 46-03.1-04, 46-03.1-06, and 46-03.1-07.

46-03.1-04. Authentication of official electronic record.

An official publisher of legal material in an electronic record that is designated as official under section 46-03.1-03 shall authenticate the record. To authenticate an electronic record, the publisher shall provide a method for a user to determine that the record received by the user from the publisher is unaltered from the official record published by the publisher.

46-03.1-05. Effect of authentication.

1. Legal material in an electronic record that is authenticated under section 46-03.1-04 is presumed to be an accurate copy of the legal material.
2. If another state has adopted a law substantially similar to this chapter, legal material in an electronic record that is designated as official and authenticated by the official publisher in that state is presumed to be an accurate copy of the legal material.
3. A party contesting the authentication of legal material in an electronic record authenticated under section 46-03.1-04 has the burden of proving by a preponderance of the evidence that the record is not authentic.

46-03.1-06. Preservation and security of legal material in official electronic record.

1. An official publisher of legal material in an electronic record that is or was designated as official under section 46-03.1-04 shall provide for the preservation and security of the record in an electronic form or a form that is not electronic.
2. If legal material is preserved under subsection 1 in an electronic record, the official publisher shall:
 - a. Ensure the integrity of the record;
 - b. Provide for backup and disaster recovery of the record; and
 - c. Ensure the continuing usability of the material.

46-03.1-07. Public access to legal material in official electronic record.

An official publisher of legal material in an electronic record that is required to be preserved under section 46-03.1-06 shall ensure that the material is reasonably available for use by the public on a permanent basis.

46-03.1-08. Standards.

In implementing this chapter, an official publisher of legal material in an electronic record shall consider:

1. Standards and practices of other jurisdictions;
2. The most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies;
3. The needs of users of legal material in an electronic record;
4. The views of governmental officials and entities and other interested persons; and
5. To the extent practicable, methods and technologies for the authentication of, preservation and security of, and public access to, legal material which are compatible with the methods and technologies used by other official publishers in this state and in other states that have adopted a law substantially similar to this chapter.

46-03.1-09. Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

46-03.1-10. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act [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)].

Approved April 8, 2013
Filed April 8, 2013

PROPERTY

CHAPTER 345

HOUSE BILL NO. 1399

(Representatives Headland, Belter, Brandenburg, Damschen)
(Senators Dotzenrod, Erbele, Wanzek)

AN ACT to amend and reenact subsection 2 of section 47-05-02.1 of the North Dakota Century Code, relating to duration of waterfowl production area easements; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 47-05-02.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The duration of the easement, servitude, or nonappurtenant restriction on the use of real property must be specifically set out, and in no case may the duration of any interest in real property regulated by this section exceed ninety-nine years. The duration of an easement for a waterfowl production area acquired by the federal government, and consented to by the governor or the appropriate state agency after July 1, 1985, may not exceed fifty years. A waterfowl production area easement that exceeds fifty years or which purports to be perpetual may be extended by negotiation between the owner of the easement and the owner of the servient tenement. A waterfowl production area easement that exceeds fifty years or which purports to be permanent and is not extended by negotiation is void. The duration of a wetlands reserve program easement acquired by the federal government pursuant to the Food, Agriculture, Conservation, and Trade Act of 1990 after July 1, 1991, may not exceed thirty years.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on June 30, 2017.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 346

SENATE BILL NO. 2168

(Senators Holmberg, Hogue, Triplett)
(Representative Delmore)

AN ACT to amend and reenact section 47-10-15 of the North Dakota Century Code, relating to after-acquired title; and provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-10-15 of the North Dakota Century Code is amended and reenacted as follows:

47-10-15. After-acquired title.

When a person purports by proper instrument to ~~grant~~ convey real property in fee simple and subsequently acquires any title or claim of title ~~thereto~~ to the real property, the ~~same~~ real property passes by operation of law to the ~~grantee or the grantee's successors~~ person to whom the property was conveyed or that person's successor. A quitclaim deed that includes the word "grant" in the words of conveyance, regardless of the words used to describe the interest in the real property being conveyed by the grantor, passes after-acquired title. The use of a quitclaim deed, with or without the inclusion of after-acquired title in the deed, does not create any defect in the title of a person that conveys real property. This section applies to any conveyance regardless of when executed.

Approved April 8, 2013

Filed April 8, 2013

CHAPTER 347

SENATE BILL NO. 2136

(Senators Krebsbach, Klein)
(Representatives Keiser, Porter)

AN ACT to amend and reenact sections 47-14-05 and 47-14-07 of the North Dakota Century Code, relating to interest rates and late fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-14-05 of the North Dakota Century Code is amended and reenacted as follows:

47-14-05. Legal rate of interest - Interest after maturity.

Interest for any legal indebtedness must be at the rate of six percent per annum unless a different rate not to exceed the rate specified in section 47-14-09 is contracted for in writing. ~~All~~Unless otherwise agreed by the parties in writing, all contracts must bear the same rate of interest after maturity as they bear before maturity, ~~and any contract attempting to make the rate of interest higher after maturity is void as to the increase of interest, except for a charge for late payment penalty charged in addition to interest which may not exceed fifteen dollars or fifteen percent of the late payment, whichever is less, unless otherwise agreed to in any commercial, agricultural, or real estate note or mortgage. A charge for a late payment penalty may be imposed only if the amount of the late charge or the method of calculation of the late charge has been agreed to by the parties in the loan documents that are signed by the borrower.~~

SECTION 2. AMENDMENT. Section 47-14-07 of the North Dakota Century Code is amended and reenacted as follows:

47-14-07. Interest rate - Before and after breach.

Any legal rate of interest stipulated by a contract remains chargeable after a breach thereof, ~~as before,~~ until the contract is superseded by a verdict or other new obligation.

Approved March 19, 2013

Filed March 19, 2013

CHAPTER 348

HOUSE BILL NO. 1357

(Representatives Kreun, Anderson, Owens)
(Senators Klein, Laffen)

AN ACT to amend and reenact section 47-14-09 of the North Dakota Century Code, relating to usury and pawnbrokers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-14-09 of the North Dakota Century Code is amended and reenacted as follows:

47-14-09. Usury - Definition - Maximum contract rate - Prohibition - Exclusions.

1. Except as otherwise provided by the laws of this state, a person, either directly or indirectly, may not take or receive, or agree to take or receive, in money, goods, or things in action, or in any other way, any greater sum or greater value for the loan or forbearance of money, goods, or things in action than five and one-half percent per annum higher than the current cost of money as reflected by the average rate of interest payable on United States treasury bills maturing in six months in effect for North Dakota for the six months immediately preceding the month in which the transaction occurs, as computed and declared on the last day of each month by the state banking commissioner, but that in any event the maximum allowable interest rate ceiling may not be less than seven percent, and in the computation of interest the same may not be compounded; provided, however, that a minimum interest charge of fifteen dollars may be made. A contract may not provide for the payment of interest on interest overdue, but this section does not apply to a contract to pay interest at a lawful rate on interest that is overdue at the time such contract is made. Any violation of this section is deemed usury.
2. This section does not apply to a:
 - a. Bona fide pawnbroking transaction in an amount not exceeding ~~one~~ten thousand dollars which is made by a bona fide pawnbroking business transacted under a pawnbroker's license;
 - b. Loan made to a foreign or domestic corporation, foreign or domestic limited liability company, cooperative corporation or association, or trust;
 - c. Loan made to a partnership, limited partnership, or association that files a state or federal partnership income tax return;
 - d. Loan or forbearance of money, goods, or things in action the principal amount of which amounts to more than thirty-five thousand dollars; and
 - e. Loan made by a lending institution which is regulated or funded by an agency of a state or of the federal government.

3. Notwithstanding the interest rate limit set under this section, state-chartered banks and the Bank of North Dakota may charge interest at a rate equal to the maximum allowable rate which lawfully may be charged for a particular type of loan by national banking associations or state or federally chartered savings and loan associations operating out of facilities located in this state.
4. As used in this section, "bona fide pawnbroking transaction" means a transaction with a licensed pawnbroker which includes both possession and a pledge of tangible personal property.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 349

HOUSE BILL NO. 1267

(Representatives K. Koppelman, Beadle, Kasper, Paur)
(Senators Hogue, Laffen, Unruh)

AN ACT to amend and reenact section 47-16-30.1 of the North Dakota Century Code, relating to disposal of abandoned property by a lessor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-16-30.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-30.1. Abandoned property - Disposal by lessor.

Property with a total estimated value of not more than ~~one~~two thousand five hundred dollars which is left on the premises of a leased dwelling ~~thirty days after the tenant has vacated the premises after the expiration of the lease term~~ may be retained by the lessor and disposed of without legal process twenty-eight or more days after the lessor received actual notice that the lessee has vacated the premises or twenty-eight or more days after it reasonably appears to the lessor that the lessee has vacated the premises. The lessor is entitled to the proceeds from the sale of the property. The lessor may recover, from the lessee's security deposit, any storage and moving expenses in excess of the proceeds from the sale incurred in disposing of the property. If the lessor removes the abandoned property from the dwelling unit after a judgment of eviction has been obtained and the special execution has been served, the lessor has a lien upon the property for the reasonable amount of any storage and moving expenses and may retain possession of the property until the charges have been paid. The lien does not have priority over a prior perfected security interest in the property.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 350

SENATE BILL NO. 2170

(Senators Holmberg, Hogue, Triplett)
(Representative Delmore)

AN ACT to amend and reenact section 47-19-41 of the North Dakota Century Code, relating to the effect of recording.

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.

~~Every~~An unrecorded conveyance of real estate ~~not recorded shall be~~ void as against any subsequent purchaser in good faith, and for a valuable consideration, of the same real estate, or any part ~~or portion thereof of the same real estate, whose conveyance, regardless of whether recorded in the form of a warranty deed, or deed of bargain and sale, or deed of quitclaim and release, or~~ of or the form in common use ~~or otherwise, first is deposited with the proper officer for record and subsequently recorded, whether entitled to record or not, or as against an attachment levied thereon on the property or any judgment lawfully obtained, at the suit of any party, against the person in whose name the title to such land appears~~owner of record, prior ~~to~~before the recording of ~~such~~the conveyance. The fact that ~~such~~the first deposited and recorded conveyance of ~~such~~ subsequent purchaser for a valuable consideration is in the form, or contains the terms, of a deed ~~of~~is a quitclaim and release aforesaid, ~~shall~~does not affect the question of good faith of the subsequent purchaser, or be of itself notice to the subsequent purchaser of any unrecorded conveyance of the same real estate or any part thereof ~~of the same real estate~~. This section shall be ~~legal~~is notice to all who claim under unrecorded instruments that prior recording of later instruments ~~not entitled to be recorded may nullify their right, title interest, to or lien, to, in, or upon~~ on affected real property. ~~No~~An action affecting any ~~right, title to, interest, or lien, to, in, or upon~~ on real property shall ~~may not~~ be commenced or maintained or defense or counterclaim asserted ~~or recognized in court on the ground that a recorded instrument was not entitled to be recorded. The record of all instruments whether or not the same were entitled to be recorded shall be~~ deemed valid and sufficient as the legal record ~~thereof 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 April 8, 2013
Filed April 8, 2013

CHAPTER 351

SENATE BILL NO. 2169

(Senators Holmberg, Hogue)
(Representative Delmore)

AN ACT to amend and reenact sections 47-19.1-01, 47-19.1-02, 47-19.1-03, and 47-19.1-07 of the North Dakota Century Code, relating to what constitutes marketable title.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-19.1-01 of the North Dakota Century Code is amended and reenacted as follows:

47-19.1-01. What constitutes marketable title.

Any person having the legal capacity to own real estate in this state, who ~~that~~ has an unbroken chain of title to any interest in real estate by ~~that person~~ and that person's immediate or remote grantors under a deed of conveyance ~~which~~ or other title transaction that has been recorded ~~of record~~ for a period of twenty years or longer, and is in possession of such real estate ~~the interest~~, shall be deemed to have a marketable record title to ~~such~~ the interest, subject ~~only~~ solely to ~~such~~ the claims thereto ~~and~~ or defects of title ~~as~~ that are not extinguished or barred by the application of the provisions of this chapter, instruments ~~which~~ that have been recorded less than twenty years, and any encumbrances of record not barred by the statute of limitations.

SECTION 2. AMENDMENT. Section 47-19.1-02 of the North Dakota Century Code is amended and reenacted as follows:

47-19.1-02. Definitions.

As used in this chapter:

1. A person shall be deemed to have the unbroken chain of title to an interest in real estate when the official ~~public~~ records of the county ~~wherein such land is situated~~ recorder disclose a conveyance or other title transaction ~~dated and recorded of record~~ twenty years or more prior thereto; ~~which conveyance or other title transaction~~ purports to create ~~such~~ the interest in that person or that person's immediate or remote grantors, with nothing appearing of record purporting to divest that person ~~and that person's immediate or remote grantors of such~~ purported interest.
2. Title transaction means any transaction affecting title to real estate, including title by will or descent from any person who held title of record at ~~the date of that person's death~~, title by a decree or order of any court, title by tax deed or by trustee's, referee's, guardian's, executor's, ~~master's in chancery~~; or sheriff's deed, as well as by direct conveyance or reservation.

SECTION 3. AMENDMENT. Section 47-19.1-03 of the North Dakota Century Code is amended and reenacted as follows:

47-19.1-03. Notice of adverse claim of interest filed.

~~Such marketable~~Marketable title shall be held by such a person and shall be taken by that person's successors in interest free and clear of all interest, claims, or any charges whatever, the existence of which depends in whole or in part upon any act, transaction, event, or omission that occurred twenty years or more prior thereto before the present date, whether such claim or charge be evidenced by a recorded instrument or otherwise, and all such interests, claims, and charges affecting such the interest in real estate shall be barred and not enforceable at law or equity, unless any a person making such makes an adverse claim or asserting such interest or charge, shall, on or before twenty years from the date of recording of deed of the conveyance or other title transaction under which title is claimed, or within one year from the effective date of this section, whichever event is the latest in point of time, file for record and records a verified notice in writing, duly verified by oath, setting forth the nature of the person's adverse claim, interest, or charge; and no. A disability nor or lack of knowledge of any kind on the part of anyone shall operate to may not extend the time for filing such claims the notice after the expiration of the twenty years from the recording of such deed of conveyance or one year after the effective date of this section, whichever event is the latest in point of time.

SECTION 4. AMENDMENT. Section 47-19.1-07 of the North Dakota Century Code is amended and reenacted as follows:

47-19.1-07. Evidence of possession recorded.

For the purpose of this chapter, the fact of possession of an interest in real estate referred to in section 47-19.1-01 may be shown of record by one or more affidavits which shall contain containing the legal description of the real estate referred to and show showing that the record title holder person is upon the date thereof in possession of such the interest in real estate. The recorder shall record such the affidavits in the miscellaneous records of the recorder's county and index the same against the real estate. No such affidavits An affidavit of possession shall may not be filed as to any real estate before the expiration of twenty years from the recording of deed of the conveyance or other title transaction under which title is claimed, or before one year after the effective date of this section, whichever event is the latest in point of time, as to any real estate as to which a claim under the provisions of section 47-19.1-05 shall have been filed. The holder of an interest in severed minerals is deemed in possession of the minerals if that person has used the minerals as defined in section 38-18.1-03 and the use is stated in the affidavit of possession provided for in this section.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 352

SENATE BILL NO. 2322

(Senators Erbele, Andrist, Wanzek)
(Representatives Brandenburg, Kempenich, Silbernagel)

AN ACT to amend and reenact section 47-26-01 of the North Dakota Century Code, relating to an electrified fence as being within the definition of a legal fence.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-26-01 of the North Dakota Century Code is amended and reenacted as follows:

47-26-01. Definition of legal fence.

The following shall constitute a legal fence:

1. Any fence four and one-half feet [1.37 meters] high, in good repair, consisting of rails, timber, boards, stone walls, or any combination thereof.
2. All brooks, rivers, ponds, creeks, ditches, or hedges.
3. All things which, in the judgment of the fence viewers within whose jurisdiction the fence may be, are equivalent to the things specified in subsections 1 and 2.
4. Any fence upon which the interested parties may agree.
5. A barbed wire fence consisting of at least three barbed wires with at least number twelve and one-half gauge wire, the wire to be fastened firmly to posts which shall be not more than twenty feet [6.10 meters] or not more than forty feet [12.19 meters] and three stays apart. The top wire shall be not less than forty inches [101.6 centimeters] high, the bottom wire shall be not more than sixteen inches [40.64 centimeters] above the ground, and no two adjacent wires shall be separated by more than sixteen inches [40.64 centimeters].
6. A wire fence consisting of five smooth wires with posts not more than two rods [10.06 meters] apart and with good stays not more than eight feet [2.44 meters] apart, the top wire being not less than forty-eight inches [121.92 centimeters] nor more than fifty-six inches [142.24 centimeters] and the bottom wire being not less than sixteen inches [40.64 centimeters] nor more than twenty inches [50.8 centimeters] above the ground.
7. An electrified fence consisting of:
 - a. One smooth wire located twenty-six inches to thirty-two inches [66.04 centimeters to 81.28 centimeters] above the ground and posts no more than one hundred feet [30.48 meters] apart;
 - b. Two smooth wires, with the top wire located at least twenty-six inches [66.04 centimeters] above the ground, the bottom wire located eight inches

to ten inches [20.32 centimeters to 25.40 centimeters] below the top wire, and posts no more than one hundred feet [30.48 meters] apart; or

- c. Three smooth wires, with the top wire located at least twenty-six inches [66.04 centimeters] above the ground, the middle and bottom wires located eight inches to twelve inches [20.32 centimeters to 30.48 centimeters] apart, and posts no more than seventy-five feet [22.86 meters] apart.

Approved March 19, 2013

Filed March 19, 2013

CHAPTER 353

HOUSE BILL NO. 1162

(Representative Streyle)
(Senator J. Lee)

AN ACT to amend and reenact section 47-30.1-01 of the North Dakota Century Code, relating to definitions for unclaimed property purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-30.1-01 of the North Dakota Century Code is amended and reenacted as follows:

47-30.1-01. Definitions and use of terms.

As used in this chapter:

1. "Administrator" means the administrator of the state abandoned property office.
2. "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.
3. "Banking organization" means a bank, trust company, savings bank, private banker, or any organization defined by other law as a bank or banking organization.
4. "Business association" means a corporation, limited liability company, joint-stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.
5. "Domicile" means the state of incorporation of a corporation or state of organization of a limited liability company and the state of the principal place of business of an unincorporated person.
6. "Financial organization" means a savings and loan association or credit union.
7. "Holder" means a person, wherever organized or domiciled, who is:
 - a. In possession of property belonging to another;
 - b. A trustee; or
 - c. Indebted to another on an obligation.
8. "Insurance company" means an insurance company as defined by section 26.1-02-01 and also includes a benevolent society, nonprofit health service corporation, and health maintenance organization.

9. "Intangible property" includes:
 - a. Moneys, checks, drafts, deposits, interest, dividends, and income.
 - b. Credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances.
 - c. Stocks and other intangible ownership interests in business associations.
 - d. Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions.
 - e. Amounts due and payable under the terms of insurance policies.
 - f. Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.
 - g. Amounts distributable from a mineral interest in land.
10. "Money order" includes an express money order and a personal money order, on which the remitter is the purchaser. The term does not include a cashier's check, bank money order, or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.
11. "Mineral proceeds" means all obligations to pay resulting from the production and sale of minerals, including net revenue interest, royalties, overriding royalties, production payments, and joint operating agreements and all obligations for the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties, and minimum royalties.
- 44-12. "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or that person's legal representative.
- 42-13. "Person" means an individual, business association, state or other government including the government of the United States, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.
- 43-14. "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.
- 44-15. "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

CHAPTER 354

HOUSE BILL NO. 1316

(Representatives Louser, Beadle, Becker, Streyle, Wieland)
(Senators Krebsbach, J. Lee, Poolman)

AN ACT to create and enact two new sections to chapter 47-34 of the North Dakota Century Code, relating to good funds and disclosures for real estate transactions; and to amend and reenact sections 47-34-01 and 47-34-02 of the North Dakota Century Code, relating to good funds for real estate transactions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-34-01 of the North Dakota Century Code is amended and reenacted as follows:

47-34-01. Definitions.

As used in this chapter:

1. "Closing agent" means a person that closes a real estate transaction in connection with the purchase, sale, or financing of an interest in real estate. The term does not include a lender or an employee of a lender that conducts a settlement or closing of a real estate secured loan provided by the lender in the office of the lender.
2. "Collected funds" means a cash deposit or a check that has been presented for payment and for which payment has been irrevocably credited to the closing agent's escrow account.
3. "Escrow account" means:
 - a. A checking account established by a closing agent with a bank, savings and loan association, credit union, or savings bank that is chartered under the laws of a state or the United States and which is used exclusively for the deposit and disbursement of funds for a real estate transaction; or
 - b. A trust account maintained by an attorney under the North Dakota Rules of Professional Conduct.
- ~~3-4.~~ "Good funds" means funds in any one or more of the following forms:
 - a. United States currency.
 - b. Wired funds unconditionally held by and irrevocably credited to the escrow account of the closing agent.
 - c. A check that has been presented for payment and for which payment has been ~~received~~collected. As used in this subdivision, the term check includes a certified check and a cashier's check.

- d. ~~A check not to exceed three thousand dollars which~~ that is drawn on the trust account of a real estate broker licensed under chapter 43-23 or on the trust account maintained by an attorney under the North Dakota Rules of Professional Conduct, ~~if the closing agent has reasonable and prudent grounds to believe that sufficient funds will be available for withdrawal from the trust account on which the check is drawn at the time of disbursement of funds from the closing agent's escrow for which funds are collected funds by the real estate broker or the attorney's trust account.~~
 - e. A cashier's check not to exceed ~~ten~~ fifty thousand dollars in the aggregate ~~that~~ which is received by the closing agent and which is drawn on an existing account at a bank, savings and loan association, credit union, or savings bank chartered under the laws of a state or the United States located in this state, Minnesota, Montana, or South Dakota.
 - f. A check drawn on the escrow account of another closing agent, ~~if the closing agent in the real estate transaction has reasonable and prudent grounds to believe that sufficient funds will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of funds from the escrow account of the closing agent in the real estate transaction in this state, Minnesota, Montana, or South Dakota.~~
 - g. Funds transferred to the closing agent's escrow account by the bank, savings and loan association, credit union, or savings bank that is the host institution of the closing agent's escrow account.
- 4-5. "Real estate transaction" means a transaction in which a person deposits with a closing agent funds that are to be held until a specified event occurs or the performance of a prescribed condition in connection with the purchase, sale, or financing of an interest in real estate; or a settlement or closing conducted in connection with the purchase, sale, or financing of an interest in real estate. The term does not include a loan financing if the only parties to the loan transaction are the lender and the borrower, and the lender is responsible for disbursing all of the funds to the borrower or to a third party in order to pay fees and charges associated with the loan transaction.

SECTION 2. AMENDMENT. Section 47-34-02 of the North Dakota Century Code is amended and reenacted as follows:

47-34-02. Real estate transaction disbursements.

A closing agent may not make disbursements from an escrow account in connection with a real estate transaction unless funds that are received ~~from any single party to the real estate transaction which in the aggregate are at least ten thousand dollars~~ are good funds.

SECTION 3. A new section to chapter 47-34 of the North Dakota Century Code is created and enacted as follows:

Disclosures.

In a prominent manner in the closing documents, a closing agent shall disclose to the seller the anticipated closing date and all of the dates through which any loan payoffs are calculated.

SECTION 4. A new section to chapter 47-34 of the North Dakota Century Code is created and enacted as follows:

Civil damages.

In addition to any other cause of action that may exist, a person may bring a cause of action against a person that violates section 47-34-02. In addition to any actual damages a plaintiff may prove, a person that violates section 47-34-02 is liable to the plaintiff for five hundred dollars per violation in the first action. In any subsequent action for violation of section 47-34-02, a person is liable for one thousand dollars per violation.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 355

HOUSE BILL NO. 1191

(Representatives Maragos, Delmore)
(Senators Laffen, Nelson)

AN ACT to provide for security interests in rents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Security interest in rents.

1. A document, however denominated, that is enforceable and creates or provides for a security interest in real property, whether or not it also creates or provides for a security interest in personal property, creates an assignment of rents arising from the real property described in the document, unless the document provides otherwise.
2. An assignment of rents creates a presently effective security interest in all accrued and unaccrued rents arising from the real property described in the document creating the assignment, whether the document is denominated an absolute assignment, an absolute assignment condition upon default, an assignment as additional security, or otherwise. The security interest in rents is separate and distinct from any security interest held by the assignee in the real property.

SECTION 2.

Cash proceeds - Priority.

1. An assignee's security interest in identifiable cash proceeds is perfected if its security interest in rents is perfected. An assignee's security interest in identifiable noncash proceeds is perfected only if the assignee perfects that interest in accordance with chapter 41-09.
2. Except as otherwise provided in subsection 3, priority between an assignee's security interest in identifiable proceeds and a conflicting interest is governed by the priority rules in chapter 41-09.
3. An assignee's perfected security interest in identifiable cash proceeds is subordinate to a conflicting interest that is perfected by control under chapter 41-09 but has priority over a conflicting interest that is perfected other than by control.

SECTION 3.

Perfection of security interest in rents.

1. A document creating an assignment of rents may be submitted for recording in the office of the recorder for the county in which the real property described in the document is located in the same manner as any other document evidencing a conveyance of an interest in real property.

2. Upon recording, the security interest in rents created by an assignment of rents is fully perfected, notwithstanding any provision of the document creating the assignment or other law of this state which would preclude or defer enforcement of the security interest until the occurrence of a subsequent event, including a subsequent default of the assignor, the assignee's obtaining possession of the real property, or the appointment of a receiver.
3. Except as otherwise provided in subsection 4, a perfected security interest in rents takes priority over the rights of a person who, after the security interest is perfected, acquires an interest in or judgment lien against the rents or the real property from which they arise.
4. A perfected security interest in rents has priority over the rights of a person listed in subsection 3 with respect to future advances to the same extent as the assignee's security interest in the real property has priority over the rights of that person with respect to future advances.

SECTION 4.

Enforcement of security interest in rents.

1. An assignee may enforce an assignment of rents using any method sufficient to enforce the assignment under law of this state, including notice to the assignor, notice to the tenant, and the appointment of a receiver.
2. From the date of enforcement, the assignee or, in the case of enforcement by appointment of a receiver, the receiver is entitled to collect all rents that have accrued but remain unpaid on that date and accrue on or after that date, as those rents accrue.

SECTION 5.

Application to existing relationships.

1. Except as otherwise provided in this section, this Act governs the enforcement of an assignment of rents and the perfection and priority of a security interest in rents, even if the document creating the assignment was signed and delivered before August 1, 2013.
2. This Act does not affect an action or proceeding commenced before August 1, 2013.
3. This Act does not affect:
 - a. The enforceability of an assignee's security interest in rents or proceeds if immediately before August 1, 2013, that security interest was enforceable;
 - b. The perfection of an assignee's security interest in rents or proceeds if immediately before August 1, 2013, that security interest was perfected; or
 - c. The priority of an assignee's security interest in rents or proceeds with respect to the interest of another person if immediately before August 1, 2013, the interest of the other person was enforceable and perfected, and that priority was established.

PUBLIC BUILDINGS

CHAPTER 356

SENATE BILL NO. 2270

(Senators J. Lee, Heckaman, Schaible)
(Representatives Sanford, Wieland)

AN ACT to amend and reenact subsection 1 of section 48-01.2-04 and subsection 3 of section 48-01.2-19 of the North Dakota Century Code, relating to the publication of advertisements for bids for public improvement contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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, 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 2. AMENDMENT. Subsection 3 of section 48-01.2-19 of the North Dakota Century Code is amended and reenacted as follows:

3. The governing body shall publish a notice of the request for qualifications in a newspaper of general circulation in the county in which the public improvement is located and in a construction trade publication, electronic service, builders exchange, or other industry-recognized method in general circulation among the contractors, building manufacturers, and dealers in this state and shall be published for three consecutive weeks, with the first publication being at least twenty-one days before the date of opening of the request for qualifications. Upon written request, the governing body shall mail a copy of the invitation to any interested party.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 357

HOUSE BILL NO. 1200

(Representatives Delzer, Bellew, Kempenich)

AN ACT to amend and reenact sections 15-10-12.1 and 48-01.2-25 of the North Dakota Century Code, relating to the approval of higher education campus improvements financed by donations, gifts, grants, and bequests and the approval of a change or expansion of a public improvement project.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-10-12.1 of the North Dakota Century Code is amended and reenacted as follows:

15-10-12.1. Acceptance of buildings and campus improvements - Legislative approval.

The state board of higher education may authorize campus improvements and building maintenance on land under the control of the board which are financed by donations, gifts, grants, and bequests if the cost of the improvement or building maintenance is not more than three hundred eighty-five thousand dollars. The consent of the legislative assembly is required for construction of any building financed by donations, gifts, grants, and bequests and for campus improvements or building maintenance financed by donations, gifts, grants, and bequests if the cost of the improvements or maintenance is more than three hundred eighty-five thousand dollars. During the time the legislative assembly is not in session, except for the six months preceding the convening of a regular session and the three months following the close of a regular session, and unless otherwise restricted by previous legislative action or other law, the state board of higher education, with the approval of the budget section of the legislative management, may authorize the use of land under the control of the board and construct buildings financed by donations, gifts, grants, and bequests and campus improvements and building maintenance financed by donations, gifts, grants, and bequests and if the cost of the improvement or maintenance is more than three hundred eighty-five thousand dollars. The budget section approval must include a specific dollar limit for each building, campus improvement project, or maintenance project. The state board of higher education may authorize the sale of any real property or buildings which an institution of higher learning has received by gift or bequest. The board shall prescribe such conditions for the sale of the property as it determines necessary. The conditions must include requiring an appraisal and public auction or advertisement for bids, unless the gift instrument requires a different process. If the state board of higher education submits a request for campus improvements, building maintenance, or to construct buildings under this section to the budget section for approval, the legislative council shall notify each member of the legislative assembly of the date of the budget section meeting at which the request will be considered and provide a copy of the meeting agenda to each member of the legislative assembly. The chairman of the budget section shall allow any member of the legislative assembly an opportunity to present testimony to the budget section regarding any such request.

SECTION 2. AMENDMENT. Section 48-01.2-25 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-25. Authorization of expansion of public improvements by legislative assembly or budget section.

Notwithstanding any other provision of law, a state agency or institution may not significantly change or expand a public improvement beyond what has been approved by the legislative assembly unless the legislative assembly, ~~or the budget section of the legislative management if the legislative assembly is not in session,~~ approves the change or expansion of the project or any additional expenditure for the project. During the time the legislative assembly is not in session, and unless otherwise restricted by previous legislative action or other law, the budget section of the legislative management may approve a change or expansion or any additional expenditure for the project. However, the budget section of the legislative management may not approve a change, expansion, or additional expenditure for the project during the six months preceding the convening of a regular session or during the three months following the close of a regular session except for changes in project scope and related additional expenditures resulting from an unforeseen emergency event. For the purposes of this section, a significant change or expansion includes the construction of an addition to a building, including skywalks or other type of enclosed walkway, or any other substantial increase in the area of the building, but does not include the construction of building entrances and stairwells.

Approved April 10, 2013

Filed April 10, 2013

CHAPTER 358

HOUSE BILL NO. 1270

(Representatives Kasper, Beadle, Belter, Carlson,
Dosch, Headland, Keiser, Ruby, Thoreson)
(Senators Klein, Miller, Wardner)

AN ACT to provide for open and fair competition in governmental construction; to provide for application; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Definitions.

As used in this Act:

1. "Facility" means a physical improvement to real property owned or leased, directly or through a building authority, by a governmental unit, including a road, bridge, runway, rails, or building or structure along with the building's or structure's grounds, approaches, services, and appurtenances.
2. "Governmental unit" means the state or a political subdivision.

SECTION 2.

Prohibited labor organization terms in construction contract clauses.

A governmental unit awarding a contract for the construction, repair, remodeling, or demolition of a facility and any construction manager acting on that governmental unit's behalf may not include any of the following in the bid specifications, project agreements, or other controlling documents:

1. A term that requires or prohibits a bidder, an offeror, a contractor, or a subcontractor from entering or adhering to agreements with one or more labor organizations relating to the construction project or a related construction project; or
2. A term that otherwise discriminates against a bidder, an offeror, a contractor, or a subcontractor for becoming, remaining, or refusing to become or remain a signatory to or for adhering to or refusing to adhere to an agreement with one or more labor organizations in regard to that project or a related construction project.

SECTION 3.

Prohibited labor organization terms in a grant, tax abatement, and tax credit.

1. A governmental unit may not award a grant, tax abatement, or tax credit that is conditioned upon a requirement that the awardee include a term prohibited under section 2 of this Act in a contract document for any construction.

improvement, maintenance, or renovation of real property or fixtures that are the subject of the grant, tax abatement, or tax credit.

2. This Act does not prohibit a governmental unit from awarding a contract, grant, tax abatement, or tax credit to a private owner, bidder, contractor, or subcontractor that enters, is a party to, or adheres to an agreement with a labor organization, if:
 - a. Being or becoming a party or adhering to an agreement with a labor organization is not a condition for the award of the contract, grant, tax abatement, or tax credit; and
 - b. The governmental unit does not discriminate against a private owner, bidder, contractor, or subcontractor in the awarding of that contract, grant, tax abatement, or tax credit based upon the status as being or becoming, or the willingness or refusal to become, a party to an agreement with a labor organization.
3. This Act does not prohibit a contractor or subcontractor from voluntarily entering or complying with an agreement entered with one or more labor organizations in regard to a contract with a governmental unit or a contract funded in whole or in part from a grant, tax abatement, or tax credit from a governmental unit.

SECTION 4.

Exemptions.

The head of a governmental unit may exempt a particular project, contract, subcontract, grant, tax abatement, or tax credit from the requirements of any or all of the provisions in this Act if after public notice and hearing the governmental unit finds special circumstances require an exemption to avert an imminent threat to public health or safety. A finding of special circumstances under this section may not be based on the possibility or presence of a labor dispute concerning:

1. The use of contractors or subcontractors that are nonsignatories to or otherwise do not adhere to agreements with one or more labor organizations; or
2. Employees on the project who are not members of or affiliated with a labor organization.

SECTION 5.

Limitations.

This Act may not be construed to:

1. Prohibit an employer or other party from entering an agreement or engaging in any other activity protected by the National Labor Relations Act [29 U.S.C. 151 et seq.]; or
2. Interfere with labor relations of a party which are left unregulated under the National Labor Relations Act [29 U.S.C. 151 et seq.].

SECTION 6. APPLICATION. This Act applies to construction contracts executed on and after the effective date of this Act.

SECTION 7. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 8, 2013
Filed April 8, 2013

PUBLIC UTILITIES

CHAPTER 359

SENATE BILL NO. 2174

(Senators Wardner, Klein, Lyson)
(Representatives Dockter, N. Johnson, Nathe)

AN ACT to create and enact a new section to chapter 49-04 of the North Dakota Century Code, relating to the requirement that a public utility regulated by the public service commission provide advance notification of discontinuance of electric or gas service.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 49-04 of the North Dakota Century Code is created and enacted as follows:

Notification before discontinuance of utility service.

1. A public utility shall provide notice to a customer of the utility's intention to discontinue utility service for payment delinquency in accordance with commission rules.
2. A public utility shall provide notice to a third party designated by a customer of the utility's intention to discontinue electric or natural gas service to the customer for payment delinquency. The customer shall designate the third party on a form provided by or approved by the public utility. The public utility may elect to provide notice to a designated third party by mail or electronic means. Notice by mail must be made not less than five days before discontinuance and notice by electronic means must be made not less than three days before discontinuance. A public utility is immune from civil liability for failing to provide notice or providing incorrect notice to a third party of its intention to discontinue utility service to a customer.

Approved March 18, 2013
Filed March 18, 2013

CHAPTER 360

SENATE BILL NO. 2112

(Industry, Business and Labor Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact subsection 3 of section 49-03-02, subsection 11 of section 49-05-04, subsection 2 of section 49-05-04.2, subsection 2 of section 49-05-04.3, and subsection 1 of section 49-05-16 of the North Dakota Century Code, relating to fees for public utility applications.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 49-03-02 of the North Dakota Century Code is amended and reenacted as follows:

3. The commission may impose an application fee of up to one hundred ~~twenty-five~~seventy-five 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.

SECTION 2. AMENDMENT. Subsection 11 of section 49-05-04 of the North Dakota Century Code is amended and reenacted as follows:

11. An application fee in the amount of one hundred ~~twenty-five~~seventy-five thousand dollars. Upon request of the commission and with the approval of the emergency commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission shall pay the expenses of investigating a rate increase application under this section from the application fee paid by the public utility in accordance with section 49-02-02. The commission may waive or reduce the fee.

SECTION 3. AMENDMENT. Subsection 2 of section 49-05-04.2 of the North Dakota Century Code is amended and reenacted as follows:

2. Rate adjustments filed under the tariff must be accompanied by:
 - a. A description and quantification of the costs and expenses incurred by the public utility to meet federal environmental mandates which are subject to recovery;
 - b. A schedule for implementation of the applicable projects;
 - c. Calculations to establish that the rate adjustment is consistent with the terms of the tariff; and
 - d. An application fee in the amount of ~~fifty-one hundred~~ thousand dollars. Upon request of the commission and with the approval of the emergency commission, the applicant shall pay such additional fees as are reasonably

necessary for completion of the application process by the commission. The commission may waive or reduce the fee.

SECTION 4. AMENDMENT. Subsection 2 of section 49-05-04.3 of the North Dakota Century Code is amended and reenacted as follows:

2. Rate adjustments filed under the tariff must be accompanied by:
 - a. A description and quantification of the costs incurred by the public utility for new or modified electric transmission facilities which are subject to recovery;
 - b. A schedule for implementation of the applicable transmission facility projects;
 - c. Calculations to establish that the rate adjustment is consistent with the terms of the tariff; and
 - d. An application fee in the amount of ~~forty one hundred~~ fifty one hundred thousand dollars. Upon request of the commission and with the approval of the emergency commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission may waive or reduce the fee.

SECTION 5. AMENDMENT. Subsection 1 of section 49-05-16 of the North Dakota Century Code is amended and reenacted as follows:

1. The commission may issue an order approving the prudence of a resource addition if:
 - a. The public utility files with its application a projection of costs to the date of the anticipated commercial operation of the resource addition;
 - b. The public utility files with its application a fee in the amount of one hundred ~~twenty five~~ seventy-five thousand dollars. Upon request of the commission and with the approval of the emergency commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission may waive or reduce the fee.
 - c. The commission provides notice and holds a hearing, if appropriate, in accordance with section 49-02-02; and
 - d. The commission determines that the resource addition is prudent. For facilities located or to be located in this state the commission, in determining whether the resource addition is prudent, shall consider the benefits of having the resource addition located in this state.

Approved March 21, 2013
Filed March 21, 2013

CHAPTER 361

HOUSE BILL NO. 1064

(Energy and Natural Resources Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact section 49-07-05.1 of the North Dakota Century Code, relating to the maximum penalty for a violation of pipeline safety standards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-07-05.1 of the North Dakota Century Code is amended and reenacted as follows:

49-07-05.1. Violations of pipeline safety standards - Penalties.

Any person who violates ~~any~~ rule or order ~~issued by~~of the commission pursuant to section 49-02-01.2 is subject to a civil penalty to be imposed by the commission of not to exceed ~~ten~~two hundred thousand dollars for each ~~such~~ violation for each day that ~~such~~the violation ~~persists~~continues, except that the maximum penalty may not exceed ~~five hundred thousand~~two million dollars for any related series of violations. ~~Any such~~A civil penalty may be compromised by the commission. In determining the amount of ~~such~~a civil penalty, or the amount agreed upon in compromise, the commission shall consider the appropriateness of ~~such~~the penalty to the size of the business of the person charged, the nature, circumstances, and gravity of the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, ~~the ability to pay the penalty~~, the good faith of the person charged in attempting to achieve compliance, after notification of a violation, and such other matters as justice may require ~~must be considered~~. The amount of ~~such~~the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state of North Dakota to the person charged or may be recovered in a civil action in the district court of Burleigh County.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 362

SENATE BILL NO. 2055

(Natural Resources Committee)
(At the request of Public Service Commission)

AN ACT to amend and reenact subsection 6 of section 49-21-01.7 of the North Dakota Century Code, relating to delivery of bills for public service commission expenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 49-21-01.7 of the North Dakota Century Code is amended and reenacted as follows:

6. Employ and fix the compensation of experts, engineers, auditors, attorneys, and other such assistance for complaints, investigations, and other proceedings relating to telecommunications companies. The expense of any hearings, and the compensation and actual expenses of any employees of the commission while engaged upon any such hearings must, ~~upon the order of the commission,~~ be paid by the telecommunications company involved in such hearings. The commission shall ascertain the exact cost and expenditure. ~~After giving the telecommunications company notice and opportunity to demand a hearing, and after a hearing, if any, is held, the commission may and~~ render a bill ~~and make an order~~ for payment. The bill ~~and order~~ must be delivered by certified electronic or paper mail or personal delivery to the managing officer of the telecommunications company. Upon receipt of the bill ~~and order~~ for payment, the telecommunications company has thirty days within which to pay the amount billed. All amounts not paid within thirty days after receipt of the bill ~~and order for payment~~ thereafter draw interest at the rate of six percent per annum. If the telecommunications company disputes the amount of the bill, the company shall request a hearing. Amounts collected by the commission under this subsection must be deposited in a special account within the public service commission.

Approved March 14, 2013

Filed March 15, 2013

CHAPTER 363

SENATE BILL NO. 2139

(Senators Klein, Murphy, Robinson)
(Representatives Delzer, Monson, Vigesaa)

AN ACT to amend and reenact section 49-22-04 of the North Dakota Century Code, relating to the submission of ten-year plans by a utility.

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 utility that owns or operates, or plans within the next ten years to own, operate, or start construction on any facility shall ~~annually~~ develop a ten-year plan as specified in this section. ~~Or~~ and submit the plan to the commission on or before July first of each even-numbered year, the ~~The~~ utility shall ~~submit its ten-year plan to the commission~~ update its plan every second year after 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 March 18, 2013

Filed March 18, 2013

CHAPTER 364

SENATE BILL NO. 2209

(Senators Klein, Cook, Lyson)
(Representatives Belter, Keiser, Porter)

AN ACT to amend and reenact sections 32-15-21 and 49-22-07 of the North Dakota Century Code, relating to eminent domain siting of an energy conversion facility or a transmission facility.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-15-21 of the North Dakota Century Code is amended and reenacted as follows:

32-15-21. Power of court.

1. The court shall have power:
 1. a. To regulate and determine the place and manner of making connections and crossings, or of enjoying the common use mentioned in subsection 6 of section 32-15-04.
 2. b. To hear and determine all adverse or conflicting claims to the property sought to be condemned and to the damages therefor for the property.
 3. c. To determine the respective rights of different parties seeking condemnation of the same property.
2. Notwithstanding any other provision of law, if a route permit is required under chapter 49-22, the court may order the taking by eminent domain conditioned on the receipt of the route permit.

SECTION 2. AMENDMENT. Section 49-22-07 of the North Dakota Century Code is amended and reenacted as follows:

49-22-07. Certificate of site compatibility or route permit required.

1. A utility may not begin construction of an energy conversion facility or transmission facility in the state, ~~or exercise the right of eminent domain in connection with that construction,~~ without first having obtained a certificate of site compatibility or a route permit from the commission pursuant to this chapter. The facility must be constructed, operated, and maintained in conformity with the certificate or permit and any terms, conditions, or modifications of the certificate or permit. A certificate or permit may be transferred, subject to the approval of the commission, to any person who agrees to comply with its terms, conditions, and modifications.
2. If a power emergency exists which necessitates the relocation of a portion of an electric transmission line and associated facilities from the designated route, the owner of the line shall give telephonic notice to the commission in advance of the relocation. The line may then be relocated to restore power as

soon as practicable. After the line has been relocated, the owner shall file with the commission a request to approve the relocated route.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 365

HOUSE BILL NO. 1147

(Representatives Keiser, Porter)
(Senator Lyson)

AN ACT to create and enact a new section to chapter 49-22 of the North Dakota Century Code, relating to route adjustments for gas and liquid transmission lines; to amend and reenact subsections 4 and 10 of section 49-22-03 of the North Dakota Century Code, relating to definitions for siting a gas or liquid transmission line; to repeal section 49-22-07.1 of the North Dakota Century Code, relating to a letter of intent; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 4 and 10 of section 49-22-03 of the North Dakota Century Code are amended and reenacted as follows:

4. "Corridor" means the general location of area of land in which a designated route may be established for a transmission facility.
10. "Route" means the specific location of a transmission facility within a designated corridor.

SECTION 2. A new section to chapter 49-22 of the North Dakota Century Code is created and enacted as follows:

Route adjustment before or during construction for gas or liquid transmission line.

1. Before or during construction, a utility, without any action by the commission, may adjust the route of a gas or liquid transmission line within the designated corridor if, before conducting any construction activities associated with the adjustment, the utility files with the commission certification and supporting documentation that:
 - a. The construction activities will be within the designated corridor;
 - b. The construction activities will not affect any known exclusion or avoidance areas within the designated corridor; and
 - c. The utility will comply with the commission's order, laws, and rules designating the corridor and designating the route.
2. Before or during construction, a utility may adjust the route of a gas or liquid transmission line within the designated corridor that may affect an avoidance area if, before conducting any construction activities associated with the adjustment, the utility:
 - a. Files with the commission certification and supporting documentation that:
 - (1) The construction activities are within the designated corridor;

- (2) The construction activities will not affect any known exclusion areas within the designated corridor;
 - (3) The construction activities are expected to impact an avoidance area with a specific description of the avoidance area expected to be impacted;
 - (4) Each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment, unless the utility previously received authorization from the commission for the impact to the avoidance area;
 - (5) For an impact for which the utility does not already have approval or has not filed the approval in paragraph 4, the utility has good cause and a specific reason to impact the avoidance area, and a reasonable alternative does not exist; and
 - (6) The utility will comply with the commission's order, laws, and rules designating the corridor and designating the route.
- b. Receives the commission's written authorization that the utility may impact the avoidance area. If the commission does not authorize the impact to the avoidance area, the utility must obtain siting authority for the affected portion of the route adjustment. If the commission fails to act within ten working days of receipt of the utility's filing of the certification and supporting documentation under subdivision a of subsection 2, the route adjustment is deemed approved.
3. Before or during construction, a utility, without any action by the commission, may adjust the route of a gas or liquid transmission line outside the designated corridor if, before conducting any construction activities associated with the adjustment, the utility:
- a. Files with the commission certification and supporting documentation that:
 - (1) The construction activities will not affect any known exclusion or avoidance areas;
 - (2) The route outside the corridor is no longer than one and one-half mile [2.41 kilometers];
 - (3) The utility will comply with the commission's order, laws, and rules designating the corridor and designating the route; and
 - (4) Each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment.
 - b. Files detailed field studies indicating exclusion and avoidance areas for an area encompassing the route outside the designated corridor equal to the length of the adjustment of the proposed corridor.
4. Before or during construction, a utility may adjust the route of a gas or liquid transmission line outside the designated corridor that may affect an avoidance

area if, before conducting any construction activities associated with the adjustment, the utility:

- a. Files with the commission certification and supporting documentation that:
 - (1) The construction activities will not affect any known exclusion areas;
 - (2) The construction activities are expected to impact an avoidance area with a specific description of the avoidance area expected to be impacted;
 - (3) The utility has good cause and a specific reason to impact the avoidance area, and a reasonable alternative does not exist;
 - (4) The route outside the corridor is no longer than one and one-half mile [2.41 kilometers];
 - (5) The utility will comply with the commission's order, laws, and rules designating the corridor and designating the route; and
 - (6) Each owner of real property on which the adjustment is to be located and any applicable governmental entity with an interest in the same adjustment area do not oppose the adjustment.
 - b. Files detailed field studies indicating exclusion and avoidance areas for an area encompassing the route outside the designated corridor equal to the length of the adjustment of the proposed corridor.
 - c. Receives the commission's written authorization that the utility may impact the avoidance area. If the commission does not authorize the impact to the avoidance area, the utility must obtain siting authority for the affected portion of the route adjustment. If the commission fails to act within ten working days of receipt of the utility's filing of the certification and supporting documentation under subdivisions a and b of subsection 4, the route adjustment is deemed approved.
5. The commission may not be required to hold a public hearing or publish a notice of opportunity for a public hearing for any route adjustment under this section.

SECTION 3. REPEAL. Section 49-22-07.1 of the North Dakota Century Code is repealed.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 366

HOUSE BILL NO. 1359

(Representatives N. Johnson, Klein, Delmore)
(Senators Andrist, Klein, Dotzenrod)

AN ACT to amend and reenact sections 49-07-01.1, 49-23-04, and 49-23-05 of the North Dakota Century Code, relating to the one-call notice system; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-07-01.1 of the North Dakota Century Code is amended and reenacted as follows:

49-07-01.1. Violation of statute, commission order, or commission rule - Assessment of civil penalty.

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for ~~chapter chapters 49-22 and 49-23~~, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. A violation occurring under chapter 49-23, in addition to any other penalty, is subject to a civil penalty not to exceed twenty-five thousand dollars. The commission shall develop policies for the assessment of penalties under chapter 49-23 which will take into consideration the severity of damages and the conduct of the offender. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

SECTION 2. AMENDMENT. Section 49-23-04 of the North Dakota Century Code is amended and reenacted as follows:

49-23-04. Excavation.

1. Except in an emergency, an excavator shall contact the notification center and provide an excavation or location notice at least forty-eight hours before beginning any excavation, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator. If an operator determines more time is necessary for location, the operator may request a twenty-four-hour extension of the excavation or location notice by notifying the notification center. The notification center shall notify the excavator of the extension. An excavation begins the first time excavation occurs in an area that was not previously identified by the excavator in an excavation notice. The notice must contain:
 - a. The name, address, and telephone number of the person making the notification;
 - b. The name, address, and telephone number of the excavator;

- c. The date and time when excavation is scheduled to begin;
 - d. The depth of planned excavation;
 - e. The type and extent of excavation being planned, including whether the excavation involves tunneling or horizontal boring;
 - f. Whether the use of explosives is anticipated and any other information as may be required by the notification center; and
 - g. The location of the excavation by any one or more of the following means:
 - (1) A specific street address;
 - (2) A reference to a platted lot number of record; or
 - (3) An identifiable roadway or roadway intersection; or
 - (4) A specific quarter section by section number, range, township, and county. In this case, the location shall be further described by coordinates measured in feet from the nearest one-fourth corner or section corner.
 - h. If the location of the excavation is too large or complex to be clearly and adequately identified by description in the location request, the excavator shall provide additional location information by one or more of the following means: white marking, project staking, geographic information system shape file, detailed drawing, map, or other appropriate means. An excavator may not be required to provide additional location information if the excavator plans a meeting with the affected operators at the location of the excavation before beginning any excavation, or if the notice given under this section includes a specific street address or reference to a platted lot number of record of the location of the excavation.
 - i. A request for location is limited to the area to be excavated during the twenty-one day period following the location request.
 - j. An excavator may begin excavation in a location if the location period has passed without notification of a requested extension or prior to the expiration of the location period if the excavator has received notice that all facilities have been located or cleared.
2. The notification center shall:
- a. Provide a toll-free telephone number and assign an inquiry identification number to each excavation notice and retain a record of all excavation notices received for at least six years.
 - b. Immediately transmit the information contained in an excavation notice to every operator that has an underground facility in the area of the proposed excavation.
 - c. Inform the persons giving notice of an intent to engage in an excavation activity the names of participating operators of underground facilities to whom the notice will be given.

- d. Establish procedures for assuring positive response from the affected operator in all emergency excavation notices.
3.
 - a. An operator, within forty-eight hours, or any extension of that period, after receiving an excavation notice from the center, excluding Saturdays, Sundays, and holidays, unless otherwise agreed to between the excavator and operator, shall locate and mark or otherwise provide the approximate horizontal location of the underground facilities of the operator.
 - b. For purposes of this section, the approximate horizontal location of the underground facilities is a strip of land two feet [60.96 centimeters] on either side of the underground facilities. This subdivision does not apply to an underground facility to convey water.
 - c. When an operator cannot establish the exact location of the underground facility to convey water, the operator shall mark the location as accurately as possible and the excavator may proceed with caution. When excavation operations approach the estimated location of the underground facility to convey water, the exact location of the facility must be determined by safe and acceptable means. The uncovered facility must be supported and protected to prevent damage.
 - d. Markers used to designate the approximate location of underground facilities must follow the current color code standard used by the American public works association.
 - e. If the operator cannot complete marking of the excavation area before the excavation commencement time stated in the excavation notice, the operator shall promptly contact the excavator.
 - f. After facilities are located by an operator, an excavator shall notify the notification center if:
 - (1) The excavator postpones the excavation commencement time stated in the excavation notice by more than forty-eight hours, or any extension of that period, or cancels the excavation;
 - (2) The markings have been obliterated or obscured;
 - (3) Weather conditions have impeded visibility of the markings;
 - (4) The site shows evidence of recent excavation; or
 - (5) The excavator has other reason to believe the markings are incorrect or missing.
 - g. An excavator may not use a location more than ~~ten~~twenty-one days, or any extension of that period, after the planned excavation date unless the excavator has made previous arrangements with the operators affected.
 - h. If excavation has not occurred within the initial twenty-one days of the locate, the excavator shall request that the facility be relocated before excavating unless other arrangements have been made with the underground facility owner. Upon the third locate request at the same excavation site where no excavation has occurred after the initial two

locates, the excavator is responsible for reasonable costs associated with relocating facilities in that location.

- i. If a relocate request is made for an area which includes areas where excavation has been completed, a request for relocate must be modified from the original locate request to reflect only the area to be excavated during each subsequent twenty-one-day period, otherwise the excavator is responsible for reasonable costs associated with relocating facilities in the location.
 - j. If in the course of excavation the excavator is unable to locate the underground facility or discovers that the operator of the underground facility has incorrectly located the underground facility, the excavator shall promptly notify the operator or, if unknown, the one-call notification center.
 - i-k. A facility owner, excavator, or other person may not present or presume that an underground facility is abandoned, or treat an underground facility as abandoned, unless the facility has been verified as abandoned by reference to installation records or by testing. The notification center shall establish a method of providing personnel from a facility owner qualified to safely inspect and verify whether a facility is abandoned or inactive if necessary. An inactive facility must be considered active for purposes of this section.
 - l. An underground facility owner shall make all new facilities locatable.
4. If an excavation is being made in a time of emergency, all reasonable precautions must be taken to protect the underground facilities. In an emergency, the excavator shall give notification in compliance with this chapter, as soon as practical, that an emergency exists. As soon as practical, each operator shall provide all location information that is reasonably available to the excavator.

SECTION 3. AMENDMENT. Section 49-23-05 of the North Dakota Century Code is amended and reenacted as follows:

49-23-05. Precautions to avoid damage.

To avoid damage to and minimize interference with underground facilities in and near the construction area, an excavator shall:

1. Maintain a clearance between an underground facility and the cutting edge or point of any mechanized equipment, considering the known limit of control of the cutting edge or point to avoid damage to the facility.
2. Provide support in a manner approved by the operator for underground facilities in and near the construction area, including backfill operations to protect the facilities. Backfill must be of a material equal to or better in both quality and quantity to the existing backfill.
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.
4. Assume the cost of excavation to expose the facility unless otherwise indicated by owner of facility.

5. Conduct the excavation in a careful and prudent manner.
6. Properly manage spoil material to prevent shifting or falling material that could damage belowground facilities.

Approved April 12, 2013
Filed April 12, 2013

PUBLIC WELFARE

CHAPTER 367

HOUSE BILL NO. 1176

(Representatives Hogan, Hawken, Maragos)
(Senators J. Lee, Heckaman, Axness)

AN ACT to amend and reenact subsection 3 of section 14-06.1-09, subsection 3 of section 50-01.2-00.1, section 50-01.2-03, subsection 6 of section 50-06-01.4, subsection 17 of section 50-06-05.1, section 50-09-29, and subsection 3 of section 54-06-20 of the North Dakota Century Code, relating to eligibility for the supplemental nutrition assistance program and the temporary assistance for needy families program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 14-06.1-09 of the North Dakota Century Code is amended and reenacted as follows:

3. Information about other assistance programs, including concrete information and assistance with supplemental security income, social security, veterans administration benefits, welfare, ~~food stamps~~ the supplemental nutrition assistance program, housing, unemployment insurance, medical assistance, and educational financial assistance.

SECTION 2. AMENDMENT. Subsection 3 of section 50-01.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

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. ~~Food stamp~~ 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 50-01.2-03 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-03. Duties of county social service board.

The county social service board of each county in this state shall:

1. Supervise and direct all human service activities conducted by the county including county general assistance or other public assistance.
2. Supervise and administer, under the direction and supervision of the department of human services, human services in the county which are financed in whole or in part with funds allocated or distributed by the department of human services.
3. Aid and assist in every reasonable way to efficiently coordinate and conduct human service activities within the county by private as well as public organizations.
4. Subject to subsection 17 of section 50-06-05.1, administer the ~~food-stamps~~supplemental nutrition assistance program in the county under the direction and supervision of the department of human services in conformity with the Food Stamp Act of 1964, as amended, and enter into an agreement for administering the ~~food-stamps~~supplemental nutrition assistance program with the department of human services.
5. Subject to subsection 19 of section 50-06-05.1, administer the energy assistance program in the county under the direction and supervision of the department of human services and to enter into an agreement for administering the energy assistance program with the department of human services.
6. Charge and collect fees and expenses for services provided by its staff in accordance with policies and fee schedules adopted by the department of human services.
7. Supervise and administer designated child welfare services under the direction and supervision of the department of human services. Through established procedures the department of human services may release the county social service board of this duty or the county social service board may request to be released from this duty by the department of human services. If a county is released from the county's duty to supervise and administer designated child welfare services under this subsection, the county retains its financial responsibility for providing those services unless otherwise negotiated and approved by the department.

SECTION 4. AMENDMENT. Subsection 6 of section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

6. Administration of economic assistance programs, including temporary assistance for needy families, ~~food-stamps~~the supplemental nutrition assistance program, fuel assistance, child support enforcement, refugee assistance, work experience, work incentive, and quality control.

¹⁷¹ **SECTION 5. AMENDMENT.** Subsection 17 of section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

17. To act as the official agency of the state in the administration of the ~~food stamps~~ supplemental nutrition assistance program and to direct and supervise county administration of that program. Provided, however, that the department with the consent of the budget section of the legislative management may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. 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, the department shall deny assistance under the supplemental nutrition assistance program 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)].

SECTION 6. 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;

¹⁷¹ Section 50-06-05.1 was also amended by section 1 of Senate Bill No. 2069, chapter 226.

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- 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. 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. When appropriate, require household members to complete high school;
 - q. 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. Provide for sanctions, including termination of assistance to the household, if a household member fails to cooperate with work requirements;
 - s. 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. 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. Require each household to participate in developing an individual responsibility 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 individual responsibility plan;
 - v. Provide pre-pregnancy family planning services that are to be incorporated into the temporary assistance for needy families program assessment;
 - w. 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. Disregard earned income as an incentive allowance for no more than twelve months; and
 - y. 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. 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.

SECTION 7. AMENDMENT. Subsection 3 of section 54-06-20 of the North Dakota Century Code is amended and reenacted as follows:

3. Subject to the limitations in this section, funds distributed under subsection 1 may be used to provide legal services to persons unable to afford private counsel in the following types of cases:
 - a. Public benefits, including temporary assistance to needy families, unemployment compensation, general assistance, ~~food stamps~~the supplemental nutrition assistance program, supplemental security income, or social security disability income;
 - b. Medical assistance;
 - c. Family law matters;
 - d. Housing;
 - e. Consumer issues; and
 - f. Elder law.

CHAPTER 368

SENATE BILL NO. 2108

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-06-05.3, 50-06-05.4, and 50-06-05.5 of the North Dakota Century Code, relating to services provided at the regional human service centers and to human service councils.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.3. Regional human service centers - Powers - Duties - Human service council advisory groups.

1. Regional human service centers organized under this chapter are those centers established to provide human services as authorized by law. The term "human service" means service provided to individuals or their families in need thereof to help them achieve, maintain, or support the highest level of personal independence and economic self-sufficiency, including health, mental health, education, manpower, social, ~~vocational rehabilitation, aging,~~ food and nutrition, and housing service. Regional human service centers shall function as regional administrative units established, within the multicounty areas designated by the governor's executive order 1978-12 dated October 5, 1978, to provide for the planning and delivery of human services.
2. Regional human service centers shall provide human services to all eligible individuals and families to help them achieve or maintain social, emotional, and economic self-sufficiency; prevent, reduce, or eliminate dependency; prevent or remedy the neglect, abuse, or exploitation of children and of adults unable to protect their own interests; aid in the preservation, rehabilitation, and reuniting of families; prevent or reduce inappropriate institutional care by providing for care while institutionalized or providing for community-based or other forms of less restrictive care; secure referral or admission for institutional care; provide outpatient diagnostic and treatment services; provide information concerning guardianship to people interested in becoming or who are guardians; and provide rehabilitation services for patients with mental or emotional disorders, an intellectual disability, and other psychiatric conditions, particularly for those patients who have received prior treatment in an inpatient facility. Regional human service centers shall deliver services in the manner prescribed by the department.
3. ~~The director shall appoint a human service council of advisory group for each human service center shall be a council of not more than consisting of up to thirteen members. The council~~Each group member must be appointed by the ~~boards of county commissioners of the respective counties within a resident of the region meeting jointly with the director of the regional human service center, except for the appointment of the initial human service council which must be as provided in section 41 of chapter 486 of the 1981 Session Laws~~the

~~member is appointed to serve. County~~The director shall appoint two current county commissioners ~~may and one current county social service board member to serve as members of the~~ human service council provided, that ~~the commission members do not comprise more than one-third of the total council members~~advisory group. The director may appoint an additional current commissioner to serve in lieu of the current county social service board member. The terms of office must be two years and arranged so that the term of ~~six one-half of the members shall expire~~expires at the end of the first year and the term of ~~seven the remaining members shall expire~~expires at the end of the second year. ~~Members~~The director shall select the members of each human service council ~~are to be selected~~advisory group on the basis of population ~~from residents of the counties in the region served by the human service center. Each county in the region must have~~ be represented by at least one member on the human service council~~advisory group~~. To the extent possible, membership ~~of the council~~advisory group must reflect regional interests in the fields of developmental disabilities, social services, ~~vocational rehabilitation, mental health, and alcoholism and drug abuse. Members~~The director shall ~~elect~~appoint a chairman for each advisory group from the council membership ~~a chairman and other officers as the council deems necessary. All members of each council must be residents of the area served by the regional human service center of the advisory group. Vacancies~~The director shall ~~fill a vacancy occurring on the board within an advisory group for other than the expiration of a term must be filled in the same manner as original appointments, except that appointments must be made only for the unexpired term. Members~~The department shall ~~compensate members of the~~ human service council ~~must be compensated~~advisory group at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The ~~department also shall pay members must also be paid for mileage and actual expenses incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers.~~

SECTION 2. AMENDMENT. Section 50-06-05.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.4. Duties of human service counciladvisory groups.

The~~Each~~ human service counciladvisory group of the regional human service centers shall perform the following duties:

1. ~~Assist in~~Provide information to the department relative to needs assessment and the planning and development of health and social resources ~~to assure for~~ the effective and efficient delivery of high-quality human services fully accessible to all citizens.
2. ~~Review and evaluate services and programs provided by the regional human service centers and make periodic reports to the department together with any recommendations the council~~advisory group may have for improvement in services, programs, or facilities.
3. Promote cooperation and working agreements with private human service agencies.
4. ~~Review the budgets for submission to the executive director for consideration and submission within the budget request for the department.~~
5. Promote local and regional financing from public and private sources.

SECTION 3. AMENDMENT. Section 50-06-05.5 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.5. Director of regional center - Medical director.

Each regional human service center must be headed by a regional director appointed by the executive director of the department ~~in consultation with the regional human service council~~. The regional director must be accountable to the executive director or the director's designee. Each regional director ~~shall have the authority to~~may employ the staff necessary to discharge the center's responsibilities. ~~The~~A regional director ~~shall also have authority~~, subject to the approval of the executive director of the department or the director's designee, and within the limit of legislative appropriations, ~~to~~may make contractual arrangements with public or private agencies or with individuals and organizations to discharge the regional human service center's service delivery responsibilities. ~~The staff of each~~Each regional human service center ~~director~~ shall ~~include~~hire a qualified medical professional who must be designated as the medical director of the center. The medical director ~~must be primarily~~is responsible for coordinating mental health and medically related services. The medical director's position may be part time or full time as determined appropriate by the regional director, with the concurrence of the executive director or the director's designee. ~~At the discretion of the~~The executive director, or the director's designee may appoint the regional director of a center, ~~if qualified therefor, could also be appointed to be the~~ medical director of that center, provided the regional director is qualified to be the medical director. As used in this section, "qualified medical professional" means an individual possessing a degree of doctor of psychiatry, when such an individual can be employed, and when this is not possible, an individual possessing at least a medical degree.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 369

SENATE BILL NO. 2067

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-06-15 of the North Dakota Century Code, relating to making reports confidential on providers and individuals applying for or receiving assistance or services under programs administered by the department of human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-15 of the North Dakota Century Code is amended and reenacted as follows:

50-06-15. Confidentiality of information contained in records - Penalty.

1. Individually identifiable information concerning an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department is confidential, except that any such information, including an individual's social security number, may be used and disclosed:
 - a. In the administration of any such program;
 - b. In accordance with a program's participation in the department's master client index data matching system, unless prohibited by federal law;
 - c. As specifically authorized by the rules of the department; or
 - d. As permitted or required by other law.
2. A vendor, agent, or contractor of the department must agree to maintain the confidentiality of individually identifiable information disclosed to that person by the department or by any individual applying for or receiving assistance or services and may use and disclose confidential information only to the extent that person's agreement with the department permits the use and disclosure of any such information.
3. As used in this section, "individually identifiable information" means information, including an individual's name, address, telephone number, facsimile number, social security number, electronic mail address, program identification number, or any other unique identifying number, characteristic, or code, as well as demographic information collected from an individual, that:
 - a. Is created or received by the department; and
 - b. Relates to ~~the~~
 - (1) The past, present, or future assistance or services applied for or received by an individual under any program administered by or under

the supervision and direction of the department that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; or

- (2) A report, or any other information obtained, concerning an applicant or a provider of or an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department.
4. Except as otherwise specifically provided by law, a report concerning an applicant or a provider of or an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department, as well as any other information obtained, is confidential if the report is made in good faith, and may be disclosed to:
- a. Authorized staff of the department and its authorized agents who further may disclose to persons who have a definite interest in the well-being of the adults or children concerned, who are in a position to serve their interests, and who need to know the contents of the records to assure the well-being and interests of the adults or children concerned.
 - b. Any person who is the subject of the report; provided, however, that the identity of the persons reporting or supplying information under this chapter is protected until the information is needed for use in an administrative or legal proceeding arising out of the report.
 - c. Public officials and their authorized agents who require the information in connection with the discharge of their official duties.
 - d. A court, including an administrative hearing officer, when the court determines the information is necessary for the determination of an issue before the court.
 - e. A person engaged in a bona fide research purpose approved by the department's institutional review board; provided, however, that no individually identifiable information as defined in subsection 3 is made available to the researcher unless the information is absolutely essential to the research purpose and the department gives prior approval.
- 4.5. Any person who discloses, authorizes, or knowingly permits, participates in, or acquiesces in the disclosure of any confidential information in violation of this section is subject to the penalty provided in section 12.1-13-01.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 370

HOUSE BILL NO. 1170

(Representatives Kreidt, Heller, Rohr, Wieland)
(Senator Unruh)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to nursing and basic care facility ratesetting; and to amend and reenact section 50-24.4-06 of the North Dakota Century Code, relating to allowable costs in nursing home ratesetting.

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:

Expedited ratesetting process - Nursing and basic care facilities.

The department shall establish an expedited ratesetting process by which nursing and basic care facilities may request an increase in the established rate due to additional costs incurred by the facility for providing health insurance policies to the facility's employees, to the extent those costs are directly related to the facility's compliance with the federal Patient Protection and Affordable Care Act of 2010 [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152]. The process must provide that to be approved for a rate adjustment that is reflected in the facility's January 1, 2014, rates, the facility must submit the adjustment request to the department by October 1, 2013.

SECTION 2. AMENDMENT. Section 50-24.4-06 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-06. Rate determination.

1. The department shall determine prospective payment rates for resident care costs. The department shall develop procedures for determining operating cost payment rates that take into account the mix of resident needs and other factors as determined by the department.
2. The department shall establish, by rule, limitations on compensation recognized in the historical base for top management personnel. Compensation for top management personnel must be categorized as a general and administrative cost and is subject to any limits imposed on that cost category.
3. For purposes of determining rates, the department shall:
 - a. Include, contingent upon approval of the medicaid state plan by the centers for medicare and medicaid services, allowable bad debt expenses in an amount not to exceed one hundred eighty days of resident care per year or an aggregate of three hundred sixty days of resident care for any one individual; and

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- b. Include allowable bad debt expenses in the property cost category in the report year in which the bad debt is determined to be uncollectible with no likelihood of future recovery.
 - c. Notwithstanding section 50-24.4-07, include as an allowable cost any tax paid by a basic care or nursing facility due to provisions of 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].

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 371

HOUSE BILL NO. 1360

(Representatives N. Johnson, Fehr, Kempenich, Hogan)
(Senators Dever, Poolman, Wardner)

A BILL to provide for the funding of the program of all-inclusive care for the elderly within the department of human services appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. DEPARTMENT OF HUMAN SERVICES TO FUND PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY. The department of human services shall provide funding for medicaid payments to programs of all-inclusive care for the elderly to expand service areas. A program of all-inclusive care for the elderly may be expanded into one urban area starting January 1, 2014. By March 31, 2014, if the funding levels approved for long-term care grants, not including developmental disability grants, by the sixty-third legislative assembly as part of the department of human services appropriation for the biennium beginning July 1, 2013, and ending June 30, 2015, demonstrate funding is available for further urban or rural expansion, the department may implement additional expansions. For a program of all-inclusive care for the elderly to expand service areas, the program provider shall supply monthly encounter claims data to the department for both the original and expanded service areas, as applicable.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 372

HOUSE BILL NO. 1378

(Representative Keiser)

AN ACT to require the department of human services to conduct a study of the cost of services to children; and to provide for a report to the sixty-fourth legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. DEPARTMENT OF HUMAN SERVICES STUDY OF COST OF CERTAIN SERVICES TO CHILDREN - REPORT TO SIXTY-FOURTH LEGISLATIVE ASSEMBLY. The department of human services, during the 2013-14 interim, shall identify the estimated cost to implement a medicaid waiver or amend an existing Medicaid waiver, to provide coverage for children who have continued and substantial medical and support needs, but who, at the age of three years, no longer qualify for services under the developmental disabilities waiver. In preparing the estimate, the department shall secure input from stakeholders, including families, providers, and advocates. The department of human services shall report its findings to the sixty-fourth legislative assembly. The report shall include the estimated number of children eligible, criteria for the provision of services under the waiver, the services to be offered, and a timeline for implementation of the waiver.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 373

SENATE BILL NO. 2271

(Senators Axness, Heckaman, Wanzek)
(Representatives Mooney, Silbernagel, Steiner)

AN ACT to amend and reenact subsection 5 of section 39-01-15 and section 50-06.1-16 of the North Dakota Century Code, relating to the committee on employment of people with disabilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷² **SECTION 1. AMENDMENT.** Subsection 5 of section 39-01-15 of the North Dakota Century Code is amended and reenacted as follows:

5. Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five dollar fee received for the issuance of an additional certificate under subsection 4, must be deposited in the state treasury and credited to the employment of people with disabilities fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the department of human services for use by the committee on employment of people with disabilities of the department of human services for development of job opportunities for disabled individuals in this state to accomplish the committee's statutory duties provided under section 50-06.1-16. If a certificate is lost, mutilated, or destroyed, the person to whom the certificate was issued is entitled to a replacement. The person shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.

SECTION 2. AMENDMENT. Section 50-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-06.1-16. Committee on employment of people with disabilities - Appointment - Expenses - Director - Duties - Annual report.

1. There is established a committee on employment of people with disabilities. ~~The committee consists of three members.~~
 - a. ~~The governor shall appoint each member for a term~~four members of the public to serve as committee members with terms of three years, staggered so that the term~~terms of one member expires at least one but no more than two members expire~~ July first of each year:
 - (1) The executive director of the North Dakota association of community providers or a designee of the director;

¹⁷² Section 39-01-15 was also amended by section 1 of Senate Bill No. 2120, chapter 283.

- (2) One community employer representative;
 - (3) One individual with a disability; and
 - (4) One family member of an individual with a disability.
 - b. The following five individuals shall serve on the committee as ex officio members:
 - (1) The director of the department of commerce division of workforce development, or the director's designee;
 - (2) The director of the department of human services division of vocational rehabilitation, or the director's designee;
 - (3) The superintendent of public instruction's director of special education, or the director's designee;
 - (4) The director of the protection and advocacy project, or the director's designee; and
 - (5) The head of the department of human services developmental disabilities programs, as identified by the executive director of the department of human services.
 - c. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term.
 2. The public members of the committee are entitled to be paid for mileage and actual expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees.
 3. The goal of the committee is to remove barriers in reaching and identify how to further the goal of public and private employers considering competitive and integrated employment as the first option when supporting individuals with disabilities who are of working age to obtain employment. As used in this section:
 - a. "Competitive employment" means work in the competitive labor market which is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by an individual who does not have a disability.
 - b. "Integrated setting" means with respect to an employment outcome, a setting typically found in the community in which applicants or eligible individuals interact with individuals who do not have a disability, other than individuals who do not have a disability who are providing services to those applicants or eligible individuals, to the same extent that individuals without a disability in comparable positions interact with others.
 4. The committee, with the approval of the governor, shall appoint a full-time director to serve at the pleasure of the governor. For administrative purposes, the director is an unclassified employee of the department and is not included in the classified service. The committee shall coordinate activities and serve

~~as a clearinghouse for information relating to the employment of people with disabilities. The committee shall prepare for and perform followup duties in connection with state, regional, and national conferences, encourage interest, participation, and cooperation with state departments, agencies, and other organizations in developing needed services, facilities, and opportunities, and provide consultant help to local organizations created for the purpose of coordinating activities for the employment of people with disabilities.;~~

- a. ~~At the call of the chairman, shall meet at least quarterly.~~
 - b. ~~Shall collaborate, coordinate, and improve employment outcomes for working-age adults with disabilities, including:~~
 - (1) ~~Reviewing and aligning policies, procedures, eligibility, and enrollment and planning for services for individuals, with the objective of increasing opportunities for community employment for North Dakotans with disabilities.~~
 - (2) ~~Developing cross-agency tools to document eligibility, order of selection, assessment, and planning for services for individuals with disabilities.~~
 - (3) ~~Identifying best practices, effective partnerships, sources of available federal funds, opportunities for shared services among existing providers, and means to expand model programs to increase community employment opportunities for individuals with disabilities.~~
 - (4) ~~Identifying and addressing areas where sufficient support is not currently available or where additional options are needed to assist individuals with disabilities to work in competitive employment in integrated settings.~~
 - (5) ~~Establishing interagency agreements to improve coordination of services and allow for data sharing as appropriate to assist individuals with disabilities.~~
 - (6) ~~Setting benchmarks for improving community employment outcomes and services for individuals with disabilities.~~
 - c. ~~Before January first of each year, shall issue an annual report. The committee shall submit the annual report to the governor and the legislative management. The report must detail the committee's activities, the committee's goals, and the progress the committee has made in reaching these goals. State agencies shall cooperate with the committee on the creation and dissemination of the annual report. The annual report must include identification of barriers to achieving the committee's goals and must include identified strategies and policies that can help the committee realize its goals.~~
5. The department of human services division of vocational rehabilitation shall provide the committee with administrative services.

CHAPTER 374

HOUSE BILL NO. 1180

(Representatives Schmidt, Damschen, Kreidt, Rohr, Boe)
(Senators Schaible, Heckaman)

AN ACT to create and enact two new sections to chapter 50-06.2 and a new section to chapter 50-24.7 of the North Dakota Century Code, relating to a pilot program for independent home and community-based services case managers; and to provide an expiration date.

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 - Independent home and community-based services case manager - Pilot program.

The department shall establish a pilot program for the provision of independent case management services under the service payments for elderly and disabled program within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An independent home and community-based services case manager:

1. Is a social worker licensed under section 43-41-04 who:
 - a. (1) Meets the requirements of section 43-41-05 for the private practice of social work; or
(2) Works for an agency other than a county social service agency; and
 - b. Is enrolled as a qualified service provider to provide case management services under rules adopted by the state agency.
2. May:
 - a. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of individuals receiving benefits pursuant to this chapter under the direction and supervision of the state agency;
 - b. Provide case management services to recipients; and
 - c. Conduct initial and subsequent periodic functional assessments of applicants and recipients.

SECTION 2. A new section to chapter 50-06.2 of the North Dakota Century Code is created and enacted as follows:

Medical assistance home and community-based services - Independent home and community-based services case manager - Pilot program.

The department shall establish a pilot program for the provision of independent case management services under the medical assistance home and community-based services program within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An independent home and community-based services case manager:

1. Is a social worker licensed under section 43-41-04 who:
 - a. (1) Meets the requirements of section 43-41-05 for the private practice of social work; or
(2) Works for an agency other than a county social service agency; and
 - b. Is enrolled as a qualified service provider to provide case management services under rules adopted by the state agency.
2. May:
 - a. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of persons receiving benefits pursuant to this chapter under the direction and supervision of the state agency;
 - b. Provide case management services to recipients; and
 - c. Conduct initial and subsequent periodic functional assessments of applicants and recipients.

SECTION 3. A new section to chapter 50-24.7 of the North Dakota Century Code is created and enacted as follows:

Expanded service payments for elderly and disabled - Independent home and community-based services case manager - Pilot program.

The department shall establish a pilot program for the provision of independent case management services under the expanded service payments for elderly and disabled program within a county located entirely within an Indian reservation for the biennium beginning July 1, 2013, and ending June 30, 2015. An independent home and community-based services case manager:

1. Is a social worker licensed under section 43-41-04 who:
 - a. (1) Meets the requirements of section 43-41-05 for the private practice of social work; or
(2) Works for an agency other than a county social service agency; and
 - b. Is enrolled as a qualified service provider to provide case management services under rules adopted by the department.

2. May:

- a. Determine eligibility for benefits under this chapter and periodically redetermine eligibility of persons receiving benefits pursuant to this chapter under the direction and supervision of the department;
- b. Provide case management services to recipients; and
- c. Conduct initial and subsequent periodic functional assessments of applicants and recipients.

SECTION 4. EXPIRATION DATE. This Act is effective through June 30, 2015, and after that date is ineffective.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 375

SENATE BILL NO. 2085

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-11.1-02, 50-11.1-02.2, and 50-11.1-15 of the North Dakota Century Code, relating to definitions used in early childhood services licensing, smoking on early childhood services premises, and the early childhood services advisory board; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷³ **SECTION 1. AMENDMENT.** Section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Authorized agent" means the county social service board, unless another entity is designated by the department.
2. "Child care center" means an early childhood program licensed to provide early childhood services to nineteen or more children.
3. "County agency" means the county social service board in each of the counties of the state.
4. "Department" means the department of human services.
5. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.
6. "Early childhood program" means any program licensed under this chapter where early childhood services are provided for at least two hours a day for three or more days a week.
7. "Early childhood services" means the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services. Early childhood services does not include:
 - a. Substitute parental child care provided pursuant to chapter 50-11.
 - b. Child care provided in any educational facility, whether public or private, in grade one or above.

¹⁷³ Section 50-11.1-02 was also amended by section 1 of House Bill No. 1422, chapter 376.

- c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to subsection 1 of section 15.1-06-06.
 - d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the superintendent of public instruction.
 - e. Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.
 - f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.
 - g. Summer resident or day camps for children which serve no children under six years of age for more than two weeks.
 - h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.
 - i. Head start and early head start programs that are federally funded and meet federal head start performance standards.
 - j. Child care provided in a medical facility by medical personnel to children who are ill.
8. "Family child care" means a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children ~~during the two hours immediately before and after the schoolday and all day, except Saturday and Sunday, when school is not in session during the official school year.~~
 9. "Group child care" means a child care program licensed to provide early childhood services for eighteen or fewer children.
 10. "Household member" means an adult living in the private residence out of which a program is operated, regardless of whether the adult is living there permanently or temporarily.
 11. "In-home provider" means any person who provides early childhood services to children in the children's home.
 12. "Licensed" means an early childhood program has the rights, authority, or permission granted by the department to operate and provide early childhood services.
 13. "Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.
 14. "Owner" or "operator" means the person who has legal responsibility for the early childhood program and premises.

15. "Parent" means an individual with the legal relationship of father or mother to a child or an individual who legally stands in place of a father or mother, including a legal guardian or custodian.
16. "Premises" means the indoor and outdoor areas approved for providing early childhood services.
17. "Preschool" means a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.
18. "Public approval" means a nonlicensed early childhood program operated by a government entity that has self-certified that the program complies with this chapter.
19. "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.
20. "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.
21. "Registration document" means a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.
22. "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for nineteen or more children aged five years through eleven years.
23. "School-age children" means children served under this chapter who are at least five years but less than twelve years of age.
- 23-24. "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.
- 24-25. "Staff member" means operator, caregiver, provider, or any other individual, whether paid or volunteer, who provides care, supervision, or guidance to children in an early childhood program or under a self-declaration and includes food preparation, transportation, and maintenance personnel.

SECTION 2. AMENDMENT. Section 50-11.1-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02.2. Smoking prohibited in certain facilities on premises where early childhood services are provided.

~~Smoking~~As provided by section 23-12-10, smoking is not permitted in a non the premises where early childhood facility at any time during which a child who receives early childhood services from that facility is present and receiving services at that facility~~services are provided. For purposes of sections 23-12-09 and 23-12-10, a person providing early childhood services as a registrant or pursuant to a self-declaration is considered a child care facility subject to licensure by the department.~~

SECTION 3. AMENDMENT. Section 50-11.1-15 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-15. (~~Effective through June 30, 2013~~) Early childhood services advisory board - Membership - Duties.

1. The early childhood services advisory board is composed of seven members appointed by the director of the department. The members of the board must include a broad-based geographically distributed membership. The term of office is four years expiring on July thirty-first with no more than two terms expiring in any one year. ~~Of the first members appointed, one member must be appointed for a term of one year, two members must be appointed for terms of two years, two members must be appointed for terms of three years, and two members must be appointed for terms of four years.~~ A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as the original appointment, except that the appointment may be made for only the remainder of the unexpired term. The members are entitled to be paid for mileage and expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees. A member also is entitled to be reimbursed up to one hundred dollars per day for the expenses incurred by the member which relate to the hiring of a substitute early childhood services provider in order that the member may attend meetings and perform the member's official duties.
2. The early childhood services advisory board shall:
 - a. Advise the department ~~aseach time~~ each time the department conducts a review of ~~allreviews~~ early childhood services rules, a review of which the department shall complete before August 1, 2010;
 - b. Upon the completion of the department's review, with the assistance of the department, conduct an analysis of and make recommendations to the department regarding the department's review of the early childhood services rules, however, final approval of any administrative rule changes must be completed through the administrative rulemaking process set forth in chapter 28-32; and
 - c. On an ongoing basis, make recommendations to the department regarding changes and revisions to the early childhood services rules. The recommendations, the goal of which is to streamline and improve the quality of the early childhood services process, must seek to balance the need for rules that ensure safe quality child care with the need to revise or eliminate rules that create unnecessary barriers for early childhood service providers.
3. ~~To accommodate the process set forth in subdivisions a and b of subsection 2, any rules the department adopts in response to legislation enacted in 2009 are exempt from the deadline for rules to implement statutory changes set forth in section 28-32-07, however, those rules must be in effect before January 1, 2011.~~

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 12, 2013

Filed April 12, 2013

CHAPTER 376

HOUSE BILL NO. 1422

(Representatives Hawken, Frantsvog, Hatlestad, N. Johnson)
(Senators Heckaman, Krebsbach)

AN ACT to create and enact a new subsection to section 50-11.1-03 and two new sections to chapter 50-11.1 of the North Dakota Century Code, relating to staffing as group sizes for licensed child care; to amend and reenact subsection 9 of section 50-11.1-02 of the North Dakota Century Code, relating to the definition of group child care; to provide an appropriation; to provide a contingent appropriation; to provide legislative intent; to provide a report to the legislative management; to provide for application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁴ **SECTION 1. AMENDMENT.** Subsection 9 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

9. "Group child care" means a child care program licensed to provide early childhood services for ~~eighteen~~thirty or fewer children.

SECTION 2. A new subsection to section 50-11.1-03 of the North Dakota Century Code is created and enacted as follows:

A license is not required for onsite child care services that are located in the actual building in which the child's parent is employed, not to exceed ten children per location.

SECTION 3. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Play area regulation.

If a facility licensed under this chapter has sufficient indoor recreation space, the department may not require outdoor play space.

SECTION 4. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Staffing requirements.

The maximum group size of children in a child care center must be:

1. For children less than eighteen months of age, the maximum group size is ten children;
2. For children eighteen months of age to thirty-six months of age, the maximum group size is fifteen children;

¹⁷⁴ Section 50-11.1-02 was also amended by section 1 of Senate Bill No. 2085, chapter 375.

3. For children three years of age to four years of age, the maximum group size is twenty children;
4. For children four years of age to five years of age, the maximum group size is twenty-five children;
5. For children five years of age to six years of age, the maximum group size is thirty children; and
6. For children six years of age to twelve years of age, the maximum group size is forty children.

SECTION 5. APPROPRIATION. 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 human services for the purpose of providing child care provider incentive grants pursuant to section 50-11.1-14.1, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$300,000, or so much of the sum as may be necessary, to the department of human services for the purpose of funding early childhood services specialists pursuant to section 50-11.1-18, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 7. CONTINGENT APPROPRIATION. If the changes in the eligibility and copay requirements for the child care assistance program as contained in section 8 of this Act require more funding than the amounts appropriated to the department of human services in House Bill No. 1012, as approved by the sixty-third legislative assembly, for the child care assistance program for the 2013-15 biennium, there is appropriated out of any moneys in the general 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 department of human services for the purpose of implementing the changes contained in section 8 of this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015. If the changes in section 8 of this Act can be implemented within the child care assistance program appropriation appropriated to the department of human services in House Bill No. 1012, as approved by the sixty-third legislative assembly, for the child care assistance program for the 2013-15 biennium, or requires less than the \$2,500,000 provided in this section, up to \$1,000,000 of the \$2,500,000 appropriated in this section may be used by the department of human services to provide child care provider incentive grants pursuant to section 50-11.1-14.1.

SECTION 8. LEGISLATIVE INTENT - CHILD CARE ASSISTANCE PROGRAM - REPORT TO THE LEGISLATIVE MANAGEMENT. It is the intent of the legislative assembly that the department of human services change the eligibility requirement for the child care assistance program from fifty percent of the state median income to eighty-five percent of the state median income. Beginning July 1, 2014, if the funding appropriated to the department of human services in House Bill No. 1012, as approved by the sixty-third legislative assembly, and in section 7 of this Act for the child care assistance program is sufficient, the department of human services may reduce copay requirements for the child care assistance program. The department of human services shall report the impact of these changes to the legislative management.

SECTION 9. APPLICATION. Section 4 of this Act does not apply to a child care center operator who has maintained a license since before January 1, 1999.

SECTION 10. EXPIRATION DATE. Sections 4 and 9 of this Act are effective until the date the administrative rules containing the requirements of section 4 of this Act on maximum group size of children in a child care center take effect. The department of human services shall certify to the legislative council the date those rules will take effect, and as of that date sections 4 and 9 of this Act become ineffective.

Approved May 2, 2013
Filed May 2, 2013

CHAPTER 377

HOUSE BILL NO. 1232

(Representatives Heller, Hogan, K. Koppelman)
(Senators Sorvaag, Unruh, Murphy)

AN ACT to amend and reenact sections 43-10.1-03.1 and 50-24.1-02.3 of the North Dakota Century Code, relating to pre-need funeral contracts and medicaid eligibility.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-10.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

43-10.1-03.1. Payments on pre-need funeral contracts to be deposited - Depository shall keep record of deposit - Personal property storage.

Whenever payments are made to a person upon pre-need funeral service contracts, one hundred percent of the funds collected under the contracts for the sale of professional service or personal property to be used in funeral services and fifty percent of the funds collected under the contracts for the sale of cemetery merchandise must be deposited in or transferred to a trust company in this state or to a federally insured bank, credit union, or savings and loan association in this state, within ten days. The deposit must be placed in a federal deposit insurance corporation or national credit union administration insured certificate of deposit or negotiable debt obligation of the United States government. Payments received from the sale of professional service or personal property to be used in funeral services or cemetery merchandise which cannot or would not be serviced by a licensed funeral establishment or cemetery association in the area where the service or property was sold are specifically included, whether or not the sales might otherwise be considered pre-need funeral service contracts, within the payments to be deposited under this section. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the depositor upon the death of the person for whose benefit the funds were paid. A certified copy of the certificate of death must be furnished to the bank, credit union, savings and loan association, or trust company as prima facie evidence of death. The funds may be released or transferred by the bank, credit union, savings and loan association, or trust company to the person making the payment, before the death of the person for whose benefit the funds are paid, upon a five-day written notice by registered or certified mail made by the bank, credit union, savings and loan association, or trust company to the depositor or transferor at the request of the person making the payment. ~~Upon written request, however, a~~ purchaser of a pre-need funeral service contract may make a certain amount of the pre-need funds irrevocable. The irrevocable amount may not exceed the amount of the allowable asset exclusion used for determining eligibility for medical assistance under section 50-24.1-02.3 at the time the contract is entered, plus the portion of the three thousand dollar asset limitation the purchaser designates for funeral expenses. A purchaser of a pre-need funeral service contract has forty-five days from entering the contract to cancel the irrevocable part of the contract by giving notice to the cemetery association or licensed funeral establishment with whom the contract was entered. Any pre-need funeral service contract held by a cemetery

association or a licensed funeral establishment must be fully transferable to another cemetery association or funeral establishment licensed under chapter 43-10 or a substantially similar law of another jurisdiction which agrees to accept the obligations.

A bank, credit union, savings and loan association, or trust company receiving such a deposit or transfer shall keep a complete record of the deposit or transfer, showing the name of the depositor or transferor, name of the person making payment, name of the person for whose benefit payment is made, and any other pertinent information.

Any personal property to be used in funeral services or cemetery merchandise which is sold to a purchaser on the basis that it will be identified and marked as belonging to such purchaser, and stored or warehoused for the purchaser, must be stored or warehoused at some location within this state.

SECTION 2. AMENDMENT. Section 50-24.1-02.3 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.3. When designated pre-need funeral service contracts, prepayments, or deposits not to be considered in eligibility determination.

In determining eligibility for medical assistance, the department of human services may not consider as an available resource any pre-need funeral service contracts, prepayments, or deposits to a fund which total six thousand dollars or less designated by the applicant or recipient as set-aside to pay for the applicant's or recipient's funeral. An applicant or recipient designates a prepayment or deposit for that applicant's or recipient's burial by providing funds that are to be used for the funeral or burial expenses of the applicant or recipient. If an applicant's or recipient's burial is funded by an insurance policy, the amount considered set-aside for burial is the lesser of the cost basis or the face value of the insurance policy. In addition, the applicant or recipient may designate all or a portion of the three thousand dollar asset limitation for funeral pre-need contracts, prepayments, or deposits. Interest or earnings retained in a funeral fund also may not be considered as an available resource. A pre-need funeral service contract, prepayment, or deposit designated under this section is not a multiple-party account for purposes of chapter 30.1-31. Any amount in a pre-need funeral service contract, prepayment, or deposit designated under this section which is not used for funeral or burial expenses must be returned to the estate of the medical assistance recipient and is subject to recovery by the department from the medical assistance recipient's estate. No claim for payment of funeral expenses may be made against the estate of a deceased medical assistance recipient except to the extent that funds maintained in accordance with this section total less than six thousand dollars.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 378

HOUSE BILL NO. 1172

(Representatives Kreidt, Heller, Rohr, Wieland)
(Senator Unruh)

AN ACT to amend and reenact subsection 1 of section 50-24.1-07 of the North Dakota Century Code, relating to the recovery from the estate of a medical assistance recipient.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-24.1-07 of the North Dakota Century Code is amended and reenacted as follows:

1. On the death of any recipient of medical assistance who was a resident of a nursing facility, intermediate care facility for individuals with intellectual disabilities, or other medical institution and with respect to whom the department of human services determined that resident reasonably was not expected to be discharged from the medical institution and to return home, or who was fifty-five years of age or older when the recipient received the assistance, and on the death of the spouse of the deceased recipient, the total amount of medical assistance paid on behalf of the recipient following the institutionalization of the recipient who cannot reasonably be expected to be discharged from the medical institution, or following the recipient's fifty-fifth birthday, as the case may be, must be allowed as a preferred claim against the decedent's estate after payment, in the following order, of:
 - a. Recipient liability expense applicable to the month of death for nursing home or basic care services;
 - b. Funeral expenses not in excess of three thousand dollars;
 - b-c. Expenses of the last illness, other than those incurred by medical assistance;
 - e-d. Expenses of administering the estate, including attorney's fees approved by the court;
 - d-e. Claims made under chapter 50-01;
 - e-f. Claims made under chapter 50-24.5;
 - f-g. Claims made under chapter 50-06.3 and on behalf of the state hospital; and
 - g-h. Claims made under subsection 4.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 379

HOUSE BILL NO. 1201

(Representatives Porter, Hofstad, Hogan, Weisz)
(Senators Berry, Mathern)

AN ACT to amend and reenact section 50-24.1-32 of the North Dakota Century Code, relating to medical assistance services provided by physician assistants; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-32 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-32. Medical assistance - Services provided by physician assistants and advanced registered nurse practitioners.

The medical assistance program must recognize physician assistants and advanced registered nurse practitioners as primary care providers with the same rights and responsibilities given primary care physicians under the medical assistance program. Any care provided by the physician assistant or advanced registered nurse practitioner as a primary care provider under the medical assistance program must be within the scope of the physician assistant's or advanced registered nurse practitioner's respective license.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on the date the director of the department of human services certifies to the secretary of state and the legislative council that the department has completed implementation of the medicaid management information system.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 380

SENATE BILL NO. 2114

(Judiciary Committee)

(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to sanctions against a provider who provides services under a provider agreement with medical assistance; and to provide a penalty.

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:

Civil sanction - Costs recoverable - Interest - Appeals.

1. For purposes of this section:
 - a. "Affiliate" means a person having an overt or covert relationship each with another person in a manner that one person directly or indirectly controls or has the power to control another.
 - b. "Department" means the department of human services.
 - c. "Provider" means any individual or entity furnishing medicaid services under a provider agreement with the department of human services.
2. A provider, an affiliate of a provider, or any combination of provider and affiliates, is liable to the department for up to twenty-five percent of the amount the department was induced to pay as a result of each act of fraud or abuse. This sanction is in addition to the applicable rules established by the department.
3. A provider, an affiliate of a provider, or any combination of provider and affiliates, is liable to the department for up to five thousand dollars on each act of fraud or abuse which did not induce the department to make an erroneous payment. This sanction is in addition to the applicable rules established by the department.
4. A provider, an affiliate of a provider, or any combination of provider and affiliates, that is assessed a civil sanction by the department also shall reimburse the department investigation fees, costs, and expenses for any investigation and action brought under this section.
5. Unless otherwise provided in a judgment entered against a provider or against an affiliate of the provider, overpayments and sanctions accrue interest at the legal rate beginning thirty days after the department provides written notice to the provider or the affiliate of the provider.
6. a. A provider or an affiliate of a provider who is assessed a sanction may request a review of the sanction by filing within thirty days of the date of

- the department's notice of sanction a written notice with the department which includes a statement of each disputed item and the reason or basis for the dispute.
- b. A provider or an affiliate of a provider may not request review under this section if the sanction imposed is termination or suspension and the notice of sanction states that the basis for the sanction is either:
- (1) The provider's or affiliate's failure to meet standards of licensure, certification, or registration where those standards are imposed by state or federal law as a condition to participation in the medicaid program; or
 - (2) The provider or affiliate has been similarly sanctioned by the medicare program or by another state's medicaid program.
- c. Within thirty days after requesting a review, a provider or affiliate shall provide to the department all documents, written statements, exhibits, and other written information that supports the request for review.
- d. The department shall assign a provider's or affiliate's request for review to someone other than an individual who was involved in imposing the sanction. A provider or affiliate who has requested review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.
- e. The department shall make and issue its final decision within seventy-five days of receipt of the notice of request for review. The department's final decision must conform to the requirements of section 28-32-39. A provider or affiliate may appeal the final decision of the department to the district court in the manner provided in section 28-32-42, and the district court shall review the department's final decision in the manner provided in section 28-32-46. The judgment of the district court in an appeal from a request for review may be reviewed in the supreme court on appeal by any party in the same manner as provided in section 28-32-49.
- f. Upon receipt of notice that the provider or affiliate has appealed its final decision to the district court, the department shall make a record of all documents, written statements, exhibits, and other written information submitted by the provider, affiliate, or the department in connection with the request for review and the department's final decision on review, which constitutes the entire record. Within thirty days after an appeal has been taken to district court as provided in this section, the department shall prepare and file in the office of the clerk of the district court in which the appeal is pending the original and a certified copy of the entire record, and that record must be treated as the record on appeal for purposes of section 28-32-44.
7. Determinations of medical necessity may not lead to imposition of remedies, duties, prohibitions, and sanctions under this section.
8. The remedies, duties, prohibitions, and sanctions of this section are not exclusive and are in addition to all other causes of action, remedies, penalties, and sanctions otherwise provided by law or by provider agreement.

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9. The state's share of all civil sanctions, investigation fees, costs, expenses, and interest received by the department under this section must be deposited into the general fund.

Approved April 19, 2013
Filed April 19, 2013

CHAPTER 381

HOUSE BILL NO. 1362

(Representatives Carlson, Bellew, Kasper, Kreidt, Weisz)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medicaid expansion; to provide an appropriation to the department of human services for the expansion of the medical assistance program; 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:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

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. The department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.

SECTION 2. APPROPRIATION - AUTHORIZATION - DEPARTMENT OF HUMAN SERVICES. There is appropriated from special funds derived from federal funds any amounts received relating to the 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 the department of human services for the purpose of implementing the provisions for the expansion of the medical assistance program, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY-AFFORDABLE CARE ACT IMPLICATIONS. The legislative management shall consider studying during the 2013-14 interim the effects of 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], due to the dramatically changing health care system in the state. The study must address alternatives to the federal Patient Protection and Affordable Care Act and the medicaid expansion provisions to make health care more accessible and affordable to the citizens of the state, including access, the cost of providing services, the medicare penalty to the state's providers, and the medicaid payment system. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 4. EFFECTIVE DATE. Section 1 of this Act becomes effective on January 1, 2014.

SECTION 5. EXPIRATION DATE. Section 1 of this Act is effective through July 31, 2017, and after that date is ineffective.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 382

HOUSE BILL NO. 1089

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-24.4-29 of the North Dakota Century Code, relating to geropsychiatric facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-29 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-29. ~~Limits on geropsychiatric~~Geropsychiatric facilities.

~~Only two~~The department may select one or more nursing homes within the state ~~may have to operate~~ a unit that exclusively provides geropsychiatric services and ~~no more than one geropsychiatric unit may be located in any one nursing home.~~ Admission to one of the nursing homes that exclusively provides geropsychiatric services for the purpose of receiving geropsychiatric services may be granted only after the state hospital has performed an evaluation of the individual being admitted which indicates the individual is in need of nursing home geropsychiatric services. If at any time ~~the department determines that~~ the number of approved geropsychiatric units in the state is ~~below two~~insufficient to meet the needs, the department may select a geropsychiatric unit based on the experience, qualification, and capacity of the nursing homes that propose to provide geropsychiatric services. ~~After the geropsychiatric units have been established within the nursing homes, the~~The state hospital may not offer geropsychiatric services through any other geropsychiatric unit ~~set up exclusively to provide those services.~~

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 383

SENATE BILL NO. 2161

(Senators J. Lee, Berry, Krebsbach)
(Representatives Porter, Weisz, Hogan)

AN ACT to amend and reenact sections 50-25.1-02, 50-25.1-04.3, and 50-25.1-04.5 of the North Dakota Century Code, relating to the child fatality review panel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "A person responsible for the child's welfare" means a person who has responsibility for the care or supervision of a child and who is the child's parent, an adult family member of the child, any member of the child's household, the child's guardian, or the child's foster parent; or an employee of, or any person providing care for the child in, a public or private school or child care setting.
2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol abuse or dependence as defined in the current diagnostic and statistical manual published by the American psychiatric association or a maladaptive use of alcohol with negative medical, sociological, occupational, or familial effects.
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.
4. "Assessment" means a factfinding process designed to provide information that enables a determination to be made that services are required to provide for the protection and treatment of an abused or neglected child.
5. "Authorized agent" means the county social service board, unless another entity is designated by the department.
6. "Children's advocacy center" means a full or associate member of the national children's alliance which assists in the coordination of the investigation in response to allegations of child abuse by providing a dedicated child-friendly location at which to conduct forensic interviews, forensic medical examinations, and other appropriate services and which promotes a comprehensive multidisciplinary team response to allegations of child abuse. The team response may include forensic interviews, forensic medical

examinations, mental health and related support services, advocacy, and case review.

7. "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.
8. "Department" means the department of human services or its designee.
9. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect when the institution responsible for the child's welfare is a residential child care facility, a treatment or care center for individuals with intellectual disabilities, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state.
10. "Local child protection team" means a multidisciplinary team consisting of the designee of the director of the regional human service center, together with such other representatives as that director might select for the team with the consent of the director of the county social service board. All team members, at the time of their selection and thereafter, must be staff members of the public or private agencies they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three members. The department shall coordinate the organization of local child protection teams on a county or multicounty basis.
11. "Near death" means an act which, as certified by a physician, places a child in serious or critical condition.
12. "Neglected child" means a deprived child as defined in chapter 27-20.
- 12-13. "Prenatal exposure to a controlled substance" means use of a controlled substance as defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery of the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.
- 13-14. "Protective services" includes services performed after an assessment of a report of child abuse or neglect has been conducted, such as social assessment, service planning, implementation of service plans, treatment services, referral services, coordination with referral sources, progress assessment, monitoring service delivery, and direct services.
- 14-15. "State child protection team" means a multidisciplinary team consisting of the designee of the department and, where possible, of a physician, a representative of a child-placing agency, a representative of the state department of health, a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must

be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three persons.

SECTION 2. AMENDMENT. Section 50-25.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.3. Child fatality review panel - Duties.

The child fatality review panel shall meet at least semiannually to review the deaths and near deaths of all minors which occurred in the state during the preceding six months and to identify trends or patterns in the deaths and near deaths of minors. The panel may review near deaths alleged to have resulted only from child abuse and neglect. The panel shall promote:

1. Interagency communication for the management of child death cases and for the management of future nonfatal cases.
2. Effective criminal, civil, and social intervention for families with fatalities.
3. Intervention and counseling of surviving and at-risk siblings, and offer the same.
4. Interagency use of cases to audit the total health and social service systems and to minimize misclassification of cause of death.
5. Evaluation of the impact of specific risk factors including substance abuse, domestic violence, and prior child abuse.
6. Interagency services to high-risk families.
7. Data collection for surveillance of deaths and the study of categories of causes of death.
8. The use of media to educate the public about child abuse prevention.
9. Intercounty and interstate communications regarding child death.
10. Use of local child protection team members as local child fatality review panelists.
11. Information that apprises a parent or guardian of the parent's or guardian's rights and the procedures taken after the death of a child.

SECTION 3. AMENDMENT. Section 50-25.1-04.5 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.5. Child fatality review panel - Confidentiality of meetings, documentation, and reports.

1. Notwithstanding section 44-04-19, all meetings of the panel are closed to the public. Notwithstanding section 44-04-18, all documentation and reports of the panel are confidential, except for an annual report, ~~of the panel are~~

confidential reports. The annual report involving child abuse and neglect deaths and near deaths must include the following:

- a. The cause of and circumstances regarding the death or near death;
 - b. The age and gender of the child;
 - c. Information describing any previous child abuse and neglect reports or assessments that pertain to the child abuse or neglect that led to the death or near death;
 - d. The result of any such assessments; and
 - e. The services provided in accordance with section 50-25.1-06, unless disclosure is otherwise prohibited by law.
2. The panel shall make available to the persons designated in section 50-25.1-11 the documentation and reports of the panel.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 384

SENATE BILL NO. 2323

(Senators Murphy, Hogue, Holmberg, Kilzer, Schneider)
(Representative Sanford)

AN ACT to amend and reenact sections 50-25.2-03 and 50-25.2-10 of the North Dakota Century Code, relating to the reporting of abuse or neglect of a vulnerable adult; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-25.2-03 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-03. ~~Voluntary reporting~~Reporting of abuse or neglect - Method of reporting.

1. Any medical or mental health professional or personnel, law enforcement officer, firefighter, member of the clergy, or caregiver having knowledge that a vulnerable adult has been subjected to abuse or neglect, or who observes a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect, shall report the information to the department or the department's designee or to an appropriate law enforcement agency if the knowledge is derived from information received by that person in that person's official or professional capacity. A member of the clergy, however, is not required to report the information if the knowledge is derived from information received in the capacity of spiritual adviser. For purposes of this subsection, "medical or mental health professional or personnel" means a professional or personnel providing health care or services to a vulnerable adult, on a full-time or part-time basis, on an individual basis or at the request of a caregiver, and includes a physician, nurse, medical examiner, coroner, dentist, dental hygienist, optometrist, pharmacist, chiropractor, podiatrist, physical therapist, occupational therapist, addiction counselor, counselor, marriage and family therapist, social worker, mental health professional, emergency medical services personnel, hospital personnel, nursing home personnel, congregate care personnel, or any other person providing medical and mental health services to a vulnerable adult.
2. A report, if required by section 25-01.3-04, satisfies all reporting requirements of this chapter.
3. Any person not required to report under subsection 1 who has reasonable cause to believe that a vulnerable adult has been subjected to abuse or neglect, or who observes a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect, may report the information to the department or the department's designee or to an appropriate law enforcement agency. A law enforcement agency receiving a report under this section shall immediately notify the department or the department's designee of the report.

2-4. A person reporting required to report under this section subsection 1 shall make an oral or written report and a person voluntarily reporting under subsection 2 may make an oral or written report, as soon as possible. To the extent reasonably possible, a person who makes a report under this section shall include in the report:

- a. The name, age, and residence address of the alleged vulnerable adult;
- b. The name and residence address of the caregiver, if any;
- c. The nature and extent of the alleged abuse or neglect or the conditions and circumstances that would reasonably be expected to result in abuse or neglect;
- d. Any evidence of previous abuse or neglect, including the nature and extent of the abuse or neglect; and
- e. Any other information that in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse or neglect and the identity of the individual responsible for the alleged abuse or neglect.

SECTION 2. AMENDMENT. Section 50-25.2-10 of the North Dakota Century Code is amended and reenacted as follows:

50-25.2-10. Penalty for failure to report - Penalty and civil liability for false reports.

1. Any person required to report under subsection 1 of section 50-25.2-03 who willfully fails to do so is guilty of an infraction.
2. Any person who willfully makes a false report, or provides false information which causes the report to be made, is guilty of a class B misdemeanor unless the false report is made to a law enforcement official, in which case the person who causes the false report to be made is guilty of a class A misdemeanor.
- 2-3. A person who willfully makes a false report, or provides false information that causes a report to be made, is liable in a civil action for all damages suffered by the person reported.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 385

SENATE BILL NO. 2109

(Human Services Committee)

(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 50-29-02 and 50-29-04 of the North Dakota Century Code, relating to eligibility determinations for the children's health insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-29-02 of the North Dakota Century Code is amended and reenacted as follows:

50-29-02. Duties of the department.

The department shall:

1. ~~Prepare~~The department shall prepare, submit, and implement the plan that includes eligibility determinations for self-employed applicants, when adjusted gross income or loss means the adjusted gross income or loss as computed for an individual for federal income tax purposes under the Internal Revenue Code of eligibility, based on the lower of either:
 - a. ~~The previous one year of adjusted gross income or loss from the business, or if the previous year's federal income tax return has not been filed, from the year prior to that year, less any earned or unearned income on the tax return, plus any current earned or unearned income; or~~
 - b. ~~The average of the previous three years of adjusted gross income or loss from the business, or if the previous year's federal income tax return has not been filed or the business has been in existence for fewer than three years, from the federal income tax returns from the previous three years that have been filed for the business, less the average of earned or unearned income for each of the years for which federal income tax returns have been filed, plus any current earned or unearned income.~~

~~If the most recently available federal income tax return does not accurately predict income because the business has been recently established, has been terminated, has been subjected to a severe change such as an uninsured loss or a decrease or increase in the size of the operation, income statements or any other reliable information may be used to compute self-employment income modified adjusted gross income methodologies as required in 42 U.S.C. 1396a(e)(14);~~

2. Supervise the administration of the children's health insurance program throughout this state;
3. Take action, give directions, and adopt rules as may be necessary or desirable to carry out the provisions of this chapter;

4. After federal approval of the plan, apply for a federal waiver allowing plan coverage for a family through an employer-based insurance policy if an employer-based family insurance policy is more cost-effective than the traditional plan coverage for the children;
5. Report annually to the legislative council and describe enrollment statistics and costs associated with the plan;
6. Reimburse counties for expenses incurred in the administration of the children's health insurance program at rates based upon all counties' total administrative costs; and
7. Administer all funds appropriated or made available to the department for the purpose of carrying out the provisions of this chapter.

SECTION 2. AMENDMENT. Section 50-29-04 of the North Dakota Century Code is amended and reenacted as follows:

50-29-04. Plan requirements.

The plan:

1. Must be provided through private contracts with insurance carriers;
2. Must allow conversion to another health insurance policy;
3. Must be based on an actuarial equivalent of a benchmark plan;
4. Must incorporate every state-required waiver approved by the federal government;
5. Must include community-based eligibility outreach services; and
6. Must provide:
 - a. A ~~netgross~~ income eligibility limit ~~of~~based on a net income eligibility equivalent of one hundred sixty percent of the poverty line;
 - b. A copayment requirement for each pharmaceutical prescription and for each emergency room visit;
 - c. A deductible for each inpatient hospital visit;
 - d. Coverage for:
 - (1) Inpatient hospital, medical, and surgical services;
 - (2) Outpatient hospital and medical services;
 - (3) Psychiatric and substance abuse services;
 - (4) Prescription medications;
 - (5) Preventive screening services;

(6) Preventive dental and vision services; and

(7) Prenatal services; and

- e. A coverage effective date that is the first day of the month, following the date of application and determination of eligibility.

SECTION 3. EFFECTIVE DATE. This Act becomes effective upon the implementation of the department of human services' new eligibility system or upon completion of system changes required for compliance with the Patient Protection and Affordable Care Act. The department of human services shall notify the legislative council of the occurrence of either of these events.

Approved March 19, 2013

Filed March 19, 2013

CHAPTER 386

HOUSE BILL NO. 1101

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact two new sections to chapter 50-31 of the North Dakota Century Code, relating to opioid treatment programs; and to amend and reenact section 50-31-01 of the North Dakota Century Code, relating to opioid treatment programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-31-01 of the North Dakota Century Code is amended and reenacted as follows:

50-31-01. ~~Definition~~Definitions.

1. "Department" means the department of human services.
2. "Opioid treatment program" means a program through which medication is dispensed in the treatment of opioid addiction.

SECTION 2. Two new sections to chapter 50-31 of the North Dakota Century Code are created and enacted as follows:

State opioid treatment authority.

The division of mental health and substance abuse services of the department is designated as the state opioid treatment authority.

Opioid treatment programs - Licensure required - Rules.

1. To operate in this state, an opioid treatment program must be granted a license from the department, certification from the United States department of health and human services substance abuse and mental health services administration, and registration from the United States department of justice drug enforcement administration.
2. The department may license a substance abuse treatment program to operate an opioid treatment program in the state. A separate license is required for each location at which an opioid treatment program is operated under this section.
3. The department shall adopt rules relating to licensing and monitoring opioid treatment programs, including rules for:
 - a. Standards for approval and maintenance of license;
 - b. Assessment of need for an opioid treatment program in the proposed location;

-
- c. Patient eligibility for admission to an opioid treatment program;
 - d. Treatment standards, including counseling and drug testing requirements; and
 - e. Measures to prevent the diversion to illegal use of any drug used by a program to treat an opioid addiction.
4. Each state-licensed opioid treatment program shall submit by electronic means information regarding each prescription dispensed for a controlled substance to the state's prescription drug monitoring program, unless specifically exempted by federal law.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 387

HOUSE BILL NO. 1110

(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 50-33-02 of the North Dakota Century Code, relating to eligibility decisions for child care assistance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-33-02 of the North Dakota Century Code is amended and reenacted as follows:

50-33-02. Child care assistance - Application for benefits - Applicant's duty to establish eligibility - Decisions - Rules.

1. An individual desiring child care assistance or an individual seeking assistance on behalf of another individual may apply for child care assistance. An applicant shall submit a request for child care assistance in writing to a county agency on a form prescribed by the department. The applicant shall complete, sign, and date the application. Eligibility begins on the first day of the month in which a signed and dated application is received by the county agency. Eligibility may begin on the first day of the month prior to the month in which a signed and dated application is received by the county agency, if the applicant requests child care assistance for that month and demonstrates eligibility in that month.
2. The applicant shall provide information sufficient to establish the eligibility of each individual for whom assistance is requested, including the age, verification of relative relationship, citizenship or resident alien status of the children, verification of participation in an allowable activity, and financial eligibility.
3. An eligibility decision must be made within ~~fifteen~~thirty days on child care assistance applications whenever possible. The county agency shall notify the applicant following a determination of eligibility or ineligibility.
4. The department shall establish rules for the administration of the child care assistance program, including rules on income requirements, appeals of eligibility determinations for child care assistance, closure of a child care assistance case, and a sliding scale fee schedule for child care assistance benefits and to establish and enforce standards against program fraud and abuse.

Approved March 27, 2013
Filed March 27, 2013

SALES AND EXCHANGES

CHAPTER 388

HOUSE BILL NO. 1192

(Representatives Ruby, Delmore, Kasper, Sukut)
(Senators Hogue, Klein, Lyson)

AN ACT to create and enact a new section to chapter 51-07 of the North Dakota Century Code, relating to motor vehicle warranty reimbursement; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 51-07 of the North Dakota Century Code is created and enacted as follows:

Warranty work compensation.

1. A motor vehicle manufacturer shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor, in warranty work compensation. In addition, a motor vehicle manufacturer shall provide adequate time allowances for diagnosis and performance of warranty work and service for the work performed. The hourly labor rate paid by a motor vehicle manufacturer to the dealer for warranty services may not be less than the average rate charged by the dealer for like service to nonwarranty customers for nonwarranty service as provided under subsection 5. A motor vehicle manufacturer may not reimburse a dealer for parts used in the performance of warranty repair at a lower rate than the average retail rate customarily charged by the dealer for these parts as provided under subsection 4.
2. A motor vehicle manufacturer shall pay a dealer on a claim made by a dealer under this section within thirty days of the approval of the claim. The manufacturer shall either approve or disapprove a claim within thirty days after the claim is submitted to the manufacturer. The manufacturer may prescribe the manner in which and the forms on which the dealer must present the claim. A claim not specifically disapproved in writing within thirty days after the manufacturer receives the claim must be construed to be approved and the manufacturer shall pay the claim within thirty days.
3. A motor vehicle manufacturer, factory branch, distributor, or distributor branch shall fully compensate its motor vehicle dealers licensed in this state for warranty parts, work, and service specified in this section. Failure to fully compensate includes a reduction in the amount due to the dealer or imposing a separate charge, surcharge, or other imposition by which the motor vehicle manufacturer, factory branch, distributor, or distributor branch seeks to recover the costs of complying with this section from the dealer.

4. The retail rate customarily charged by the dealer for parts is established by the dealer submitting to the manufacturer or distributor one hundred sequential nonwarranty customer-paid service repair orders that contain warranty-like parts or ninety consecutive days of nonwarranty customer-paid service repair orders that contain warranty-like parts, whichever is less, covering repairs made no more than one hundred eighty days before the submission and declaring the average percentage markup.
5. The retail rate customarily charged by the dealer for labor must be established using the same process as provided under subsection 4 and declaring the average labor rate. The average labor rate must be determined by dividing the amount of the dealer's total labor sales by the number of total hours that generated those sales. If a labor rate and parts markup rate are simultaneously declared by the dealer, the dealer may use the same repair orders to complete each calculation as provided under subsection 4.
6. In calculating the retail rate customarily charged by the dealer for parts and labor, the following work may not be included in the calculation:
 - a. Repairs for manufacturer or distributor special events, specials, or promotional discounts for retail customer repairs;
 - b. Parts sold at wholesale;
 - c. Routine maintenance not covered under any retail customer warranty, including fluids, filters and belts not provided in the course of repairs;
 - d. Nuts, bolts, fasteners, and similar items that do not have an individual part number;
 - e. Tires; and
 - f. Vehicle reconditioning.
7. The average of the parts markup rates and labor rate is presumed to be fair and reasonable and must go into effect thirty days following the manufacturer's approval. A manufacturer or distributor may rebut the presumption by reasonably substantiating that a rate is unreasonable in light of the practices of all other franchised motor vehicle dealers in an economically similar area of the state offering the dealer's declaration of the same line-make vehicles, not later than thirty days after submission. If the average parts markup rate or average labor rate is rebutted, or both, the manufacturer or distributor shall propose an adjustment of the average percentage markup based on that rebuttal not later than thirty days after submission.
8. Each manufacturer, in establishing a schedule of compensation for warranty work, shall rely on the vehicle dealer's written schedule of hourly labor rates and parts and may not obligate any vehicle dealer to engage in unduly burdensome or time-consuming documentation of rates or parts, including obligating vehicle dealers to engage in transaction-by-transaction or part-by-part calculations.
9. A dealer or manufacturer may demand that the average parts markup or average labor rate be calculated using the process provided under

subsections 4 and 5; however, the demand for the average parts markup may not be made within twelve months of the last parts markup declaration and the demand for the average labor rate may not be made within twelve months of the last labor rate declaration. If a parts markup or labor rate is demanded by the dealer or manufacturer, the dealer shall determine the repair orders to be included in the calculation under subsections 4 and 5.

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

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 389

SENATE BILL NO. 2260

(Senators Flakoll, Unruh, Warner)
(Representatives Beadle, Heilman, Oversen)

AN ACT to amend and reenact sections 13-07-01, 13-11-01, 51-15-06.1, 51-28-01, and 51-28-02 of the North Dakota Century Code, relating to consumer credit counseling services, debt settlement providers, assurance of discontinuance, and telephone solicitations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 13-07-01 of the North Dakota Century Code is amended and reenacted as follows:

13-07-01. Consumer credit counseling service - Definition.

As used in this chapter, "consumer credit counseling service" means a ~~nonprofit corporation~~ person whose agreements contemplate that a debtor will liquidate the debtor's debts by structured installments or that a creditor will reduce finance charges or fees for late payments, default, or delinquency. ~~For purposes of this chapter, a nonprofit corporation means an entity that is:~~

- ~~1. Organized and properly operating as a nonprofit entity under the laws of the state in which it was formed;~~
- ~~2. Exempt from taxation under the federal Internal Revenue Code [26 U.S.C. 501]; and~~
- ~~3. Not owned, operated, managed by, or affiliated with a for-profit entity.~~

SECTION 2. AMENDMENT. Subsection 7 of section 13-11-01 of the North Dakota Century Code is amended and reenacted as follows:

7. a. "Debt-settlement service" means:
 - (1) Offering to provide advice or service, or acting as an intermediary between or on behalf of a consumer and one or more of a consumer's creditors, where the primary purpose of the advice, service, or action is to obtain a settlement, adjustment, or satisfaction of the consumer's unsecured debt to a creditor in an amount less than the full amount of the principal amount of the debt or in an amount less than the current outstanding balance of the debt;
 - (2) Offering to provide services related to or providing services advising, encouraging, assisting, or counseling a consumer to accumulate funds for the primary purpose of proposing or obtaining or seeking to obtain a settlement, adjustment, or satisfaction of the consumer's unsecured debt to a creditor in an amount less than the full amount of the principal amount of the debt or in an amount less than the current outstanding balance of the debt; or

- (3) Offering to provide advice or service, or acting as an intermediary between or on behalf of a person and a state or federal government agency where the primary purpose of the advice, service, or action is to obtain a settlement, adjustment, or satisfaction of the person's tax obligation to the government agency in an amount less than the current outstanding balance of the tax obligation.
- b. "Debt-settlement service" does not include:
- (1) Legal services provided in an attorney-client relationship by an attorney licensed or otherwise authorized to practice law in this state;
 - (2) Accounting services provided in an accountant-client relationship by a certified public accountant licensed to provide accounting services in this state;
 - (3) Financial planning services provided in a financial planner-client relationship by a member of a financial planning profession whose members the commissioner, by rule, determines are:
 - (a) Licensed by this state;
 - (b) Subject to a disciplinary mechanism;
 - (c) Subject to a code of professional responsibility; and
 - (d) Subject to a continuing education requirement; or
 - (4) A ~~nonprofit corporation~~ person engaged in consumer credit counseling services under chapter 13-07.

SECTION 3. AMENDMENT. Section 51-15-06.1 of the North Dakota Century Code is amended and reenacted as follows:

51-15-06.1. Assurance of ~~discontinuance~~ voluntary compliance.

The attorney general may accept an assurance of ~~discontinuance of~~ voluntary compliance for any act or practice the attorney general determines to be in violation of this chapter, or other provisions of law, including chapter 50-22, 51-12, 51-13, 51-14, 51-16.1, or 51-18, ~~51-28, 51-29, 51-30, 51-31, 51-33, or 51-34,~~ from any person the attorney general alleges is engaging in, or has engaged in, the act or practice. The assurance of ~~discontinuance~~ voluntary compliance must be in writing and must be filed with and is subject to the approval of the district court of the county in which the alleged violator resides or has as a principal place of business, ~~conducts business,~~ or in Burleigh County. ~~An assurance of discontinuance may not be considered an admission of a violation. However, failure~~ Failure to comply with an assurance of ~~discontinuance~~ voluntary compliance which has been approved by the district court is contempt of court.

SECTION 4. AMENDMENT. Section 51-28-01 of the North Dakota Century Code is amended and reenacted as follows:

51-28-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires, the terms shall have the meanings as follows:

1. "Automatic dialing-announcing device" means a device that selects and dials telephone numbers and that, working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.
2. "Caller" means a person, corporation, firm, partnership, association, or legal or commercial entity that attempts to contact, or that contacts, a subscriber in this state by using a telephone or a telephone line.
3. "Caller identification service" means a telephone service that permits telephone subscribers to see the telephone number of incoming telephone calls.
4. "Established business relationship" means a relationship between a seller and consumer based on a free trial newspaper subscription or on the consumer's purchase, rental, or lease of the seller's goods or services or a financial transaction between the consumer and seller, within the twenty-four months immediately preceding the date of a telemarketing call.
5. "Message" means any telephone call, including voice, text, or other electronic communication, regardless of its content.
6. "Subscriber" means a person who has subscribed to a residential telephone line or the other persons living or residing with the subscribing person.
7. "Telephone line" means a telephone service to a subscriber, regardless of the technology used to provide such service, including traditional wireline or cable telephone service; cellular, broadband PCS, or other wireless telephone service; microwave, satellite, or other terrestrial telephone service; and voice over internet protocol telephone service.
8. "Telephone solicitation" means any voice, text, or other electronic communication over a telephone line for the purpose of encouraging charitable contributions, or the purchase or rental of, or investment in, property, goods, services, or merchandise, including as defined in subsection 3 of section ~~54-45-0351-15-01~~, whether the communication is made by a live operator, through the use of an automatic dialing-announcing device, or by other means. Telephone solicitation does not include communications:
 - a. To any subscriber with that subscriber's prior express written request, consent, invitation, or permission.
 - b. By or on behalf of any person with whom the subscriber has an established personal or business relationship.
 - c. By or on behalf of a charitable organization that is exempt from federal income taxation under section 501 of the Internal Revenue Code, but only if the following applies:
 - (1) The telephone call is made by a volunteer or employee of the charitable organization; and
 - (2) The person who makes the telephone call immediately discloses the following information upon making contact with the consumer:

- (a) The person's true first and last name; and
- (b) The name, address, and telephone number of the charitable organization.
- d. By or on behalf of any person whose exclusive purpose is to poll or solicit the expression of ideas, opinions, or votes, unless the communication is ~~made through an automatic dialing-announcing device in a manner prohibited by section 51-28-02a~~ text message.
- e. By the individual soliciting without the intent to complete, and who does not in fact complete, the sales presentation during the call, but who will complete the sales presentation at a later face-to-face meeting between the individual solicitor or person who makes the initial call and the prospective purchaser, unless the communication is a text message.
- f. By or on behalf of a political party, candidate, or other group with a political purpose, as defined in section 16.1-08.1-01, unless the communication is a text message.

SECTION 5. AMENDMENT. Section 51-28-02 of the North Dakota Century Code is amended and reenacted as follows:

51-28-02. Use of prerecorded or synthesized voice messages.

A caller may not use or connect to a telephone line an automatic dialing-announcing device or deliver a prerecorded or synthesized voice message to a subscriber unless the subscriber has knowingly requested, consented to, permitted, or authorized receipt of the message or the message is immediately preceded by a live operator who obtains the subscriber's consent before the message is delivered. This section and section 51-28-05 do not apply to a message from a public safety agency notifying a person of an emergency; a message from a school district to a student, a parent, or an employee; a message to a subscriber with whom the caller has a current business relationship; or a message advising an employee of a work schedule.

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 390

SENATE BILL NO. 2151

(Senators J. Lee, Carlisle, O'Connell)
(Representatives B. Koppelman, Streyle, Delmore)

AN ACT to provide for regulation of scrap metal purchases by scrap metal dealers; to provide a penalty; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Alloy" means a combination of a metal and carbon or other metals.
2. "Business records" means records of any purchase or transaction that involves the receipt of scrap metals made in the ordinary course of business and includes written receipts, books or similar records, or electronically stored records, but does not include correspondence, tax returns, or financial statements.
3. "Ferrous metals" means those metals that will attract a magnet, and includes alloys of those metals.
4. "Law enforcement officer" or "peace officer" means a public servant authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law.
5. "Nonferrous metals" means those metals that will not normally attract a magnet, including copper, brass, aluminum, bronze, lead, zinc, platinum, nickel, and includes alloys of those metals.
6. "Scrap metal" means ferrous or nonferrous metals purchased primarily for reuse or recycling, including metals combined with other materials at the time of purchase or acquisition, and including insulated and uninsulated wire and cable. Scrap metal does not include automobiles, automobile hulks, or any aluminum food or beverage containers.
7. "Scrap metal dealer" means a person, as defined in subsection 8 of section 1-01-49, engaged in the business of purchasing, selling, trading, or bartering scrap metal, and includes all employees of the scrap metal dealer.

SECTION 2.**Records of purchase, trade, barter, or transaction required.**

1. Every scrap metal dealer shall keep business records of any purchase, trade, barter, or other transaction that involves the receipt of scrap metals worth over twenty-five dollars. The business records must include the following information:
 - a. The date, time, and place of each purchase or transaction;
 - b. A description of the scrap metal received and the weight and type of scrap metal received;
 - c. The amount paid to the person selling or delivering the scrap metal, and the manner of payment, including check or electronic transfer;
 - d. The name and address of the person selling or delivering the scrap metal; and
 - e. A photocopy of a valid government-issued identification card or driver's license and which must include the seller's or deliverer's full name, photograph, date of birth, and signature.
2. Every scrap metal dealer shall keep the business records required under this section at the business premises of the scrap metal dealer or other reasonably available location within this state for seven years after the date of each purchase or transaction for which business records are required under this section.
3. A scrap metal dealer may not pay cash for scrap metal purchases or transactions over one thousand dollars, but may only pay by check or electronic transfer.
4. Each scrap metal dealer's premises must be kept open during regular business hours for inspection by a law enforcement officer and each scrap metal dealer's business records and business inventory must be made available for inspection by a law enforcement officer at all times during reasonable business hours or at reasonable times if ordinary hours of business are not kept.
5. Before a law enforcement officer may conduct an inspection under this section, the law enforcement officer shall inform the scrap metal dealer that the individual is a law enforcement officer and shall inform the scrap metal dealer of the purpose of the inspection. The law enforcement officer shall comply with all reasonable and customary safety requirements of the scrap metal dealer on the business premises.
6. The scrap metal dealer may require a law enforcement officer to sign an inspection log that includes the officer's name and serial or badge number and the date, time, and purpose for the inspection.
7. The provisions of this chapter shall take precedence over and supersede any local ordinance adopted by a political subdivision that regulates scrap metal transactions.

SECTION 3.**Exemptions.**

Section 2 of this Act does not apply to:

1. Purchases from another scrap metal dealer who regularly conducts scrap metal business in this state.
2. Purchases from government agencies.
3. Purchases from persons regularly engaged in the business of manufacturing metals or regularly engaged in the business of selling metals at retail or wholesale, including scrap processing or manufacturing that produces byproducts for scrap.
4. Purchases from persons regularly engaged in the generation or transmission of electricity, or in telephone, telegraph, or cable communications, if the person provides the scrap metal dealer with a bill of sale or other written evidence of ownership of the scrap metal purchased from the person.

SECTION 4.**Penalty.**

1. A scrap metal dealer who willfully fails to comply with section 2 of this Act is guilty of a class B misdemeanor.
2. A scrap metal dealer who willfully buys, receives, possesses, or conceals stolen scrap metal, and the scrap metal is less than five hundred dollars in value is guilty of a class A misdemeanor.
3. A scrap metal dealer who willfully buys, receives, possesses, or conceals stolen scrap metal, and the scrap metal exceeds five hundred dollars in value, is guilty of a class C felony.

SECTION 5. EFFECTIVE DATE. This Act becomes effective on May 1, 2013.

SECTION 6. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 1, 2013
Filed April 1, 2013

SOCIAL SECURITY

CHAPTER 391

SENATE BILL NO. 2185

(Senators Poolman, Grindberg)
(Representatives Dockter, Larson, Looyesen, Nathe)

AN ACT to create and enact a new subsection to section 52-01-03 of the North Dakota Century Code, relating to job service North Dakota sharing data with the attorney general for the purpose of offender registration compliance.

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:

The bureau shall enter into a data sharing agreement with the attorney general for the purpose of monitoring individuals who are required to register as sexual offenders or offenders against children. Under such agreement, the bureau may furnish unemployment insurance employee or claimant contact information and the names and addresses of the employers for whom the employee or claimant has worked.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 392

HOUSE BILL NO. 1111

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

AN ACT to amend and reenact subsection 3 of section 52-04-07 of the North Dakota Century Code, relating to the prohibition of noncharging of unemployment compensation benefits attributable to the accounts of base period employers; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 52-04-07 of the North Dakota Century Code is amended and reenacted as follows:

3. Subsection 2 does not apply to benefit payments ~~which are financed under a reimbursable method if:~~
 - a. Benefit payments are financed under a reimbursable method.
 - b. An overpayment of unemployment compensation benefits results from:
 - (1) The employer, or the agent of the employer, failing to respond timely or adequately to the request from the bureau for information relating to a claim for unemployment compensation; and
 - (2) The employer, or agent of the employer, has established a demonstrated pattern of failing to respond to such requests.

This section applies to overpayments established after October 21, 2013.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 393

HOUSE BILL NO. 1112

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

AN ACT to amend and reenact subsection 2 of section 52-04-12 and subsection 4 of section 52-06-02 of the North Dakota Century Code, relating to use of liens to collect contributions owed to job service North Dakota and to unemployment insurance eligibility in the case of a labor dispute.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 52-04-12 of the North Dakota Century Code is amended and reenacted as follows:

2. Whenever any employer, liable to pay contributions, interest, or penalty, fails to pay, the amount of contributions, interest, penalty, and costs that accrue is a lien in favor of the state upon all property and all rights to property belonging to the employer. The lien attaches at the time the contributions, interest, or penalty becomes due, and continues until the liability is satisfied. To preserve the lien against subsequent mortgages, purchasers for value and without notice of the lien, judgment creditors, and lienholders, job service North Dakota shall file ~~with~~a notice of lien utilizing one of these methods:
 - a. In the central indexing system maintained by the secretary of state. Job service North Dakota shall index in the central indexing system the following data:
 - (1) The name of the employer.
 - (2) The name "job service North Dakota" as claimant.
 - (3) The date and time the notice of lien was indexed.
 - (4) The amount of the lien.

The notice of lien is effective as of eight a.m. following the indexing of the notice. Job service North Dakota shall index any notice of lien without payment of a fee or cost to the secretary of state. Upon payment of contributions, interest, penalty, and costs, job service North Dakota shall index a satisfaction of the lien in the central indexing system without fees or costs.

- b. With the recorder, in the county in which the property is located, a notice of the lien. The lien is effective from the time of filing of the notice. The recorder shall preserve the notice and endorse on it the day, hour, and minute when it was received. The recorder shall index the notice of lien in an appropriate index record and record the notice of lien in the manner provided for recording real estate mortgages. The recorder shall accept the notice of lien for filing without payment of a fee by job service North Dakota. Upon payment of the contributions, interest, penalty, and costs, job service North Dakota shall file with the recorder a satisfaction of the

lien. The recorder shall enter the satisfaction on the notice of lien, index the satisfaction in an appropriate index record, and record the satisfaction in the manner provided for recording satisfactions of real estate mortgages. The recorder shall accept the satisfaction for filing without payment of a fee by job service North Dakota. ~~The~~

In either method, the attorney general, upon request of job service North Dakota, may bring suit without bond, to foreclose the lien.

SECTION 2. AMENDMENT. Subsection 4 of section 52-06-02 of the North Dakota Century Code is amended and reenacted as follows:

4. For any week with respect to which it is found that the individual's unemployment is due to any kind of labor dispute, including a strike, sympathy strike, or a claimant's work stoppage dispute of any kind which exists because of a labor dispute at the factory, establishment, or other premises at which the individual is or was last employed~~lockout~~; provided, that this subsection does not apply if it is shown that:
 - a. The individual is not participating in or directly interested in the labor dispute ~~which caused the strike, sympathy strike, or a claimant's work stoppage dispute of any kind~~; and
 - b. The individual does not belong to a grade or class of workers of which, immediately before the commencement of the ~~stoppage~~labor dispute, there were members employed at the premises at which the ~~strike, sympathy strike, or a claimant's work stoppage~~labor dispute of any kind occurs, any of whom are participating in or directly interested in the labor dispute; provided, that if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department must, for the purpose of this subsection, be deemed to be a separate factory, establishment, or other premises.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 394

SENATE BILL NO. 2111

(Industry, Business and Labor Committee)
(At the request of Job Service North Dakota)

AN ACT to amend and reenact section 52-06-33 of the North Dakota Century Code, relating to a monetary penalty imposed when unemployment compensation benefits are obtained through false statements; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 52-06-33 of the North Dakota Century Code is amended and reenacted as follows:

52-06-33. Recovery and recoupment - Penalty.

A person who has received any amount of benefits under the North Dakota unemployment compensation law to which the person is not entitled shall be liable to refund to the bureau for the fund the amount so paid or to have such amount deducted from any future benefits payable to the person under the North Dakota unemployment compensation law or the unemployment compensation law of another state or the federal government following a finding that such payment occurred. Such findings shall have become final and shall specify the reason for such finding, the week or weeks for which such benefits were paid, and the amount of benefits so paid. The bureau, in its discretion, may release such person from liability to refund when it finds that recovery would be contrary to equity and good conscience. Amounts determined collectible may be so collected by civil action in the name of the bureau. If the bureau has found that the individual has made a false statement for the purpose of obtaining unemployment compensation benefits to which the individual was not lawfully entitled, the bureau shall assess a monetary penalty of fifteen percent of the amount of unemployment compensation benefits overpaid. The penalty must be applied to all forms of state and federal unemployment compensation and the federally mandated penalty amounts collected must be deposited in the state unemployment compensation fund. Amounts unpaid on the date on which they are due and payable, as determined by the bureau, may bear interest at the rate of one and one-half percent per month from and after that date until payment plus accrued interest is received by the bureau. However, no interest may be assessed for the first one hundred eighty days on any overpayment ~~occurring without fault on the part of the individual~~ when the bureau has found that the individual did not make a false statement to obtain benefits to which the individual was not lawfully entitled.

Approved March 21, 2013
Filed March 21, 2013

SPORTS AND AMUSEMENTS

CHAPTER 395

SENATE BILL NO. 2311

(Senators Sorvaag, Flakoll, Schaible)
(Representatives Heilman, Kempenich, Kreun)

AN ACT to amend and reenact section 53-06.1-10.1 of the North Dakota Century Code, relating to cash prize limits for raffles.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 thousand dollars and the total cash prizes in one day may not exceed four 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 26, 2013
Filed March 27, 2013

CHAPTER 396**SENATE BILL NO. 2177**

(Senators Miller, Dotzenrod)
(Representatives Kempenich, Maragos, Nathe)

AN ACT to amend and reenact subdivision b of subsection 5 of section 53-06.1-11 of the North Dakota Century Code, relating to rent allowed for gaming machines.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision b of subsection 5 of section 53-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

- b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted involving either a jar bar or dispensing device, ~~but not~~ both, the monthly rent may not exceed ~~two hundred seventy five~~ four hundred dollars. ~~If pull tabs is conducted involving both a jar bar and dispensing device, the monthly rent for pull tabs may not exceed three hundred dollars.~~

Approved March 18, 2013

Filed March 18, 2013

CHAPTER 397

SENATE BILL NO. 2163

(Senators Grindberg, Oehlke, Nelson)
(Representatives Hatlestad, Hawken, Delmore)

AN ACT to amend and reenact section 53-06.1-12 of the North Dakota Century Code, relating to gaming taxes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.1-12 of the North Dakota Century Code is amended and reenacted as follows:

53-06.1-12. Gaming tax - Deposits and allocations.

1. A gaming tax is imposed on the total gross proceeds received by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. ~~The tax rate for~~ For a licensed organization with gross proceeds:
 - a. ~~Not exceeding five hundred thousand dollars is one percent of gross proceeds.~~
 - b. ~~Exceeding five hundred thousand dollars but not exceeding one million five hundred thousand dollars~~ the tax is one and one-half percent of gross proceeds.
 - e-b. ~~Exceeding one million five hundred thousand dollars but not exceeding one million five hundred thousand dollars~~ the tax is fifteen thousand dollars plus two and twenty-five hundredths percent of gross proceeds exceeding one million five hundred thousand dollars.
 - d. ~~Exceeding one million five hundred thousand dollars is two and one-half percent of gross proceeds.~~
2. The tax must be paid to the attorney general at the time tax returns are filed.
3. Except as provided in subsection 4, the attorney general shall deposit gaming and excise taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.
4. The attorney general shall deposit ~~six~~ seven percent of the total taxes, less refunds, collected under this section into a gaming and excise tax allocation fund. Pursuant to legislative appropriation, moneys in the fund must be distributed quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter

and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

Approved April 26, 2013
Filed April 23, 2013

CHAPTER 398

HOUSE BILL NO. 1068

(Judiciary Committee)

(At the request of the North Dakota Racing Commission)

AN ACT to amend and reenact sections 53-06.2-10.1 and 53-06.2-11 of the North Dakota Century Code, relating to account wagering and payments to the funds administered by the North Dakota racing commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.2-10.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-10.1. Simulcast wagering.

In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast pari-mutuel and account wagering may be conducted in accordance with this chapter or rules adopted by the commission under this chapter in accordance with chapter 28-32. Any organization qualified under section 53-06.2-06 to conduct racing may make written application to the commission for the conduct of simulcast pari-mutuel and account wagering on races held at licensed racetracks inside the state or racetracks outside the state, or both. Licensure of service providers, totalizator companies, site operators, or organizations applying to conduct or conducting simulcast or account wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. Notwithstanding any other provision of this chapter, the commission may authorize any licensee to participate in interstate or international combined wagering pools with one or more other racing jurisdictions. Anytime that a licensee participates in an interstate or international combined pool, the licensee, as prescribed by the commission, may adopt the take-out of the host jurisdiction or facility. The commission may permit a licensee to use one or more of its races or simulcast programs for an interstate or international combined wagering pool at locations outside its jurisdiction and may allow pari-mutuel pools in other states to be combined with pari-mutuel pools in its jurisdiction for the purpose of establishing an interstate or international combined wagering pool. The participation by a licensee in a combined interstate or international wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. Pari-mutuel taxes or commissions may not be imposed on any amounts wagered in an interstate or international combined wagering pool other than amounts wagered within this jurisdiction. The certificate system also permits pari-mutuel wagering to be conducted through account wagering. As used in this section, "account wagering" means a form of pari-mutuel wagering in which an individual deposits money in an account and uses the account balance to pay for pari-mutuel wagers. An account wager made on an account established in this state may only be made through the licensed simulcast service provider approved by the attorney general and authorized by the commission to operate the simulcast pari-mutuel wagering system under the certificate system. The attorney general may not grant a license denied by the commission. An account wager may be made in person, by direct telephone communication, or through other electronic

communication in accordance with rules adopted by the commission. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions.

SECTION 2. AMENDMENT. Section 53-06.2-11 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-11. (~~Effective through June 30, 2013~~) Bet payoff formulas - Uses by licensee of funds in excess of expenses - Payment to general fund.

1. For wagering on live horse racing and ~~simulcast~~ wagering:
 - a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered. Of the amount wagered, the licensee shall pay:
 - (1) One-half of one percent to the state treasurer to be deposited in the general fund.
 - (2) One-half of one percent to the commission to be deposited in the breeders' fund.
 - (3) One-half of one percent to the commission to be deposited in the purse fund.
 - (4) One-half of one percent to the commission to be deposited in the racing promotion fund.
 - b. In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered. Of the amount wagered, the licensee shall pay:
 - (1) One-half of one percent to the state treasurer to be deposited in the general fund.
 - (2) One-half of one percent to the commission to be deposited in the breeders' fund.
 - (3) One-half of one percent to the commission to be deposited in the purse fund.
 - (4) One-half of one percent to the commission to be deposited in the racing promotion fund.
2. For simulcast and account wagering:
 - a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered. ~~Of~~ Except as limited in subdivision c. of the amount wagered by simulcast and account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:
 - (1) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.

- (2) One-sixteenth of one percent to the commission to be deposited in the breeders' fund.
 - (3) One-sixteenth of one percent to the commission to be deposited in the purse fund.
 - (4) One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.
 - b. ~~Of~~Except as limited in subdivision c. of the amount wagered by simulcast and account wagering in daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee shall pay:
 - (1) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
 - (2) One-sixteenth of one percent to the commission to be deposited in the breeders' fund.
 - (3) One-sixteenth of one percent to the commission to be deposited in the purse fund.
 - (4) One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.
 - c. For the fiscal year commencing July 1, 2013, the licensee may not pay more than four hundred thousand dollars. For the fiscal year commencing July 1, 2014, and thereafter, the licensee may not pay more than four hundred twenty thousand dollars.
3. For all pari-mutuel wagering the licensee shall pay to the commission the amount due for all unclaimed tickets and all breakage on the first twenty million dollars wagered in each fiscal year with each service provider, ~~of which twenty percent is to~~. The amount received must be deposited in the racing promotion fund, ~~thirty percent is to be deposited in the breeders' fund, and fifty percent is to be deposited in the purse fund.~~
 4. The licensee conducting wagering on live racing, simulcast wagering, or account wagering shall retain all other money in the pari-mutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.
 5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting pari-mutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under section 53-06.1-11.1.
 6. The commission shall deposit the moneys received pursuant to subsections 1, 2, and 3 and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in the breeders' fund, the purse fund, and the racing promotion fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds

under this chapter and must be administered and disbursed in accordance with rules adopted by the commission. The commission may not transfer money among the funds. The commission shall distribute awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient. The commission shall distribute payments awarded to qualified owners and breeders from the breeders' fund without requiring owners and breeders to apply for the payments. The commission may receive twenty-five thousand dollars per year or twenty-five percent per year, whichever is greater, from the racing promotion fund for the payment of the commission's operating expenses.

~~(Effective after June 30, 2013) Bet payoff formulas -- Uses by licensee of funds in excess of expenses -- Payment to general fund.~~

1. ~~For wagering on live horse racing and simulcast wagering:~~
 - a. ~~In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered. Of the amount wagered, the licensee shall pay:~~
 - ~~(1) Two percent to the state treasurer to be deposited in the general fund.~~
 - ~~(2) One-half of one percent to the commission to be deposited in the breeders' fund.~~
 - ~~(3) One-half of one percent to the commission to be deposited in the purse fund.~~
 - ~~(4) One-half of one percent to the commission to be deposited in the racing promotion fund.~~
 - b. ~~In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered. Of the amount wagered, the licensee shall pay:~~
 - ~~(1) Two and one-half percent to the state treasurer to be deposited in the general fund.~~
 - ~~(2) One-half of one percent to the commission to be deposited in the breeders' fund.~~
 - ~~(3) One-half of one percent to the commission to be deposited in the purse fund.~~
 - ~~(4) One-half of one percent to the commission to be deposited in the racing promotion fund.~~
2. ~~For account wagering:~~
 - a. ~~In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered.~~
 - ~~(1) Before eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of the amount wagered by account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:~~

- (a) ~~Two percent to the state treasurer to be deposited in the general fund.~~
 - (b) ~~One-half of one percent to the commission to be deposited in the breeders' fund.~~
 - (c) ~~One-half of one percent to the commission to be deposited in the purse fund.~~
 - (d) ~~One-half of one percent to the commission to be deposited in the racing promotion fund.~~
- (2) ~~After eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of the amount wagered by account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:~~
- (a) ~~One-sixteenth of one percent to the state treasurer to be deposited in the general fund.~~
 - (b) ~~One-sixteenth of one percent to the commission to be deposited in the breeders' fund.~~
 - (c) ~~One-sixteenth of one percent to the commission to be deposited in the purse fund.~~
 - (d) ~~One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.~~
- b. ~~In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered.~~
- (1) ~~Before eleven million dollars is wagered in each biennium, of the amount wagered by account wagering in daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee shall pay:~~
- (a) ~~Two and one-half percent to the state treasurer to be deposited in the general fund.~~
 - (b) ~~One-half of one percent to the commission to be deposited in the breeders' fund.~~
 - (c) ~~One-half of one percent to the commission to be deposited in the purse fund.~~
 - (d) ~~One-half of one percent to the commission to be deposited in the racing promotion fund.~~
- (2) ~~After eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of the amount wagered by account wagering in daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee shall pay:~~
- (a) ~~One-sixteenth of one percent to the state treasurer to be deposited in the general fund.~~

- (b) ~~One-sixteenth of one percent to the commission to be deposited in the breeders' fund.~~
 - (c) ~~One-sixteenth of one percent to the commission to be deposited in the purse fund.~~
 - (d) ~~One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.~~
3. ~~For all pari-mutuel wagering the licensee shall pay to the commission the amount due for all unclaimed tickets and all breakage on the first twenty-million dollars wagered with each service provider, to be deposited in the racing promotion fund.~~
 4. ~~The licensee conducting wagering on live racing, simulcast wagering, or account wagering shall retain all other money in the pari-mutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.~~
 5. ~~A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting pari-mutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under section 53-06.1-11.1.~~
 6. ~~The commission shall deposit the moneys received pursuant to subsections 1, 2, and 3 and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in the breeders' fund, the purse fund, and the racing promotion fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the commission. The commission may not transfer money among the funds. The commission shall distribute awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient. The commission shall distribute payments awarded to qualified owners and breeders from the breeders' fund without requiring owners and breeders to apply for the payments. The commission may receive twenty-five thousand dollars per year or twenty-five percent per year, whichever is greater, from the racing promotion fund for the payment of the commission's operating expenses.~~

Approved March 26, 2013
Filed March 27, 2013

STATE GOVERNMENT

CHAPTER 399

HOUSE BILL NO. 1428

(Representatives Monson, Bellew, Damschen, Headland, Karls,
Kasper, Owens, Skarphol, Streyle, Wieland)
(Senators Luick, Sitte)

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to review of presidential executive orders.

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:

Review of presidential executive orders.

The legislative management may review any executive order issued by the president of the United States which has not been affirmed by a vote of the Congress of the United States and signed into law as prescribed by the Constitution of the United States and recommend to the attorney general and the governor that the executive order be further reviewed to determine the constitutionality of the order and whether the state should seek an exemption from the application of the order or seek to have the order declared to be an unconstitutional exercise of legislative authority by the president.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 400

SENATE BILL NO. 2188

(Senators Poolman, Dever, Grindberg)
(Representatives Dockter, Nathe)

AN ACT to amend and reenact section 54-06-24 of the North Dakota Century Code, relating to the state employee suggestion incentive program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-24 of the North Dakota Century Code is amended and reenacted as follows:

54-06-24. State employee suggestion incentive program.

1. There is established a suggestion incentive program for state employees. All persons employed by the state are eligible to participate in the program except state agency heads, administrators, or any supervisors considered at the management level by the state agency head.
2. A state employee may submit a recommendation or proposal to reduce expenditures within the employee's agency to a suggestion incentive committee. The suggestion incentive committee shall administer the employee suggestion incentive program created under this section and review all recommendations or proposals for reduction of expenditures. The suggestion incentive committee may consider whether the recommendation or proposal to reduce expenditures within the employee's agency applies to any other state agency. The suggestion incentive committee shall notify the office of management and budget of any recommendation that affects an agency other than the employing agency. The governor shall appoint five state agency heads to the suggestion incentive committee for four-year staggered terms to commence on August first in the year of appointment and to continue until the successors are appointed.
3.
 - a. The suggestion incentive committee shall consider legitimate savings reductions in expenditures made possible within the employing state agency and any other state agency.
 - b. The suggestion incentive committee shall determine if:
 - (1) The recommendation or proposal has been previously submitted and rejected.
 - (2) The recommendation or proposal is beyond the reasonable expectations of job performance for the employee who made the suggestion.
 - (3) Implementation of the recommendation or proposal is desirable and feasible.

- (4) Implementation of the recommendation or proposal will continue to provide the quality of the services presently provided by the employing state agency and any other state agency affected by the recommendation or proposal.
- c. The suggestion incentive committee shall submit to the state agency head of the employee submitting the recommendation or proposal any recommendation and proposal the committee approves.
4. The state agency head shall review and determine whether a recommendation or proposal approved by the suggestion incentive committee is capable of implementation. The state agency head shall make the final decision on acceptance or rejection of a recommendation or proposal.
5. A state employee who submits a recommendation or proposal to reduce expenditures that is approved by the suggestion incentive committee and approved for implementation by the state agency head is entitled to receive twenty percent of any savings realized up to a maximum of ~~two~~four thousand dollars. The savings must relate directly to the employee's proposed change. The suggestion incentive must be computed on the actual savings for a twelve-month period, the period to run from the time that the proposed change is instituted. An employee is entitled to the suggestion incentive payment at the end of the twelve-month period in a lump sum from funds of the employing state agency. Any payments to an employee under this program are in addition to the employee's regular salary. Employees who qualify for the suggestion incentive are entitled to an award for the first year's savings only and not for any subsequent years.
6. On July first of each year a state agency that makes a suggestion incentive payment in the preceding twelve months shall submit a report to the office of management and budget describing the implemented recommendation or proposal. On September first of each year, the office of management and budget shall provide to all state agencies a report describing the recommendations and proposals to reduce expenditures implemented by state agencies.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 401

HOUSE BILL NO. 1309

(Representatives Guggisberg, Karls)
(Senators Sorvaag, Nelson)

AN ACT to amend and reenact sections 54-06-32, 54-06-33, and 54-06-34 of the North Dakota Century Code, relating to state agency reporting requirements for employee service awards, employer-paid tuition, and employer-paid dues and memberships; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-32 of the North Dakota Century Code is amended and reenacted as follows:

54-06-32. State employee service awards.

Each state agency, department, or institution may establish rules or policies for employee recognition and service award programs. Executive branch agencies having employees in classified service are subject to rules adopted by North Dakota human resource management services and approved by the state personnel board and the legislative management's administrative rules committee. Any other agency, department, or institution of the executive, legislative, or judicial branch may adopt similar rules or policies to ensure uniformity and consistency in state government. Notwithstanding any other provision of law, each executive branch state agency, department, or institution, except an institution of higher education, having employees who are not in classified service and establishing rules or policies for employee recognition and service award programs shall submit the rules and policies to the office of management and budget for review and comment, and after addressing any comments of the office of management and budget, shall submit the rules and policies to the legislative management's administrative rules committee for approval. Within sixty days after the close of each biennial period, each state agency, department, or institution providing an employee service award under rules approved by the administrative rules committee shall file with the office of management and budget a report indicating the ~~individuals receiving a service award, the amount paid, and a statement of the public purpose or benefit of the expenditures~~total amount of service awards paid. Within ninety days after the close of each biennial period, the office of management and budget shall submit to the legislative council a report summarizing this information. An expenditure made under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

SECTION 2. AMENDMENT. Section 54-06-33 of the North Dakota Century Code is amended and reenacted as follows:

54-06-33. Employer-paid tuition.

Each state agency, department, or institution may establish rules or policies to provide employer-paid costs of training or educational courses, including tuition and fees, within budgetary constraints. Executive branch agencies having employees in classified service are subject to rules adopted by North Dakota human resource

management services and approved by the state personnel board and the legislative management's administrative rules committee. Any other state agency, department, or institution of the executive, legislative, or judicial branch may adopt rules or policies to ensure uniformity and consistency in state government. Notwithstanding any other provision of law, each executive branch state agency, department, or institution, except an institution of higher education, having employees who are not in classified service and establishing rules or policies for employer-paid costs of training or educational courses, including tuition and fees, shall submit the rules and policies to the office of management and budget for review and comment, and after addressing any comments of the office of management and budget, shall submit the rules and policies to the legislative management's administrative rules committee for approval. Within sixty days after the close of each biennial period, each state agency, department, or institution providing employer-paid costs of training or educational courses, including tuition and fees, under rules approved by the administrative rules committee, shall file with the office of management and budget a report indicating the ~~individuals receiving employer-paid costs of training or educational courses, including tuition and fees; the amount paid; and a statement of the public purpose or benefit of the expenditure~~total employer-paid costs of training and educational courses, including tuition and fees. Within ninety days after the close of each biennial period, the office of management and budget shall submit to the legislative council a report summarizing this information. An employee who receives employer-paid tuition reported under this section who leaves employment with ~~that employer~~the state within two years of receiving the tuition must repay tuition received under this section on a prorated basis. An expenditure for employer-paid training or educational courses, including tuition and fees, under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

SECTION 3. AMENDMENT. Section 54-06-34 of the North Dakota Century Code is amended and reenacted as follows:

54-06-34. Employer-paid professional organization membership and service club dues.

Each state agency, department, or institution may pay employee membership dues for professional organizations and membership dues for service clubs when required to do business or if the membership is primarily for the benefit of the state. Within sixty days after the close of each biennial period, each executive branch state agency, department, or institution, except an institution of higher education, providing employer-paid professional organization membership and service club dues shall file with the office of management and budget a report indicating the ~~individuals receiving employer-paid professional organization membership and service club dues, the amount paid, and a statement of the public purpose or benefit of the expenditure~~total employer-paid professional organization membership and service club dues. Within ninety days after the close of each biennial period, the office of management and budget shall submit to the legislative council a report summarizing this information. An expenditure made under this section is deemed to be made for a public purpose and may not be construed as a gift for purposes of section 18 of article X of the Constitution of North Dakota.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 402

HOUSE BILL NO. 1340

(Representatives Klemin, Delmore, Larson, Maragos)
(Senators Armstrong, Sitte, Nelson)

AN ACT to create and enact a new section to chapter 54-09 of the North Dakota Century Code, relating to records filed with the secretary of state; and to amend and reenact subsection 1 of section 35-13-02, subsection 6 of section 41-09-73, and subsection 7 of section 54-09-04 of the North Dakota Century Code, relating to confidential information in the possession of the secretary of state and fees collected by the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁵ **SECTION 1. AMENDMENT.** Subsection 1 of section 35-13-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The secretary of state shall prescribe one form that can be used to obtain a lien under this section and also be entered in the central indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the office of the recorder of the county in which the owner or legal possessor of the property resides, a verified written statement showing:
 - a. The labor performed.
 - b. The materials furnished.
 - c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
 - d. The name of the person for whom the labor was performed or to whom the materials were furnished.
 - e. ~~The social security number, if available, or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number, if available, of the person for whom the labor was performed or to whom the materials were furnished.~~
 - f. The name and address of the person claiming the lien.
 - g.f. A description of the property upon which the lien is claimed.

¹⁷⁵ Section 35-13-02 was also amended by section 3 of House Bill No. 1136, chapter 257.

¹⁷⁶ **SECTION 2. AMENDMENT.** Subsection 6 of section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

6. a. Any social security number or federal tax identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing prior to January 1, 2012, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. A filing office or an officer or employee of the filing office may not be held civilly or criminally liable for the inadvertent disclosure of a social security or federal tax identification number if the filer has placed the number in an improper field on the form prescribed by the secretary of state or the filer submitted a filing other than on the form prescribed by the secretary of state.
- b. After December 31, 2011, a debtor's social security number or federal tax identification number may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.

SECTION 3. AMENDMENT. Subsection 7 of section 54-09-04 of the North Dakota Century Code is amended and reenacted as follows:

7. For preparing any listing or compilation of any information recorded or filed in the office of the secretary of state, thirty-five dollars plus an amount established by the secretary of state to recover the actual cost for assembling and providing the information on in the medium format requested.

SECTION 4. A new section to chapter 54-09 of the North Dakota Century Code is created and enacted as follows:

Confidential information in filed records.

A social security number or federal tax identification number disclosed or contained in any record filed with the secretary of state is confidential. The secretary of state shall delete or obscure a social security or federal tax identification number before a copy of any record is released to the public. A filing office or an officer or employee of the filing office may not be held civilly or criminally liable for the inadvertent disclosure of a social security or federal tax identification number if the filer has placed the number in an improper field on the form prescribed by the secretary of state or the filer submitted a filing other than on the form prescribed by the secretary of state.

Approved April 12, 2013
Filed April 12, 2013

¹⁷⁶ Section 41-09-73 was also amended by section 23 of House Bill No. 1136, chapter 257.

CHAPTER 403

SENATE BILL NO. 2246

(Senator Cook)

AN ACT to amend and reenact subsection 1 of section 54-10-14 of the North Dakota Century Code, relating to audits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁷ **SECTION 1. AMENDMENT.** Subsection 1 of section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

1. The state auditor shall audit the following political subdivisions once every two years, except as provided in this section or otherwise by law:
 - a. Counties.
 - b. Cities, and when a city is audited, to include any political subdivision that was created by the city and has bonding authority.
 - c. Park districts.
 - d. School districts.
 - e. Firefighters relief associations.
 - f. Airport authorities.
 - g. Public libraries.
 - h. Water resource districts.
 - i. Garrison Diversion Conservancy District.
 - j. Rural fire protection districts.
 - k. Special education districts.
 - l. Area career and technology centers.
 - m. Correction centers.
 - n. Recreation service districts.
 - o. Weed boards.
 - p. Irrigation districts.

¹⁷⁷ Section 54-10-14 was also amended by section 2 of Senate Bill No. 2233, chapter 490.

- q. Rural ambulance service districts.
- r. Southwest water authority.
- s. Regional planning councils.
- t. Soil conservation districts.
- u. ~~Housing authorities not required to be audited by the federal department of housing and urban development.~~

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 404

HOUSE BILL NO. 1137

(Representatives Toman, Kasper, Porter)
(Senators Carlisle, Cook, Sitte)

AN ACT to amend and reenact section 54-10-27 of the North Dakota Century Code, relating to audits of occupational and professional boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-10-27 of the North Dakota Century Code is amended and reenacted as follows:

54-10-27. Occupational and professional boards - Audits and reports.

The governing board of any occupational or professional board shall provide for an audit once every two years by a certified public accountant or licensed public accountant. The accountant conducting the audit shall submit the audit report to the state auditor's office. If the report is in the form and style prescribed by the state auditor, the state auditor may not audit that board. An occupational or professional board may request the state auditor to conduct its audit, and if the state auditor agrees to conduct the audit, the state auditor shall deposit the fees charged to the occupational or professional board into the state auditor operating account. Instead of providing for an audit every two years, an occupational or professional board that has less than ~~ten~~^{fifty} thousand dollars of annual receipts may submit an annual report to the state auditor. The report must contain the 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 occupational or professional board an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge an occupational or professional board a fee not to exceed fifty dollars an hour for the costs of reviewing the annual report.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 405

HOUSE BILL NO. 1083

(Industry, Business and Labor Committee)
(At the request of the Housing Finance Agency)

AN ACT to amend and reenact sections 54-17-07.2 and 54-17-07.3 of the North Dakota Century Code, relating to multifamily housing facilities, leasehold mortgage loans, and refinancing previously purchased mortgage loans; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-17-07.2 of the North Dakota Century Code is amended and reenacted as follows:

54-17-07.2. (Effective through June 30, 2013) Definitions.

As used in sections 54-17-07.1 through 54-17-07.7 and section 54-17-07.10:

1. ~~"Lenders" means any bank or trust company chartered by the state of North Dakota or any national banking association located in North Dakota, state or federal savings and loan association located in North Dakota, and federal housing administration approved mortgagee or other mortgage banking institutions actively engaged in home mortgage lending in North Dakota approved by the industrial commission.~~
2. ~~"Multifamily housing facility" means any facility containing four or more residential dwelling units; provided, that at least twenty percent of the units in each facility must be held for occupancy by persons or families of low and moderate income for the period of time as the industrial commission may determine and may include the related public or private facilities intended for commercial, cultural, recreational, community, or other civic purpose as the commission may approve.~~
3. ~~"Persons and families of low or moderate income" means persons or families whose financial means are insufficient, taking into account such factors as the industrial commission shall deem relevant, to secure decent, safe, and sanitary housing provided by private industry without the financial assistance afforded by the housing finance programs of the commission.~~
4. ~~"Single-family residential dwelling unit" means any residential real property that:
 - a. Is designed for occupancy by one to four individual households;
 - b. Is an individual condominium or equity cooperative unit; or
 - c. Is an individual nonrental dwelling unit the ownership of which includes rights of facilities in common.~~

~~(Effective after June 30, 2013)~~ **Definitions.** As used in sections 54-17-07.1 through 54-17-07.7 and section 54-17-07.10:

1. "Lenders" means any bank or trust company chartered by the state of North Dakota or any national banking association located in North Dakota, state or federal savings and loan association located in North Dakota, and federal housing administration approved mortgagee or other mortgage banking institutions actively engaged in home mortgage lending in North Dakota approved by the industrial commission.
2. "Multifamily housing facility" means any facility containing ~~five~~four or more residential dwelling units; provided, that at least twenty percent of the units in each facility must be held for occupancy by persons or families of low and moderate income for such period of time as the industrial commission may determine and may include such related public or private facilities intended for commercial, cultural, recreational, community, or other civic purpose as the commission may approve.
3. "Persons and families of low or moderate income" means persons or families whose financial means are insufficient, taking into account such factors as the industrial commission shall deem relevant, to secure decent, safe, and sanitary housing provided by private industry without the financial assistance afforded by the housing finance programs of the commission.
4. "Single-family residential dwelling unit" means any residential real property that:
 - a. Is designed for occupancy by one to four individual households;
 - b. Is an individual condominium or equity cooperative unit; or
 - c. Is an individual nonrental dwelling unit the ownership of which includes rights of facilities in common.

¹⁷⁸ **SECTION 2. AMENDMENT.** Section 54-17-07.3 of the North Dakota Century Code is amended and reenacted as follows:

54-17-07.3. Housing finance programs.

Acting in its capacity as a state housing finance agency, the industrial commission is authorized to establish the following housing finance programs:

1. Home mortgage finance program. A program or programs to provide financing or refinancing of loans made by lenders, including second mortgage loans and leasehold mortgage loans on tribal trust or other reservation lands, and leasehold mortgage loans that are insured ~~or~~ guaranteed, or assisted through an affordable housing program, to persons or families of low and moderate income for the purchase or substantial rehabilitation of owner occupied, single-family residential dwelling units, which includes mobile homes and manufactured housing. The commission may also authorize a program to provide refinancing of loans previously made by lenders and purchased under the home mortgage finance program.

¹⁷⁸ Section 54-17-07.3 was also amended by section 1 of House Bill No. 1029, chapter 406.

2. Mobile home and manufactured housing finance program. A program or programs to provide for the purchase or guaranty of a loan made by a lender to finance the purchase of a mobile home or a manufactured housing unit other than on a real property mortgage basis. A program authorized under this subsection may provide assistance in the development of low-income to moderate-income housing or to otherwise assist a developing community in the state address an unmet housing need or alleviate a housing shortage.
3. Multifamily housing finance program. A program or programs to provide financing directly or indirectly of construction, permanent, and combined construction and permanent mortgage loans, including participations in mortgage loans, for the acquisition, construction, refurbishing, reconstruction, rehabilitation, or improvement of multifamily housing facilities.
4. Mortgage loan financing program. A program or programs to provide for the purchase or guaranty of a temporary or permanent mortgage loan originated by a lender on residential real property or on land to be developed into residential real property, in addition to a mortgage loan acquired or to be acquired under subsections 1 through 3. A program authorized under this subsection may provide assistance in the development of low to moderate income housing or to otherwise assist a developing community in the state address an unmet housing need or alleviate a housing shortage.
5. Home improvement finance program. A program or programs to provide full or partial, indirect financing of improvements to existing residential dwelling units.
6. Housing grant program. A program or programs to provide a grant other than those authorized by section 54-17-07.6 to encourage and promote housing availability for persons of low or moderate income or to otherwise assist a developing community in this state address an unmet housing need or alleviate a housing shortage.

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

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 406

HOUSE BILL NO. 1029

(Legislative Management)
(Energy Development and Transmission Committee)

AN ACT to create and enact a new subsection to section 57-35.3-05 of the North Dakota Century Code, relating to a tax credit for contributions to the housing incentive fund; to amend and reenact subsection 3 of section 54-17-07.3 and sections 54-17-40, 54-17-41, and 57-38-01.32 of the North Dakota Century Code, relating to a multifamily housing finance program and to the housing incentive fund and tax credits; to provide a report to the budget section; to provide a continuing appropriation; 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:

¹⁷⁹ **SECTION 1. AMENDMENT.** Subsection 3 of section 54-17-07.3 of the North Dakota Century Code is amended and reenacted as follows:

3. Multifamily housing finance program. A program or programs to provide financing directly or indirectly of construction, permanent, and combined construction and permanent mortgage loans, including participations in mortgage loans, for the acquisition, construction, refurbishing, reconstruction, rehabilitation, or improvement of multifamily housing facilities. As part of the program, the industrial commission, acting in its capacity as a state housing finance agency, may enter a public and private partnership with any interested private entity and accept any gift, grant, or other type of financial aid or assistance, including a contribution to the housing incentive fund, to provide financing for the construction or rehabilitation of a multifamily housing facility in a developing community in the state to address an unmet housing need or alleviate a housing shortage. A private entity participating in this program may reserve a proportionate share of available units in the facility for occupancy by its workforce based on its financial participation in the facility, in addition to any units held for occupancy by individuals or families of low or moderate income.

¹⁸⁰ **SECTION 2. AMENDMENT.** Section 54-17-40 of the North Dakota Century Code is amended and reenacted as follows:

54-17-40. (Effective through June 30, 20132015) 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

¹⁷⁹ Section 54-17-07.3 was also amended by section 2 of House Bill No. 1083, chapter 405.

¹⁸⁰ Section 54-17-40 was also amended by section 23 of Senate Bill No. 2014, chapter 45.

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 with a population of not more than ten thousand individuals to address an unmet housing need or alleviate a housing shortage. At least fifty percent of the fund must be used to benefit households with incomes at not more than fifty percent of the area median income. The agency may collect a reasonable administrative fee from the fund, project developers, applicants, or grant recipients.

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

54-17-41. (Effective through June 30, 2013~~2015~~) Report.

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

SECTION 4. A new subsection to section 57-35.3-05 of the North Dakota Century Code is created and enacted as follows:

There is allowed a credit against the tax imposed by sections 57-35.3-01 through 57-35.3-12 in an amount equal to the contribution to the housing incentive fund under section 54-17-40. For the purposes of the credit allowed in this subsection, subsections 2 through 8 of section 57-38-01.32 apply.

¹⁸¹ **SECTION 5. 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, 2010~~2012~~) 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 ~~fifteen~~twenty million dollars ~~per biennium~~. This limitation applies to

¹⁸¹ Section 57-38-01.32 was also amended by section 24 of House Bill No. 1106, chapter 443, section 28 of Senate Bill No. 2014, chapter 45, and section 10 of Senate Bill No. 2325, chapter 449.

- all contributions for which tax credits are claimed under section 57-35.3-05 and this section.
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 or financial institutions 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 partnership, subchapter S corporation, limited partnership, limited liability company, or any other 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 6. EFFECTIVE DATE - EXPIRATION DATE. Sections 4 and 5 of this Act are effective for the first two taxable years beginning after December 31, 2012, and are thereafter ineffective.

SECTION 7. EMERGENCY. Sections 1 through 3 of this Act are declared to be an emergency measure.

Approved May 3, 2013
Filed May 7, 2013

CHAPTER 407

SENATE BILL NO. 2079

(Industry, Business and Labor Committee)
(At the request of the Housing Finance Agency)

AN ACT to create and enact a new section to chapter 54-17 of the North Dakota Century Code, relating to the authority of the housing finance agency.

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:

Housing finance agency as wholesale servicing mortgage lender.

The business and transactions of the housing finance agency in addition to other matters specified in this chapter may include anything that any corporation or limited liability company lawfully may do in conducting a wholesale servicing mortgage lending business, except as it is restricted by the provisions of this chapter. This provision may not be held in any way to limit or qualify either the powers of the industrial commission granted by or the functions of the housing finance agency as defined in this chapter. The powers of the industrial commission and the functions of the housing finance agency must be implemented through actions taken and policies adopted by the industrial commission. For purposes of this chapter, a wholesale servicing mortgage lender is a mortgage loan wholesaler that neither solicits mortgage applications nor deals directly with mortgage loan applicants, it purchases loans from mortgage originators, pools the loans, and then sells them to private or governmental investors while retaining the servicing rights.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 408

HOUSE BILL NO. 1278

(Representatives Porter, Carlson)
(Senators Lyson, Wardner)

AN ACT to create and enact chapter 54-17.8 of the North Dakota Century Code, relating to the North Dakota outdoor heritage fund; to amend and reenact subsection 1 of section 57-51-15 of the North Dakota Century Code, relating to the oil and gas gross production tax; to provide an appropriation; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸² **SECTION 1.** Chapter 54-17.8 of the North Dakota Century Code is created and enacted as follows:

54-17.8-01. Definitions.

1. "Advisory board" means the North Dakota outdoor heritage advisory board.
2. "Commission" means the industrial commission.
3. "Fund" means the North Dakota outdoor heritage fund.

54-17.8-02. North Dakota outdoor heritage fund - Continuing appropriation.

There is created a North Dakota outdoor heritage fund that is governed by the commission. Any money deposited in the fund is appropriated on a continuing basis to the commission for the purposes of this chapter. Interest earned by the fund must be credited to the fund. The commission shall keep accurate records of all financial transactions performed under this chapter.

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 to:
 - a. Provide access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen;
 - b. Improve, maintain, and restore water quality, soil conditions, plant diversity, animal systems, and to support other practices of stewardship to enhance farming and ranching;
 - c. Develop, enhance, conserve, and restore wildlife and fish habitat on private and public lands; and

¹⁸² Section 54-17.8-06 was amended by section 3 of House Bill No. 1017, chapter 17.

- d. Conserve natural areas for recreation through the establishment and development of parks and other recreation areas.
2. The commission 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.

54-17.8-04. Commission to staff advisory board.

The commission shall operate, manage, and control the outdoor heritage fund and provide staffing for the meetings.

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 a nonprofit organization;
2. 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. Accept donations, grants, contributions, and gifts from any public or private source; and
4. Adopt policies and rules necessary to effectuate the purposes of this chapter.

54-17.8-06. North Dakota outdoor heritage advisory board - Members.

1. There is created a North Dakota outdoor heritage advisory board consisting of twelve members. The governor shall appoint representatives from each of the groups listed in this section based upon recommendations made by the appropriate group. The advisory board consists of:
 - a. Four members from the agriculture community. The governor shall appoint one member from the North Dakota farm bureau, North Dakota farmers union, the North Dakota stockmen's association, and the North Dakota grain growers association.

- b. Two members from the energy industry. The governor shall appoint one member from the North Dakota petroleum council and one member from the lignite energy council.
 - c. Four members from the conservation community. The governor shall appoint one member from ducks unlimited of North Dakota, the North Dakota natural resources trust fund, the North Dakota chapter of pheasants forever, and the conservation community at large.
 - d. One member from the business community from the greater North Dakota chamber.
 - e. One member from the North Dakota recreation and park association.
2. The governor also shall appoint to the advisory board one representative from each of the following agencies to serve as ex officio, nonvoting technical members: the department of parks and recreation, the game and fish department, the office of the state forester, and the North Dakota association of soil conservation districts.
 3. The term of office of each member of the board is four years and members may not serve more than two consecutive terms. The terms of office commence on the first day of July. The initial terms for the advisory board members must be staggered following a method determined by the board.
 4. The advisory board shall select a chairman from among the members. Seven voting members is a quorum at any meeting.
 5. The advisory board shall have at least two regular meetings each year and additional meetings as the chairman determines necessary at a time and place to be fixed by the chairman. Special meetings must be called by the chairman on written request of any five members.
 6. The advisory board shall recommend to the commission the approval of grants for funding activities that fulfill the purposes of this chapter.
 7. Members of the advisory board appointed by the governor serve at the pleasure of the governor.

54-17.8-07. Report to the budget section of the legislative management.

The advisory board shall provide a biennial report to the budget section of the legislative management.

¹⁸³ **SECTION 2. AMENDMENT.** Subsection 1 of section 57-51-15 of the North Dakota Century Code is amended and reenacted 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

¹⁸³ Section 57-51-15 was also amended by section 10 of House Bill No. 1333, chapter 277, and section 2 of House Bill No. 1358, chapter 471.

- 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; ~~and~~
 - 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; and
 - d. Allocate the remaining revenues under subsection 3.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 409

SENATE BILL NO. 2129

(Senators Laffen, Cook, Sorvaag)
(Representatives N. Johnson, Kreun, Sukut)

AN ACT to amend and reenact section 54-21.3-04.1 of the North Dakota Century Code, relating to the state building code and accessibility standards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-21.3-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-21.3-04.1. Accessibility standards - Automatic doors.

1. ~~Notwithstanding section 54-21.3-04, every building or facility subject to the federal Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327] must conform to the accessibility standards of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities 2010 Americans with Disabilities Act standards for accessible design as contained in the appendix to title 28, Code of Federal Regulations, parts 35 and 36 [28 CFR 35 and 36]. State and political subdivision entities may not claim the exceptions to the requirement that elevators be installed in certain buildings as those exceptions are stated in exception 1 to section 4.1.3(5) and in section 4.1.6(1)(k)(i) in the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36. A structural change to an existing state or political subdivision building or facility is not required if another method is effective in achieving compliance with regulations adopted under Public Law 101-336. For public accommodations, an alternative to a structural change in existing buildings or facilities is permitted only after it has been documented, in accordance with regulations adopted under Public Law 101-336, that a particular structural change is not readily achievable.~~
2. A state agency or the governing body of a political subdivision shall require from any ~~person~~individual preparing plans and specifications for a building or facility subject to the Americans with Disabilities Act of 1990 [Pub. L. 101-336; 104 Stat. 327], a statement that the plans and specifications are, in the professional judgment of that ~~person~~individual, in conformance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities found in the appendix to 28 CFR 36, ~~subject to the exception stated in this section~~standards for accessible design as provided under subsection 1. A statement of conformance must be submitted to the department of commerce division of community services for recording.
3. After July 31, 2013, a newly designed and constructed building in excess of seven thousand five hundred square feet [696.77 square meters] which is classified within the state building code as assembly, business, educational, institutional, or mercantile occupancy and required by the state building code to be accessible must include at the primary exterior public entrance an automatic door or power-assisted manual door that complies with the

requirements of the Americans with Disabilities Act of 1990, revised 2010. If a multiple unit building does not have a primary exterior public entrance, an individual unit within that building is not required to include an automatic door or power-assisted manual door unless that individual unit is in excess of seven thousand five hundred square feet [696.77 square meters].

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 410

HOUSE BILL NO. 1118

(Government and Veterans Affairs Committee)
(At the request of the Department of Corrections and Rehabilitation)

AN ACT to amend and reenact sections 12-47-06 and 54-23.3-05 of the North Dakota Century Code, relating to the appointing authority of the director of the department of corrections and rehabilitation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-47-06 of the North Dakota Century Code is amended and reenacted as follows:

12-47-06. Appointment of officers.

~~The director of the division of adult services with the concurrence of the director of the department of corrections and rehabilitation shall appoint the warden. The warden may be removed by the director of the division of adult services with the approval of the director of the department of corrections and rehabilitation for misconduct, neglect of duty, incompetency, or other proper cause showing an inability or refusal to properly perform the duties of the office. All other officers and employees must be appointed by the warden, subject to the approval of the director of the division of adult services. The warden shall show in the record of any officer or employee who is discharged by the warden the reason therefor.~~director of the department of corrections and rehabilitation.

SECTION 2. AMENDMENT. Section 54-23.3-05 of the North Dakota Century Code is amended and reenacted as follows:

54-23.3-05. Appointment and removal of officers.

~~The director of the department of corrections and rehabilitation with the approval of the governor may appoint a director of the division of juvenile services, a director of the division of adult services, and other division directors and personnel as deemed necessary for the effective and efficient operation of the department. The director of the division of juvenile services, the director of the division of adult services, and other division directors who may be appointed shall meet qualifications as established for the classified service. The division directors may be removed by the director of the department, with the approval of the governor, for misconduct, neglect of duty, incompetency, or other cause showing an inability or refusal to properly perform the duties of their office. All other officers and employees of each division must be appointed and removed by the director of the division, subject to the approval of the director of the department of corrections and rehabilitation. All officers and employees of the department of corrections and rehabilitation are subject to the provisions of the state personnel policies.~~

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 411

HOUSE BILL NO. 1155

(Representatives Delmore, Hogan, K. Koppelman, Maragos)
(Senators Lyson, Nelson)

AN ACT to amend and reenact subsection 4 of section 54-23.4-06 of the North Dakota Century Code, relating to compensation for criminally injurious conduct reporting requirement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 54-23.4-06 of the North Dakota Century Code is amended and reenacted as follows:

4. Compensation may not be awarded unless the criminally injurious conduct resulting in injury or death was reported to a law enforcement officer within ~~seventy-two~~ninety-six hours after its occurrence or the division finds there was good cause for the failure to report within that time. In the case of child abuse or sexual molestation of a child, the criminally injurious conduct must be reported to a law enforcement officer within three years after the child reaches the age of majority.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 412

SENATE BILL NO. 2033

(Legislative Management)
(Information Technology Committee)

AN ACT to amend and reenact section 54-35-15.2, subsection 8 of section 54-59-05, and section 54-59-23 of the North Dakota Century Code, relating to the definition of a large information technology project.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35-15.2 of the North Dakota Century Code is amended and reenacted as follows:

54-35-15.2. Information technology committee - Powers and duties.

The information technology committee has continuing existence and may meet and conduct its business during the legislative session and in the interim between sessions. The committee shall:

1. Meet at least once each calendar quarter.
2. Receive a report from the chief information officer of the state at each meeting.
3. Review the business plan of the information technology department.
4. Review macro-level issues relating to information technology.
5. Review the activities of the information technology department.
6. Review statewide information technology standards.
7. Review the statewide information technology plan.
8. Review information technology efficiency and security.
9. Review established or proposed information technology programs and information technology acquisition by the executive and judicial branches.
10. Except as provided in subsection 11, 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 agency regarding any major information technology project of an executive branch agency. For the purposes of this subsection, a major project is a project with a total cost of ~~two~~five hundred ~~thirty~~five thousand dollars or more.

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 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 cost of ~~two hundred fifty thousand dollars or more in one biennium~~ or a total cost of five hundred thousand dollars or more.
12. Receive and review information from the information technology department and the affected agency regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and ~~two~~five hundred ~~thirty~~ thousand dollars as determined necessary by the information technology department.
13. Receive a report from the chief information officer regarding the recommendations of the state information technology advisory committee relating to the prioritization of proposed major information technology projects and other information technology issues.
14. Receive and review information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the affected legislative or judicial branch agency regarding any information technology project of the legislative or judicial branch with a total cost of ~~two~~five hundred ~~thirty~~ thousand dollars or more.
15. Receive information from the state board of higher education regarding higher education information technology planning, services, and major projects.

SECTION 2. AMENDMENT. Subsection 8 of section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and ~~two~~five hundred ~~thirty~~ thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.

SECTION 3. AMENDMENT. Section 54-59-23 of the North Dakota Century Code is amended and reenacted as follows:

54-59-23. Information technology projects - Reports.

1. An executive, legislative, or judicial branch agency, except for institutions under the control of the state board of higher education, shall report to the state information technology advisory committee according to guidelines developed by the department and reviewed by the state information technology advisory committee regarding the plan for and status of any information technology project that is estimated to cost more than ~~two~~five hundred ~~fifty~~ thousand dollars.
2. During the life of the project, the agency shall notify the state information technology advisory committee if:
 - a. At a project milestone, the amount expended on project costs exceeds the planned budget for that milestone by twenty percent or more; or
 - b. At a project milestone, the project schedule extends beyond the planned schedule to attain that milestone by twenty percent or more.
3. A report under subsection 2 must specify corrective measures being undertaken to address any cost or time of completion issue. If the agency has not taken adequate corrective measures within ninety days after the report, the agency shall submit a report to the legislative management's information technology committee regarding the project.
4. Upon completion of the project, the agency shall notify the state information technology advisory committee if:
 - a. The budget for the project exceeded the original budget by twenty percent or more; or
 - b. The final project completion date extended beyond the original project scheduled completion date by twenty percent or more.

Approved March 19, 2013

Filed March 19, 2013

CHAPTER 413

SENATE BILL NO. 2047

(Legislative Management)
(Tribal and State Relations Committee)

AN ACT to amend and reenact section 54-35-23 of the North Dakota Century Code, relating to the committee on tribal and state relations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35-23 of the North Dakota Century Code is amended and reenacted as follows:

54-35-23. (~~Effective through July 31, 2013~~) Committee on tribal and state relations - Membership - Duties.

1. The committee on tribal and state relations is composed of seven members as follows:
 - a. A chairman designated by the chairman of the legislative management;
 - b. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives; and
 - c. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one of whom must be selected by the leader representing the minority faction of the senate.
2. The committee shall meet at such times and places as determined by the chairman. The legislative council shall provide staffing for the committee.
3. The committee shall conduct joint meetings with the North Dakota tribal governments' task force to study tribal-state issues, including government-to-government relations, human services, education, corrections, and issues related to the promotion of economic development. ~~During the 2011-12 interim, the committee also shall study whether the members of the North Dakota tribal governments' task force should be voting members of the committee.~~ After the joint meetings have concluded, the committee shall meet to prepare a report on its findings and recommendations, together with any legislation required to implement those recommendations, to the legislative management.
4. The members of the committee are entitled to compensation from the legislative council for attendance at committee 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.

5. a. The North Dakota tribal governments' task force is composed of six members as follows:
- (1) The executive director of the Indian affairs commission, or the executive director's designee;
 - (2) The chairman of the Standing Rock Sioux Tribe, or the chairman's designee;
 - (3) The chairman of the Spirit Lake Tribe, or the chairman's designee;
 - (4) The chairman of the Three Affiliated Tribes of the Fort Berthold Reservation, or the chairman's designee;
 - (5) The chairman of the Turtle Mountain Band of Chippewa Indians, or the chairman's designee; and
 - (6) The chairman of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, or the chairman's designee.
- b. If the executive director of the Indian affairs commission or any of the tribal chairmen appoint a designee to serve on the task force, only one individual may serve as that designee during the biennium. A substitute designee may be appointed by the executive director of the Indian affairs commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee.

Approved April 19, 2013
Filed April 19, 2013

CHAPTER 414

HOUSE BILL NO. 1173

(Representatives Klemin, Kretschmar, Glasshiem)
(Senators Carlisle, Oehlke, Triplett)

AN ACT to amend and reenact section 54-35-24 of the North Dakota Century Code, relating to the expiration date of the commission on alternatives to incarceration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35-24 of the North Dakota Century Code is amended and reenacted as follows:

54-35-24. (Effective through August 1, 2013~~2017~~) Commission on alternatives to incarceration.

1. The commission on alternatives to incarceration is composed of:
 - a. Three members appointed by the governor, one of whom must be an academic researcher with specialized knowledge of criminal justice sentencing practices and sentencing alternatives;
 - b. The attorney general or the attorney general's designee;
 - c. Two members appointed by the chief justice of the supreme court;
 - d. The director of the department of corrections and rehabilitation;
 - e. The director of the department of human services;
 - f. Two local law enforcement officers appointed by the attorney general;
 - g. One state's attorney appointed by the North Dakota state's attorney's association;
 - h. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives;
 - i. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one of whom must be selected by the leader representing the minority faction of the senate; and
 - j. One representative of the North Dakota association of counties appointed by the association of counties.
2. The chairman of the legislative management shall select the chairman and vice chairman of the commission from the legislative members of the commission.

3. The commission shall meet at the times and places as determined by the chairman. The legislative council shall provide staffing for the commission.
4. The commission shall study sentencing alternatives, mandatory sentences, treatment options, the expanded use of problem-solving courts, home monitoring, and other related issues. If the commission determines that consultant services are necessary to assist the commission in conducting its assigned studies, the commission may request funding for consultant services from the legislative council and other interested entities. The commission shall provide to the governor information and recommendations for the governor's consideration in time for inclusion of the recommendations in the biennial executive budget. The commission shall report its findings and recommendations together with any legislation required to implement those recommendations to the legislative management.
5. The members of the commission 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 legislative council. A state employee who is a member of the commission must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency. The members of the commission who are members of the legislative assembly are entitled to compensation from the legislative council for attendance at commission 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.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 415

HOUSE BILL NO. 1034

(Legislative Management)
(Health Care Reform Review Committee)

AN ACT to provide for a legislative management study of health care reform.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - HEALTH CARE REFORM. During the 2013-14 interim, the legislative management shall study health care reform options, including the implementation of the federal Affordable Care Act if the federal law remains in effect and state alternatives for state-based health care reform if the federal law is repealed. As part of this study, the insurance commissioner, state department of health, and department of human services shall provide status reports on the state of health insurance and health-related public assistance. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 416

HOUSE BILL NO. 1051

(Legislative Management)
(Workers' Compensation Review Committee)

AN ACT to provide for a workers' compensation review committee study of the workers' compensation preferred provider program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. WORKERS' COMPENSATION REVIEW COMMITTEE STUDY - PREFERRED PROVIDER PROGRAM. During the 2013-14 interim, the workers' compensation review committee shall study the workforce safety and insurance preferred provider program created under sections 65-05-28.1 and 65-05-28.2. The committee may conduct this study by including the study as one of the elements to be evaluated in the workforce safety and insurance independent performance evaluation conducted under section 65-02-30. The study should include consideration of the legislative history and intent of creation of the program; whether the program has been successful in furthering the intent of the program; the qualifications of the preferred providers and preferred provider networks selected by employers under the program; whether employers and employees have benefited under the program and whether there are any associated costs to the program; the process workforce safety and insurance utilizes in considering whether to allow an employee to opt-out of the program; and whether employers and employees participating in the program are familiar with the terms of the program. The committee shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 417

HOUSE BILL NO. 1132

(Representatives Nathe, Headland, Owens, Porter)
(Senators Cook, Miller)

AN ACT to provide for a legislative management study of the feasibility and desirability of making political subdivision budget information accessible on the state budget database website and finding better ways to inform taxpayers regarding political subdivision budget or levy deliberations and regarding legislative property tax relief.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - BUDGET AND PROPERTY TAX RELIEF INFORMATION. During the 2013-14 interim, the legislative management shall assign to the advisory commission on intergovernmental relations a study of the feasibility and desirability of making political subdivision budget information accessible on the state budget database website and finding better ways to inform taxpayers regarding political subdivision budget or levy deliberations and regarding legislative property tax relief. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 418

HOUSE BILL NO. 1424

(Representatives Boehning, Grande, Gruchalla,
Guggisberg, S. Kelsh, Paur, Thoreson, Wieland)
(Senators Flakoll, Grindberg, Mathern)

AN ACT to provide for a legislative management study of the feasibility and desirability of participating in the provision of nontraditional healing therapies for posttraumatic stress, traumatic brain injury, and other neurological conditions for North Dakota veterans and their families.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - NONTRADITIONAL THERAPIES FOR POSTTRAUMATIC STRESS, TRAUMATIC BRAIN INJURY, AND OTHER NEUROLOGICAL CONDITIONS. During the 2013-14 interim, the legislative management shall consider studying the feasibility and desirability of participating in the provision of nontraditional healing therapies, including massage, healing touch, reflexology, stress management, yoga, and hyperbaric chamber treatments, for North Dakota veterans, military personnel, and their families. If conducted, the study must also gather information regarding the needs of women veterans. The legislative management shall report its findings and recommendations, together with any legislation to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 16, 2013
Filed April 16, 2013

CHAPTER 419

HOUSE BILL NO. 1454

(Representatives M. Nelson, Holman)

AN ACT to provide for a legislative management study of access to dental services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ACCESS TO DENTAL SERVICES. During the 2013-14 interim, the legislative management shall consider studying how to improve access to dental services and ways to address dental service provider shortages, including the feasibility of utilizing mid-level providers, whether the use of incentives for dental service providers to locate in underserved areas in the state may improve access, and whether the state's medical assistance reimbursement rates impact access to dental services. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 18, 2013

Filed April 18, 2013

CHAPTER 420

SENATE BILL NO. 2078

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

AN ACT to provide for a legislative management study of the assessment of fees by courts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ASSESSMENT OF FEES BY COURTS. During the 2013-14 interim, the legislative management shall consider studying the assessment of fees by courts, the feasibility and desirability of combining various court fees, and whether courts should be mandated to impose fees established by statute. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 421

SENATE BILL NO. 2124

(Senators Cook, Flakoll, Sorvaag)
(Representatives Kreun, Streyle, Trottier)

AN ACT to provide for the legislative management to study methods to assure that the legacy fund provides the lasting benefits intended by the voters in enacting the constitutional measure.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT LEGACY FUND STUDY. The constitutional measure that established the legacy fund provides that principal and earnings of the legacy fund may not be expended until after June 30, 2017. Before that date is the opportune time to formulate legislative priorities for appropriate uses of the fund to implement the vision of North Dakota citizens who enacted the constitutional provision. Thorough consideration must be given to the most judicious and beneficial policies for administration and use of the legacy fund to secure the most benefits for future generations of North Dakotans. The legislative management shall study methods to assure that the legacy fund provides the lasting benefits intended by the voters in enacting the constitutional measure and the legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 422

SENATE BILL NO. 2234

(Senators Grindberg, Laffen, Mathern)
(Representatives Heilman, Keiser, Thoreson)

AN ACT to provide for a legislative management study of voice over internet protocol service.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - VOICE OVER INTERNET PROTOCOL SERVICE. During the 2013-14 interim, the legislative management shall consider studying voice over internet protocol service and the effect of this service and other technologies on the telecommunications industry, including any desired changes in regulation and taxation. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 423

SENATE BILL NO. 2243

(Senators J. Lee, Unruh, Mathern)
(Representatives Hofstad, J. Nelson, Weisz)

AN ACT to provide for a legislative management study of behavioral health needs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - BEHAVIORAL HEALTH.

During the 2013-14 interim, the legislative management shall consider studying behavioral health needs. The study must include consideration of behavioral health needs of youth and adults and the scope of the study must include consideration of 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 legislative council may contract for consulting and coordination of study services to assist the legislative management in conducting the behavioral health study. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 424

SENATE BILL NO. 2244

(Senators Heckaman, Axness, Warner)
(Representatives Frantsvog, Boschee, Oversen)

AN ACT to provide for a legislative management study relating to child care services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - CHILD CARE SERVICES.

During the 2013-14 interim, the legislative management shall consider studying the availability of and access to child care services in the state and the state's role in ensuring available and accessible child care services in the state. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 26, 2013
Filed April 23, 2013

CHAPTER 425

SENATE BILL NO. 2279

(Senators Holmberg, Campbell, Cook)
(Representatives Owens, Sanford, Trottier)

AN ACT to provide for a legislative management study of the forestry stewardship tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - FORESTRY STEWARDSHIP TAX. During the 2013-14 interim, the legislative management shall consider studying the benefits and implications on tax policy of the forestry stewardship tax. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 426

SENATE BILL NO. 2339

(Senators Laffen, Schneider)

AN ACT to provide for a legislative management study to create an inventory and strategic plan relating to residential and commercial development programs and infrastructure and to provide for a study of programs providing residential and commercial development assistance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PROGRAMS FOR RESIDENTIAL AND COMMERCIAL DEVELOPMENT AND RELATED INFRASTRUCTURE. During the 2013-14 interim, the legislative management shall consider a study to create an inventory of and strategic plan for state, local, and federal programs relating to residential and commercial development and related infrastructure needs, including the option to create a low-interest revolving loan program for municipal infrastructure. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 2. HOUSING FINANCE AGENCY INVENTORY OF PROGRAMS PROVIDING RESIDENTIAL AND COMMERCIAL DEVELOPMENT ASSISTANCE - LEGISLATIVE MANAGEMENT STUDY. During the 2013-14 interim, the housing finance agency, working with the Bank of North Dakota and department of commerce, shall survey appropriate state, local, and federal entities to create an inventory of government programs, including housing finance programs, energy efficiency programs, home and residential accessibility programs, disaster recovery programs, and other governmental programs providing residential and commercial development assistance. The housing finance agency shall present this inventory to the legislative management and shall identify program overlap and program gaps.

Approved April 24, 2013

Filed April 24, 2013

CHAPTER 427

SENATE BILL NO. 2340

(Senators Sitte, Luick, Triplett)
(Representatives Becker, Boehning, Kasper)

AN ACT to provide for a legislative management study of penalties for minor nonviolent crimes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PENALTIES FOR MINOR NONVIOLENT CRIMES. During the 2013-14 interim, the legislative management shall consider studying the sentencing alternatives to incarceration for first-time felony offenses that are nonviolent, excluding the distribution of drugs. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 428

SENATE BILL NO. 2375

(Senators Axness, Mathern, Murphy, Robinson)
(Representatives Hogan, Strinden)

AN ACT to provide for a legislative management study of home and community-based services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - HOME AND COMMUNITY-BASED SERVICES. The legislative management shall consider studying, during the 2013-14 interim, home and community-based services in the state, including the need to expand the home and community-based services medicaid waiver to cover twenty-four-hour emergency assistance, adult companion service, behavioral programming, chore services, customized living services, environmental modifications, and transition modification support. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 3, 2013
Filed April 3, 2013

CHAPTER 429

HOUSE BILL NO. 1099

(Representatives Schmidt, Streyle, Owens, Kempenich)
(Senators Dever, Schaible)

AN ACT to amend and reenact sections 54-44.1-04 and 54-44.1-06 of the North Dakota Century Code, relating to agency budget requests and the preparation of budget data.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-44.1-04 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-04. (Effective through July 31, 2013) 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 budget estimates for the North Dakota university system must include block grants for the university system for a base funding component and for an initiative funding component for specific strategies or initiatives and a budget estimate for an asset funding component for renewal and replacement of physical plant assets at the institutions of higher education. 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 in the director's discretion 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 designates 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.

(Effective after July 31, 2013) 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. 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 2. AMENDMENT. Section 54-44.1-06 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-06. (Effective through July 31, 2013) Preparation of the budget data - Contents.

The director of the budget, through the office of the budget, shall prepare budget data which must contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by the detailed schedules of assets and liabilities as the director of the budget determines desirable, which must include the following:
 - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
 - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.

3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
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.
5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of proposed general and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit must be specified in a separate section of the general appropriations act. The draft of the proposed appropriations act for the North Dakota university system must include block grants for a base funding appropriation and for an initiative funding appropriation for specific strategies or initiatives and an appropriation for asset funding for renewal and replacement of physical plant assets at the institutions of higher education.
8. A list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium.

9. Any other information as the director of the budget determines desirable or as is required by law.

(Effective after July 31, 2013) Preparation of the budget data - Contents. The director of the budget, through the office of the budget, shall prepare budget data which must contain and include the following:

1. Summary statements of the financial condition of the state, accompanied by the detailed schedules of assets and liabilities as the director of the budget determines desirable, which must include the following:
 - a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and
 - b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

2. Statements of actual revenue for the previous biennium, the first year of the present biennium, and the estimated revenue of the current fiscal year and of the next biennium, and a statement of unappropriated surplus expected to have accrued in the state treasury at the beginning of the next fiscal year. The statement of unappropriated surplus for the general fund must reflect any projected deficiency appropriations relating to expenditures from the general fund for the present biennium. The statements of revenue and estimated revenue must be classified by sources and by budget unit collecting them. Existing sources of revenue must be analyzed as to their equity, productivity, and need for revision, and any proposed new sources of revenue must be explained.
3. Summary statements of expenditures of the previous biennium and first year of the present biennium, itemized by budget units and classified as prescribed by the director of the budget.
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.

5. A detailed statement showing the estimate of all moneys required to be raised or appropriated for the payment of interest upon the funded debt of the state and its other obligations bearing interest, and the amount of money required to be contributed in the two next ensuing fiscal years to the general sinking funds maintained for the redemption and payment of the debts of the state.
6. A summary statement of the unappropriated fund balance estimated to be available at the beginning of the next biennium, and the estimated revenue of the next biennium, as compared with the total recommended amounts of appropriation for all classes of expenditures for the next biennium, and if the total of the recommended expenditures exceeds the total of the estimated resources, recommendations as to how the deficiency is to be met and estimates of any proposed additional revenue.
7. Drafts of a proposed general appropriations act and special appropriations acts embodying the budget data and recommendations of the governor for appropriations for the next biennium and drafts of such revenues and other acts recommended by the governor for putting into effect the proposed financial plan. The recommended general appropriation for each budget unit must be specified in a separate section of the general appropriations act.
8. A list of every individual asset or service, excluding real estate, with a value of at least fifty thousand dollars and every group of assets and services comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement or debt financing arrangement by a state agency or institution. The list must include assets or services acquired in the current biennium and anticipated assets or services to be acquired in the next biennium.
9. The number of permanent full-time employee positions and permanent part-time employee positions authorized for each budget unit for the previous biennium and the current biennium and proposed for the next biennium.
10. Any other information as the director of the budget determines desirable or as is required by law.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 430

SENATE BILL NO. 2119

(Transportation Committee)

(At the request of the Office of Management and Budget)

AN ACT to amend and reenact subsection 3 of section 39-04.2-01 and section 54-44.4-13 of the North Dakota Century Code, relating to cooperative purchasing and public transportation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 39-04.2-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Transportation provider" means a political subdivision, tribal agency, or any nonprofit corporation that provides transportation to the public, especially to elderly and handicapped citizens.

SECTION 2. AMENDMENT. Section 54-44.4-13 of the North Dakota Century Code is amended and reenacted as follows:

54-44.4-13. Cooperative purchasing.

1. The office of management and budget shall purchase commodities or services as requested by agencies and institutions under the jurisdiction of the state board of higher education and the legislative and judicial branches of state government.
2. The office of management and budget and the agencies and institutions under the jurisdiction of the state board of higher education shall make joint purchases of like commodities or services of high common usage when the office of management and budget and the state board of higher education determine it is in the best interest of the state.
3. The director of the office of management and budget or the director's designee may agree to purchase commodities or services under contracts entered into by the United States general services administration or contracts of other government entities if it is determined to be in the best interest of the state after consideration of price, contractual terms and conditions, and the availability of competition from approved vendors under section 54-44.4-09.
4. The director of the office of management and budget or the director's designee may participate in, sponsor, or administer a cooperative purchasing agreement with one or more government entities or a nonprofit organization established on behalf of public entities for the procurement of commodities or services in accordance with an agreement entered into between the participants.
5. The director of the office of management and budget or the director's designee may coordinate with the director of the department of transportation or the director's designee to establish or participate in contracts which may be

made available to entities that have been determined by the department of transportation to be transportation providers under chapter 39-04.2 eligible to receive state funds or federal funds for public transportation.

6. Cooperative purchasing may include open-ended contracts that are available to other government entities or nonprofit organizations established on behalf of public entities, tribal agencies, or transportation providers determined to be eligible under this section.
- 6-7. Before entering into a cooperative purchasing agreement under this section, the office of management and budget must determine that the contracts were awarded through full and open competition or source selection methods specified in section 54-44.4-05 and shall send notice to approved vendors of the office's intent to make a cooperative purchase in accordance with this chapter.

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

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 431

HOUSE BILL NO. 1452

(Representatives Kasper, Belter, Carlson, Dosch,
Grande, Keiser, Klein, Ruby, Streytle)
(Senators Grindberg, Hogue, Klein)

AN ACT to create and enact a new section to chapter 39-03.1 and a new section to chapter 54-52 of the North Dakota Century Code, relating to expiration of the increase in highway patrolmen's retirement plan and public employees retirement system member and employer contributions; to amend and reenact sections 39-03.1-09 and 39-03.1-10, subsection 4 of section 54-52-01, sections 54-52-02.9, 54-52-05, 54-52-06, 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52.6-01, subsection 6 of section 54-52.6-02, and sections 54-52.6-02 and 54-52.6-09 of the North Dakota Century Code, relating to increased employer and employee contributions under the highway patrolmen's retirement plan and public employees retirement system and eligibility to participate in the defined contribution retirement plan; to provide for a legislative management study; to provide an appropriation; 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 39-03.1-09 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-09. Payments by contributors - Employer payment of employee contribution.

1. Every member, except as provided in section 39-03.1-07, shall contribute into the fund ten and thirty-hundredths percent of the member's monthly salary, which sum must be deducted from the member's salary and credited to the member's account in the fund. Member 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 monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.~~
2. The state of North Dakota, at its option, may pay the member contributions required by subsection 1 for all compensation earned after June 30, 1983, and may pay the member contributions required to purchase service credit on a pretax basis pursuant to subsection 8 of section 39-03.1-08.2. The amount paid must be paid by the state in lieu of contributions by the member. A member may not receive the contributed amounts directly once the employer has elected to pay the member contributions. If the state decides not to pay the contributions, the amount that would have been paid will continue to be deducted from compensation. If contributions are paid by the state, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the state, they must not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The state shall pay these member

contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. If member contributions are paid by the state, they must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made prior to the date the contributions were assumed by the state. The option given employers by this subsection must be exercised in accordance with rules adopted by the board.

3. For compensation earned after August 1, 2009, all employee contributions required under subsection 1, and not otherwise paid under subsection 2, must be paid by the state in lieu of contributions by the member. All contributions paid by the state under this subsection must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the state under this subsection may not be included as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the state in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the state. The state shall pay these member contributions from the same source of funds used in paying compensation to the members. The state shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The state shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by law.

SECTION 2. AMENDMENT. Section 39-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-10. Contributions by the state.

The state shall contribute to the fund a sum equal to sixteen and seventy-hundredths percent of the monthly salary or wage of a participating member. State contributions increase by one percent of the monthly salary or wage of a participating member 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, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the member's contribution is paid by the state under subsection 2 of section 39-03.1-09, the state shall contribute, in addition, an amount equal to the required member's contribution. The state shall pay the associated employer contribution for those members who elect to exercise their rights under subsection 3 of section 39-03.1-10.1.

SECTION 3. A new section to chapter 39-03.1 of the North Dakota Century Code is created and enacted as follows:

Reduction in member and employer contributions.

The required increase in the amount of member and employer contributions under sections 1 and 2 of this Act must be reduced to the rate in effect on the effective date of this Act effective on the July first that follows the first valuation of the highway patrolmen's retirement plan showing a ratio of the actuarial value of assets to the

actuarial accrued liability of the highway patrolmen's retirement plan that is equal to or greater than one hundred percent.

SECTION 4. AMENDMENT. Subsection 4 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. Eligible employee does not include ~~nonclassified state employees who elect to become members of the retirement plan established under chapter 54-52.6 but does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board.~~

SECTION 5. AMENDMENT. Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

54-52-02.9. Participation by temporary employees.

A temporary employee may elect, within one hundred eighty days of beginning employment, to participate in the public employees retirement system and receive credit for service after enrollment. The temporary employee shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional two percent increase, beginning with the reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent employee. A temporary employee may not purchase any additional credit, including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

SECTION 6. AMENDMENT. Section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

54-52-05. Membership and assessments - Employer payment of employee contributions.

1. Every eligible governmental unit employee concurring in the plan must so state in writing and all future eligible employees are participating members. 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 in the retirement plan, 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.

2. Each member must be assessed and required to pay monthly four percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. Member contributions increase by one percent of the monthly salary or wage paid to the member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.
3. Each employer, at its option, may pay all or a portion of the employee contributions required by subsection 2 and sections 54-52-06.1, 54-52-06.2, 54-52-06.3, and 54-52-06.4 or the employee contributions required to purchase service credit on a pretax basis pursuant to subsection 5 of section 54-52-17.4. Employees may not receive the contributed amounts directly once the employer has elected to pay the employee contributions. The amount paid must be paid by the employer in lieu of contributions by the employee. If the state determines not to pay the contributions, the amount that would have been paid must continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. If contributions are paid by the employer, they may not be included as gross income of the employee in determining tax treatment under this code and the Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee or from the levy authorized by subsection 5 of section 57-15-28.1. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a contribution of a reduction in gross salary and offset against future salary increases. If employee contributions are paid by the employer, they must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were assumed by the employer. An employer exercising its option under this subsection shall report its choice to the board in writing.
4. For compensation earned after August 1, 2009, all employee contributions required under section 54-52-06.1 and the job service North Dakota retirement plan, and not otherwise paid under subsection 3, must be paid by the employer in lieu of contributions by the member. All contributions paid by the employer under this subsection must be treated as employer contributions in determining tax treatment under this code and the Internal Revenue Code. Contributions paid by the employer under this subsection may not be included

as gross income of the member in determining tax treatment under this code and the Internal Revenue Code until the contributions are distributed or made available. Contributions paid by the employer in accordance with this subsection must be treated for the purposes of this chapter in the same manner and to the same extent as member contributions made before the date the contributions were assumed by the employer. The employer shall pay these member contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee. The employer shall continue making payments under this section unless otherwise specifically provided for under the agency's biennial appropriation or by amendment to law.

SECTION 7. AMENDMENT. Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06. Employer's contribution to retirement plan.

Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage of a participating member 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, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. For those members who elect to exercise their rights under section 54-52-17.14, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from its funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

SECTION 8. AMENDMENT. Section 54-52-06.1 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06.1. Contribution by supreme and district court judges - Employer contribution.

Each judge of the supreme or district court who is a member of the public employees retirement system must be assessed and required to pay monthly five percent of the judge's monthly salary. Member contributions increase by one percent of the judge'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, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the judge's salary in equal monthly installments. The state shall contribute an amount equal to fourteen and fifty-two one-hundredths percent of the monthly salary of a supreme or district court judge who is a participating member of the system, which matching contribution must be paid from its funds appropriated for salary, or from any other funds available for such purposes. State contributions increase by one percent of the monthly salary of a supreme or district court judge who is a participating member of the system beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the judge's contribution is paid by the state under subsection 3 of section 54-52-05, the state shall contribute, in addition, an amount equal to the required judge's contribution.

SECTION 9. 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. 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 10. AMENDMENT. Section 54-52-06.3 of the North Dakota Century Code is amended and reenacted as follows:

54-52-06.3. Contribution by peace officers and correctional officers employed by political subdivisions - Employer contribution.

Each peace officer or correctional officer employed by a political subdivision that enters into an agreement with the retirement board on behalf of its peace officers and correctional officers separately from its other employees and 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 or correctional officer contributions increase by one-half of one percent of the member's monthly salary beginning with

the monthly reporting period of January 2012, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one-half of one percent, beginning with the monthly reporting period of January 2014. The assessment must be deducted and retained out of the employee's salary in equal monthly installments. The peace officer's or correctional 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. If the peace officer's or correctional 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 correctional officer's assessment.

SECTION 11. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Reduction in member and employer contributions.

The required increase in the amount of member and employer contributions under sections 5, 6, 7, 8, 9, 10, 13, and 15 of this Act must be reduced to the rate in effect on the effective date of this Act 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.

SECTION 12. AMENDMENT. Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-01. Definition of terms.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.
2. "Deferred member" means a person who elected to receive deferred vested retirement benefits under chapter 54-52.
3. "Eligible employee" means a permanent state employee, ~~except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by North Dakota human resource management services. If a participating member loses permanent employee status and becomes a temporary employee, the member may still participate in the defined contribution retirement plan who elects to participate in the retirement plan under this chapter.~~
4. "Employee" means any person employed by the state, whose compensation is paid out of state funds, or funds controlled or administered by the state or paid by the federal government through any of its executive or administrative officials.
5. "Employer" means the state of North Dakota.
6. "Participating member" means an eligible employee who elects to participate in the defined contribution retirement plan established under this chapter.

7. "Permanent employee" means a state employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
8. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

¹⁸⁴ **SECTION 13. AMENDMENT.** Subsection 6 of section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

6. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the board within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.

¹⁸⁵ **SECTION 14. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-02. Election.

1. ~~The board shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on September 30, 2001, and who has not made a written election under this section to transfer to the~~

¹⁸⁴ Section 54-52.6-02 was also amended by section 14 of House Bill No. 1452, chapter 431.

¹⁸⁵ Section 54-52.6-02 was also amended by section 13 of House Bill No. 1452, chapter 431.

~~defined contribution retirement plan before October 1, 2001, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section 54-52.6-03, an election made by an eligible employee under this section is irrevocable. The board shall accept written elections under this section from eligible employees during the period beginning on July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. An eligible employee who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, 2001; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective December 31, 2001. This section does not affect a person's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after September 30, 2001, may make an election to participate in the defined contribution retirement plan established under this chapter at any time during the first six months after the date of employment. If the board, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the board may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window.~~

- ~~2. If an individual who is a deferred member of the public employees retirement system on September 30, 2001, is reemployed and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The board shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's reemployment and ending upon the expiration of six months after the date of that reemployment. If the board, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the board may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of~~

the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.

3. An eligible employee who elects to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service or becomes employed by a political subdivision that participates in the public employees retirement system. The contribution amount must be as provided in this chapter, regardless of the position in which the employee is employed. Notwithstanding the irrevocability provisions of this chapter, if a member who elects to participate in the retirement plan established under this chapter becomes a supreme or district court judge, becomes a member of the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of the board who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by the board, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.
4. After consultation with its actuary, the board shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred 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 board may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances. The board shall provide an opportunity for eligible employees who are new members of the public employees retirement system under chapter 54-52 to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the board. An election made by a member of the public employees retirement system under chapter 54-52 to transfer to the defined contribution retirement plan under this chapter is irrevocable. For an individual who elects to transfer membership from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the board shall transfer a lump sum amount from the public employees retirement system fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment prior to

receiving the lump sum transfer under this section, the election made is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter. This section does not affect an individual's right to health benefits or retiree health benefits under chapter 54-52.1.

- 5-2. If the board receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
- 6-3. A participating member who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the board within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee. The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve-hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the reporting period of January 2013. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.
- 7-4. A former participating member who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before reenrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

SECTION 15. AMENDMENT. Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-09. Contributions - Penalty.

1. Each participating member shall contribute monthly four percent of the monthly salary or wage paid to the participant, and this assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant 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, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.

2. The employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. The employer shall pay monthly such contribution into the participating member's account from its funds appropriated for payroll and salary or any other funds available for such purposes. If the employer fails to pay the contributions monthly, it is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.
3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the board in writing.

SECTION 16. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA RETIREMENT PLANS. During the 2013-14 interim, the legislative management shall consider studying the feasibility and desirability of existing and possible state retirement plans. The study must include an analysis of both a defined benefit plan and a defined contribution plan with considerations and possible consequences for transitioning to a state defined contribution plan. The study may not be conducted by the employee benefits programs committee. The legislative management shall report its findings and recommendations, together with any legislation needed to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 17. APPROPRIATION. There is appropriated from special funds derived from public employees retirement system income not otherwise appropriated, the sum of \$22,000, or so much of the sum as may be necessary, to the public

employees retirement system board for the purpose of implementing this Act, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 18. EFFECTIVE DATE. Sections 4, 12, and 14 of this Act become effective on October 1, 2013.

SECTION 19. EXPIRATION DATE - SUSPENSION. Sections 4, 12, and 14 of this Act are effective through July 31, 2017, and after that date are ineffective. Section 54-52.6-03 is suspended from October 1, 2013, through July 31, 2017. Section 54-52.6-03, as it existed on September 30, 2013, becomes effective on August 1, 2017.

Approved May 1, 2013

Filed May 1, 2013

CHAPTER 432

SENATE BILL NO. 2060

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System Board)

AN ACT to create and enact a new section to chapter 54-52.6 of the North Dakota Century Code, relating to plan modifications to the public employees retirement system defined contribution retirement plan required to maintain compliance with the Internal Revenue Code; to amend and reenact sections 39-03.1-11.2, 39-03.1-29, subsection 11 of section 54-52-04, sections 54-52-17, 54-52-23, 54-52-28, 54-52.3-03, and 54-52.6-13 of the North Dakota Century Code, relating to incorporation of Internal Revenue Code compliance under the highway patrolmen's retirement plan and public employees retirement system, updating appropriate committee designations for the savings clauses under the highway patrolmen's retirement plan and public employees retirement system, the board's authority to fund administrative expenses, normal retirement dates for a peace officer or correctional officer, normal retirement dates for a national guard security officer or firefighter, normal retirement dates for a peace officer employed by the bureau of criminal investigation, removal of the level social security retirement benefit option under the public employees retirement system, defrayal of expenses associated with the pretax benefits program, and distribution of a deceased participant's accumulated account balance under the defined contribution retirement plan; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 in effect on August 1, ~~2014~~2013, 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 2. AMENDMENT. Section 39-03.1-29 of the North Dakota Century Code is amended and reenacted as follows:

39-03.1-29. Savings clause - Plan modifications.

If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee ~~on public employees retirement programs~~. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

SECTION 3. AMENDMENT. Subsection 11 of section 54-52-04 of the North Dakota Century Code is amended and reenacted as follows:

11. The board shall fund the administrative expenses of chapter 54-52.2 from funds collected under chapters 54-52, 54-52.1, and 54-52.3 and from fines and fees collected from deferred compensation services providers, including any fees paid for by participant funds, subject to appropriation by the legislative assembly.

SECTION 4. AMENDMENT. Section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

54-52-17. Formulation of plan.

Participating members shall receive benefits according to this section and according to rules adopted by the board, not inconsistent with this chapter. No person is entitled to receive a prior service benefit if the person was not continuously employed by a governmental unit in North Dakota for a period of not less than two years immediately prior to eligibility for retirement.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, postponed retirement date, or early retirement date, as defined in this section. Part-time employment will be recognized as full-time employment on a prorated basis as the board may prescribe.
2. Retirement benefits are calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred twenty months of employment. For members who terminate employment on or after August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the last one hundred eighty months of employment. For members who terminate employment between July 31, 2005, and August 1, 2010, final average salary is the average of the highest salary received by the member for any thirty-six months employed during the period for which the board has appropriate and accurate salary records on its electronic database, but that period may not be more than the last one hundred eighty months of employment. Months not employed are excluded in arriving at the thirty-six months to be used for the purpose of computing an average. If the participating member has worked for less than thirty-six months at the normal retirement date, the final average salary is the average salary for the total months of employment.
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 ~~consecutive~~eligible years of employment as a national guard security officer or firefighter ~~immediately preceding retirement~~.
- 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 ~~consecutive~~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 ~~consecutive~~eligible years of employment as a peace officer ~~immediately preceding retirement~~; 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.

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, 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. 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.
5. Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.
 6. If before retiring a member dies after completing three years of eligible employment, except for supreme and district court judges, who must have completed five years of eligible employment, the board shall pay the member's account balance to the member's designated beneficiary as provided in this subsection. If the member has designated an alternate beneficiary with the surviving spouse's written consent, the board shall pay the member's account balance to the named beneficiary. If the member has named more than one primary beneficiary, the board shall pay the member's account balance to the named primary beneficiaries in the percentages designated by the member or, if the member has not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the member, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the member, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the member. If there are no remaining primary beneficiaries, the board shall pay the member's account balance to the contingent beneficiaries in the same manner. If there are no remaining designated beneficiaries, the board shall pay the member's account balance to the member's estate. If the member has not designated an alternate beneficiary or the surviving spouse is the beneficiary, the surviving spouse of the member may select a form of payment as follows:
 - a. If the member was a supreme or district court judge, the surviving spouse may select one of the following optional forms of payment:
 - (1) A lump sum payment of the member's retirement account as of the date of death.

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- (2) Payments as calculated for the deceased member as if the member was of normal retirement age at the date of death, payable until the spouse dies.
 - b. The surviving spouse of all other members may select one of the following options:
 - (1) A lump sum payment of the member's retirement account as of the date of death.
 - (2) Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
 - (3) If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity, payable until the spouse dies. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.
 7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. The board automatically shall refund a member's account balance if the member has completed less than three years of eligible employment, has an account balance of less than one thousand dollars, and was not a supreme or district court judge. If the member was a supreme or district court judge, the board automatically shall refund a member's account balance if the member completed less than five years of eligible employment. A member may waive the refund if the member submits a written statement to the board, within thirty days after termination, requesting that the member's account balance remain in the fund.
 8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member receiving retirement benefits or the member's surviving spouse receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to the named beneficiary of the recipient or, if there is no named beneficiary, to the recipient's estate.
 9. The board shall adopt rules providing for the receipt of retirement benefits in the following optional forms:
 - a. Single life.

- b. An actuarially equivalent joint and survivor option, with fifty percent or one hundred percent options.
- c. ~~An actuarially equivalent level social security option, which is available only to members who retire prior to attaining the age at which they may begin to receive unreduced social security benefits.~~
- d. Actuarially equivalent life with ten-year or twenty-year certain options.
- e.d. An actuarially equivalent partial lump sum distribution option with a twelve-month maximum lump sum distribution.
- f.e. An actuarially equivalent graduated benefit option with either a one percent or two percent increase to be applied the first day of January of each year.

Except for supreme and district court judges, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a single life benefit. For supreme and district court judges, unless a member specifically requests that the member receive benefits according to one of these options at the time of applying for retirement, all retirement benefits must be in the form of a lifetime monthly pension with fifty percent of the benefit continuing for the life of the surviving spouse, if any.

- 10. The fund may accept rollovers from other eligible plans under rules adopted by the board for the purchase of additional service credit, but only to the extent the transfer is a rollover contribution that meets the requirement of section 408 of the Internal Revenue Code.
- 11. The board may accept trustee-to-trustee transfers as permitted by Internal Revenue Code section 403(b)(13) and section 457(e)(17) from an Internal Revenue Code section 403(b) annuity or Internal Revenue Code section 457 deferred compensation plan for the purchase of permissive service credit, as defined in Internal Revenue Code section 415(n)(3)(A) or as repayment of a cashout from a governmental plan under Internal Revenue Code section 415(k)(3).
- 12. The board may establish individual retirement accounts and individual retirement annuities as permitted under section 408(q) of the Internal Revenue Code to allow employees to make voluntary employee contributions. The board may adopt rules to implement and administer the accounts and annuities under this section.

SECTION 5. AMENDMENT. Section 54-52-23 of the North Dakota Century Code is amended and reenacted as follows:

54-52-23. Savings clause - Plan modifications.

If the board determines that any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee ~~on public employees retirement programs~~. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative

assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

SECTION 6. 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, ~~2014~~2013, 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 7. AMENDMENT. Section 54-52.3-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52.3-03. Employer savings used to defray expenses of administering program - Continuing appropriation.

The office of management and budget shall transfer funds from the savings accruing to the agencies' salaries and wages line item, as a result of the diminution of the state's employer contribution for the Federal Insurance Contribution Act tax, to a payroll clearing account. The office of management and budget shall transfer funds from the payroll clearing account to the board as necessary to defray the reasonable expenses of administering the pretax benefits program established under this chapter, including expenses associated with the program's medical spending account. Any revenue collected by the board from participating district health units must be used, and is hereby appropriated, to defray the expenses of administering the program. The amount necessary to pay consultants retained by the board, vendors retained by the board to provide claims administration services, any insurance costs associated with the medical spending account, and medical reimbursements for the medical spending account if funds are insufficient to pay claims are hereby appropriated from the savings and revenue generated by the program. All other expenses of administering the program must be paid in accordance with the agency's appropriation authority as established by the legislative assembly. The director of the office of management and budget may decrease or suspend the transfer of the savings accruing to the agencies' salaries and wages line item to the payroll clearing account upon determination that the funds deposited under this section are sufficient to offset anticipated obligations. Notwithstanding other provisions in this section, the public employees retirement system board, or any successor state agency, may not establish, enroll, or administer any pretax benefits program for a political subdivision or any other public or private business or entity, except for any program established specifically for employees of the state and employees of district health units.

SECTION 8. AMENDMENT. Section 54-52.6-13 of the North Dakota Century Code is amended and reenacted as follows:

54-52.6-13. Distributions.

1. A participating member is eligible to receive distribution of that person's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant is considered to belong to the deceased participant's refund beneficiary, if any, of that deceased participant as provided in this subsection. If a valid nomination of the deceased participant designated an alternate refund

~~beneficiary is not on file with the surviving spouse's written consent, the board, the board, in a lump sum distribution, shall distribute the accumulated balance to a legal representative, if any, of the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouse's written consent, the board shall pay the accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the deceased participant, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the deceased participant, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the deceased participant. If there is no legal representative remaining primary beneficiary, to the board shall pay the accumulated account balance of that deceased participant to the contingent beneficiaries in the same manner. If there is no remaining designated beneficiary, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's estate. If the deceased participant had not designated an alternate refund beneficiary or the surviving spouse is the refund beneficiary, the surviving spouse of the deceased participant may select a form of payment as provided in subsection 3(d).~~

3. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
 - a. A lump sum distribution to the recipient.
 - b. A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
 - c. Periodic distributions, as authorized by the board.
 - d. No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.

~~A surviving spouse beneficiary may elect one or a combination of several of the methods of distribution provided in subdivisions a, b, or c if the surviving spouse is the sole refund beneficiary. If the surviving spouse is not the sole refund beneficiary who is not the surviving spouse, the refund beneficiary may only choose a lump sum distribution of the accumulated balance.~~

4. If the former participating member's vested account balance is less than one thousand dollars, the board shall automatically refund the member's vested account balance upon termination of employment. The member may waive the refund if the member submits a written statement to the board, within one hundred twenty days after termination, requesting that the member's vested account balance remain in the plan.

SECTION 9. A new section to chapter 54-52.6 of the North Dakota Century Code is created and enacted as follows:

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 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.

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 433

HOUSE BILL NO. 1058

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System Board)

AN ACT to amend and reenact sections 54-52.1-02, 54-52.1-03.2, and 54-52.1-03.3 of the North Dakota Century Code, relating to benefit coverage and health benefits credit for retired employees not eligible for medicare and retired employees eligible for medicare under the uniform group insurance program; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.1-02 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-02. Uniform group insurance program created - Formation into subgroups.

In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high-grade individuals to enter and remain in the service of state employment, there is created a uniform group insurance program. The uniform group must be composed of eligible and retired employees and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in this chapter. The uniform group may be divided into the following subgroups at the discretion of the board:

1. Medical and hospital benefits coverage group consisting of active eligible employees and retired employees not eligible for medicare, except for employees who first retire after the effective date of this Act and are not eligible for medicare on their retirement. In determining premiums for coverage under this subsection for retired employees not eligible for medicare, the rate for a non-medicare retiree single plan is one hundred fifty percent of the active member single plan rate, the rate for a non-medicare retiree family plan of two people is twice the non-medicare retiree single plan rate, and the rate for a non-medicare retiree family plan of three or more persons is two and one-half times the non-medicare retiree single plan rate.
2. In addition to the coverage provided in subsection 1, another coverage option may be provided for retired employees not eligible for medicare, except for employees who first retire after the effective date of this Act and are not eligible for medicare on their retirement, provided the option does not increase the implicit subsidy as determined by the governmental accounting standards board's other postemployment benefit reporting procedure. In offering this additional option, the board may have an open enrollment but thereafter enrollment for this option must be as specified in section 54-52.1-03.
3. Retired medicare-eligible employee group medical and hospital benefits coverage.

4. Active eligible employee life insurance benefits coverage.
5. Retired employee life insurance benefits coverage.
6. Terminated employee continuation group medical and hospital benefits coverage.
7. Terminated employee conversion group medical and hospital benefits coverage.
8. Dental benefits coverage.
9. Vision benefits coverage.
10. Long-term care benefits coverage.
11. Employee assistance benefits coverage.
12. Prescription drug coverage.

SECTION 2. AMENDMENT. Section 54-52.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.2. Retiree health benefits fund - Appropriation.

1. The board shall establish a retiree health benefits fund account with the Bank of North Dakota for the purpose of prefunding and providing hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for retired eligible employees or surviving spouses of retired eligible employees and their dependents as provided in this chapter. The state shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries and wages of all participating members of the highway patrolmen's retirement system under chapter 39-03.1, and one and fourteen hundredths percent of the monthly salaries of all supreme or district court judges who are participating members of the public employees retirement system under chapter 54-52. Each governmental unit that contributes to the public employees retirement system fund under section 54-52-06 or the retirement plan under chapter 54-52.6 shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all participating members of the public employees retirement system under chapter 54-52 or chapter 54-52.6, except for nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13 and employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14. For nonteaching employees of the superintendent of public instruction who elect to participate in the public employees retirement system pursuant to section 54-52-02.13, the superintendent of public instruction shall contribute monthly to the retiree health benefits fund an amount equal to three and twenty-four hundredths percent of the monthly salaries or wages of those nonteaching employee members, beginning on the first of the month following the transfer under section 54-52-02.13 and continuing thereafter for a period of eight years, after which time the superintendent of public instruction shall contribute

one and fourteen hundredths percent of the monthly salary or wages of those nonteaching employee members. For employees of the state board for career and technical education who elect to participate in the public employees retirement system pursuant to section 54-52-02.14, the state board for career and technical education shall contribute monthly to the retiree health benefits fund an amount equal to two and ninety-nine hundredths percent of the monthly salary or wages of those employee members, beginning on the first of the month following the transfer under section 54-52-02.14 and continuing thereafter for a period of eight years, after which time the state board for career and technical education shall contribute one and fourteen hundredths percent of the monthly salary or wages of those employee members. The employer of a national guard security officer or firefighter shall contribute monthly to the retiree health benefits fund an amount equal to one and fourteen hundredths percent of the monthly salaries or wages of all national guard security officers or firefighters participating in the public employees retirement system under chapter 54-52. Job service North Dakota shall reimburse monthly the retiree health benefits fund for credit received under section 54-52.1-03.3 by members of the retirement program established by job service North Dakota under section 52-11-01. The board, as trustee of the fund and in exclusive control of its administration, shall:

- a. Provide for the investment and disbursement of moneys of the retiree health benefits fund and administrative expenditures in the same manner as moneys of the public employees retirement system are invested, disbursed, or expended.
 - b. Adopt rules necessary for the proper administration of the retiree health benefits fund, including enrollment procedures.
2. All moneys deposited in the fund established under subsection 1, not otherwise appropriated, are hereby appropriated to the board for the purpose of making investments for the fund and to make contributions toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for eligible retired employees or surviving spouses of eligible retired employees and their dependents under the uniform group insurance program as elected.
 3. If a member terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, the member or the member's designated beneficiary is entitled to the member's account balance at termination. If a member's account balance is withdrawn, the member relinquishes all rights to benefits under the retiree health benefits fund.

SECTION 3. AMENDMENT. Section 54-52.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.3. Eligibility for retiree health benefits - Fixed contribution and reduction factors.

1. The following persons are entitled to receive credit for hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program under subsection 2:

- a. A member or surviving spouse of the highway patrolmen's retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
 - b. A member or surviving spouse of the public employees retirement system is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
 - c. A member or surviving spouse of the retirement program established by job service North Dakota under section 52-11-01 receiving retirement benefits is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
 - d. A retired judge or surviving spouse receiving retirement benefits under the retirement program established under chapter 27-17 is eligible for the credit beginning on the date retirement benefits are effective unless the premium is billed to the employer.
 - e. A former participating member of the defined contribution retirement plan receiving retirement benefits, or the surviving spouse of a former participating member of that retirement plan who was eligible to receive or was receiving benefits, under section 54-52.6-13, is eligible as determined by the board pursuant to its rules.
2. The board shall calculate the allowable monthly credit toward hospital and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program for a person eligible under subsection 1 in an amount equal to five dollars multiplied by the member's or deceased member's number of years of credited service under the highway patrolmen's retirement system, the public employees retirement system, the retirement program established by job service North Dakota under section 52-11-01, or the judges' retirement program established under chapter 27-17. For a member of the public employees retirement system receiving an early retirement benefit or the surviving spouse of that member, or a former participating member of the defined contribution retirement plan who is receiving a periodic distribution and would not meet the normal retirement provisions of the public employees retirement system, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of sixty-four. For a member of the highway patrolmen's retirement system receiving an early retirement benefit or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of fifty-five and an additional reduction factor of six percent shall apply for each year the member terminates employment prior to attaining the age of fifty-four. For a member of the retirement program established by job service North Dakota under section 52-11-01 receiving an early retirement benefit or a discontinued service annuity under the plan provisions of that retirement program or the surviving spouse of that member, the allowable monthly credit must be reduced by three percent if the member terminates employment within one year prior to attaining the age of sixty-five and an additional reduction factor of six percent

applies for each year the member terminates employment prior to attaining the age of sixty-four.

3. The board shall apply the credit allowable under subsection 2 as elected by the eligible participant to the payment of monthly premiums required of each person eligible under subsection 1 for hospital benefits coverage and medical benefits coverage and prescription drug coverage under any health insurance program and dental, vision, and long-term care benefits coverage under the uniform group insurance program. The board shall allow spouses who each have credit under subsection 2 to combine their credits and shall apply the combined credit to the required monthly premiums ~~under the uniform group insurance program~~ as elected pursuant to this subsection. However, if the allowable credit under any circumstance exceeds the monthly premium in effect for selected coverage, that amount of the credit which exceeds the premium is forfeited and may not be used for any other purpose.
4. The board may, as an alternative to the calculation of the allowable monthly credit under subsection 2, provide actuarially reduced benefit options for the member and the member's surviving spouse including a one hundred percent joint and survivor option, or a fifty percent joint and survivor option, ~~or a five-year or ten-year certain option~~.

SECTION 4. CONTINGENT EFFECTIVE DATE. This Act becomes effective on July 1, 2015, the effective date for the implementation of state health care exchanges as specified under section 1321 of the Patient Protection and Affordable Care Act of 2010 [Pub. L. 111-148] in effect on March 23, 2010, as modified by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] in effect on March 30, 2010, or no later than the first day of the fourth month after a date subsequently designated by the United States department of health and human services for the implementation of state health care exchanges.

Approved March 27, 2013

Filed March 27, 2013

CHAPTER 434

HOUSE BILL NO. 1059

(Government and Veterans Affairs Committee)
(At the request of the Public Employees Retirement System Board)

AN ACT to amend and reenact sections 54-52.1-03.1, 54-52.1-03.4, and 54-52.1-18 of the North Dakota Century Code, relating to withdrawal of a political subdivision from the uniform group insurance program, the definition of an eligible employee, payment of the cost of uniform group insurance premiums for temporary employees, and the health savings account option offered to political subdivisions as part of the high-deductible health plan alternative under the uniform group insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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.

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 2. 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. A temporary employee employed on or after August 1, 2007, is only eligible to participate in the uniform group insurance program if the employee is employed at least twenty hours per week and at least twenty weeks each year of employment. A temporary employee first employed after December 31, 2013, is eligible to participate in the uniform group insurance program only if the employee meets 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 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 3. 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.

~~The board shall develop and implement a high-deductible health plan with a health savings account as an alternative to the plan under section 54-52.1-06. The high-deductible health plan alternative with a health savings account must be made available to state employees by January 1, 2012, and. The high-deductible health plan alternative may be offered, at the discretion of the board, to political subdivisions after June 30, 2013. Health savings account fees for participating state employees must be paid by the employer. The Subject to the limits of section 223(b) of the Internal Revenue Code [26 U.S.C. 223(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. For political subdivision employees, the board shall deposit into a health savings account for the benefit of the participating political subdivision employee, an amount equal to the difference between the primary plan premium as established by the board and the premium for the high-deductible health plan under this section. Each new 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 an open enrollment period allowing existing employees of a participating employer under this section to change their coverage.~~

Approved April 10, 2013

Filed April 10, 2013

CHAPTER 435

HOUSE BILL NO. 1202

(Representatives Streyle, Brabandt, Headland,
Nathe, Porter, Rohr, Thoreson, Toman)
(Senator Armstrong)

AN ACT to amend and reenact section 54-59-08 of the North Dakota Century Code, relating to use of wide area network services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-59-08 of the North Dakota Century Code is amended and reenacted as follows:

54-59-08. Required use of wide area network services.

Each state agency and institution that desires access to wide area network services and each county, city, and school district that desires access to wide area network services to transmit voice, data, or video outside that county, city, or school district shall obtain those services from the department. The chief information officer may exempt from the application of this section a county, city, or school district that demonstrates its current wide area network services are more cost-effective for or more appropriate for the specific needs of that county, city, or school district than wide area network services available from the department. For purposes of enhanced 911 and next generation 911 communications services, governmental entities are exempt from the provisions of this section. In selecting enhanced 911 and next generation 911 communication network providers, governmental entities shall select providers that are cost-effective, demonstrably reliable, and which follow interoperable standards set by the emergency services communications coordinating committee.

Approved April 29, 2013

Filed April 29, 2013

CHAPTER 436

SENATE BILL NO. 2034

(Legislative Management)
(Information Technology Committee)

AN ACT to create and enact a new section to chapter 54-59 of the North Dakota Century Code, relating to information technology projects and the creation of executive steering committees for information technology projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-59 of the North Dakota Century Code is created and enacted as follows:

Major information technology projects - Appointment of executive steering committees.

1. An executive branch state agency, excluding institutions under the control of the state board of higher education, proposing to conduct a major information technology project as described in subsection 10 of section 54-35-15.2, the department, and the office of management and budget, in consultation with the attorney general, shall collaborate on the procurement, contract negotiation, and contract administration of the project. The agency, the department, and the office of management and budget, in consultation with the attorney general, shall approve the solicitation, contract, or agreement, and any amendments relating to the project before submission to the executive steering committee as provided in subsection 3.
2. The procurement officer and primary project manager for a major information technology project must meet the qualifications established by the department and the office of management and budget.
3. An executive steering committee must be appointed to oversee each major information technology project. The agency project sponsor shall serve as chairman of the committee. The executive steering committee must consist of the director of the office of management and budget or a designee of the director, the chief information officer or a designee of the officer, the head of the agency contracting for the project or a designee, the project sponsor, and a large project oversight analyst designated by the chief information officer. The executive steering committee shall monitor the overall status of the project and review project decisions, including negotiation and execution of contracts, approval of project budgets, implementation of project schedules, assessment of project quality, and consideration of scope changes. Any project decision declared by a member of the committee to be a major project decision requires at least four affirmative votes.
4. An agreement or contract, including an amendment, revision, or scope change, for a major information technology project may not be entered unless signed by the head of the contracting agency or a designee and the chief information officer or a designee of the officer.

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 437

SENATE BILL NO. 2218

(Senators Wardner, Schaible, Warner)
(Representatives D. Johnson, Kasper, Boe)

AN ACT to provide workforce development grants to tribally controlled community colleges through the North Dakota department of commerce; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁶ SECTION 1.

Establishment of workforce development grant for tribally controlled community colleges.

There is established within the division of workforce development of the department of commerce a program to provide workforce development grants to tribally controlled community colleges in North Dakota. A tribally controlled community college in this state may apply to the department of commerce for a job training grant in such manner as the department of commerce prescribes. In order to qualify for a grant under this section, an applicant must be a tribally controlled community college not located on an Indian reservation or a tribally controlled community college located on an Indian reservation with an unemployment rate of greater than thirty percent. The department of commerce shall consult with the executive director of the Indian affairs commission to determine eligible tribally controlled community colleges.

SECTION 2.

Purpose of grants.

Any grant awarded under section 1 of this Act may be used at the discretion of the college:

1. For development 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. 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.

Any funds provided to tribally controlled community colleges must be used to supplement, not supplant, any existing program or funding source of the college.

¹⁸⁶ Section 54-60.2-01 was amended by section 22 of Senate Bill No. 2018, chapter 49.

SECTION 3.**Cooperation and collaboration with other agencies.**

To the maximum extent possible, a tribally controlled community college that receives a grant under this Act must endeavor to cooperate, collaborate, or partner with other tribal, state, or federal agencies or institutions that are providing economic development assistance or workforce training and development within the state, and the department of commerce shall assist in facilitating such cooperation and partnerships.

SECTION 4.**Use of grants.**

A grant awarded under this Act may be used to carry out the purposes specified in section 2 of this Act, including maintenance and operation of the program; development costs associated with any new or redesigned courses of instruction at the college; costs of instruction, including special programs for individuals with disabilities; and academic instruction and associated materials.

SECTION 5.**Reports to the department of commerce.**

On an annual basis, within sixty days of the end of each fiscal year of the biennium for which funds are appropriated under this Act, each tribally controlled community college receiving a grant under this Act shall provide to the department of commerce, in the form prescribed by the department, the following information:

1. A detailed report of expenditures under the grant;
2. The number of students assisted by the grant;
3. The graduation rate of students assisted by the grant and the graduation rate for all students at the college;
4. A description of any new or improved training or other program leading to a certificate or a degree which was developed by the college with funds provided by the grant and the types of jobs for which the new or improved training program is designed;
5. The placement rate of graduates of the college assisted by the grant in relation to the placement rate of all graduates of the college;
6. The rate of students assisted by the grant who pursue further educational opportunities immediately after graduation from the college; and
7. The number of jobs or businesses created as a result of funds provided by the grant.

SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, to the North Dakota department of commerce for the purpose of providing grants to tribally controlled community colleges under this Act for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 24, 2013
Filed April 24, 2013

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 438

SENATE BILL NO. 2259

(Senators Triplett, Warner)
(Representatives N. Johnson, Maragos, Glassheim)

AN ACT to create and enact a new subsection to section 55-08-01.3 of the North Dakota Century Code, relating to historic preservation at state parks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 55-08-01.3 of the North Dakota Century Code is created and enacted as follows:

Protect the historic, prehistoric, archaeological, and paleontological values of the designated historic site if a state park contains a designated historic site.

Approved March 27, 2013
Filed March 27, 2013

TAXATION

CHAPTER 439

SENATE BILL NO. 2093

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact section 57-01-15 of the North Dakota Century Code, relating to the use of tax information by the tax commissioner to enforce the tax laws in title 57.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-01-15 of the North Dakota Century Code is amended and reenacted as follows:

57-01-15. Use of tax information to administer tax laws.

For the purpose of properly administering the tax laws of this state, information filed by or on behalf of a person with the tax commissioner ~~pursuant to a tax law of this state under this title, including information obtained for the purpose of the valuation and assessment of centrally assessed property,~~ and any other information relating to that person which was either obtained by the tax commissioner pursuant to that tax law or furnished to the tax commissioner pursuant to section 6103 of the United States Internal Revenue Code of 1954, as amended [26 U.S.C. 6103], may be used by the tax commissioner to determine or enforce the tax liability, if any, of that person under any other tax law of this state that is administered by the tax commissioner under this title. This section does not apply to statements of full consideration filed with the state board of equalization under section 11-18-02.2.

Approved March 14, 2013
Filed March 15, 2013

CHAPTER 440

SENATE BILL NO. 2338

(Senators Cook, Hogue, Laffen, Schneider)
(Representatives Bellew, Kreun)

AN ACT to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, relating to a conditional exemption and payments in lieu of taxes for affordable rental residential property; to amend and reenact subsection 8 of section 57-02-08 of the North Dakota Century Code, relating to the property tax exemption for property owned by institutions of public charity; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁷ **SECTION 1. AMENDMENT.** Subsection 8 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

8. All buildings belonging to institutions of public charity, including public hospitals and nursing homes licensed pursuant to section 23-16-01 under the control of religious or charitable institutions, used wholly or in part for public charity, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit.
 - a. The exemption provided by this subsection includes any dormitory, dwelling, or residential-type structure, together with necessary land on which such structure is located, owned by a religious or charitable organization recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code which is occupied by members of said organization who are subject to a religious vow of poverty and devote and donate substantially all of their time to the religious or charitable activities of the owner.
 - b. ~~For purposes of this subsection and section 5 of article X of the Constitution of North Dakota, property is not used wholly or in part for public charity or charitable or other public purposes if that property is residential rental units leased to tenants based on income levels that enable the owner to receive a federal low-income housing income tax credit.~~

¹⁸⁸ **SECTION 2.** A new subsection to section 57-02-08 of the North Dakota Century Code is created and enacted as follows:

All residential rental property, inclusive of land and administrative and auxiliary buildings, used as affordable housing shall be exempt from taxation for the property's period of affordability.

¹⁸⁷ Section 57-02-08 was also amended by section 1 of House Bill No. 1300, chapter 441, and section 2 of Senate Bill No. 2338, chapter 440.

¹⁸⁸ Section 57-02-08 was also amended by section 1 of House Bill No. 1300, chapter 441, and section 1 of Senate Bill No. 2338, chapter 440.

- a. The property is exempt under this section if the housing finance agency certifies to the county director of tax equalization that on January 1, 2013, or thereafter, the residential rental property complies with the following:
 - (1) The property is subject to and in compliance with a land use restriction agreement that enumerates the mandatory income and rent restrictions;
 - (2) The property is owned by a qualified nonprofit entity, as defined in section 2 of the Internal Revenue Code [26 U.S.C. 421]. If under a partnership agreement or other legally enforceable instrument, a for-profit entity, such as a limited partner, has an ownership interest in the property, then the agreement must provide that the nonprofit entity must have the right of first refusal in any transfer of the ownership interest in the property. The partnership agreement or other legally enforceable instrument also must provide that any transfer of the ownership interest by the for-profit entity must be without financial gain; and
 - (3) The general partner or other ownership entity is owned or controlled by a nonprofit entity or a political subdivision.
- b. For projects beginning after December 31, 2012, the exemption begins for the first taxable year after the owners of the rental property receive a building permit from the local jurisdiction in which the affordable housing residential rental property will be located.
- c. If part of the residential rental property is not eligible to receive assistance through local, state, or federal affordable housing programs, the exemption under this section is calculated by dividing the number of income and rent-restricted units by the total number of rental units.
- d. In lieu of the ad valorem taxes that would otherwise be assessed, the project owners shall make a payment equal to five percent of the balance of the total annual rents collected during the preceding calendar year, minus the utility costs for the property paid by the owner of the property.
- e. If an affordable housing rental property fails to comply with the requirements of this section, or fails to comply with rent and household income restrictions under a local, state, or federal affordable housing program, on or before March fifteen of each calendar year, the housing finance agency shall notify the director of tax equalization and the state supervisor of assessments that the property is no longer eligible for the exemption.
- f. For the purposes of this subsection, "affordable housing" includes property eligible for or receiving assistance through a local, state, or federal affordable housing program and in which rent and household income restrictions apply, and which is owned by nonprofit entities organized for the purpose of providing affordable housing. Affordable housing is limited to residential rental property owned by or with a controlling ownership or management interest by an organization organized and operated exclusively for exempt purposes set forth in section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c) (3)].

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 441

HOUSE BILL NO. 1300

(Representatives K. Koppelman, Hatlestad,
Heilman, Karls, B. Koppelman, Ruby, Streyle)
(Senators Larsen, Luick, Sitte)

AN ACT to amend and reenact subsection 9 of section 57-02-08 of the North Dakota Century Code, relating to the property tax exemption for property of churches; and to provide for retroactive application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁸⁹ **SECTION 1. AMENDMENT.** Subsection 9 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

9. a. All buildings owned by any religious corporation or organization and used for the religious ~~services~~purposes of the organization, and if on the same parcel, dwellings with usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of services, land directly under and within the perimeter of those buildings, improved off-street parking or reasonable landscaping or sidewalk area adjoining the main church building, and up to a maximum of ~~two~~five additional acres [~~.84 hectare~~2.02 hectares] must be deemed to be property used exclusively for religious ~~services~~purposes, and exempt from taxation, whether the real property consists of one tract or more. If the residence of the bishop, priest, rector, or other minister in charge of services is located on property not adjacent to the church, that residence with usual outbuildings and land on which it is located, up to two acres [.81 hectare], is exempt from taxation.
- b. The exemption for a building used for the religious ~~services~~purposes of the owner continues to be in effect if the building in whole, or in part, is rented to another otherwise tax-exempt corporation or organization, provided no profit is realized from the rent.

SECTION 2. RETROACTIVE APPLICATION. This Act is retroactively effective and applies for taxable years beginning after December 31, 2010. The board of county commissioners may abate or refund taxes under this Act on its own motion or upon application of a property owner under chapter 57-23.

Approved April 29, 2013
Filed April 29, 2013

¹⁸⁹ Section 57-02-08 was also amended by section 1 of Senate Bill No. 2338, chapter 440, and was also amended by section 2 of Senate Bill No. 2338, chapter 440.

CHAPTER 442

SENATE BILL NO. 2171

(Senators Klein, Sorvaag, Dotzenrod)
(Representatives Dockter, Headland, Schmidt)

AN ACT to amend and reenact subsection 1 of section 57-02-08.1 of the North Dakota Century Code, relating to the homestead property tax credit; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁰ **SECTION 1. 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 ~~eighteen~~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 thousand five hundred dollars of taxable valuation.
 - (2) If the person's income is in excess of ~~eighteen~~twenty-two thousand dollars and not in excess of ~~twenty~~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 thousand six hundred dollars of taxable valuation.
 - (3) If the person's income is in excess of ~~twenty~~twenty-six thousand dollars and not in excess of ~~twenty-two~~thirty thousand dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand seven hundred dollars of taxable valuation.

¹⁹⁰ Section 57-02-08.1 was also amended by section 27 of House Bill No. 1015, chapter 15, and section 4 of House Bill No. 1106, chapter 443.

- (4) If the person's income is in excess of ~~twenty-two~~thirty thousand dollars and not in excess of ~~twenty-four~~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 thousand eight hundred dollars of taxable valuation.
- (5) If the person's income is in excess of ~~twenty-four~~thirty-four thousand dollars and not in excess of ~~twenty-six~~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 hundred 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 coowners 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, ~~excluding the unencumbered value of the person's residence that the person claims as a homestead,~~ exceeds seventy-five ~~five~~ hundred thousand dollars, including the value of any assets divested within the last three years. ~~For purposes of this subdivision, the unencumbered valuation of the homestead is limited to one hundred thousand dollars.~~
- 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 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012.

Approved May 3, 2013
Filed May 7, 2013

CHAPTER 443

HOUSE BILL NO. 1106

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to create and enact two new sections to chapter 57-02, three new sections to chapter 57-06, a new subsection to section 57-13-04, a new section to chapter 57-33.2, sections 57-36-09.6, 57-38-60.3, 57-39.2-15.3, 57-40.2-15.3, 57-43.1-17.5, 57-43.2-16.4, and 57-43.3-21.1 of the North Dakota Century Code, relating to notice of township, city, and county equalization meetings, collection and certification of electric generation, transmission, and distribution taxes, appeals to the state board of equalization, and the liability of a general partner of a limited liability limited partnership for unpaid taxes; to amend and reenact section 23-27-04.7, subsection 5 of section 57-02-08.1, subsection 17 of section 57-06-06, sections 57-06-17.3, 57-33.2-16, 57-35.3-07, and 57-38-01, subsection 5 of section 57-38-01.21, sections 57-38-01.22 and 57-38-01.23, subsection 2 of section 57-38-01.24, subsection 5 of section 57-38-01.25, subsections 2, 3, and 7 of section 57-38-01.26, subsection 9 of section 57-38-01.27, subsection 2 of section 57-38-01.31, subsection 9 of section 57-38-01.32, subsection 7 of section 57-38-01.33, subsections 6 and 12 of section 57-38-30.5, section 57-38.5-01, subsection 4 of section 57-38.5-03, section 57-38.6-01, subsection 4 of section 57-38.6-03, subsection 2 of section 57-39.2-04.8, and sections 57-40.2-15.2, 57-43.3-20, and 57-43.3-21 of the North Dakota Century Code, relating to the emergency medical services levy, the permanent and totally disabled property tax exemption certifications, public utility reports, collection and certification of transmission line property tax, liability of a general partner of a limited liability limited partnership for unpaid taxes, financial institutions tax credit for contributions to the housing incentive fund, income tax credit for blending biodiesel or green diesel fuel in this state, qualifying investments in angel funds, the definition of passthrough entity for income tax purposes, and the sales tax exemption for equipment and machinery used in a new coal mine; to repeal section 57-23-02 of the North Dakota Century Code, relating to notice of township and city equalization meetings; to provide a penalty; to provide a continuing appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-27-04.7 of the North Dakota Century Code is amended and reenacted as follows:

23-27-04.7. County reporting - Use of property tax levies.

The board of county commissioners of every county in this state shall conduct an annual review of the emergency medical services coverage within that county and shall submit an annual report to the state health officer in a format approved by the state department of health. A taxing district that levies a special emergency medical services or ambulance service levy shall ensure that every ambulance service that has portions of its service area in that taxing district receives a portion of the revenue from this tax. The taxing district shall allocate all of the special tax levy revenue to each ambulance service based upon the taxable value of the property within each

township of the taxing district, allocating the taxable value of each township collected in a particular township to the ambulance service that serves the largest area within that township.

SECTION 2. A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

Notice of township and city equalization meetings to be published - Date of equalization meeting.

Each year the county auditor shall publish in the official county newspaper for two successive weeks, a notice that proceedings for the equalization of assessments will be held by the several local equalization boards. The first publication of the notice may not be earlier than March first and the second publication may not be later than March twentieth. The notice must contain a statement that the proceedings will be held at the regular meeting place of the governing board or other place designated by that board of the township or city, as the case may be. The notice must also contain a statement that each taxpayer has the right to appear before the appropriate board of review or equalization and petition for correction of the taxpayer's assessment. The equalization proceedings in an organized township must be held on the second Monday in April and in a city on the second Tuesday in April.

SECTION 3. A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

Notice of county equalization meetings to be published - Date of equalization meeting.

Each year the county auditor shall publish in the official county newspaper for two successive weeks, a notice that proceedings for the equalization of assessments for all real property in the county will be held by the county board of equalization. The first publication of the notice may not be earlier than May first and the second publication may not be later than May twentieth, however, the second notice must be published more than ten days prior to the date of the meeting. The notice must contain the date, time, and location of the meeting. The notice must also contain a statement that each taxpayer has the right to appear before the appropriate board of review or equalization and petition for correction of the taxpayer's assessment. The county equalization proceedings must be held no later than June tenth.

¹⁹¹ **SECTION 4. AMENDMENT.** Subsection 5 of section 57-02-08.1 of the North Dakota Century Code is amended and reenacted as follows:

5. For the purposes of this section:
 - a. "Dependent" has the same meaning it has for federal income tax purposes.
 - b. "Homestead" has the same meaning as provided in section 47-18-01.
 - c. "Income" means income for the most recent complete taxable year from all sources, including the income of any dependent of the applicant, and including any county, state, or federal public assistance benefits, social security, or other retirement benefits, but excluding any federal rent

¹⁹¹ Section 57-02-08.1 was also amended by section 27 of House Bill No. 1015, chapter 15, and section 1 of Senate Bill No. 2171, chapter 442.

subsidy, any amount excluded from income by federal or state law, and medical expenses paid during the year by the applicant or the applicant's dependent which is not compensated by insurance or other means.

- d. "Medical expenses" has the same meaning as it has for statefederal income tax purposes, except that for transportation for medical care the person may use the standard mileage rate allowed for state officer and employee use of a motor vehicle under section 54-06-09.
- e. "Permanently and totally disabled" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months as established by a certificate from a licensed physician or a written determination of disability from the social security administration, or any federal or state agency that has authority to certify an individual's disability.

SECTION 5. A new section to chapter 57-06 of the North Dakota Century Code is created and enacted as follows:

Deposit of revenue - Report to treasurer.

The commissioner shall transfer revenue collected under section 57-06-17.3 to the state treasurer for deposit in the electric generation, transmission, and distribution tax fund. At the time of the transfer, the commissioner shall provide a report showing the information necessary for the state treasurer to allocate the revenue transferred under this section.

SECTION 6. A new section to chapter 57-06 of the North Dakota Century Code is created and enacted as follows:

Allocation - Continuing appropriation.

1. The electric generation, transmission, and distribution tax fund is appropriated as a continuing appropriation to the state treasurer for allocation and distribution to counties by April first of each year as provided in this section. The state treasurer shall make the necessary allocations to the counties based on the report received from the tax commissioner. The county auditors shall make the necessary allocations to the taxing districts.
2. Revenue from the tax on transmission lines under section 57-06-17.3 must be allocated among counties based on the mileage of transmission lines within each county. Revenue received by a county under this subsection must be allocated one-third to the county and two-thirds among the county and other taxing districts in the county based on the mileage of that transmission line where that line is located within each taxing district. Revenue from that portion of a transmission line located in more than one taxing district must be allocated among those taxing districts in proportion to the taxing district's most recent property tax mill rates that apply where the transmission line is located.

SECTION 7. A new section to chapter 57-06 of the North Dakota Century Code is created and enacted as follows:

Delinquent taxes - Penalty.

Taxes under section 57-06-17.3 are due January first for the preceding taxable year and are delinquent if not received by the commissioner by March first following the due date. If any amount of tax imposed by this chapter is not paid on or before March first, or if upon an additional audit additional tax is found to be due, there must be added to the tax due a penalty at the rate of one percent of the tax due for each month or fraction of a month during the first year during which the tax remains unpaid, computed from March first. Beginning on January first of the year following the year in which the taxes become due and payable, simple interest at the rate of twelve percent per annum upon the principal of the unpaid taxes must be charged until the taxes and penalties are paid, with the interest charges to be prorated to the nearest full month for a fractional year of delinquency.

SECTION 8. AMENDMENT. Subsection 17 of section 57-06-06 of the North Dakota Century Code is amended and reenacted as follows:

17. ~~Such other~~Other facts and information as the tax commissioner may require in ~~the form of returns prescribed by the tax commissioner or which the company may deem material upon the question of relating to the~~ taxation of its property in this state.

SECTION 9. 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 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 substations 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. ~~Revenues received by each county must be deposited in the county general fund.~~

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 10. A new subsection to section 57-13-04 of the North Dakota Century Code is created and enacted as follows:

A property owner may appeal the assessment, classification, and exempt status of the owner's property to the state board of equalization if the property owner was foreclosed from attending assessment proceedings because of the failure to substantially comply with the notice requirements in chapters 57-02 or 57-12, or because of an irregularity in the township, city, or county assessment proceedings.

SECTION 11. A new section to chapter 57-33.2 of the North Dakota Century Code is created and enacted as follows:

General partner in a limited liability limited partnership liability.

If a limited liability limited partnership taxable under this chapter fails for any reason to file the required returns or to pay the tax due, the general partners, jointly or severally, charged with the responsibility for the preparation of the returns and payment of the tax are personally liable for the partnership's failure. The dissolution of a limited liability limited partnership does not discharge a general partner's liability for a prior failure of the partnership to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the provisions of this chapter. If the general partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability limited partnership must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual tax liability of the limited liability limited partnership.

SECTION 12. AMENDMENT. Section 57-33.2-16 of the North Dakota Century Code is amended and reenacted as follows:

57-33.2-16. Corporate officer and limited liability company governor or manager liability.

If a corporation or limited liability company taxable under this chapter fails for any reason to file the required returns or pay the tax due, any of its officers, governors, or managers having control or supervision of, or charged with the responsibility for making, the returns and payments, are personally liable for the failure. The dissolution of a corporation or limited liability company does not discharge an officer's, a governor's, or a manager's liability for a prior failure of the corporation or limited liability company to make a return or remit the tax due. The sum due for such a liability may be assessed and collected under this chapter for the assessment and collection of other liabilities. If the officers, governors, or managers elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation or limited liability company must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual tax liability of the corporation or limited liability company.

SECTION 13. AMENDMENT. Section 57-35.3-07 of the North Dakota Century Code is amended and reenacted as follows:

57-35.3-07. (Effective for the first two taxable years beginning after December 31, 2010) Payment of tax.

Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credits allowed under subsections 1, 3, 4, and 5 of section 57-35.3-05, must be paid to the tax commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the tax commissioner on or before January fifteenth of the year after the return is due. Payment must be made in the manner prescribed by the tax commissioner.

(Effective after the first two taxable years beginning after December 31, 2010) Payment of tax. Three-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credits allowed under subsections 1, 3, and 4 of section 57-35.3-05 and section 4 of House Bill No. 1029 if approved by the sixty-third legislative assembly, must be paid to the tax commissioner on or before April fifteenth of the year in which the return is due, regardless of any extension of the time for filing the return granted under section 57-35.3-06. Ten-thirteenths of the tax before credits allowed under section 57-35.3-05, less the credit allowed under subsection 2 of section 57-35.3-05, must be paid to the tax commissioner on or before January fifteenth of the year after the return is due. Payment must be made in the manner prescribed by the tax commissioner.

SECTION 14. Section 57-36-09.6 of the North Dakota Century Code is created and enacted as follows:

57-36-09.6. General partner in a limited liability limited partnership liability.

1. If a limited liability limited partnership taxable under this chapter fails for any reason to file the required returns or to pay the tax due, the general partners, jointly or severally, charged with the responsibility for the preparation of the returns and payment of the tax are personally liable for the partnership's failure. The dissolution of a limited liability limited partnership does not discharge a general partner's liability for a prior failure of the partnership to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the provisions of this chapter.
2. If the general partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability limited partnership must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual tax liability of the limited liability limited partnership.

SECTION 15. AMENDMENT. Section 57-38-01 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Chronically mentally ill" means a person who, as a result of a mental disorder, exhibits emotional or behavioral functioning which is so impaired as to interfere substantially with the person's capacity to remain in the community without verified supportive treatment or services of a long-term or indefinite

duration. This mental disability must be severe and persistent, resulting in a long-term limitation of the person's functional capacities for primary activities of daily living such as interpersonal relationships, homemaking, self-care, employment, and recreation.

2. "Corporation" includes associations, business trusts, joint stock companies, and insurance companies.
3. "Developmental disability" has the same meaning as defined in section 25-01.2-01.
4. "Domestic" when applied to a corporation means created or organized under the laws of North Dakota.
5. "Federal Internal Revenue Code of 1954, as amended", "United States Internal Revenue Code of 1954, as amended", and "Internal Revenue Code of 1954, as amended", mean the United States Internal Revenue Code of 1986, as amended. Reference to the Internal Revenue Code of 1954, as amended, includes a reference to the United States Internal Revenue Code of 1986, as amended, and reference to the United States Internal Revenue Code of 1986, as amended, includes a reference to the provisions of law formerly known as the Internal Revenue Code of 1954, as amended.
 - a. Except that the provisions of section 168(f)(8) of the Internal Revenue Code of 1954, as amended, are not adopted in those instances when the minimum investment by the lessor is less than one hundred percent for the purpose of computing North Dakota taxable income for individuals, estates, trusts, and corporations for taxable years beginning on or after January 1, 1983. Therefore, federal taxable income must be increased, or decreased, as the case may be, to reflect the adoption or nonadoption of the provisions of section 168(f)(8) of the Internal Revenue Code of 1954, as amended, and such adjustments must be made before computing income subject to apportionment.
 - b. Provided, that one-half of the amount not allowed as an accelerated cost recovery system depreciation deduction for the taxable year beginning after December 31, 1982, may be deducted from federal taxable income in each of the next two taxable years beginning after December 31, 1985, and one-half of the amount not allowed as an accelerated cost recovery system depreciation deduction for the taxable year beginning after December 31, 1983, may be deducted from federal taxable income in each of the next two years beginning after December 31, 1987, and one-half of the amount not allowed as an accelerated cost recovery system depreciation deduction for the taxable year beginning after December 31, 1984, may be deducted from federal taxable income in each of the next two taxable years beginning after December 31, 1989. All such adjustments must be made before computing income subject to apportionment.
 - c. Provided, that the depreciation adjustments allowed in subdivision b shall be limited to those eligible assets acquired during taxable years beginning after December 31, 1982. Acquisitions made before taxable years beginning January 1, 1983, must be depreciated pursuant to the methods permissible under Internal Revenue Code provisions in effect prior to January 1, 1981.

- d. Except that for purposes of applying the Internal Revenue Code of 1954, as amended, with respect to actual distributions made after December 31, 1984, by a domestic international sales corporation, or former domestic international sales corporation, which was a domestic international sales corporation on December 31, 1984, any accumulated domestic international sales corporation income of a domestic international sales corporation, or former domestic international sales corporation, which is derived before January 1, 1985, may not be treated as previously taxed income.
6. "Foreign" when applied to a corporation means created or organized outside of North Dakota.
7. "Mental disorder" means a substantial disorder of the person's emotional processes, thought, cognition, or memory. Mental disorder is distinguished from:
 - a. Conditions which are primarily those of drug abuse, alcoholism, or intellectual disability, unless in addition to one or more of these conditions, the person has a mental disorder.
 - b. The declining mental abilities that accompany impending death.
 - c. Character and personality disorders characterized by lifelong and deeply ingrained antisocial behavior patterns, including sexual behaviors which are abnormal and prohibited by statute, unless the behavior results from a mental disorder.
8. "Passthrough entity" means a corporation that for the applicable tax year is treated as an S corporation under the Internal Revenue Code, a limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes, a general partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or a similar entity that passes its income, deductions, and credits through to its owners.
9. "Person" includes individuals, fiduciaries, partnerships, corporations, and limited liability companies, and other entities recognized by the laws of this state.
- 9-10. "Qualified investment fund" means any regulated investment company as defined under the Internal Revenue Code, which for the calendar year in which the distribution is paid:
 - a. Has investments in interest-bearing obligations issued by or on behalf of this state, any political subdivision of this state, or the United States government; and
 - b. Has provided the tax commissioner with a detailed schedule of the assets contained in its investment portfolio and a schedule of the income attributable to each asset in its investment portfolio for the calendar year.
- 40-11. "Resident" applies only to natural persons and includes, for the purpose of determining liability for the tax imposed by this chapter upon or with reference to the income of any income year, any person domiciled in the state of North Dakota and any other person who maintains a permanent place of abode

within the state and spends in the aggregate more than seven months of the income year within the state. A full-time active duty member of the armed forces assigned to a military installation in this state, or the ~~member's spouse of such a person~~, is not a "resident" of this state for purposes of this chapter simply by reason of having voted in an election in this state.

44-12. "Tax commissioner" means the state tax commissioner.

42-13. "Taxable income" in the case of individuals, estates, trusts, and corporations means the taxable income as computed for an individual, estate, trust, or corporation for federal income tax purposes under the United States Internal Revenue Code of 1954, as amended, plus or minus ~~such~~the adjustments as may be provided by this chapter or other provisions of law. Except as otherwise expressly provided, "taxable income" does not include any amount computed for federal alternative minimum tax purposes.

43-14. "Taxpayer" includes any individual, corporation, or fiduciary subject to a tax imposed by this chapter.

44-15. Any term, as used in this code, as it pertains to the filing and reporting of income, deductions, or exemptions or the paying of North Dakota income tax, has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required or contemplated.

SECTION 16. AMENDMENT. Subsection 5 of section 57-38-01.21 of the North Dakota Century Code is amended and reenacted as follows:

5. A ~~partnership, subchapter S corporation, or limited liability company treated like a partnership~~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 ~~partnership, subchapter S corporation, or limited liability company~~passthrough entity ends. Subsections 6 and 7 apply to the partner, shareholder, or member.

SECTION 17. AMENDMENT. Section 57-38-01.22 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.22. Income tax credit for blending of biodiesel fuel or green diesel fuel.

A fuel supplier licensed pursuant to section 57-43.2-05 who blends biodiesel fuel or green diesel fuel in this state is entitled to a credit against tax liability determined under section 57-38-30 or 57-38-30.3 in the amount of five cents per gallon [3.7 liters] of biodiesel fuel or green diesel fuel of at least five percent blend, otherwise known as B5. For purposes of this section, "biodiesel" and "green diesel" mean fuel as defined in section 57-43.2-01. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for the taxable year and each year's unused credit amount may be carried forward for up to five taxable years.

~~A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the 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.~~

SECTION 18. AMENDMENT. Section 57-38-01.23 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.23. Income tax credit for biodiesel or green diesel sales equipment costs.

A seller of biodiesel fuel or green diesel fuel is entitled to a credit against tax liability determined under section 57-38-30 or 57-38-30.3 in the amount of ten percent per year for five years of the biodiesel or green diesel fuel seller's direct costs incurred ~~after December 31, 2004~~, to adapt or add 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 fuel or green diesel fuel by volume. For purposes of this section, "biodiesel fuel" and "green diesel fuel" mean fuel as defined in section 57-43.2-01. The credit under this section may not exceed a taxpayer's liability as determined under this chapter for the taxable year and each year's unused credit amount may be carried forward for up to five taxable years. A biodiesel or green diesel fuel seller is limited to fifty thousand dollars in the cumulative amount of credits under this section for all taxable years. A biodiesel or green diesel fuel seller may not claim a credit under this section for any taxable year before the taxable year in which the facility begins selling biodiesel or green diesel fuel containing at least two percent biodiesel or green diesel fuel by volume, but eligible costs incurred before the taxable year sales begin may be claimed for purposes of the credit under this section for taxable years on or after the taxable year sales of biodiesel or green diesel fuel begin.

~~A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the 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.~~

SECTION 19. AMENDMENT. Subsection 2 of section 57-38-01.24 of the North Dakota Century Code is amended and reenacted as follows:

2. The amount of the credit to which a taxpayer is entitled is ten percent of the stipend or salary paid to a college intern employed by the taxpayer. A taxpayer may not receive more than three thousand dollars in total credits under this section for all taxable years combined.
 - a. The tax credit under this section applies to a stipend or salary for not more than five interns employed at the same time.
 - b. ~~A partnership, subchapter S corporation, or limited liability company that for tax purposes is treated like a partnership passthrough entity~~ that is 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.

SECTION 20. AMENDMENT. Subsection 5 of section 57-38-01.25 of the North Dakota Century Code is amended and reenacted as follows:

5. A partnership, ~~subchapter S corporation, or limited liability company that for tax purposes is treated like a partnership~~passthrough entity that is entitled to the 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 passthrough entity level must be allowed to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

¹⁹² **SECTION 21. AMENDMENT.** Subsections 2, 3, and 7 of section 57-38-01.26 of the North Dakota Century Code are amended and reenacted as follows:

2. To be eligible for the credit, the investment must be at risk in the angel fund for at least three years. An investment made in a qualified business from the assets of a retirement plan is deemed to be the retirement plan participant's investment for the purpose of this section if a separate account is maintained for the plan participant and the participant directly controls where the account assets are invested. Investments placed in escrow do not qualify for the credit. The credit must be claimed in the taxable year in which the investment in the angel fund was received by the angel fund. The credit allowed 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 carried forward to each of the seven succeeding taxable years. A taxpayer claiming a credit under this section may not claim any credit available to the taxpayer as a result of an investment made by the angel fund in a qualified business under chapter 57-38.5 or 57-38.6.
3. An angel fund must:
 - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, limited liability limited partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
 - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate.
 - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.

¹⁹² Section 57-38-01.26 was also amended by section 1 of Senate Bill No. 2156, chapter 451, and section 9 of Senate Bill No. 2325, chapter 449.

- d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
 - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
 - f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.
 - g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.
 - h. Be in compliance with the securities laws of this state.
 - i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:
 - (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;
 - (2) The dollar amount remitted by the taxpayer or passthrough entity; and
 - (3) The date the payment was received by the angel fund for the investment.
 - j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.
7. ~~a. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity entitled to the 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.~~
- b. For the first two taxable years beginning after December 31, 2010, if a passthrough entity does not elect to sell, transfer, or assign the credit as provided under this subsection and subsection 8, 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.
 - c. For the first two taxable years beginning after December 31, 2010, if a passthrough entity elects to sell, transfer, or assign a credit as provided under this subsection and subsection 8, the passthrough entity shall make an irrevocable election to sell, transfer, or assign the credit on the return filed by the entity for the taxable year in which the credit was earned. A passthrough entity that makes a valid election to sell, transfer, or assign a

credit shall sell one hundred percent of the credit earned, may sell the credit to only one purchaser, and shall comply with the requirements of this subsection and subsection 8.

SECTION 22. AMENDMENT. Subsection 9 of section 57-38-01.27 of the North Dakota Century Code is amended and reenacted as follows:

9. A ~~partnership, subchapter S corporation, limited partnership, limited liability company, or any other~~ 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.

SECTION 23. AMENDMENT. Subsection 2 of section 57-38-01.31 of the North Dakota Century Code is amended and reenacted as follows:

2. A ~~partnership, subchapter S corporation, limited liability company treated like a passthrough entity, or any other similar~~ passthrough entity that is an employer in this state must be considered to be a taxpayer for purposes of this section. The amount of the credit determined at the passthrough entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

¹⁹³ **SECTION 24. AMENDMENT.** Subsection 9 of section 57-38-01.32 of the North Dakota Century Code is amended and reenacted as follows:

9. A ~~partnership, subchapter S corporation, limited partnership, limited liability company, or any other~~ 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 25. AMENDMENT. Subsection 7 of section 57-38-01.33 of the North Dakota Century Code is amended and reenacted as follows:

7. A ~~partnership, subchapter S corporation, limited partnership, limited liability company, or any other~~ 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.

¹⁹³ Section 57-38-01.32 was also amended by section 5 of House Bill No. 1029, chapter 406, section 28 of Senate Bill No. 2014, chapter 45, and section 10 of Senate Bill No. 2325, chapter 449.

¹⁹⁴ **SECTION 26. AMENDMENT.** Subsections 6 and 12 of section 57-38-30.5 of the North Dakota Century Code are amended and reenacted as follows:

6. In the case of a taxpayer that is a partner in a partnership, shareholder, or a member in a limited liability company passthrough entity, the credit allowed for the taxable year may not exceed an amount separately computed with respect to the taxpayer's interest in the trade, business, or entity equal to the amount of tax attributable to that portion of the taxpayer's taxable income which is allocable or apportionable to the taxpayer's interest in the trade, business, or entity.
12. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other 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.

SECTION 27. Section 57-38-60.3 of the North Dakota Century Code is created and enacted as follows:

57-38-60.3. Liability of a general partner in a limited liability limited partnership.

1. If a limited liability limited partnership is an employer and fails for any reason to file the required returns or to pay the tax due, the general partners, jointly or severally, charged with the responsibility for the preparation of the returns and payment of the tax are personally liable for the partnership's failure. The dissolution of a limited liability limited partnership does not discharge a general partner's liability for a prior failure of the partnership to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the provisions of this chapter.
2. If the general partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability limited partnership must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual income tax withholding liability of the limited liability limited partnership.

SECTION 28. AMENDMENT. Section 57-38.5-01 of the North Dakota Century Code is amended and reenacted as follows:

57-38.5-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Director" means the director of the department of commerce division of economic development and finance.

¹⁹⁴ Section 57-38-30.5 was also amended by section 1 of Senate Bill No. 2207, chapter 452.

2. "New wealth" means revenues to a North Dakota business which are generated by sales of products or services to customers outside of the state. "New wealth" also includes revenues to a qualified business the customers of which previously were unable to acquire, or had limited availability of, the product or service from a North Dakota provider.
3. ~~"Passthrough entity" means a corporation that for the applicable tax year is treated as an S corporation or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company and which for the applicable tax year is not taxed as a corporation under chapter 57-38~~has the same meaning as in section 57-38-01.
4. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service and which results in the creation of new wealth but does not include an agricultural commodity processing facility as defined under section 57-38.6-01.
5. "Qualified business" means a business other than a real estate investment trust which is a primary sector business that:
 - a. Is incorporated or its satellite operation is incorporated as a for-profit corporation ~~or is a partnership, limited partnership, limited liability company, limited liability partnership, passthrough entity,~~ or joint venture;
 - b. Is in compliance with the requirements for filings with the securities commissioner under the securities laws of this state;
 - c. Has North Dakota residents as a majority of its employees in the North Dakota principal office or the North Dakota satellite operation;
 - d. Has its principal office in this state and has the majority of its business activity performed in this state, except sales activity, or has a significant operation in North Dakota that has or is projected to have more than ten employees or one hundred fifty thousand dollars of sales annually; and
 - e. Relies on innovation, research, or the development of new products and processes in its plans for growth and profitability.
6. "Taxpayer" means an individual, estate, or trust or a corporation, passthrough entity, or an angel fund. The term does not include a real estate investment trust.

SECTION 29. AMENDMENT. Subsection 4 of section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

4. A passthrough entity that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and the amount of the credit allowed with respect to a passthrough entity's investment in a qualified business must be determined at the passthrough entity level. The amount of the total credit determined at the passthrough entity level must be allowed to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

SECTION 30. AMENDMENT. Section 57-38.6-01 of the North Dakota Century Code is amended and reenacted as follows:

57-38.6-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Agricultural commodity processing facility" means:
 - a. A facility that through processing involving the employment of knowledge and labor adds value to an agricultural commodity capable of being raised in this state; or
 - b. A livestock feeding, handling, milking, or holding operation that uses as part of its operation a byproduct produced at a biofuels production facility.
2. "Biofuels production facility" means a corporation, limited liability company, partnership, individual, or association in this state:
 - a. Involved in production of diesel fuel containing at least five percent biodiesel or green diesel as defined in section 57-43.2-01;
 - b. Involved in the production of corn-based ethanol or cellulose-based ethanol; or
 - c. Involved in a soybean or canola crushing facility.
3. "Director" means the director of the department of commerce division of economic development and finance.
4. "Passthrough entity" has the same meaning as in section 57-38-01.
5. "Qualified business" means a cooperative, corporation, partnership, or limited liability company that:
 - a. Is incorporated or organized in this state after December 31, 2000, for the primary purpose of being an agricultural commodity processing facility;
 - b. Has been certified by the securities commissioner to be in compliance under the securities laws of this state; and
 - c. Has an agricultural commodity processing facility, or intends to locate one, in this state.
- 5-6. "Qualified investment" means an investment in cash or an investment of a fee simple interest in real property located in this state. For purposes of this chapter, the definition of real property does not include any personal property that may become a fixture to the real property, as defined by chapter 41-09, which is added to the real property following investment of the real property in the qualified business.
- 6-7. "Taxpayer" means an individual, estate, trust, corporation, ~~partnership, or limited liability company~~passthrough entity.

SECTION 31. AMENDMENT. Subsection 4 of section 57-38.6-03 of the North Dakota Century Code is amended and reenacted as follows:

4. A partnership, ~~subchapter S corporation, limited liability company that for tax purposes is treated like a partnership, or any other passthrough entity that~~

invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section and, except for the tax liability limitation under subsection 2, the amount of the credit allowed with respect to the passthrough entity's investment in a qualified business must be determined at the passthrough entity level. The amount of the total credit determined at the passthrough entity level must be allowed to the passthrough entity's owners, partners, shareholders, or members in proportion to their respective ownership interests in the passthrough entity.

SECTION 32. AMENDMENT. Subsection 2 of section 57-39.2-04.8 of the North Dakota Century Code is amended and reenacted as follows:

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.

SECTION 33. Section 57-39.2-15.3 of the North Dakota Century Code is created and enacted as follows:

57-39.2-15.3. Liability of a general partner in a limited liability limited partnership.

1. If a limited liability limited partnership required to hold a permit under this chapter fails for any reason to file the required returns or to pay the tax due under this chapter, the general partners, jointly or severally, charged with the responsibility of supervising the preparation of the returns and payment of the tax are personally liable for the partnership's failure. The dissolution of a limited liability limited partnership does not discharge a general partner's liability for a prior failure of the partnership to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the provisions of this chapter.
2. If the general partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability limited partnership must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual sales tax liability of the limited liability limited partnership.

SECTION 34. AMENDMENT. Section 57-40.2-15.2 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-15.2. Governor and manager liability.

1. If a limited liability company fails for any reason to file the required returns or to pay the taxes due under this chapter, the governor, manager, or member of a member-controlled limited liability company, jointly or severally charged with the responsibility of supervising the preparation of the returns and payments, is personally liable for the failure. The dissolution of a limited liability company does not discharge a governor's, manager's, or member's liability for a prior failure of the limited liability company to file a return or remit the tax due. The sum due for such a liability may be assessed and collected under the provisions of this chapter.

2. If the governors, managers, or members of a limited liability company elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability company must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual use tax liability of the limited liability company.

SECTION 35. Section 57-40.2-15.3 of the North Dakota Century Code is created and enacted as follows:

57-40.2-15.3. Liability of a general partner in a limited liability limited partnership.

1. If a limited liability limited partnership required to hold a permit under this chapter fails for any reason to file the required returns or to pay the tax due under this chapter, the general partners, jointly or severally, charged with the responsibility of supervising the preparation of the returns and payment of the tax are personally liable for the partnership's failure. The dissolution of a limited liability limited partnership does not discharge a general partner's liability for a prior failure of the partnership to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the provisions of this chapter.
2. If the general partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability limited partnership must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual use tax liability of the limited liability limited partnership.

SECTION 36. Section 57-43.1-17.5 of the North Dakota Century Code is created and enacted as follows:

57-43.1-17.5. Liability of a general partner in a limited liability limited partnership.

1. If a limited liability limited partnership holding a license issued under this chapter fails for any reason to file the required returns or to pay the tax due under this chapter, the general partners, jointly or severally, charged with the responsibility of supervising the preparation of the returns and payment of the tax are personally liable for the partnership's failure. The dissolution of a limited liability limited partnership does not discharge a general partner's liability for a prior failure of the partnership to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the provisions of this chapter.
2. If the general partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability limited partnership must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated motor fuel tax liability of the limited liability limited partnership.

SECTION 37. Section 57-43.2-16.4 of the North Dakota Century Code is created and enacted as follows:

57-43.2-16.4. Liability of a general partner in a limited liability limited partnership.

1. If a limited liability limited partnership holding a license issued under this chapter fails for any reason to file the required returns or to pay the tax due under this chapter, the general partners, jointly or severally, charged with the responsibility of supervising the preparation of the returns and payment of the tax are personally liable for the partnership's failure. The dissolution of a limited liability limited partnership does not discharge a general partner's liability for a prior failure of the partnership to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the provisions of this chapter.
2. If the general partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability limited partnership must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual special fuels tax liability of the limited liability limited partnership.

SECTION 38. AMENDMENT. Section 57-43.3-20 of the North Dakota Century Code is amended and reenacted as follows:

57-43.3-20. Corporate officer liability.

1. If a corporation holding a license issued under this chapter fails for any reason to file the required returns or to pay the tax due, any of its officers having control or supervision of, or charged with the responsibility for making, such returns and payments is personally liable for the failure. The dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The sum due for such a liability may be assessed and collected under the provisions of this chapter for the assessment and collection of other liabilities.
2. If the corporate officers elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual aviation fuel tax liability of the corporation.

SECTION 39. AMENDMENT. Section 57-43.3-21 of the North Dakota Century Code is amended and reenacted as follows:

57-43.3-21. Governor and manager liability.

1. If a limited liability company holding a license issued under this chapter fails for any reason to file the required returns or to pay the taxes due under this chapter, the governor, manager, or member of a member-controlled limited liability company, jointly or severally, charged with the responsibility of supervising the preparation of the returns and payments, is personally liable for the failure. The dissolution of a limited liability company does not discharge a governor's, manager's, or member's liability for a prior failure of the limited liability company to file a return or remit the tax due. The taxes, penalty, and

interest may be assessed and collected pursuant to the provisions of this chapter.

2. If the governors, managers, or members of a limited liability company elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability company must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual aviation fuel tax liability of the limited liability company.

SECTION 40. Section 57-43.3-21.1 of the North Dakota Century Code is created and enacted as follows:

57-43.3-21.1. Liability of a general partner in a limited liability limited partnership.

1. If a limited liability limited partnership holding a license issued under this chapter fails for any reason to file the required returns or to pay the tax due under this chapter, the general partners, jointly or severally, charged with the responsibility of supervising the preparation of the returns and payment of the tax are personally liable for the partnership's failure. The dissolution of a limited liability limited partnership does not discharge a general partner's liability for a prior failure of the partnership to file a return or remit the tax due. The taxes, penalty, and interest may be assessed and collected pursuant to the provisions of this chapter.
2. If the general partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the limited liability limited partnership must make a cash deposit or post with the commissioner a bond or undertaking executed by a surety company authorized to do business in this state. The cash deposit, bond, or undertaking must be in an amount equal to the estimated annual aviation fuel tax liability of the limited liability limited partnership.

SECTION 41. REPEAL. Section 57-23-02 of the North Dakota Century Code is repealed.

SECTION 42. EFFECTIVE DATE. Sections 1, 13, 18, 21, and 27 are effective for tax years beginning after December 31, 2012. Sections 10, 14, 31, 32, 33, 34, 35, 36, 37, 38, 39, and 40 are effective for tax periods beginning after June 30, 2013. Sections 2, 3, 4, 5, 6, and 7 are effective for tax years beginning after December 31, 2013.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 444

HOUSE BILL NO. 1306

(Representatives Thoreson, Brandenburg, Dockter, Karls, Guggisberg)
(Senator Carlisle)

AN ACT to amend and reenact section 57-02-08.8 of the North Dakota Century Code, relating to disabled veteran's eligibility for a homestead tax credit; 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 ~~five~~six thousand ~~four~~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. An unremarried surviving spouse who is receiving department of veterans' affairs dependency and indemnity compensation receives a one hundred percent exemption 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 ~~five~~six thousand ~~four~~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 ~~five~~six thousand ~~four~~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. 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. 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. 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. 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. 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. 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, 2012, for ad valorem property taxes and for taxable years beginning after December 31, 2013, for mobile home taxes.

Approved April 30, 2013

Filed April 30, 2013

CHAPTER 445

HOUSE BILL NO. 1107

(Finance and Taxation Committee)
(At the request of the State Treasurer)

AN ACT to amend and reenact subsection 10 of section 57-02-27.2 of the North Dakota Century Code, relating to county implementation of soil survey data in agricultural property tax assessments; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 10 of section 57-02-27.2 of the North Dakota Century Code is amended and reenacted as follows:

10. For any county that has not fully implemented use of soil type and soil classification data from detailed or general soil surveys by February first of any taxable year after 2011, the tax commissioner shall direct the state treasurer to withhold five percent of that county's allocation each quarter from the state aid distribution fund under section 57-39.2-26.1 beginning with the first quarter of 2013, and continuing until the tax commissioner certifies to the state treasurer that that county has fully implemented use of soil type or soil classification data. The amount withheld from the allocation must be deposited into the agricultural land valuation fund. The amount withheld from the allocation must be withheld entirely from the portion of the allocation which may be retained by the county and may not reduce allocations to any political subdivisions within the county.

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

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 446

HOUSE BILL NO. 1178

(Representatives Drovdal, Froseth)
(Senators Cook, Lyson, Warner)

AN ACT to create and enact a new section to chapter 57-06 of the North Dakota Century Code, relating to a penalty for continued failure of a public utility company to submit reports; to amend and reenact sections 57-06-09 and 57-06-21 of the North Dakota Century Code, relating to extensions of time for utility company reporting and applicable penalties and due dates for filing reports with the county auditor and tax commissioner; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 57-06 of the North Dakota Century Code is created and enacted as follows:

Penalty for continued failure to furnish report.

If any company fails to make the report required under this chapter for three consecutive years, the state board of equalization shall add a penalty of five thousand dollars for each failure to make the required report, which must be collected as a part of the tax.

SECTION 2. AMENDMENT. Section 57-06-09 of the North Dakota Century Code is amended and reenacted as follows:

57-06-09. Penalty for failure to furnish statementreport.

If any company refuses or neglects to make the ~~reports~~report required by this chapter or refuses or neglects to furnish any information requested, the tax commissioner shall obtain the best information available on the facts necessary to be known in order to discharge the tax commissioner's duties with respect to the valuation and assessment of the property of ~~such~~the company. If any company fails to make the report required under this chapter on or before the first day of May of any year, the state board of equalization shall add ten percent to the assessed value of the property of the company for that year, but the tax commissioner, upon written application received on or before the first day of May, may grant extensionsan extension of time within which such returns must be filed~~through the first day of June to file the required report.~~ If any company fails to make the report required under this chapter on or before the first day of July of any year, the state board of equalization shall add an additional ten percent to the assessed value of the property of the company for that year. On or before the fifteenth day of July, for good cause shown, the tax commissioner may waive all or any part of the penalty that attached under this section.

SECTION 3. AMENDMENT. Section 57-06-21 of the North Dakota Century Code is amended and reenacted as follows:

57-06-21. Reports to county auditors.

On or before the ~~first~~fifteenth day of ~~May~~March of each year, each company required to be assessed under this chapter shall file with the county auditor of each county within which any part of its operative property is located a report giving a general description of all its property located within the county, with operative and nonoperative property listed separately. ~~Such~~The report must give the length of the line or lines within the county and the length in each taxing district of each line constituting part of a single and continuous line or property. The company also shall file with the county auditor and the tax commissioner a map of all of its lines within the county showing clearly the length of its lines within each taxing district as of January first of that year ~~and shall file revised maps in subsequent years if changes have been made in its operative property.~~ To facilitate the making of ~~such~~the maps, the county auditor ~~annually,~~ on or before the first day of ~~April~~February of each year, shall ~~mail~~provide to ~~the~~each company ~~an accurate~~a current map of the county showing the boundaries of each ~~assessment~~taxing district ~~and school district~~in the county.

SECTION 4. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2013.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 447

SENATE BILL NO. 2036

(Legislative Management)
(Taxation Committee)

AN ACT to create and enact section 57-20-07.2 of the North Dakota Century Code, relating to taxing district budgets and state-paid property tax relief credits; to amend and reenact sections 57-12-09, 57-15-02.1, 57-20-07.1, 57-20-09, and 57-20-21.1 of the North Dakota Century Code, relating to notices of property assessment increases, hearings on proposed property tax increases, contents of property tax statements, discounts for early payment of property taxes, and application of relief to current taxes; to provide an appropriation; to provide for legislative management studies; 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 57-12-09 of the North Dakota Century Code is amended and reenacted as follows:

57-12-09. Notice of increased assessment to real estate owner.

1. When any assessor has increased the true and full valuation of any lot or tract of land including any improvements thereon by three thousand dollars or more and to ten percent or more than the amount of the last assessment, written notice of the amount of increase and the amount of the last assessment must be delivered in writing by the assessor to the property owner, mailed in writing to the property owner at the property owner's last-known address, or provided to the property owner by electronic mail directed with verification of receipt to an electronic mail address at which the property owner has consented to receive notice. Delivery of notice to a property owner under this section must be completed not fewer than fifteen days before the meeting of the local equalization board. The tax commissioner shall prescribe suitable forms for this notice and the notice must show the true and full value as defined by law of the property, including improvements, that the assessor used in making the assessment for the current year and for the year in which the last assessment was made and must also show the date prescribed by law for the meeting of the local equalization board of the assessment district in which the property is located and the meeting date of the county equalization board. The notice must be mailed or delivered at the expense of the assessment district for which the assessor is employed.
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 base its tax rate on the number of dollars raised from property taxes in the previous taxable year by the taxing district and that notice of public hearing will be mailed to the property owner if a greater property tax levy is being proposed by the taxing district. 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 this section 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 57-15-02.1 of the North Dakota Century Code is amended and reenacted as follows:

57-15-02.1. Property tax levy increase notice and public hearing.

Notwithstanding any other provision of law, a taxing district may not impose a property tax levy in a greater number of mills than the zero increase number of mills, unless the taxing district is in substantial compliance with this section.

1. The governing body shall cause publication of notice in its official newspaper at least seven days before a public hearing on its property tax levy. A public hearing under this section may not be scheduled to begin earlier than six p.m. The notice must have at least one-half inch [1.27 centimeters] white space margin on all four sides and must be at least two columns wide by five inches [12.7 centimeters] high. The heading must be capitalized in boldface type of at least eighteen point stating "IMPORTANT NOTICE TO (name of taxing district) TAXPAYERS". The proposed percentage increase must be printed in a boldface type size no less than two points less than the heading, while the remaining portion of the advertisement must be printed in a type face size no less than four points less than the heading. The text of the notice must contain:
 - a. The date, time, and place of the public hearing.
 - b. A statement that the public hearing will be held to consider increasing the property tax levy by a stated percentage, expressed as a percentage increase exceeding the zero increase number of mills.
 - c. A statement that there will be an opportunity for citizens to present oral or written comments regarding the property tax levy.
 - d. Any other information the taxing district wishes to provide to inform taxpayers.
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.
3. If the governing body of the taxing district does not make a final decision on imposing a property tax levy exceeding the zero increase number of mills at the public hearing required by this section, the governing body shall announce at that public hearing the scheduled time and place of the next public meeting at which the governing body will consider final adoption of a property tax levy exceeding the tax district's zero increase number of mills.

3-4. For purposes of this section:

- a. "New growth" means the taxable valuation of any property that was not taxable in the prior year.
- b. "Property tax levy" means the tax rate, expressed in mills, for all property taxes levied by the taxing district.
- c. "Taxing district" means a city, county, school district, or city park district but does not include any such taxing district that levied a property tax levy of less than one hundred thousand dollars for the prior year and sets a budget for the current year calling for a property tax levy of less than one hundred thousand dollars.
- d. "Zero increase number of mills" means the number of mills against the taxing district's current year taxable valuation, excluding consideration of new growth, which will provide the same amount of property tax revenue as the property tax levy in the prior year.

5. For the taxable year 2013 only, for purposes of determining the zero increase number of mills for a school district, the amount of property tax revenue from the property tax levy in the 2012 taxable year must be recalculated by reducing the 2012 mill rate of the school district by the lesser of:

- a. Fifty mills; or
- b. The 2012 general fund mill rate of the school district minus sixty mills.

SECTION 3. AMENDMENT. Section 57-20-07.1 of the North Dakota Century Code is amended and reenacted as follows:

57-20-07.1. County treasurer to mail real estate tax statement - Contents of statement.

1. On or before December twenty-sixth of each year, the county treasurer shall mail a real estate tax statement to the owner of each parcel of real property at the owner's last-known address. The form of the real estate tax statement to be used in every county must be prescribed and approved for use by the tax commissioner. The statement must be provided in a manner that allows the taxpayer to retain a printed record of the obligation for payment of taxes and special assessments as provided in the statement. If a parcel of real property is owned by more than one individual, the county treasurer shall send only one statement to one of the owners of that property. Additional copies of the tax statement will be sent to the other owners upon their request and the furnishing of their names and addresses to the county treasurer. The tax statement must include:
 - a. Include a dollar valuation of the true and full value as defined by law of the property and the total mill levy applicable. The tax statement must include
 - b. Include, or be accompanied by a separate sheet, with three columns showing, for the taxable year to which the tax statement applies and the two immediately preceding taxable years, the property tax levy in dollars against the parcel by the county and school district and any city or township that levied taxes against the parcel.

c. Provide information identifying the property tax savings provided by the state of North Dakota. The tax statement must include a line item that is entitled "legislative tax relief" and identifies the dollar amount of property tax savings realized by the taxpayer under chapter 15.1-27 and under section 57-20-07.2. For purposes of this subdivision, legislative tax relief is determined by multiplying the taxable value for the taxable year for each parcel shown on the tax statement by the number of mills of mill levy reduction grant under chapter 57-64 for the 2012 taxable year plus the number of mills determined by subtracting from the 2012 taxable year mill rate of the school district in which the parcel is located the lesser of:

(1) Fifty mills; or

(2) The 2012 taxable year mill rate of the school district minus sixty mills.

2. Failure of an owner to receive a statement will not relieve that owner of liability, nor extend the discount privilege past the February fifteenth deadline.

SECTION 4. Section 57-20-07.2 of the North Dakota Century Code is created and enacted as follows:

57-20-07.2. 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 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.

SECTION 5. AMENDMENT. Section 57-20-09 of the North Dakota Century Code is amended and reenacted as follows:

57-20-09. Discount for early payment of tax.

Except as provided in section 57-20-21.1, the county treasurer shall allow a five percent discount to all taxpayers who shall pay all of the real estate taxes levied on any tract or parcel of real property in any one year in full on or before February fifteenth prior to the date of delinquency. Such discount applies, after deduction of any credit allowed under section 57-20-07.2, to the net remaining amount of all general real estate taxes levied for state, county, city, township, school district, fire district, park district, and any other taxing districts but does not apply to personal property taxes or special assessment installments. Whenever the board of county commissioners, by resolution, determines that an emergency exists in the county by virtue of weather or other catastrophe, it may extend the discount period for an additional thirty days.

SECTION 6. AMENDMENT. Section 57-20-21.1 of the North Dakota Century Code is amended and reenacted as follows:

57-20-21.1. Priority for delinquent taxes.

When payment is made for any real or personal property taxes or special assessments, payments must be applied first to the oldest unpaid delinquent taxes or special assessments due, if any, shown to exist upon the property for which the tax payments are made, including any penalty and interest, except payments of state-paid property tax relief credit made by the state must be applied to taxes for the year for which the state-paid property tax relief credit is granted. The discounts applicable to payment of taxes set out in section 57-20-09 do not apply to payment of taxes made on property upon which tax payments are delinquent.

SECTION 7. TAX COMMISSIONER REPORT ON ASSESSOR COMPLIANCE RULES. Before January 1, 2014, the tax commissioner shall report to the legislative management on the development of rules for detailed and efficient administration of section 57-01-05 regarding supervision of assessment officials.

SECTION 8. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of state-paid property tax relief credits under section 57-20-07.2, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 9. LEGISLATIVE MANAGEMENT STUDY. The legislative management shall consider studying development of standard procedures and classification of accounts to provide a means of accumulating financial information that will be uniform for all counties, regardless of their size or various approaches to budgeting and accounting that may be in use, with the objective of achieving uniformity of financial information to guide preparation of financial reports required by law and preparation of management reports on county government performance. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 10. LEGISLATIVE MANAGEMENT STUDY - CONTROLLING GROWTH OF PROPERTY TAX LEVIES. During the 2013-14 interim, the legislative management shall consider studying controlling the growth of property tax levies, with emphasis on consideration of the following:

1. In recent years, the legislative assembly has diverted an enormous amount of state funds to benefit political subdivisions and provide property tax relief to taxpayers and an analysis should be made of whether the level of property tax relief received by taxpayers has been commensurate with the amount of state funds distributed.
2. The legislative assembly has provided for state assumption of funding for some social service functions previously funded by counties. Analysis is needed to determine the additional cost to the state of these functions in each county and compare that amount to the actual reduction in property taxes passed through to taxpayers in each county.
3. Consideration is needed of whether voter approval through referral or levy and budget restrictions should play a greater role in local taxing decisions.
4. Consideration is needed of the feasibility of establishing more restrictive statutory property tax limits to manage the growth of property taxes.

The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 11. EFFECTIVE DATE - EXPIRATION DATE. This Act is effective for taxable years beginning after December 31, 2012. Sections 4, 5, and 6 are ineffective after the first two taxable years beginning after December 31, 2012.

Approved May 6, 2013
Filed May 7, 2013

CHAPTER 448

SENATE BILL NO. 2162

(Senators Grindberg, Krebsbach, Robinson)
(Representatives Kreidt, J. Nelson, 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 a matching grant from the senior citizen services and programs fund to counties; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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 ~~three-fourths of~~ eighty-five percent of the amount levied in dollars in the county under this section for the taxable year, but the matching fund grant applies only 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 ~~three-fourths of~~ eighty-five 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 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, 2012. Section 2 of this Act is effective for taxable events occurring after June 30, 2013.

Approved April 24, 2013

Filed April 24, 2013

CHAPTER 449

SENATE BILL NO. 2325

(Senators Burckhard, Cook, Dotzenrod)
(Representatives Belter, S. Kelsh)

AN ACT to create and enact a new section to chapter 57-38, two new subsections to section 57-38-34, a new subsection to section 57-38-38, and a new subsection to section 57-38-40 of the North Dakota Century Code, relating to corporate and individual income tax credits and transition of financial institutions to corporate income tax treatment; to amend and reenact subsection 5 of section 11-37-08, subsection 8 of section 40-63-01, subsection 5 of section 40-63-04, section 40-63-06, subsections 3 and 4 of section 40-63-07, subsection 3 of section 57-33.2-01, section 57-33.2-03, subsection 3 of section 57-38-01.3, subsections 1 and 3 of section 57-38-01.26, subsections 5 and 7 of section 57-38-01.32, subdivisions c, d, and f of subsection 2 of section 57-38-30.3, and section 57-39.2-26.1 of the North Dakota Century Code, relating to reduction of the distribution tax rate for companies engaged in the distribution of electricity, individual and corporation income tax rates, and credits and increased allocations from the state aid distribution fund; to repeal chapter 57-35.3 of the North Dakota Century Code, relating to elimination of the financial institutions tax; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 11-37-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections ~~57-35.3-03~~, 57-38-30, and 57-38-30.3.

SECTION 2. AMENDMENT. Subsection 8 of section 40-63-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Taxpayer" means an individual, corporation, ~~financial institution~~, or trust subject to the taxes imposed by chapter ~~57-35.3~~ or 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

¹⁹⁵ **SECTION 3. AMENDMENT.** Subsection 5 of section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

5. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter ~~57-35.3~~ or 57-38.

SECTION 4. AMENDMENT. Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

¹⁹⁵ Section 40-63-04 was also amended by section 1 of House Bill No. 1166, chapter 317.

40-63-06. Historic preservation and renovation tax credit.

A credit against state tax liability as determined under sections ~~57-35.3-03, 57-38-30, and 57-38-30.3~~ is allowed for investments in the historic preservation or renovation of property within the renaissance zone. The amount of the credit is twenty-five percent of the amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years.

SECTION 5. AMENDMENT. Subsections 3 and 4 of section 40-63-07 of the North Dakota Century Code are amended and reenacted as follows:

3. A renaissance fund organization is exempt from any tax imposed by chapter ~~57-35.3 or 57-38~~. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation ~~or financial institution~~ entitled to the exemption provided by this subsection shall file required returns and report income to the tax commissioner as required by the provisions of ~~those chapters~~ chapter 57-38 as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.
4. A credit against state tax liability as determined under section ~~57-35.3-03, 57-38-30, or 57-38-30.3~~ is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

SECTION 6. AMENDMENT. Subsection 3 of section 57-33.2-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Company" means an individual, partnership, corporation, limited liability company, limited liability partnership, cooperative, or any other organization or association engaged in generation, distribution, or transmission of electricity. A company subject to taxation under chapter 57-06, is not a "company" for purposes of this chapter unless it files an irrevocable election with the commissioner to be treated as a company under this chapter by October 1, ~~2009~~2013, for taxable periods after December 31, ~~2009~~2013; by October 1, ~~2010~~2014, for taxable periods after December 31, ~~2010~~2014; by October 1, ~~2011~~2015, for taxable periods after December 31, ~~2011~~2015; or by October 1, ~~2012~~2016, for taxable periods after December 31, ~~2012~~2016. Property subject to taxation under this chapter which is owned by a company that is otherwise taxable under chapter 57-06 which files an election under this chapter is exempt from taxation under chapter 57-06.

SECTION 7. AMENDMENT. Section 57-33.2-03 of the North Dakota Century Code is amended and reenacted as follows:

57-33.2-03. Distribution taxes.

A distribution company is subject to a tax at the rate of ~~one dollar~~ eighty cents per megawatt-hour for retail sale of electricity delivered to a consumer in this state during the calendar year. Distribution taxes under this section do not apply to the sale of

electricity to any coal conversion facility that became operational before January 1, 2009, and which is subject to taxation under chapter 57-60.

SECTION 8. AMENDMENT. Subsection 3 of section 57-38-01.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The sum calculated pursuant to subsection 1 must be reduced by the amount of any net operating loss that is attributable to North Dakota sources, including a net operating loss calculated under chapter 57-35.3 for tax years beginning before January 1, 2013. If the net operating loss that is attributable to North Dakota sources exceeds the sum calculated pursuant to subsection 1, the excess may be carried forward for the same time period that an identical federal net operating loss may be carried forward. If a corporation uses an apportionment formula to determine the amount of income that is attributable to North Dakota, the corporation must use the same formula to determine the amount of net operating loss that is attributable to North Dakota. In addition, no deduction may be taken for a carryforward when determining the amount of net operating loss that is attributable to North Dakota sources.

¹⁹⁶ **SECTION 9. AMENDMENT.** Subsections 1 and 3 of section 57-38-01.26 of the North Dakota Century Code are amended and reenacted as follows:

1. A taxpayer is entitled to a credit against state income tax liability under section 57-38-30 or 57-38-30.3 for an investment made in an angel fund that is a domestic organization created under the laws of this state. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount remitted by the taxpayer to an angel fund during the taxable year. The aggregate annual credit for which a taxpayer may obtain a tax credit is not more than forty-five thousand dollars. The aggregate lifetime credits under this section that may be obtained by an individual, married couple, passthrough entity and its affiliates, or other taxpayer is ~~one~~five hundred ~~thirty~~thirty thousand dollars. The investment used to calculate the credit under this section may not be used to calculate any other income tax deduction or credit allowed by law.
3. An angel fund must:
 - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
 - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.~~

¹⁹⁶ Section 57-38-01.26 was also amended by section 21 of House Bill No. 1106, chapter 443, and section 1 of Senate Bill No. 2156, chapter 451.

- c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
- d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
- e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.
- f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.
- g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.
- h. Be in compliance with the securities laws of this state.
- i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:
 - (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;
 - (2) The dollar amount remitted by the taxpayer or passthrough entity; and
 - (3) The date the payment was received by the angel fund for the investment.
- j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

¹⁹⁷ **SECTION 10. AMENDMENT.** Subsections 5 and 7 of section 57-38-01.32 of the North Dakota Century Code are amended and reenacted as follows:

- 5. The aggregate amount of tax credits allowed to all eligible contributors is limited to fifteen million dollars per biennium. ~~This limitation applies to all contributions for which tax credits are claimed under section 57-35.3-05 and this section.~~
- 7. To receive the tax credit provided under this section, a taxpayer shall claim the credit on the taxpayer's state income ~~or financial institutions~~ 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.

¹⁹⁷ Section 57-38-01.32 was also amended by section 5 of House Bill No. 1029, chapter 406, section 24 of House Bill No. 1106, chapter 443, and section 28 of Senate Bill No. 2014, chapter 45.

SECTION 11. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Financial institutions - Net operating losses - Credit carryovers.

1. A subchapter S corporation that was a financial institution under chapter 57-35.3 may elect to be treated as a taxable corporation under chapter 57-38. If an election is made under this section, the election:
 - a. Must be made in the form and manner prescribed by the tax commissioner on the return filed for the tax year beginning on January 1, 2013, or the return filed for the short period required under subsection 8 of section 57-38-34; and
 - b. Is binding until the earlier of:
 - (1) The end of the tax year for which the taxpayer reports a tax liability after tax credits; or
 - (2) The beginning of the tax year for which the taxpayer elects to be recognized as a subchapter S corporation under section 57-38-01.4.
2. If an election is made under this section, the following apply:
 - a. A subchapter S corporation may not file a consolidated return.
 - b. Any unused credit carryovers earned by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward in the same number of years the financial institution would have been entitled under chapter 57-35.3.
 - c. Any unused net operating losses incurred by a financial institution under chapter 57-35.3 for tax years beginning before January 1, 2013, may be carried forward for the same number of years the financial institution would have been entitled under chapter 57-35.3.

¹⁹⁸ **SECTION 12. AMENDMENT.** Subdivisions c, d, and f of subsection 2 of section 57-38-30.3 of the North Dakota Century Code are amended and reenacted as follows:

- c. Reduced by the amount equal to the earnings that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~section 11 of this Act.
- d. Reduced by ~~thirty~~forty percent of:
 - (1) The excess of the taxpayer's net long-term capital gain for the taxable year over the net short-term capital loss for that year, as computed for purposes of the Internal Revenue Code of 1986, as amended. The adjustment provided by this subdivision is allowed only to the extent the net long-term capital gain is allocated to this state.

¹⁹⁸ Section 57-38-30.3 was also amended by section 4 of Senate Bill No. 2156, chapter 451.

(2) ~~The qualified dividend income that is taxed at the same rate as long-term capital gain for federal income tax purposes under Internal Revenue Code provisions in effect on December 31, 2008. Qualified dividends as defined under Internal Revenue Code section 1(h)(11), added by section 302(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27; 117 Stat. 752; 2 U.S.C. 963 et seq.], but only if taxed at a federal income tax rate that is lower than the regular federal income tax rates applicable to ordinary income. If, for any taxable year, qualified dividends are taxed at the regular federal income tax rates applicable to ordinary income, the reduction allowed under this subdivision is equal to thirty percent of all dividends included in federal taxable income. The adjustment provided by this subdivision is allowed only to the extent the qualified dividend income is allocated to this state.~~

f. Increased by an amount equal to the losses that are passed through to a taxpayer in connection with an allocation and apportionment to North Dakota under ~~chapter 57-35.3~~ section 11 of this Act.

SECTION 13. Two new subsections to section 57-38-34 of the North Dakota Century Code are created and enacted as follows:

For a person that was subject to the tax under chapter 57-35.3 for the calendar year ending December 31, 2012, payment of the tax under this chapter is due six months after the due date of the return as required under this section. The provisions of subdivision a of subsection 1 of section 57-38-45 do not apply to the tax due under this subsection. This subsection applies to the first tax year beginning after December 31, 2012.

A person that previously reported under chapter 57-35.3 on a calendar year basis and files its federal income tax return on a fiscal year basis must file a short period return for the period beginning January 1, 2013, and ending on the last day of the tax year in calendar year 2013.

SECTION 14. A new subsection to section 57-38-38 of the North Dakota Century Code is created and enacted as follows:

This section applies if additional tax would be due under the provisions of chapter 57-35.3 in effect for taxable years beginning before January 1, 2013.

SECTION 15. A new subsection to section 57-38-40 of the North Dakota Century Code is created and enacted as follows:

A person that would have been entitled to a credit or refund under chapter 57-35.3 for a taxable year beginning before January 1, 2013, may file a claim for refund or credit of an overpayment of tax.

SECTION 16. AMENDMENT. Section 57-39.2-26.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-26.1. Allocation of revenues among political subdivisions.

Notwithstanding any other provision of law, a portion of sales, gross receipts, use, and motor vehicle excise tax collections, equal to ~~forty~~ forty-three and one-half percent of an amount determined by multiplying the quotient of one percent divided by the general sales tax rate, that was in effect when the taxes were collected, times the net

sales, gross receipts, use, and motor vehicle excise tax collections under chapters 57-39.2, 57-39.5, 57-39.6, 57-40.2, and 57-40.3 must be deposited by the state treasurer in the state aid distribution fund. The state tax commissioner shall certify to the state treasurer the portion of sales, gross receipts, use, and motor vehicle excise tax net revenues that must be deposited in the state aid distribution fund as determined under this section. Revenues deposited in the state aid distribution fund are provided as a standing and continuing appropriation and must be allocated as follows:

1. Fifty-three and seven-tenths percent of the revenues must be allocated to counties in the first month after each quarterly period as provided in this subsection.
 - a. Sixty-four percent of the amount must be allocated among the seventeen counties with the greatest population, in the following manner:
 - (1) Thirty-two percent of the amount must be allocated equally among the counties; and
 - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.
 - b. Thirty-six percent of the amount must be allocated among all counties, excluding the seventeen counties with the greatest population, in the following manner:
 - (1) Forty percent of the amount must be allocated equally among the counties; and
 - (2) The remaining amount must be allocated based upon the proportion each such county's population bears to the total population of all such counties.

A county shall deposit all revenues received under this subsection in the county general fund. Each county shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, townships, rural fire protection districts, rural ambulance districts, soil conservation districts, county recreation service districts, county hospital districts, the Garrison Diversion Conservancy District, the southwest water authority, and other taxing districts within the county, excluding school districts, cities, and taxing districts within cities. The share of the county allocation under this subsection to be distributed to a township must be equal to the percentage of the county share of state aid distribution fund allocations that township received during calendar year 1996. The governing boards of the county and township may agree to a different distribution.

2. Forty-six and three-tenths percent of the revenues must be allocated to cities in the first month after each quarterly period based upon the proportion each city's population bears to the total population of all cities.

A city shall deposit all revenues received under this subsection in the city general fund. Each city shall reserve a portion of its allocation under this subsection for further distribution to, or expenditure on behalf of, park districts and other taxing districts within the city, excluding school districts. The share of the city allocation under this subsection to be distributed to a park district

must be equal to the percentage of the city share of state aid distribution fund allocations that park district received during calendar year 1996, up to a maximum of thirty percent. The governing boards of the city and park district may agree to a different distribution.

SECTION 17. REPEAL. Chapter 57-35.3 of the North Dakota Century Code is repealed.

SECTION 18. EFFECTIVE DATE. Section 16 of this Act is effective for taxable events occurring after June 30, 2014, and the remainder of this Act is effective for taxable years beginning after December 31, 2012.

Approved May 6, 2013
Filed May 7, 2013

CHAPTER 450

SENATE BILL NO. 2106

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to create and enact sections 57-36-05.3, 57-36-05.4, and 57-36-06.1 of the North Dakota Century Code, relating to the operation of roll-your-own cigarette-making machines; to amend and reenact sections 57-36-01 and 57-36-33 of the North Dakota Century Code, relating to the definitions of cigarette and roll-your-own cigarette-making machine for tobacco products tax purposes; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-36-01 of the North Dakota Century Code is amended and reenacted as follows:

57-36-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Chewing tobacco" means any leaf tobacco that is intended to be placed in the mouth.
2. "Cigar" means any roll of tobacco wrapped in tobacco.
3. "Cigarette" means any roll for smoking made wholly or in part of tobacco or processed tobacco and encased in any material except tobacco. "Cigarette" also means any product of a cigarette-making machine.
4. "Cigarette-making machine" means a machine used for commercial purposes to process tobacco into a roll or tube, formed or made from any material other than tobacco, at a production rate of more than five rolls or tubes per minute.
5. "Consumer" means any person who has title to or possession of cigarettes, cigars, pipe tobacco, or other tobacco products in storage, for use or other consumption in this state.
- ~~5-6.~~ "Dealer" includes any person other than a distributor who is engaged in the business of selling cigarettes, cigarette papers, cigars, pipe tobacco, or other tobacco products, or any product of a cigarette-making machine.
- ~~6-7.~~ "Distributor" includes any person engaged in the business of producing or manufacturing cigarettes, cigarette papers, cigars, pipe tobacco, or other tobacco products, or importing into this state cigarettes, cigarette papers, cigars, pipe tobacco, or other tobacco products, for the purpose of distribution and sale thereof to dealers and retailers.
- ~~7-8.~~ "Licensed dealer" means a dealer licensed under the provisions of this chapter.

- 8-9. "Licensed distributor" means a distributor licensed under the provisions of this chapter.
- 9-10. "Other tobacco products" means snuff and chewing tobacco.
- 10-11. "Person" means any individual, firm, fiduciary, partnership, corporation, limited liability company, trust, or association however formed.
- 11-12. "Pipe tobacco" means any processed tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.
- 12-13. "Sale" or "sell" applies to gifts, exchanges, and barter.
- 13-14. "Snuff" means any finely cut, ground, or powdered tobacco that is intended to be placed in the mouth.
- 14-15. "Storage" means any keeping or retention of cigarettes, cigars, pipe tobacco, or other tobacco products for use or consumption in this state.
- 15-16. "Use" means the exercise of any right or power incidental to the ownership or possession of cigarettes, cigars, pipe tobacco, or other tobacco products.

SECTION 2. Section 57-36-05.3 of the North Dakota Century Code is created and enacted as follows:

57-36-05.3. Use of cigarette-making machines - When allowed.

A person may not maintain or operate in this state a cigarette-making machine unless that person:

1. Has a valid federal permit as a tobacco product manufacturer issued under 26 U.S.C. 5713; or
2. Uses the machine exclusively for personal purposes. A cigarette-making machine may be considered used exclusively for personal purposes only if the product resulting from the operation of the machine is consumed by the individual who owns the machine or by other persons whose consumption of the product is incidental to the owner's personal use of the machine.

SECTION 3. Section 57-36-05.4 of the North Dakota Century Code is created and enacted as follows:

57-36-05.4. Certain cigarette-making machines - Registration requirements.

The following requirements apply to any cigarette-making machine:

1. A person may not maintain or operate a cigarette-making machine in this state unless the machine has been registered with the attorney general in the form and manner as prescribed by the attorney general. The person registering a machine under this section shall certify under penalties of perjury that all statements in the registration and in any attachments to the registration are true, accurate, and complete.

2. The registration expires three years from the date the machine is registered with the attorney general and must be renewed as provided under subsection 1.
3. The person registering the machine shall attach to the registration a copy of a valid federal permit issued to the person under 26 U.S.C. 5713 or an affidavit indicating that the machine will be used exclusively for personal purposes as described in section 57-36-05.3.
4. The registration required under this section immediately terminates if the federal permit is declared invalid, surrendered, or revoked, or any statement in the affidavit ceases to be true, correct, or complete.

SECTION 4. Section 57-36-06.1 of the North Dakota Century Code is created and enacted as follows:

57-36-06.1. Cigarette-making machines - Requirements.

A person operating or maintaining a cigarette-making machine who is a tobacco product manufacturer under Public Law 112-141 [126 Stat. 914; 26 U.S.C. 5702 et seq.] shall:

1. Maintain on the machine, in good working order, a tamper-proof counting device that records the number of all rolls or tubes processed on the machine.
2. Provide the tax commissioner access to the machine and its counting device at all reasonable times for verification and other tax administration purposes.
3. Pay any taxes required under chapter 57-36.
4. Comply with the provisions of chapter 51-25 pertaining to all cigarettes produced by the machine.
5. Comply with the ignition propensity requirements under chapter 18-13 with respect to all cigarettes produced by the machine.
6. Use only federal tax-paid roll-your-own tobacco or tobacco exempt from federal tax under 26 U.S.C. 5704(b).

SECTION 5. AMENDMENT. Section 57-36-33 of the North Dakota Century Code is amended and reenacted as follows:

57-36-33. Penalties for violation of chapter.

Except as otherwise provided in this chapter, any:

1. Any person who violates any provision of this chapter is guilty of a class A misdemeanor.
2. All cigarettes, cigarette papers, cigars, pipe tobacco, or other tobacco products in the possession of the person who violates any provision of this chapter, or in the place of business of the person, must may be confiscated by the tax commissioner as provided under section 57-36-14 and forfeited to the state. Any cigarette-making machine that is maintained or operated in violation of sections 57-36-05.3, 57-36-05.4, or 57-36-06.1 must be confiscated by the

tax commissioner and forfeited to the state in accordance with chapter 29-31.1.

SECTION 6. EFFECTIVE DATE. This Act becomes effective July 1, 2013.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 451

SENATE BILL NO. 2156

(Senators Cook, Campbell, Oehlke)
(Representatives Belter, Drovdal, Headland)

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to a corporate income tax credit for contributions to rural leadership North Dakota; to amend and reenact subsection 3 of section 57-38-01.26, section 57-38-30, and subsection 1 of section 57-38-30.3 of the North Dakota Century Code, relating to authorized investments of an angel fund for income tax credit purposes and a reduction in income tax rates for corporations, individuals, estates, and trusts; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁹ **SECTION 1. AMENDMENT.** Subsection 3 of section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

3. An angel fund must:
 - a. Be a partnership, limited partnership, corporation, limited liability company, limited liability partnership, trust, or estate organized on a for-profit basis which is headquartered in this state.
 - b. Be organized for the purpose of investing in a portfolio of at least three primary sector companies that are early-stage and mid-stage private, nonpublicly traded enterprises with strong growth potential. For purposes of this section, an early-stage entity means an entity with annual revenues of up to two million dollars and a mid-stage entity means an entity with annual revenues over two million dollars not to exceed ten million dollars. ~~Early-stage and mid-stage entities do not include those that have more than twenty-five percent of their revenue from income-producing real estate. Investments in real estate or real estate holding companies are not eligible investments by certified angel funds. Any angel fund certified before January 1, 2013, which has invested in real estate or a real estate holding company is not eligible for recertification.~~
 - c. Consist of at least six accredited investors as defined by securities and exchange commission regulation D, rule 501.
 - d. Not have more than twenty-five percent of its capitalized investment assets owned by an individual investor.
 - e. Have at least five hundred thousand dollars in commitments from accredited investors and that capital must be subject to call to be invested over an unspecified number of years to build a portfolio of investments in enterprises.

¹⁹⁹ Section 57-38-01.26 was also amended by section 21 of House Bill No. 1106, chapter 443, and section 9 of Senate Bill No. 2325, chapter 449.

- f. Be member-managed or a manager-managed limited liability company and the investor members or a designated board that includes investor members must make decisions as a group on which enterprises are worthy of investments.
- g. Be certified as an angel fund that meets the requirements of this section by the department of commerce.
- h. Be in compliance with the securities laws of this state.
- i. Within thirty days after the date on which an investment in an angel fund is made, the angel fund shall file with the tax commissioner and provide to the investor completed forms prescribed by the tax commissioner which show as to each investment in the angel fund the following:
 - (1) The name, address, and social security number or federal employer identification number of the taxpayer or passthrough entity that made the investment;
 - (2) The dollar amount remitted by the taxpayer or passthrough entity; and
 - (3) The date the payment was received by the angel fund for the investment.
- j. Within thirty days after the end of a calendar year, the angel fund shall file with the tax commissioner a report showing the name and principal place of business of each enterprise in which the angel fund has an investment.

SECTION 2. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

Corporate credit for contributions to rural leadership North Dakota.

There is allowed a credit against the tax imposed by section 57-38-30 in an amount equal to fifty percent of the aggregate amount of contributions made by the taxpayer during the taxable year for tuition scholarships for participation in rural leadership North Dakota conducted through the North Dakota state university extension service. Contributions by a taxpayer may be earmarked for use by a designated recipient.

SECTION 3. 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 ~~sixty-eight~~forty-eight hundredths percent.
2. On all taxable income exceeding twenty-five thousand dollars and not exceeding fifty thousand dollars, at the rate of ~~four~~three and ~~twenty-three~~seventy-three hundredths percent.

3. On all taxable income exceeding fifty thousand dollars, at the rate of fivefour and fifteenfifty-three hundredths percent.

²⁰⁰ **SECTION 4. 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.

- a. Single, other than head of household or surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$34,500 <u>\$36,250</u>	4.51% <u>1.22%</u>
Over \$34,500 <u>\$36,250</u>	\$520.95 <u>\$442.25</u> plus 2.82% <u>2.27%</u> but not over \$83,600 <u>\$87,850</u>
of amount over \$34,500 <u>\$36,250</u>	\$1,905.57 <u>\$1,613.57</u> plus
Over \$83,600 <u>\$87,850</u>	but not over \$174,400 <u>\$183,250</u> of amount over \$83,600 <u>\$87,850</u> \$4,747.61 <u>\$4,017.65</u> plus
3.13% <u>2.52%</u>	but not over \$379,150 <u>\$398,350</u> of amount over \$174,400 <u>\$183,250</u> \$12,180.04 <u>\$10,320.08</u> plus
Over \$174,400 <u>\$183,250</u>	
3.63% <u>2.93%</u>	of amount over
Over \$379,150 <u>\$398,350</u>	
3.99% <u>3.22%</u>	
\$379,150 <u>\$398,350</u>	

- b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over \$57,700 <u>\$60,650</u>	4.51% <u>1.22%</u>
Over \$57,700 <u>\$60,650</u>	\$871.27 <u>\$739.93</u> plus 2.82% <u>2.27%</u> but not over \$139,350 <u>\$146,400</u> of amount over \$57,700 <u>\$60,650</u> \$3,173.80 <u>\$2,686.46</u> plus
Over \$139,350 <u>\$146,400</u>	but not over \$212,300 <u>\$223,050</u> of amount over \$139,350 <u>\$146,400</u>
3.13% <u>2.52%</u>	

²⁰⁰ Section 57-38-30.3 was also amended by section 12 of Senate Bill No. 2325, chapter 449.

Over ~~\$212,300~~\$223,050
3.63%2.93%

~~\$5,457.14~~\$4,618.04 plus

but not over ~~\$379,150~~\$398,350
of amount over ~~\$212,300~~\$223,050
~~\$11,513.79~~\$9,754.33 plus

Over ~~\$379,150~~\$398,350
3.99%3.22%

of amount over

~~\$379,150~~\$398,350

c. Married filing separately.

If North Dakota taxable income is:

Not over ~~\$28,850~~\$30,325

Over ~~\$28,850~~\$30,325

of amount over ~~\$28,850~~\$30,325

Over ~~\$69,675~~\$73,200

3.13%2.52%

Over ~~\$106,150~~\$111,525

3.63%2.93%

Over ~~\$189,575~~\$199,175

3.99%3.22%

~~\$189,575~~\$199,175

The tax is equal to:

1.51%1.22%

~~\$435.64~~\$369.97 plus 2.82%2.27%

but not over ~~\$69,675~~\$73,200

~~\$1,586.90~~\$1,343.23 plus

but not over ~~\$106,150~~\$111,525

of amount over ~~\$69,675~~\$73,200

~~\$2,728.57~~\$2,309.02 plus

but not over ~~\$189,575~~\$199,175

of amount over ~~\$106,150~~\$111,525

~~\$5,756.90~~\$4,877.17 plus

of amount over

d. Head of household.

If North Dakota taxable income is:

Not over ~~\$46,250~~\$48,600

Over ~~\$46,250~~\$48,600

Over ~~\$119,400~~\$125,450

3.13%2.52%

Over ~~\$193,350~~\$203,150

3.63%2.93%

Over ~~\$379,150~~\$398,350

3.99%3.22%

~~\$379,150~~\$398,350

The tax is equal to:

1.51%1.22%

~~\$698.38~~\$592.92 plus 2.82%2.27%

but not over ~~\$119,400~~\$125,450

of amount over ~~\$46,250~~\$48,600

~~\$2,761.21~~\$2,337.42 plus

but not over ~~\$193,350~~\$203,150

of amount over ~~\$119,400~~\$125,450

~~\$5,075.84~~\$4,295.46 plus

but not over ~~\$379,150~~\$398,350

of amount over ~~\$193,350~~\$203,150

~~\$11,820.38~~\$10,014.82 plus

of amount over

e. Estates and trusts.

If North Dakota taxable income is:

Not over ~~\$2,300~~\$2,450

Over ~~\$2,300~~\$2,450

of amount over ~~\$2,300~~\$2,450

The tax is equal to:

1.51%1.22%

~~\$34.73~~\$29.89 plus 2.82%2.27%

but not over ~~\$5,450~~\$5,700

Over \$5,450 <u>\$5,700</u>	\$123.56 <u>\$103.67</u> plus 3.13% <u>2.52%</u> but not over \$8,300 <u>\$8,750</u>
of amount over \$5,450 <u>\$5,700</u>	
Over \$8,300 <u>\$8,750</u>	\$212.77 <u>\$180.53</u> plus 3.63% <u>2.93%</u> but not over \$11,350 <u>\$11,950</u>
of amount over \$8,300 <u>\$8,750</u>	
Over \$11,350 <u>\$11,950</u>	\$323.48 <u>\$274.29</u> plus 3.99% <u>3.22%</u> of amount over
\$11,350 <u>\$11,950</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 5. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012.

Approved May 3, 2013
Filed May 7, 2013

CHAPTER 452

SENATE BILL NO. 2207

(Senators Grindberg, Holmberg, Robinson)
(Representatives Dockter, Kreun, Thoreson)

AN ACT to create and enact a new subsection to section 57-38-30.5 of the North Dakota Century Code, relating to the effect of the expiration of the federal research tax credit on the state income tax credit for research and experimental expenditures; to provide for retroactive application; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰¹ **SECTION 1.** 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 referenced in this section have the same meaning and application as provided in section 41 of the Internal Revenue Code [26 U.S.C. 41], as amended through the most recent taxable year in which the provisions were in effect.

SECTION 2. RETROACTIVE APPLICATION. This Act applies retroactively to taxable years beginning after December 31, 2011.

SECTION 3. EXPIRATION DATE. This Act is effective through December 31, 2014, and after that date is ineffective.

Approved April 19, 2013
Filed April 19, 2013

²⁰¹ Section 57-38-30.5 was also amended by section 26 of House Bill No. 1106, chapter 443.

CHAPTER 453

SENATE BILL NO. 2104

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact section 57-38-31.1 of the North Dakota Century Code, relating to composite withholding returns for nonresident members of passthrough entities; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-31.1 of the North Dakota Century Code is amended and reenacted as follows:

57-38-31.1. Composite returns.

1. For purposes of this section, unless the context otherwise requires:
 - a. "Member" means an individual ~~who or passthrough entity that~~ is a shareholder of an S corporation; a partner in a general partnership, a limited partnership, or a limited liability partnership; a member of a limited liability company; ~~settlor of a grantor trust~~, or a beneficiary of a trust.
 - b. "Nonresident" means an individual who is not a resident of or domiciled in the state ~~or~~, a trust not organized in the state, ~~or a passthrough entity that does not have its commercial domicile in the state.~~
 - c. "Passthrough entity" means ~~an entity that for the applicable tax year is treated as an S corporation under this chapter or a general partnership, limited partnership, limited liability partnership, trust, or limited liability company that for the applicable tax year is not taxed as a corporation under this chapter~~ a corporation that for the applicable tax year is treated as an S corporation under the Internal Revenue Code, a limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes, ~~or a general partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, grantor trust, or similar entity recognized by the laws of this state that is not taxed for federal income tax purposes at the entity level.~~
2.
 - a. A passthrough entity may file a composite income tax return on behalf of electing nonresident members reporting and paying income tax, at the highest marginal rate provided in section 57-38-30.3 ~~for individuals~~, on the members' pro rata or distributive shares of income of the passthrough entity from doing business in, or deriving income from sources within, this state.
 - b. A nonresident member whose only source of income within the state is from one or more passthrough entities may elect to be included in a composite return filed under this section.

- c. A nonresident member that has been included in a composite return may file an individual income tax return and shall receive credit for tax paid on the member's behalf by the passthrough entity.
3. a. A passthrough entity shall withhold income tax, at the highest tax rate provided in section 57-38-30.3 ~~for individuals~~, on the share of income of the entity distributed to each nonresident member and pay the withheld amount in the manner prescribed by the tax commissioner. The passthrough entity is liable to the state for the payment of the tax required to be withheld under this section and is not liable to any member for the amount withheld and paid ~~over~~ in compliance with this section. A member of a passthrough entity that is itself a passthrough entity (a lower-tier passthrough entity) is subject to this same requirement to withhold and pay ~~over~~ income tax on the share of income distributed by the lower-tier passthrough entity to each of its nonresident members. The tax commissioner shall apply tax withheld and paid ~~over~~ by a passthrough entity on distributions to a lower-tier passthrough entity to the withholding required of that lower-tier passthrough entity.
- b. At the time of a payment made under this section, a passthrough entity shall deliver to the tax commissioner a return ~~upon~~ a form prescribed by the tax commissioner showing the total amounts paid or credited to its nonresident members, the amount withheld in accordance with this section, and any other information the tax commissioner may require. A passthrough entity shall furnish to its nonresident member annually, but not later than the fifteenth day of the third month after the end of its taxable year, a record of the amount of tax withheld on behalf of ~~such~~ the member on a form prescribed by the tax commissioner.
- c. Notwithstanding subdivision a, a passthrough entity is not required to withhold tax for a nonresident member if:
- (1) The member has a pro rata or distributive share of income of the passthrough entity from doing business in, or deriving income from sources within, this state of less than one thousand dollars per annual accounting period;
 - (2) The tax commissioner has determined by rule, ruling, or instruction that the member's income is not subject to withholding;
 - (3) The member elects to have the tax due paid as part of a composite return filed by the passthrough entity under subsection 2; ~~or~~
 - (4) The entity is a publicly traded partnership as defined by section 7704(b) of the Internal Revenue Code which is treated as a partnership for the purposes of the Internal Revenue Code and which has agreed to file an annual information return reporting the name, address, taxpayer identification number, and other information requested by the tax commissioner of each unitholder with an income in the state in excess of five hundred dollars; ~~or~~
 - (5) The member is a lower-tier passthrough entity that elects to be exempted from the withholding requirement under this subsection. The election must be made on a form and in a manner prescribed by the tax commissioner. The form must include a statement that the member

certifies that the member will file any return and pay any tax required by this chapter on its distributive share of income from the source passthrough entity and that the member is subject to this state's jurisdiction for the collection of that tax and any applicable penalty and interest. The tax commissioner may revoke the exemption under this paragraph if the source passthrough entity or member fails to comply with the requirements of this paragraph. If the exemption is revoked, the source passthrough entity shall begin withholding from the member within sixty days of receiving notification of the revocation from the tax commissioner. The tax commissioner may prescribe any procedures and guidelines necessary to administer this paragraph.

- d. A passthrough entity failing to file a return, or failing to withhold or remit the tax withheld, as required by this section, is subject to the provisions of section 57-38-45.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2013.

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 454

SENATE BILL NO. 2058

(Political Subdivisions Committee)

(At the request of the Board of University and School Lands)

AN ACT to create and enact a new subsection to section 57-39.2-23 of the North Dakota Century Code, relating to the disclosure of confidential tax information to the unclaimed property division; and to amend and reenact subsection 2 of section 47-30.1-30 and subsection 6 of section 57-38-57 of the North Dakota Century Code, relating to contracting for in-state unclaimed property examinations and the disclosure of confidential tax information to the unclaimed property division.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 47-30.1-30 of the North Dakota Century Code is amended and reenacted as follows:

2. The administrator, at reasonable times and upon reasonable notice, may examine the records of any person to determine whether the person has complied with this chapter. The administrator may not require a person to provide records for a period exceeding the current year and seven preceding fiscal years. The administrator may conduct the examination even if the person believes that person is not in possession of any property reportable or deliverable under this chapter. The administrator may not contract for an examination done within this state without reasonable cause to believe that a person has failed to comply with this chapter.

SECTION 2. AMENDMENT. Subsection 6 of section 57-38-57 of the North Dakota Century Code is amended and reenacted as follows:

6. ~~The~~Upon request, the tax commissioner may furnish to the unclaimed property division of the board of university and school lands, ~~upon its request,~~ a taxpayer's name, address, and federal identification number for ~~the sole purpose of identifying the taxpayer as the owner of an unclaimed voucher authorized by the tax commissioner or to locate the apparent owner of unclaimed property as provided under chapter 47-30.1.~~

SECTION 3. A new subsection to section 57-39.2-23 of the North Dakota Century Code is created and enacted as follows:

Upon request, the commissioner may furnish to the unclaimed property division of the board of university and school lands, a taxpayer's name, address, and federal identification number for identifying the owner of an unclaimed voucher authorized by the commissioner or to locate the apparent owner of unclaimed property as provided under chapter 47-30.1.

Approved March 14, 2013
Filed March 15, 2013

²⁰² Section 57-38-57 was also amended by section 2 of House Bill No. 1098, chapter 455.

CHAPTER 455

HOUSE BILL NO. 1098

(Finance and Taxation Committee)
(At the request of the Insurance Commissioner)

AN ACT to create and enact a new subsection to section 57-38-57 of the North Dakota Century Code, relating to disclosure of tax return information; and to amend and reenact subsection 18 of section 26.1-26-42 of the North Dakota Century Code, relating to insurance producer license suspension, revocation, or refusal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 18 of section 26.1-26-42 of the North Dakota Century Code is amended and reenacted as follows:

18. The applicant or licensee ~~knowingly fails to file the required returns or pay state income tax~~the taxes due under chapter 57-38 or comply with a court order directing payment of ~~state~~any income tax or employer income tax withholding imposed by chapter 57-38.

²⁰³ **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 disclose confidential tax information to the insurance commissioner to be used for the sole purpose of suspending, revoking, placing on probation, refusing to continue or refusing to issue an insurance producer license, assessing a civil penalty, or investigating fraudulent insurance acts under the insurance laws of this state. The tax information may be disclosed only upon written request that provides the taxpayer's name, federal identification number, and address. The insurance commissioner may make a written request only if the insurance commissioner has started an investigation of an applicant or licensee on grounds other than failure to comply with chapter 57-38 or has started an investigation of a suspected or actual fraudulent insurance act. Upon receipt of the request, the tax commissioner may disclose whether the taxpayer has complied with the requirements of this chapter. If the taxpayer has not complied with these requirements, the tax commissioner may provide the tax type, the tax period for which a return has not been filed, and if the taxpayer has failed to pay any tax, the amount of tax, penalty, and interest owed. The information obtained under this subsection is confidential and may be used only for the purposes identified in this subsection. For the purposes of this subsection, a taxpayer is deemed in compliance with this chapter if the taxpayer has entered an agreement with the tax commissioner to cure the taxpayer's noncompliance and the taxpayer is current with those obligations under the agreement.

Approved March 26, 2013
Filed March 27, 2013

²⁰³ Section 57-38-57 was also amended by section 2 of Senate Bill No. 2058, chapter 454.

CHAPTER 456

SENATE BILL NO. 2330

(Senators Mathern, Cook, Robinson)
(Representatives Carlson, Holman)

AN ACT to amend and reenact section 57-38-62 of the North Dakota Century Code, relating to underpayment of estimated taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-62 of the North Dakota Century Code is amended and reenacted as follows:

57-38-62. Payment of estimated income tax.

1. An individual, estate, or trust that is subject to section 6654 of the Internal Revenue Code relating to a failure to pay federal estimated income tax shall, at the time prescribed in this chapter, pay estimated tax for the current taxable year. Notwithstanding any other provision of this section, an individual, estate, or trust whose net tax liability for the preceding taxable year was less than five hundred one thousand dollars is not required to pay estimated tax for the current taxable year. Married individuals who file a joint federal income tax return and are subject to section 6654 of the Internal Revenue Code must each be deemed to be subject to the federal provision. If payment of estimated tax is required, the individual, estate, or trust shall, at the time prescribed in this chapter, pay the lesser of the following:
 - a. An amount which, when added to the taxpayer's withholding, equals ninety percent of the taxpayer's current taxable year's net tax liability.
 - b. An amount which, when added to the taxpayer's withholding, equals one hundred percent of the taxpayer's net tax liability for the immediately preceding taxable year.
 - (1) This subdivision does not apply to any taxpayer who was not required by this chapter to file a return for the immediately preceding taxable year, to an individual who moved into this state during the immediately preceding taxable year, or to an estate or trust that was not in existence for the entire immediately preceding taxable year. The amount under this subdivision must be deemed to be equal to the amount in subdivision a if this part applies.
 - (2) In order to satisfy the requirements of this subdivision, married individuals who are required to file separate state returns for the current taxable year but who were required to file a joint state return for the immediately preceding taxable year must each be required to pay estimated tax in an amount which, when added to the individual's withholding, equals the net tax liability which would have been computed for the immediately preceding taxable year if separate state returns had been required to be filed.

- (3) In order to satisfy the requirements of this subdivision, married individuals who are required to file a joint state return for the current taxable year but were required to file separate state returns for the immediately preceding taxable year must be required to pay estimated tax in an amount which, when added to their withholding, equals the sum of their separate net tax liabilities for the immediately preceding taxable year.
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 percent of the corporation's current taxable year's net tax liability.
 - b. One hundred percent of the corporation's net tax liability for the immediately preceding taxable year.
 3. The provisions of section 57-38-45, except those provisions relating to the imposition of a penalty, apply in case of nonpayment, late payment, or underpayment of estimated tax. For purposes of applying the interest provisions of section 57-38-45, interest accrues on a per annum basis from the due date of an installment to the fifteenth day of the fourth month following the end of the current taxable year or, with respect to any portion of the estimated tax required to be paid, the date on which the portion thereof is paid, whichever date is earlier. Notwithstanding the other provisions of this section, no interest is due if the estimated tax paid on or before each due date under section 57-38-63 by a corporation is based on the annualized or adjusted seasonal method under section 6655 of the Internal Revenue Code. Notwithstanding the other provisions of this section, no interest is due if the estimated tax of an individual, estate, or trust is less than five hundred one thousand dollars per income tax return filed.
 4. For purposes of this section, "estimated tax" means the amount that a taxpayer estimates to be income tax under this chapter for the current taxable year less the amount of any credits allowable, including tax withheld.
 5. For purposes of this section, "net tax liability" means the amount of income tax computed for the taxable year as shown on the return less the amount of any credits allowable except tax withheld and estimated tax paid.
 6. An individual or corporation may apply a tax overpayment from a preceding taxable year as an estimated tax payment on the individual's or corporation's behalf for the taxable year succeeding the overpayment. The individual or corporation may elect to apply the overpayment to specific estimated tax installments. If the individual or corporation does not specify the installment period toward which the overpayment is to be applied, the individual or corporation must be considered to have elected to apply the overpayment toward the first required estimated tax installment for the succeeding taxable year.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 457

SENATE BILL NO. 2142

(Senators Cook, Oehlke, O'Connell)
(Representatives Drovdal, Nathe, Thoreson)

AN ACT to create and enact two new subsections to section 57-39.2-01 and a new section to chapter 57-39.2 of the North Dakota Century Code, relating to the definition of telecommunications company and telecommunications services and a sales and use tax exemption for equipment used in telecommunications infrastructure development; to amend and reenact section 57-40.2-03.3 of the North Dakota Century Code, relating to use tax exemption for telecommunications infrastructure purchased or installed by contractors; 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. Two new subsections to section 57-39.2-01 of the North Dakota Century Code are created and enacted as follows:

"Telecommunications company" means a person engaged in the furnishing of telecommunications service within this state.

"Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice over internet protocol services or is classified by the federal communications commission as enhanced or value-added. The term does not include:

- a. Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where the purchaser's primary purpose for the underlying transaction is the processed data or information;
- b. Installation or maintenance of wiring or equipment on a customer's premises;
- c. Tangible personal property;
- d. Advertising, including directory advertising;
- e. Billing and collection services provided to third parties;
- f. Internet access service;
- g. Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and

television audio and video programming services include cable service as defined in 47 U.S.C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 CFR 20.3;

- h. Ancillary services; or
- i. Digital products delivered electronically, including software, music, video, reading materials, and ringtones.

SECTION 2. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Sales tax exemption for equipment used in telecommunications infrastructure development.

1. Gross receipts from sales of tangible personal property used to construct or expand telecommunications service infrastructure that is capable of providing telecommunications service in this state are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated into telecommunications infrastructure owned by a telecommunications company.
2. To receive the exemption at the time of purchase, the purchaser must receive from the tax commissioner a certificate stating that the tangible personal property qualifies for the exemption. If a certificate is not received before the purchase, then the telecommunications company shall pay the applicable tax imposed and apply to the tax commissioner for a refund of sales and use taxes paid for which the exemption is claimed under this section. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the telecommunications company may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed under 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.

²⁰⁴ **SECTION 3. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-03.3. Use tax on contractors.

1. When a contractor or subcontractor uses tangible personal property in the performance of that person's contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to pay the sales or use tax, such contractor or subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair market value of such property, whichever is greater, unless such property has been previously subjected to a sales tax or use tax by this state, and the tax due thereon has been paid.

²⁰⁴ Section 57-40.2-03.3 was also amended by section 3 of House Bill No. 1410, chapter 459, and section 2 of House Bill No. 1413, chapter 461.

2. The provisions of this chapter pertaining to the administration of the tax imposed by section 57-40.2-02.1, not in conflict with the provisions of this section, govern the administration of the tax levied by this section.
3. The tax imposed by this section does not apply to medical equipment purchased as tangible personal property by a hospital or by a long-term care facility as defined in section 50-10.1-01 and subsequently installed by a contractor into such hospital or facility.
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; ~~or~~
 - d. Tangible personal property used to construct ~~to~~ expand a qualifying oil refinery as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.6; ~~or~~
 - e. Telecommunications infrastructure that is capable of providing telecommunications service as authorized or approved for exemption by the commissioner under chapter 57-39.2.

SECTION 4. EFFECTIVE DATE. This Act is retroactively effective, to include purchases made after December 31, 2012.

SECTION 5. EXPIRATION DATE. This Act is effective through June 30, 2017, and after that date is ineffective.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 458

SENATE BILL NO. 2090

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact section 57-39.2-02.1, subsections 22 and 35 of section 57-39.2-04, sections 57-39.2-08.2 and 57-40.2-02.1, and subsections 10 and 18 of section 57-40.2-04 of the North Dakota Century Code, relating to sales and use tax on manufactured homes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-02.1. Sales tax imposed.

1. ~~Except as otherwise expressly provided in subsection 2 for sales of mobile homes used for residential or business purposes, and 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, except mobile homes used for residential or business purposes and including bundled transactions consisting entirely of tangible personal property.~~
 - b. ~~The furnishing or service of communication services 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.
2. ThereFor purposes of manufactured homes, as defined in section 41-09-02, there is imposed a tax of three percent upon the:
- a. gross~~Gross~~ receipts of retailers from all sales at retail of mobile~~manufactured~~ homes used for residential or business purposes, except as provided in subsection 35 of section 57-39.2-04; or

- b. Dealer's cost to purchase the manufactured home if the manufactured home is sold in conjunction with installation in this state, and tax has not previously been paid under subdivision a.

Installation of a manufactured home includes any method established under section 54-21.3-08.

²⁰⁵ **SECTION 2. AMENDMENT.** Subsections 22 and 35 of section 57-39.2-04 of the North Dakota Century Code are amended and reenacted as follows:

22. Gross receipts from the leasing or renting of ~~factory~~ manufactured homes, ~~including mobile 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.
35. Gross receipts from the sale of a ~~mobile~~ manufactured home ~~which~~ 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.

SECTION 3. AMENDMENT. Section 57-39.2-08.2 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-08.2. Sales tax to be added to purchase price and be a debt.

1. Except as otherwise provided in subsection 2, retailers shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge, and when added, such tax constitutes a part of such price or charge, is a debt from the consumer or user to the retailer until paid, and is recoverable at law in the same manner as other debts.

A retailer shall determine the amount of tax charged to and received from each purchaser by use of a formula that applies the applicable tax rate to each taxable item or total purchase and the product must be carried to the third decimal place. Amounts of tax less than one-half of one cent must be disregarded and amounts of tax of one-half of one cent or more must be considered an additional cent of tax. When a local sales tax applies, the determination of tax charged to and received from each customer will be applied to the aggregated state and local taxes.

2. On retail sales of ~~mobile~~ manufactured homes used for residential or business purposes, ~~except as provided in subsection 35 of section 57-39.2-04, and of farm machinery, farm machinery repair parts, and irrigation equipment used exclusively for agricultural purposes~~, retailers shall add the tax imposed under this chapter, or the average equivalent thereof, to the sales price or charge, and when added, such tax constitutes a part of such price or charge, is a debt from the consumer or user to the retailer until paid, and is recoverable at law in the same manner as other debts. In adding such tax to the price or charge, retailers shall add to it three percent of such price or charge.

²⁰⁵ Section 57-39.2-04 was also amended by section 1 of House Bill No. 1410, chapter 459.

SECTION 4. AMENDMENT. Section 57-40.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

57-40.2-02.1. Use tax imposed.

1. Except as otherwise expressly provided in ~~subsection 2 for purchases of mobile homes used for residential or business purposes~~this chapter, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of five percent of the purchase price of the property. Except as ~~limited by~~provided in section 57-40.2-11, an excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of five percent of the fair market value of the property at the time it was brought into this state.
2. ~~An~~For purposes of manufactured homes, as defined in section 41-09-02, an excise tax is imposed on the storage, use, or consumption in this state of ~~mobile~~manufactured homes used for residential or business purposes, except as provided in subsection ~~19~~18 of section 57-40.2-04 purchased at retail for storage, use, or consumption in this state at the rate of three percent of the purchase price thereof. Except as ~~limited by~~provided in section 57-40.2-11, and except as provided in subsection 35 of section 57-39.2-04, an excise tax is imposed on the storage, use, or consumption in this state of a ~~mobile~~manufactured home used for residential or business purposes at the rate of three percent of the fair market value of a ~~mobile~~manufactured home used for residential or business purposes at the time it was brought into this state. A manufactured home removed from North Dakota for installation in another state is not stored, used, or consumed in this state. Installation of a manufactured home includes any method established under section 54-21.3-08.
3. Repealed by S.L. 2007, ch. 529, § 7.
4. ~~In the case of a contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to December 1, 1986, the contractor receiving the award shall be liable only for the sales or use tax at the rate of tax in effect on the date of contract.~~
5. An excise tax is imposed on the fair market value of sand or gravel severed when sand or gravel is not sold at retail as tangible personal property by the person severing the sand or gravel. If the sand or gravel is not sold at retail by the person severing the sand or gravel, it must be presumed until the contrary is shown by the commissioner or by the person severing the sand or gravel that the fair market value is eight cents per ton of two thousand pounds [907.18 kilograms]. If records are not kept as to the tonnage of sand or gravel severed from the soil, it must be presumed for the purpose of this chapter that one cubic yard [764.55 liters] of sand or gravel is equal to one and one-half tons [1360.78 kilograms] of sand or gravel.

²⁰⁶ **SECTION 5. AMENDMENT.** Subsections 10 and 18 of section 57-40.2-04 of the North Dakota Century Code are amended and reenacted as follows:

²⁰⁶ Section 57-40.2-04 was also amended by section 4 of House Bill No. 1410, chapter 459.

10. Gross receipts from the leasing, or renting, for residential housing, for periods of more than thirty consecutive days, of ~~factory~~ manufactured homes, ~~including mobile homes~~, modular living units, or sectional homes, whether or not placed on a permanent foundation.

18. Gross receipts from the sale of a ~~mobile~~ manufactured home ~~which~~ 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 use tax has previously been imposed.

SECTION 6. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2013.

Approved March 14, 2013

Filed March 15, 2013

CHAPTER 459

HOUSE BILL NO. 1410

(Representatives Thoreson, Belter, Haak, Headland, Owens)
(Senators Cook, O'Connell, Oehlke)

AN ACT to create and enact a new section to chapter 57-39.2, a new subsection to section 57-39.2-04, and a new subsection to section 57-40.2-04 of the North Dakota Century Code, relating to sales and use tax exemptions for materials used to construct a processing facility to produce liquefied natural gas and for liquefied natural gas used for agricultural, industrial, or railroad purposes; to amend and reenact subsection 4 of section 57-40.2-03.3 and section 57-43.2-02.3 of the North Dakota Century Code, relating to exemption from special fuels taxes for liquefied natural gas used for agricultural, industrial, or railroad purposes and materials used to liquefy natural gas; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²⁰⁷ **SECTION 1.** A new subsection to section 57-39.2-04 of the North Dakota Century Code is created and enacted as follows:

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. A new section to chapter 57-39.2 of the North Dakota Century Code is created and enacted as follows:

Sales tax exemption for materials used to construct a processing facility to produce liquefied natural gas.

1. Gross receipts from sales of tangible personal property used to construct or expand a processing facility in this state to produce liquefied natural gas 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.
2. To receive the exemption at the time of purchase, the owner of the processing facility must receive from the commissioner a certificate that the tangible personal property used to construct the processing facility which the owner intends to purchase qualifies for the exemption. If a certificate is not received prior to the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the 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 may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section.

²⁰⁷ Section 57-39.2-04 was also amended by section 2 of Senate Bill No. 2090, chapter 458.

²⁰⁸ **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; or
 - d. Tangible personal property used to construct to expand a qualifying oil refinery as authorized or approved for exemption by the tax commissioner under section 57-39.2-04.6; or
 - e. Tangible personal property used to construct or expand a qualifying facility as authorized or approved for exemption by the tax commissioner under section 2 of this Act.

²⁰⁹ **SECTION 4.** A new subsection to section 57-40.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from sales of liquefied natural gas used for agricultural, industrial, or railroad purposes as defined in section 57-43.2-01.

SECTION 5. AMENDMENT. Section 57-43.2-02.3 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-02.3. Exemptions.

1. Special fuel commonly known as diesel fuel which is dyed for federal fuel tax exemption purposes and sold for an agricultural, industrial, or railroad purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03. Special fuel known as diesel fuel which is dyed for federal fuel tax exemption purposes and sold for use as heating fuel is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03. Fuel purchased for use in a licensed motor vehicle is not exempt from the tax imposed by section 57-43.2-02.

²⁰⁸ Section 57-40.2-03.3 was also amended by section 2 of House Bill No. 1413, chapter 461, and section 3 of Senate Bill No. 2142, chapter 457.

²⁰⁹ Section 57-40.2-04 was also amended by section 5 of Senate Bill No. 2090, chapter 458.

2. Special fuel, other than diesel fuel, sold for an agricultural, industrial, or railroad purpose is exempt from the special fuel tax imposed by section 57-43.2-02 at the time the fuel is sold to the consumer and is subject instead to the tax imposed by section 57-43.2-03. Propane sold for use as heating fuel is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer. Special fuel, other than diesel fuel and propane, sold for use as heating fuel is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03 at the time the fuel is sold to the consumer. Fuel purchased for use in a licensed motor vehicle is not exempt from the tax imposed by section 57-43.2-02.
3. A consumer purchasing special fuel for a use in which it becomes an ingredient or a component part of tangible personal property intended to be sold ultimately at retail is exempt from the tax imposed by section 57-43.2-02 and is not subject to the tax imposed by section 57-43.2-03.
4. Liquefied natural gas sold or used for an agricultural, industrial, or railroad purpose is exempt from the special fuel tax imposed by sections 57-43.2-02 and 57-43.2-03.

SECTION 6. EFFECTIVE DATE. Sections 2 and 3 of this Act are effective for taxable events occurring after June 30, 2013. Sections 1, 4, and 5 of this Act are effective upon receipt of certification by the tax commissioner from the plant owner that construction of the gas liquefaction plant eligible for the exemptions under sections 2 and 3 of this Act is complete.

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 460

HOUSE BILL NO. 1382

(Representatives Owens, Brandenburg, Kreun, Sanford)
(Senators Erbele, Laffen)

AN ACT to amend and reenact section 57-39.2-04.2 of the North Dakota Century Code, relating to sales tax exemption for a wind-powered electrical generating facility; 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 57-39.2-04.2 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.2. (Effective through June 30, 20152017) 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, 20152017, 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, 2015) 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, 2015~~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.

Approved April 18, 2013

Filed April 18, 2013

CHAPTER 461

HOUSE BILL NO. 1413

(Representatives Headland, Heller, Kreidt, Laning)
(Senators Cook, Unruh)

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 or expand a facility for use of coal gasification byproducts; to amend and reenact section 57-40.2-03.3 of the North Dakota Century Code, relating to a sales tax exemption for tangible personal property used to construct or expand a facility for use of coal gasification byproducts; 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 tax exemption for materials used to construct a facility for coal gasification byproducts.

1. Gross receipts from sales of tangible personal property used to construct or expand a facility in this state to extract or process byproducts associated with coal gasification 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.
2. To receive the exemption at the time of purchase, the owner of the facility must receive from the commissioner a certificate that the tangible personal property used to construct the processing facility which the owner intends to purchase qualifies for the exemption. If a certificate is not received prior to the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the 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 may apply for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section.
4. For purposes of this section, "coal gasification" and "byproducts" have the same meaning as defined in chapter 57-60.

²¹⁰ **SECTION 2. AMENDMENT.** Section 57-40.2-03.3 of the North Dakota Century Code is amended and reenacted as follows:

²¹⁰ Section 57-40.2-03.3 was also amended by section 3 of House Bill No. 1410, chapter 459, and section 3 of Senate Bill No. 2142, chapter 457.

57-40.2-03.3. Use tax on contractors.

1. When a contractor or subcontractor uses tangible personal property in the performance of that person's contract, or to fulfill contract or subcontract obligations, whether the title to such property be in the contractor, subcontractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to pay the sales or use tax, such contractor or subcontractor shall pay a use tax at the rate prescribed by section 57-40.2-02.1 measured by the purchase price or fair market value of such property, whichever is greater, unless such property has been previously subjected to a sales tax or use tax by this state, and the tax due thereon has been paid.
2. The provisions of this chapter pertaining to the administration of the tax imposed by section 57-40.2-02.1, not in conflict with the provisions of this section, govern the administration of the tax levied by this section.
3. The tax imposed by this section does not apply to medical equipment purchased as tangible personal property by a hospital or by a long-term care facility as defined in section 50-10.1-01 and subsequently installed by a contractor into such hospital or facility.
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; or
 - d. Tangible personal property used to construct to 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 1 of this Act.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable events occurring after June 30, 2013.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 462

HOUSE BILL NO. 1459

(Representatives Maragos, Bellew, Brabandt, Frantsvog, Klein, Ruby)
(Senators Burckhard, Hogue, Krebsbach, Larsen)

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 rebate for certain purchases of replacement property for property damaged or destroyed by 2011 flooding; to provide an 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 tax rebate for certain purchases of replacement property for property damaged or destroyed by 2011 flooding.

1. For purposes of this section:

- a. "Claimant" means an individual whose primary residence is in an identified flood zone and who has been approved to receive disaster assistance through the federal emergency management agency due to 2011 river flooding within a disaster or emergency area as declared by the governor in 2011, including ground water incursion resulting from an abnormally high water table in an area threatened by river flooding disaster in this state.
- b. "Major appliance" means any heating, ventilation, or cooling equipment and any water heater, dishwasher, washer, dryer, refrigerator, freezer, stove, range, oven, cooktop, microwave, vacuum, or fan that is purchased for use in the claimant's primary residence to replace an appliance that was damaged or destroyed due to a 2011 flood disaster in a disaster or emergency area as declared by the governor; provided, that the rebate under this section applies only against the tax under this chapter on the first three thousand two hundred dollars of the purchase price of a major appliance.
- c. "Residential building supplies" means any of the following items if used in the claimant's primary residence and determined by the tax commissioner to be reasonably related to purposes of restoration, repair, replacement, or rebuilding due to a 2011 flood disaster in this state; provided that the rebate under this section applies only against the tax under this chapter on the first five hundred dollars of the purchase price of a residential building supply item:
 - (1) Cleaning and disinfecting materials as determined by the tax commissioner;
 - (2) Trash bags, boxes, construction tools, and hardware, as determined by the tax commissioner; and

- (3) Roofing shingles, roofing paper, gutters, downspouts, vents, doors, windows, sheetrock, drywall, insulation, paint and paint materials, flooring, and other necessary building materials, as determined by the tax commissioner.
- d. "Residential furniture" means furniture commonly used in a residential dwelling, as determined by the tax commissioner, which is used in the claimant's primary residence to replace furniture that was damaged or destroyed due to a 2011 flood disaster in this state; provided, that the rebate under this section applies only against the tax under this chapter on the first three thousand two hundred dollars of the purchase price of the residential furniture item.
2. a. This section applies to the claimant's qualifying purchases that occur between June 10, 2011, and December 31, 2013.
- b. The total amount refunded under this section in connection with any one residence may not exceed two thousand five hundred dollars.
3. To claim a refund under this section, a claimant shall file a single application with the tax commissioner on or before December 31, 2013, in a format prescribed by the tax commissioner which must include the aggregate amount requested by the claimant in connection with all eligible purchases under this section. Only one application per residence is allowed. The tax commissioner shall make an approved refund directly to the claimant. An application for refund must include satisfactory proof of receipt of federal disaster assistance, eligible purchases, and taxes under this chapter paid on such purchases and any other information or documentation that the commissioner may require, including store receipts and copies of payment documents such as checks, credit card receipts, or a sworn statement under penalty of perjury to support any purchases made using cash. If purchases were made by a contractor, the claimant must provide with the application a copy of an invoice or receipt from the contractor which separately itemizes the price of each item, sales taxes paid on that purchase and included in the claimant's billing, and labor charges. The commissioner shall develop guidelines concerning the administration of this section which must be posted on the website of the tax department. The commissioner is granted broad discretion to administer the refund process in a manner that the commissioner determines necessary to quickly, efficiently, and accurately carry out the purposes of this section.
4. The commissioner may assess a civil penalty not to exceed twenty-five thousand dollars against any claimant that knowingly files a false or fraudulent application for refund under this section.

SECTION 2. EFFECTIVE DATE - EXPIRATION DATE. This Act becomes effective on July 1, 2013, and is effective through December 31, 2013, and is thereafter ineffective.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 463

HOUSE BILL NO. 1097

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to create and enact a new subsection to section 57-39.2-12 of the North Dakota Century Code, relating to electronic filing of sales and use tax returns and electronic payment of sales and use taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 57-39.2-12 of the North Dakota Century Code is created and enacted as follows:

A retailer required to file monthly returns under subsection 1 shall file the returns by an electronic method approved by the commissioner. A retailer that does not comply with the requirement to file reports electronically is deemed to have failed to file the sales and use tax returns as provided in section 57-39.2-15 and is subject to the penalties provided in section 57-39.2-18. The commissioner may, for good cause shown, waive the filing requirements of this subsection.

SECTION 2. EFFECTIVE DATE. This Act is effective for reporting periods beginning after December 31, 2013.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 464

HOUSE BILL NO. 1464

(Representatives Dosch, Kasper, Streyle, Vigesaa)
(Senators Carlisle, Dever, Sinner)

AN ACT to amend and reenact subsection 1 of section 57-39.2-12.1 and subsection 1 of section 57-40.2-07.1 of the North Dakota Century Code, relating to the deduction to allow retailer reimbursement for administrative expenses of collecting sales and use taxes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 57-39.2-12.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A retailer registered to report and remit sales, use, or gross receipts tax imposed under chapter 57-39.2, 57-39.5, 57-39.6, or 57-40.2 may deduct and retain one and one-half percent of the tax due. The aggregate of deductions allowed by this section and section 57-40.2-07.1 may not exceed ~~ninety-three~~one hundred ten dollars and ~~seventy-five cents~~ per return. Retailers that receive compensation under this subsection may not receive additional compensation under subsection 2 or 3 for the same period.

SECTION 2. AMENDMENT. Subsection 1 of section 57-40.2-07.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A retailer registered to report and remit sales, use, or gross receipts tax imposed under chapter 57-39.2, 57-39.5, 57-39.6, or 57-40.2 may deduct and retain one and one-half percent of the tax due. The aggregate of deductions allowed by this section and section 57-39.2-12.1 may not exceed ~~ninety-three~~one hundred ten dollars and ~~seventy-five cents~~ per return. Retailers that receive compensation under this subsection may not receive additional compensation under subsection 2 or 3 for the same period.

SECTION 3. EFFECTIVE DATE. This Act is effective for returns for taxable periods beginning after June 30, 2013.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 465

SENATE BILL NO. 2217

(Senator Cook)
(Representative Drovdal)

AN ACT to amend and reenact sections 40-57.3-04 and 57-39.4-11.1 of the North Dakota Century Code, relating to the payment of city lodging tax, city lodging and restaurant tax, city motor vehicle tax, and the election of origin-based sourcing for retail sales of tangible personal property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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.

SECTION 2. AMENDMENT. Section 57-39.4-11.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.4-11.1. (310.1) Election for origin-based sourcing.

1. A member state that has local jurisdictions that levy or receive sales or use taxes may elect to source the retail sale of tangible personal property and digital goods under the provisions of this section in lieu of the provisions of subdivisions b, c, and d of subsection 1 of section 57-39.4-11 if the state complies with subsection 3 of this section and the only exception to section 57-39.4-11 is in subsection 2 of this section.
2. A member state may source retail sales, excluding lease or rental, of tangible personal property or digital goods to the location where the order is received by the seller if:

- a. The order is received in the same state by the seller where receipt of the product by the purchaser or the purchaser's designated donee occurs;
 - b. The location where receipt of the product by the purchaser occurs is determined under subdivisions b, c, and d of subsection 1 of section 57-39.4-11; and
 - c. At the time the order is received, the recordkeeping system of the seller used to calculate the proper amount of sales or use tax to be imposed captures the location where the order is received.
3. A member state electing to source sales under this section shall comply with all of the following:
- a. When the location where the order is received by the seller and the location where the receipt of the product by the purchaser or the purchaser's designated donee occurs as determined under subdivisions b, c, and d of subsection 1 of section 57-39.4-11 are in different states, the sale must be sourced under the provisions of section 57-39.4-11.
 - b. When the sale is sourced under this section to the location where the order is received by the seller, only the sales tax for the location where the order is received by the seller may be levied. No additional sales or use tax based on the location where the product is delivered to the purchaser may be levied on that sale. The purchaser shall not be entitled to any refund if the combined state and local rate at the location where the product is received by the purchaser is lower than the rate where the order is received by the seller.
 - c. A member state may not require a seller to use a recordkeeping system that captures the location where the order is received to calculate the proper amount of sales or use tax to be imposed.
 - d. A purchaser shall not have an additional liability to the state for tax, penalty, or interest on a sale for which the purchaser remits tax to the seller in the amount invoiced by the seller if the invoice amount is calculated at either the rate applicable to the location where receipt by the purchaser occurs or at the rate applicable to the location where the order is received by the seller. A purchaser may rely on a written representation by the seller as to the location where the order for the sale was received by the seller. When the purchaser does not have a written representation by the seller as to the location where the order for the sale was received by the seller, the purchaser may use the seller's business address that is available from the purchaser's business records maintained in the ordinary course of the purchaser's business to determine the rate applicable to the location where the order was received.
 - e. The location where the order is received by or on behalf of the seller means the physical location of a seller or third party such as an established outlet, office location, or automated order receipt system operated by or on behalf of the seller, where an order is initially received by or on behalf of the seller and not where the order may be subsequently accepted, completed, or fulfilled. An order is received when all of the information from the purchaser necessary to determine whether the order can be accepted has been received by or on behalf of the seller. The

location from which a product is shipped must not be used in determining the location where the order is received by the seller.

- f. A member state must provide for direct pay permits under section 57-39.4-27 and the requirements of this subsection. Purchasers that remit sales and use tax under a direct pay permit shall remit tax at the rate in effect for the location where receipt of the product by the purchaser occurs or the product is first used as determined by state law. A member state may establish reasonable thresholds at which the member state will consider direct pay applications, provided the threshold must be based upon purchases with no distinction between taxable and nontaxable purchases. The member state shall establish a process for application for a direct pay permit as provided in this chapter. The member state may require the direct pay permit applicant to demonstrate:
 - (1) An ability to comply with the sales and use tax laws of the state;
 - (2) A business purpose for seeking a direct pay permit and how the permit will benefit tax compliance; and
 - (3) Proof of good standing under the tax laws of the state. The member state shall review all permit applications in a timely manner. Notification of authorization or denial must be received by applicants within one hundred twenty days of application. The member state may not limit direct pay permit applicants to businesses engaged in manufacturing or businesses that do not know the ultimate use of the product at the time of the purchase.
 - g. When taxable services are sold with tangible personal property or digital products under a single contract or in the same transaction, are billed on the same billing statement, and because of the application of this section, would be sourced to different jurisdictions, a member state shall elect either origin sourcing or destination sourcing to determine a single situs for that transaction. The member state election is required until the governing board adopts a uniform methodology to address these sales.
 - h. A member state that elects to source the sale of tangible personal property and digital goods under the provisions of this section shall inform the governing board of the election.
4. Compliance with the provisions of this section satisfies a state's eligibility for membership in this agreement as follows:
- a. ~~If a state is in substantial compliance with the provisions of this agreement other than sourcing of sales of tangible personal property and digital goods as provided in section 57-39.4-11, and elects to source sales of tangible personal property and digital goods under this section, the state may become an associate member state in the same manner as provided for states to become full member states under article VIII of the agreement.~~
 - b. ~~A state that becomes an associate member state under this subsection shall automatically become a full member state, provided that at least five states which are not full member states on December 31, 2007, are determined to be in substantial compliance with the provisions of the~~

~~agreement other than sourcing sales of tangible personal property and digital goods under section 57-39.4-11, and the state has notified the governing board of an election under subdivision h of subsection 3 to source sales under this section and has been found to be in substantial compliance with the provisions of this section.~~

Approved March 19, 2013
Filed March 19, 2013

CHAPTER 466

HOUSE BILL NO. 1236

(Representatives Headland, Belter, Brandenburg, Silbernagel, Trottier)
(Senators Campbell, Cook, Klein, Miller, Wanzek)

AN ACT to create and enact section 57-39.5-06 of the North Dakota Century Code, relating to payment of farm machinery gross receipts taxes under a lease agreement; to amend and reenact sections 57-39.5-01, 57-39.5-01.1, and 57-39.5-02 of the North Dakota Century Code, relating to farm machinery gross receipts tax application in lease or rental agreements and what qualifies as used farm machinery for farm machinery gross receipts tax purposes; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-39.5-01 of the North Dakota Century Code is amended and reenacted as follows:

57-39.5-01. Definitions.

Words used in this chapter have the same meaning as provided in chapter 57-39.2. As used in this chapter:

1. "Attachment unit" means any part or combination of parts having an independent function, other than farm machinery repair parts, which when attached or affixed to farm machinery is used exclusively for agricultural purposes.
2. "Farm machinery" means all vehicular implements and attachment units, designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle required to be registered under chapter 57-40.3. "Farm machinery" does not include machinery that may be used for other than agricultural purposes, including tires, farm machinery repair parts, tools, shop equipment, grain bins, feed bunks, fencing materials, and other farm supplies and equipment.
3. "Lease" or "leasing" means an agreement with a term of more than eleven months, between two persons for the possession and use of property and which may or may not include provision for a transfer of ownership of the property.
4. "Rental" or "renting" means an agreement with a term of not more than eleven months, between two persons for the possession and use of property and which does not include provision for a transfer of ownership of the property.

SECTION 2. AMENDMENT. Section 57-39.5-01.1 of the North Dakota Century Code is amended and reenacted as follows:

57-39.5-01.1. Trade-in deduction.

1. When tangible personal property is taken in trade or in a series of trades as a credit or partial payment of a retail sale or lease agreement which is taxable under this chapter, if the tangible personal property traded in will be subject to gross receipts taxes imposed by this chapter, sales taxes imposed by chapter 57-39.2, or motor vehicle excise taxes imposed by chapter 57-40.3, or if the tangible personal property traded in is used farm machinery or used irrigation equipment, the credit or trade-in value allowed by the retailer is not gross receipts.
2. Tangible personal property owned or leased and in possession of a farmer may be used as a trade-in to reduce the taxable purchase price of farm machinery or irrigation equipment used exclusively for agricultural purposes if:
 - a. The retailer selling farm machinery or irrigation equipment to a lessor, for the purpose of leasing to a farmer, also purchases the machinery or equipment owned or leased and in possession of the farmer. The purchase price paid by the retailer for the equipment owned or leased and in the possession of a farmer is the trade-in value for purposes of this section;
 - b. The retailer's sale of farm machinery or irrigation equipment to a lessor for the purpose of leasing to a farmer and the retailer's purchase of equipment owned or leased and in the possession of a farmer are documented by an invoice or other documents prepared by the retailer to substantiate the trade-in relationship;
 - c. The lessor purchasing the farm machinery or irrigation equipment for the purpose of leasing to a farmer pays the taxes imposed under this chapter on the purchase price of the equipment less the trade-in value in subdivision a; and
 - d. The retailer and the lessor maintain records documenting compliance with the requirements in subdivisions a, b, and c.
3. For purposes of this section, "farmer" means any person that leases farm machinery as defined in this chapter or irrigation equipment to be used exclusively for agricultural purposes.

SECTION 3. AMENDMENT. Section 57-39.5-02 of the North Dakota Century Code is amended and reenacted as follows:

57-39.5-02. Imposition - 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. 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 or, 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
- ~~3-4.~~ Has been under lease or rental for three years or more.

SECTION 4. Section 57-39.5-06 of the North Dakota Century Code is created and enacted as follows:

57-39.5-06. Payment of tax under lease agreement.

At the time of entering a lease agreement for new farm machinery or irrigation equipment subject to taxes under this chapter, the lessor shall:

1. Pay the taxes imposed under this chapter on the purchase price of the equipment that was purchased for the purpose of leasing:
2. On a lease with a term of three or more years, collect and remit to the commissioner the full amount of tax due under this chapter based on the cumulative value of three years of lease payments or collect the tax due on each lease payment under the agreement for three years and remit those amounts to the tax commissioner as those amounts are collected. If a lease agreement with a term of three years or more is terminated before tax on three years of lease payments has been remitted, the lessor shall collect and remit to the tax commissioner any remaining uncollected taxes on the three-year period; or
3. On a lease with a term of less than three years, collect and remit to the commissioner the full amount of tax calculated on the equivalent value of three years of lease payments. The equivalent value of three years of lease payments is the sum of the lease payments under the agreement divided by the term of the lease in months times thirty-six. The tax may be collected and remitted to the commissioner in equal installments with each lease payment over the term of the lease. If a lease agreement with a term of less than three years is terminated before the end of the lease, the lessor shall collect and remit to the tax commissioner any remaining uncollected taxes on the equivalent value of three years of lease payments.

SECTION 5. EFFECTIVE DATE. Sections 1 and 2 of this Act are effective for taxable events occurring after June 30, 2013. Section 3 of this Act is effective for lease agreements entered after June 30, 2013.

Approved April 11, 2013
Filed April 11, 2013

CHAPTER 467

SENATE BILL NO. 2092

(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact subsection 8 of section 57-40.3-04 of the North Dakota Century Code, relating to the motor vehicle excise tax exemption for certain motor vehicles in the possession of and used by permanently physically disabled persons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 8 of section 57-40.3-04 of the North Dakota Century Code is amended and reenacted as follows:

8. Any motor vehicle that does not exceed ten thousand pounds [4535.92 kilograms] gross weight and which is acquired by, or leased and in the possession of, a permanently physically disabled, licensed driver who is restricted to operating only motor vehicles equipped with special controls to compensate for the disability, or by permanently physically disabled individuals who have either surrendered or who have been denied a driver's license because of a permanent physical disability, provided the individuals obtain from the director of the department of transportation or the director's authorized representative a statement that the individual has a restricted driver's license or has either surrendered or has not been issued a driver's license because of a permanent physical disability; a copy of the statement must be attached to the application for registration of the title to the motor vehicle for which the exemption from tax under this chapter is claimed. If the applicant does not have the statement at the time of application for registration of the title, motor vehicle excise tax is due and must be paid. However, if the applicant provides the statement to the director of the department of transportation, the applicant may apply for a refund of the taxes paid in the manner provided in chapter 57-40.4. Any motor vehicle acquired subject to this exemption must be disposed of either by transfer to another permanently physically disabled person or by a trade-in on another exempt sale or by a transfer involving a sale subject to sales or use tax before another motor vehicle can be acquired subject to the benefits of this exemption clause.

Approved March 14, 2013
Filed March 15, 2013

CHAPTER 468

SENATE BILL NO. 2261

(Senators Cook, Dotzenrod, Hogue)
(Representatives Headland, Kasper, Thoreson)

AN ACT to create and enact two new sections to chapter 57-40.6 of the North Dakota Century Code, relating to the creation of a prepaid wireless emergency 911 fee; to amend and reenact section 57-40.6-01, subsection 1 of section 57-40.6-02, and sections 57-40.6-03, 57-40.6-08, and 57-40.6-13 of the North Dakota Century Code, relating to prepaid wireless services and limitation of liability for prepaid wireless service providers or sellers; and to provide an effective date.

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. ~~"Active prepaid wireless service" means a prepaid wireless service that has been used by the customer during the month to complete a telephone call for which the customer's card or balance was decremented.~~
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, ~~active prepaid wireless service~~, and voice over internet protocol service.
- 3-2. "Automated notification system" means that portion of a telecommunications system that provides rapid notice of emergency situations to the public.
3. "Commissioner" means the state tax commissioner.
4. "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. "Consumer" means a person who purchases prepaid wireless service in a retail transaction.
- 5-6. "Emergency services communication system" means a statewide, 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.

- 6-7. "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. "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 4 of this Act.
- 7-9. ~~"Prepaid wireless service" means wireless service that is activated in advance by payment for a finite dollar amount of service or for a finite set of minutes that terminates either upon use by a customer and delivery by the wireless provider of an agreed upon amount of service corresponding to the total dollar amount paid in advance or within a certain period of time following the initial purchase or activation, unless the customer makes additional payments 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.~~
10. "Prepaid wireless service provider" means any person that provides prepaid wireless telecommunications service pursuant to a license issued by the federal communications commission.
- 8-11. "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.
- 9-12. "Public safety answering point service area" means the geographic area for which a public safety answering point has dispatch and emergency communications responsibility.
- 40-13. "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.
14. "Retail transaction" means the purchase of prepaid wireless service from a seller for any purpose other than resale.
15. "Seller" means a person who sells prepaid wireless services to a consumer.
- 44-16. "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.
- 42-17. "Telephone access line" means the principal access to the telephone company's switched network, including an outward dialed trunk or access register.

- ~~13-18.~~ "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.
- ~~14-19.~~ "Unpublished" means information that is not published or available from directory assistance.
- ~~15-20.~~ "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.
- ~~16-21.~~ "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.
- ~~17-22.~~ "Wireless enhanced 911 service" means the service required to be provided by wireless service providers pursuant to the FCC order.
- ~~18-23.~~ "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.
- ~~19-24.~~ "Wireless service provider" means any entity authorized by the federal communications commission to provide wireless service within this state.

SECTION 2. AMENDMENT. Subsection 1 of section 57-40.6-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The governing body shall adopt a resolution that proposes the adoption of the fee permitted under this section. The resolution must specify an effective date for the fee which is no more than two years before the expected implementation date of the emergency services communication system to be funded by the fee. The resolution must include a provision for submitting the proposed fee to the electors of the county or city before the imposition of the fee is effective. The resolution must specify a fee that does not exceed one dollar and fifty cents per month per communication connection and must be applied equally upon all assessed communications services. Prepaid wireless service is not subject to the fee imposed under this section.

SECTION 3. AMENDMENT. Section 57-40.6-03 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-03. Payment of fee by assessed communications service subscriber or customer.

The assessed communications service provider shall collect the fee from the subscriber or customer of the service.

1. ~~For prepaid wireless service, the provider shall remit the monthly fee authorized by section 57-40.6-02 based either upon each active prepaid wireless telephone associated with this state for each active prepaid wireless telephone customer that has a sufficient positive balance as of the last day of each month or upon a two percent assessment on the gross revenue received from the sale of prepaid wireless services each month. The provider shall remit the fee in a manner consistent with the provider's existing operating or technological abilities, including by customer address, location associated with the wireless telephone number, or reasonable allocation method based upon other relevant data. The fee amount or an equivalent number of minutes may be reduced from the prepaid customer's account. However, collection of the fee in the manner of a reduction of value or minutes from the prepaid customer's account does not constitute a reduction in the sales price for purposes of taxes that are collected at the point of sale.~~ The assessed communications service provider shall collect the fee authorized under section 57-40.6-02 from the subscriber or customer of the service.
2. For assessed communications service that involves a monthly billing, in the billing statement or invoice to the subscriber, the provider shall state the amount of the fee separately.
3. For prepaid wireless service, the fee shall be imposed, collected, and administered according to the provisions of section 4 of this Act. The fee imposed under section 4 of this Act shall be in lieu of any fees imposed on assessed communication services under section 57-40.6-02.

SECTION 4. A new section to chapter 57-40.6 of the North Dakota Century Code is created and enacted as follows:

Prepaid wireless emergency 911 fee.

1. There is imposed a prepaid wireless emergency 911 fee of two percent on the gross receipts of sellers from all sales at retail of prepaid wireless services in this state.
 - a. A retail transaction that is made, in person, by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state. Any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state under the provisions of chapter 57-39.4 as those provisions apply to a prepaid wireless calling service.
 - b. Prepaid wireless emergency 911 fees collected by sellers shall be remitted to the commissioner.
 - c. An entity required to collect and remit the prepaid wireless emergency 911 fee shall register with the commissioner. The registration shall be made in

- the form prescribed by the commissioner, in which the registrant shall identify the name under which the registrant transacts or intends to transact business, the location of the business, the federal identification number, and other information as the commissioner may require.
- d. Gross receipts from sales at retail of prepaid wireless services are exempt from the prepaid wireless emergency 911 fee imposed by this section when the sale is made to a person entitled to a sales and use tax exemption under subsections 6 or 12 of section 57-39.2-04.
 2. The prepaid wireless emergency 911 fee shall be collected by the seller from the consumer. The amount of the prepaid wireless emergency 911 fee shall be either separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.
 3. The prepaid wireless emergency 911 fee is the liability of the consumer and not of the seller or any provider, except that the seller shall be liable to remit all prepaid wireless emergency 911 fees the seller collects from the consumer, including all fees the seller is deemed to collect when the amount of the fee has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.
 4. If the amount of the prepaid wireless emergency 911 fee imposed by this section is separately stated on an invoice, receipt, or other similar document provided to the consumer, the prepaid wireless emergency 911 fee may not be included in the base for measuring any other tax, fee, surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.
 5. When prepaid wireless service is sold with one or more other products or services for a single, nonitemized price, then the percentage specified in subsection 1 shall apply to the entire nonitemized price unless the seller elects to apply the percentage to:
 - a. The amount of the prepaid wireless service that is disclosed to the consumer as a dollar amount, including the fee imposed by this section; or
 - b. The seller identifies the portion of the price that is attributable to the prepaid wireless service by reasonable and verifiable standards from its books and records that are kept in the regular course of business.
 6. If a minimal amount of prepaid wireless service is sold with a prepaid wireless device for a single, nonitemized price, then the seller may elect not to apply the percentage specified in subsection 1. For purposes of this subsection, an amount of service denominated as ten minutes or less, or five dollars or less, is minimal.
 7. The provisions of chapter 57-39.2, pertaining to the administration of the retail sales tax, including provisions for audit, refunds, credits, or rules, not inconsistent with the provisions of this chapter, govern the administration of the prepaid wireless emergency 911 fee imposed in this chapter.
 8. a. A seller must complete a prepaid emergency 911 fee return reporting the gross receipts of the seller for prepaid wireless services sold, the amount

of the prepaid wireless emergency 911 fee for the period covered by the return, and any other information the commissioner may require to enable the seller to correctly compute and collect the prepaid wireless emergency 911 fee.

- b. If the seller is a retailer under chapter 57-39.2, the seller may file the prepaid emergency 911 fee return and pay the fees due at the same time the sales and use tax is due under section 57-39.2-11 or 57-39.2-12.
- c. The seller required to collect, report, and remit the prepaid wireless emergency 911 fee imposed under this section shall retain one hundred percent of the amount of fee due to cover the cost of collecting and transmitting the fee to the commissioner beginning with the first three months the seller begins selling prepaid wireless service, or for the first three months after the effective date of this Act if the seller is making retail sales of prepaid wireless services prior to January 1, 2014, and shall thereafter retain three percent of the fee.

SECTION 5. A new section to chapter 57-40.6 of the North Dakota Century Code is created and enacted as follows:

Prepaid wireless emergency 911 fee fund.

All fees, penalties, and other charges collected under section 4 of this Act must be paid to the commissioner in the form of a remittance payable to the commissioner. The commissioner shall transmit the fees collected monthly to the state treasurer to be credited to a special fund in the state treasury, to be known as the prepaid wireless emergency 911 fee fund. The state treasurer, no less than quarterly, shall pay over the moneys accumulated in the fund to the governing joint powers entity established pursuant to chapter 54-40.3 for the specific purpose of implementing emergency communications systems for the state's political subdivisions. The proceeds from the prepaid wireless emergency 911 fee shall be used specifically for the implementation, maintenance, or operation of the emergency services communication system.

SECTION 6. AMENDMENT. Section 57-40.6-08 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-08. Emergency services communication system, automated notification system, or emergency instructions - Liability.

1. A public agency, public safety agency, assessed communications service provider, prepaid wireless service provider or seller, or person that provides access to an emergency services communication system or an automated notification system, or any officer, agent, or employee of any public agency, public safety agency, assessed communications service provider, prepaid wireless service provider or seller, or person is not liable for any civil damages as a result of any act or omission except willful and wanton misconduct or gross negligence in connection with developing, adopting, operating, or implementing any plan or system as provided under this chapter.
2. A person who gives emergency instructions through a system as provided under this chapter, to persons rendering services in an emergency at another location, or any person following such instructions in rendering such services, is not liable for any civil damages as a result of issuing or following the instructions, unless issuing or following the instructions constitutes willful and wanton misconduct or gross negligence.

3. This section does not waive, limit, or modify any existing immunity or other defense of the state or any political subdivision, or any of its agencies, departments, commissions, boards, officers, or employees, nor does it create any claim for relief against any of these entities.

SECTION 7. AMENDMENT. Section 57-40.6-13 of the North Dakota Century Code is amended and reenacted as follows:

57-40.6-13. Provision of call location information by wireless service provider or prepaid wireless service provider or seller to law enforcement.

1. Upon request of a law enforcement agency or a public safety answering point on behalf of a law enforcement agency, a wireless service provider shall provide call location information concerning the telecommunications device of a user to the requesting law enforcement agency or public safety answering point. A prepaid wireless service provider or seller shall provide such call location information if available. A law enforcement agency or public safety answering point may not request information under this section unless for the purposes of responding to a call for emergency services or in an emergency situation that involves the risk of death or serious physical harm.
2. A wireless service provider or prepaid wireless service provider or seller may establish protocols by which the carrier voluntarily discloses call location information.
3. A claim for relief may not be brought in any court against any wireless service provider, prepaid wireless service provider or seller, or any other person for providing call location information if acting in good faith and under this section.
4. The bureau of criminal investigation shall obtain contact information from all wireless service providers authorized to do business in this state to facilitate a request from a law enforcement agency or a public safety answering point on behalf of a law enforcement agency for call location information under this section. The bureau shall disseminate the contact information to each public safety answering point in this state.

SECTION 8. EFFECTIVE DATE. This Act is effective for taxable periods beginning after December 31, 2013.

Approved March 21, 2013
Filed March 21, 2013

CHAPTER 469

HOUSE BILL NO. 1049

(Legislative Management)
(Transportation Committee)

AN ACT to amend and reenact subdivisions b, o, and r of subsection 4 of section 57-40.6-10 of the North Dakota Century Code, relating to standards and guidelines for public safety answering points.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivisions b, o, and r of subsection 4 of section 57-40.6-10 of the North Dakota Century Code are amended and reenacted as follows:

- b. ~~No later than July 1, 2013, be~~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.
- o. ~~No later than July 1, 2013,~~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.
- r. After July 1, ~~2013~~2015, maintain current, up-to-date mapping of its service area and have the ability to use longitude and latitude to direct responders.

Approved March 26, 2013

Filed March 27, 2013

CHAPTER 470

SENATE BILL NO. 2294

(Senators Dotzenrod, G. Lee, Luick)
(Representative J. Kelsh)

AN ACT to amend and reenact section 57-43.2-41 of the North Dakota Century Code, relating to increased fees for use of dyed special fuel in a licensed motor vehicle and display of consumer advisory information on pumps dispensing dyed special fuel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-43.2-41 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-41. Dyed special fuel - Administrative fees - Inspections - Penalty - Consumer advisory.

1. Special fuel dyed for federal motor fuel tax exemption purposes is subject to the tax imposed by section 57-43.2-03 and, unless otherwise provided in this section, may not be used in the fuel supply tank of a licensed motor vehicle. The owner or operator of a licensed motor vehicle found to contain dyed special fuel in the fuel supply tank of that vehicle is subject to the tax imposed by section 57-43.2-02 to be determined based on the capacity of the fuel supply tank of the licensed vehicle involved and is subject to administrative fees as follows:
 - a. A ~~two hundred fifty~~ five hundred dollar fee for the first violation.
 - b. A ~~five hundred~~ two thousand dollar fee for a second violation occurring within three years of a previous violation.
 - c. A ~~one~~ four thousand dollar fee for a third violation occurring within three years of two previous violations.
 - d. A ~~five~~ ten thousand dollar fee for the fourth and subsequent violations occurring within three years of three or more previous violations.
2. Special fuel found in the fuel supply tank of a licensed motor vehicle shall be considered dyed if the fuel contains traces of the dye in an amount sufficient to be found in violation of federal laws and rules.
3. For purposes of enforcing the provisions of this section, the highway patrol, by agreement with the commissioner, may:
 - a. Stop, detain, and inspect a licensed motor vehicle and withdraw a sample of fuel from the fuel supply tank of the vehicle in a manner and in a quantity sufficient to determine whether the fuel is a special fuel and to determine the dye content of the fuel.

- b. Physically inspect, examine, or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of any type of fuel for coloration, markers, and shipping papers.

An attempt by a person to prevent, stop, or delay an inspection of fuel or shipping papers by the highway patrol is subject to a civil penalty of not more than one thousand dollars per occurrence.

4. The highway patrol may issue a citation covering any violation of this section, and the person receiving a citation has the right to a hearing before the tax commissioner in the manner provided in chapter 28-32 if, within thirty days after receiving a citation, the person requests a hearing.
5. This section does not apply to:
 - a. A person who purchased dyed special fuel in another state or Canadian province and imported that fuel into the state in the supply tank of a licensed motor vehicle provided the state or Canadian province where the fuel was purchased does not prohibit its use in that vehicle.
 - b. A state or local government using dyed special fuel in licensed vehicles for purposes of construction, reconstruction, repair, or maintenance of public roads or highways.
6. All administrative fees or civil penalties under this section may be completely or partially waived by the tax commissioner for good cause shown, and any fees or penalties not waived must be collected by the tax commissioner and transferred to the state treasurer and deposited in the state highway fund.
7. The tax commissioner shall prescribe the size and contents of a sticker to be affixed to pumps dispensing dyed special fuel to advise consumers of the administrative fee imposed for a first violation of this section for use of dyed special fuel in the fuel supply tank of a licensed motor vehicle. A retailer of dyed special fuel shall affix the prescribed sticker to every pump on the retailer's premises dispensing dyed special fuel.

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 471

HOUSE BILL NO. 1358

(Representatives Skarphol, Brandenburg, Froseth,
Rust, Steiner, Glassheim, J. Kelsh)
(Senators Andrist, Wanzek, Wardner, Murphy, Triplett)

AN ACT to create and enact two new subsections to section 57-51-01 of the North Dakota Century Code, relating to definitions under the oil and gas gross production tax; to amend and reenact sections 57-51-15 and 57-62-05 of the North Dakota Century Code, relating to oil and gas gross production tax allocation and the impact aid program; to provide appropriations; to provide for reports to the budget section; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new subsections to section 57-51-01 of the North Dakota Century Code are created and enacted as follows:

"Hub city" means 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 data compiled by job service North Dakota.

"Hub city school district" means the school district with the highest student enrollment within the city limits of a hub city.

²¹¹ **SECTION 2. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

57-51-15. 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 fivethree hundred seventy-five 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 percentfor 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;

²¹¹ Section 57-51-15 was also amended by section 2 of House Bill No. 1278, chapter 408, and section 10 of House Bill No. 1333, chapter 277.

- 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 ~~one~~two hundred ~~forty~~ million dollars per biennium; and
 - e.~~d.~~ 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~~five million dollars is allocated to the county.
 - b. ~~Of the next one~~all annual revenue ~~exceeding five~~ million dollars, ~~seventy-five~~twenty-five percent is allocated to the county.
 - e. ~~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. 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 of all revenues allocated to any county for allocation under this subsection must be credited by~~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 ~~during that fiscal year~~ a taxable year after 2012 the county does ~~not levy~~ 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 county~~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 county~~state~~ 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. 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. 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.~~
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 bears 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. 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:

- e. ~~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.~~

7-6. 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 available in the county infrastructure fund for allocation~~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.

SECTION 3. 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, the 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 must be considered.

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.
6. ~~Make recommendations to the board of university and school lands providing for the distribution of thirty five percent of moneys available in the oil and gas impact fund to incorporated cities with a population of ten thousand or more, based on the most recent official decennial federal census, that are impacted by oil and gas development. The director may not recommend that an incorporated city receive more than sixty percent of the funds available under this subsection.~~
7. ~~Make recommendations to the board of university and school lands providing for the distribution of sixty five percent of moneys available in the oil and gas impact fund to cities not otherwise eligible for funding under this section, counties, school districts, and other political subdivisions impacted by oil and gas development.~~

SECTION 4. APPROPRIATION - JOB SERVICE NORTH DAKOTA. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$120,000, or so much of the sum as may be necessary, to job service North Dakota for the purpose of upgrading collection and use of employment data to correctly identify all employees who should be included for statistical purposes in oil and gas-related employment, including employees of refineries and gas plants and oil and gas transportation services, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 5. APPROPRIATION - DEPARTMENT OF TRANSPORTATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$160,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of allocation as provided in this section among oil-producing counties that received \$5,000,000 or more of allocations under subsection 2 of section 57-51-15 in the state fiscal year ending June 30, 2012, for the biennium beginning July 1, 2013, and ending June 30, 2015.

1. The sum appropriated in this section must be used to rehabilitate or reconstruct county paved and unpaved roads and bridges needed to support oil and gas production and distribution in North Dakota.
 - a. Funding allocations to counties are to be made by the department of transportation based on data supplied by the upper great plains transportation institute.
 - b. Counties identified in the data supplied by the upper great plains transportation institute which received \$5,000,000 or more of allocations

under subsection 2 of section 57-51-15 for the state fiscal year ending June 30, 2012, are eligible for this funding.

2. 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.
 - a. The request must include a proposed plan for funding projects that rehabilitate or reconstruct paved and unpaved roads and bridges within the county.
 - b. The plan must be based on data supplied by the upper great plains transportation institute, actual road and bridge conditions, and integration with state highway and other county projects.
 - c. Projects funded under this section must comply with the American association of state highway transportation officials (AASHTO) pavement design procedures and the department of transportation local government requirements. Upon completion of major reconstruction projects, the roadway segment must be posted at a legal load limit of 105,500 pounds [47853.993 kilograms].
 - d. Funds may not be used for routine maintenance.
3. The department of transportation, in consultation with the county, may approve the plan or approve the plan with amendments.
4. The funding appropriated in this section may be used for:
 - a. Ninety percent of the cost of the approved projects not to exceed the funding available for that county.
 - b. Funding may be used for construction, engineering, and plan development costs.
5. Upon approval of the plan, the department of transportation shall transfer to the county the approved funding for engineering and plan development costs.
6. Upon execution of a construction contract by the county, the department of transportation shall transfer to the county the approved funding to be distributed for county and township rehabilitation and reconstruction projects.
7. The recipient 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.
8. The funding under this section may be applied to engineering, design, and construction costs incurred on related projects as of January 1, 2013.
9. For purposes of this section, a "bridge" is a structure that has an opening of more than 20 feet [6.096 meters] as measured along the centerline of the roadway. It may also be the clear openings of more than 20 feet [6.096 meters] of a group of pipes as long as the pipes are spaced less than half the distance apart of the smallest diameter pipe.

10. Section 54-44.1-11 does not apply to funding under this section. Any funds not spent by June 30, 2015, must be continued into the biennium beginning July 1, 2015, and ending June 30, 2017, and may be expended only for purposes authorized by this section.

SECTION 6. APPROPRIATION - DEPARTMENT OF TRANSPORTATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$120,000,000, or so much of the sum as may be necessary, to the department of transportation for the purpose of allocation among counties that did not receive \$5,000,000 or more of allocations under subsection 2 of section 57-51-15 in the state fiscal year ending June 30, 2012, for the biennium beginning July 1, 2013, and ending June 30, 2015. The amounts available for allocation under this section must be distributed on or after February 1, 2014.

1. The sum appropriated in this section must be used to rehabilitate or reconstruct county paved and unpaved roads and bridges needed to support economic activity in North Dakota.
 - a. To be eligible to receive an allocation under this section, a county may not have received \$5,000,000 or more of allocations under subsection 2 of section 57-51-15 during the state fiscal year ending June 30, 2012.
 - b. Allocations among eligible counties under this section must be based on the miles of roads defined by the department of transportation as county major collector roadways in each county.
 - c. The department of transportation may use data supplied by the upper great plains transportation institute in determining the projects to receive funding under this section.
2. Each county requesting funding under this section shall submit the request in accordance with criteria developed by the department of transportation.
 - a. The request must include a proposed plan for funding projects that rehabilitate or reconstruct paved and unpaved roads and bridges within the county.
 - b. The plan must be based on actual road and bridge conditions and the integration of projects with state highway and other county projects.
 - c. Projects funded under this section must comply with the American association of state highway transportation officials (AASHTO) pavement design procedures and the department of transportation local government requirements. Upon completion of major reconstruction projects, the roadway segment must be posted at a legal load limit of 105,500 pounds [47853.993 kilograms].
 - d. Funds may not be used for routine maintenance.
3. The department of transportation, in consultation with the county, may approve the plan or approve the plan with amendments.
4. The funding appropriated in this section may be used for:
 - a. Ninety percent of the cost of the approved projects not to exceed the funding available for that county.

- b. Funding may be used for construction, engineering, and plan development costs.
5. Upon approval of the plan, the department of transportation shall transfer to the county the approved funding for engineering and plan development costs.
6. Upon execution of a construction contract by the county, the department of transportation shall transfer to the county the approved funding to be distributed for county and township rehabilitation and reconstruction projects.
7. The recipient 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.
8. The funding under this section may be applied to engineering, design, and construction costs incurred on related projects as of January 1, 2013.
9. For purposes of this section, a "bridge" is a structure that has an opening of more than 20 feet [6.096 meters] as measured along the centerline of the roadway. It may also be the clear openings of more than 20 feet [6.096 meters] of a group of pipes as long as the pipes are spaced less than half the distance apart of the smallest diameter pipe.
10. Section 54-44.1-11 does not apply to funding under this section. Any funds not spent by June 30, 2015, must be continued into the biennium beginning July 1, 2015, and ending June 30, 2017, and may be expended only for purposes authorized by this section.

SECTION 7. APPROPRIATION - STATE TREASURER. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$8,760,000, 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 townships in oil-producing counties, for the biennium beginning July 1, 2013, and ending June 30, 2015. The funding provided in this section must be distributed in equal amounts in July 2013 and May 2014. The state treasurer shall distribute the funds provided under this section as soon as possible to counties and the county treasurer shall allocate the funds to or for the benefit of townships in oil-producing counties through a distribution of \$15,000 each year to each organized township and a distribution of \$15,000 each year 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 subdivision 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, an "oil-producing county" means a county that received an allocation of funding under section 57-51-15 of more than \$500,000 but less than \$5,000,000 in the state fiscal year ending June 30, 2012.

SECTION 8. APPROPRIATION - DEPARTMENT OF COMMERCE - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - 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 \$2,000,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of administering a grant program for nursing homes, basic care facilities, and providers that serve individuals with developmental disabilities located in oil-producing counties to address the effects of oil and gas and related

economic development activities, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of commerce shall allocate funding in January of each year of the biennium, based on the number of full-time equivalent positions of each nursing home, facility, or 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. This funding is considered one-time funding for the 2013-15 biennium. The department of commerce shall report to the budget section annually and to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding. For purposes of this section, an "oil-producing county" means a county that received an allocation of funding under section 57-51-15 for the preceding state fiscal year.

SECTION 9. APPROPRIATION - OIL AND GAS IMPACT GRANT FUND - GRANT RECOMMENDATIONS. 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 \$239,299,174, 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, 2013, and ending June 30, 2015.

Grants awarded under this section are not subject to section 54-44.1-11. The funding provided in this section is considered a one-time funding item.

During the biennium beginning July 1, 2013, and ending June 30, 2015, 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. \$5,000,000, or so much of the sum as may be necessary, for the purpose of providing distributions to eligible counties experiencing new oil and gas development activities. As determined by the director of the department of mineral resources, a county is eligible for a distribution under this subsection if the county produced fewer than 100,000 barrels of oil for the month of November 2012 and after November 2012 the number of active oil rigs operating in the county in any one month exceeds four rigs. Upon the determination by the director of the department of mineral resources that a county is eligible for a distribution under this section, the commissioner of university and school lands shall provide \$1,250,000 to the county for defraying expenses associated with oil and gas development impacts in the county. The county, in determining the use of the funds received, shall consider and, to the extent possible, address the needs of other political subdivisions in the county resulting from the impact of oil and gas development.
2. \$60,000,000, 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 shall adopt grant procedures and requirements necessary for 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.
3. \$4,000,000, or so much of the sum as may be necessary, for grants to public institutions of higher education impacted by oil and gas development. Notwithstanding the provisions of chapter 57-62, public institutions of higher

education are eligible to receive oil and gas impact grants under this subsection. The director of the energy infrastructure and impact office may develop grant procedures and requirements necessary for distribution of grants under this subsection.

4. \$3,000,000, or so much of the sum as may be necessary, for grants of \$1,000,000 each to three counties in oil-impacted areas for a pilot project for dust control. The county commission from each county awarded a grant shall file a report with the director of the energy infrastructure and impact office by January 1, 2014, regarding any product used to control dust and the success or failure of the product in controlling dust. The director of the energy infrastructure and impact office may develop grant procedures and requirements necessary for distribution of grants under this section. The director of the energy infrastructure and impact office shall consult with the state department of health and the industrial commission relating to the use of oilfield-produced saltwater and products previously tested for dust control.
5. \$7,000,000, or so much of the sum as may be necessary, to counties for the benefit of county sheriff's departments to offset oil and gas development impact causing a need for increased sheriff's department services, staff, funding, equipment, coverage, and personnel training.
6. \$7,000,000, or so much of the sum as may be necessary, for grants to emergency medical services providers for an extraordinary expenditure that would mitigate negative effects of oil development impact affecting emergency medical services providers providing service in oil-producing counties, including need for increased emergency medical services providers services, staff, funding, equipment, coverage, and personnel training. The director of the energy infrastructure and impact office may develop grant procedures and requirements necessary for distribution of grants under this subsection.
7. \$3,500,000, or so much of the sum as may be necessary, for grants to fire protection districts for an extraordinary expenditure that would mitigate negative effects of oil development impact affecting fire protection districts providing service in oil-producing counties, including need for increased fire protection districts services, staff, funding, equipment, coverage, and personnel training.
8. \$14,000,000, or so much of the sum as may be necessary, for grants to hub cities. A hub city as defined in section 57-51-01 is eligible to receive grants from the oil and gas impact grant fund only to the extent provided for under this subsection. Of the funding allocation provided for in this subsection, \$2,000,000 is available for grants to the hub city receiving the greatest percentage of allocations to hub cities under subdivision a of subsection 1 of section 57-51-15, \$7,000,000 is available for grants to the hub city receiving the second greatest percentage of allocations to hub cities under subdivision a of subsection 1 of section 57-51-15, and \$5,000,000 is available for grants to the hub city receiving the third greatest percentage of allocations to hub cities under subdivision a of subsection 1 of section 57-51-15.

SECTION 10. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - 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 \$9,600,000, or so much of the sum as may be necessary, to the department of human

services for the purpose of administering a grant program for critical access hospitals in oil-producing counties and in counties contiguous to an oil-producing county to address the effects of oil and gas and related economic development activities, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of human services shall develop policies and procedures for the disbursement of the grant funding and may not award more than \$4,800,000 during each year of the biennium. The department of human services shall allocate funding in January of each year of the biennium. This funding is considered one-time funding for the 2013-15 biennium. The department of human services shall report to the budget section annually and to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding. For the purposes of this section, an "oil-producing county" means a county that received an allocation of funding under section 57-51-15 of more than \$500,000 for the preceding state fiscal year.

SECTION 11. APPROPRIATION - LAW ENFORCEMENT - ATTORNEY GENERAL'S OFFICE - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - 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 \$9,600,000, or so much of the sum as may be necessary, to the attorney general's office for the purpose of awarding grants to law enforcement agencies, for crime-related needs of the attorney general's office, and for the development of a uniform law enforcement and custody manual, for the biennium beginning July 1, 2013, and ending June 30, 2015. The drug and violent crime policy board of the attorney general shall, with approval of the board of university and school lands, grant funds 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. The attorney general may spend up to ten percent of the funding provided under this section for defraying the expenses of additional staffing needs or other needs necessary to accomplish the role of the attorney general's office as an assisting agency in ensuring public safety in the affected areas. The funding provided in this section is considered a one-time funding item. The attorney general shall report to the budget section annually and to the appropriations committees of the sixty-fourth legislative assembly on the use of this one-time funding, including the impact the grant funding has had on crime-related activities.

SECTION 12. HUB CITIES - REPORT TO BUDGET SECTION. A representative of a hub city as defined in section 57-51-01 shall report to the budget section annually on the use of funding received from allocations under section 57-51-15.

SECTION 13. EFFECTIVE DATE - EXPIRATION DATE. Sections 1 and 2 of this Act are effective for taxable events occurring after June 30, 2013, and before July 1, 2015, and are thereafter ineffective.

Approved May 3, 2013
Filed May 7, 2013

CHAPTER 472

HOUSE BILL NO. 1134

(Representatives Porter, Carlson, Drovdal)
(Senators Armstrong, Lyson, Wardner)

AN ACT to create and enact sections 57-51-02.6 and 57-51.1-02.1 of the North Dakota Century Code, relating to oil and gas gross production tax exemption for natural gas and an oil extraction tax exemption for liquids produced from natural gas extracted to encourage use of gas that might otherwise be flared; to amend and reenact sections 38-08-06.4 and 57-39.2-04.5 of the North Dakota Century Code, relating to flaring restrictions for natural gas and sales tax exemption for property used to process natural gas to encourage use of gas that might otherwise be flared; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 38-08-06.4 of the North Dakota Century Code is amended and reenacted as follows:

38-08-06.4. Flaring of gas restricted - Imposition of tax - Payment of royalties - Industrial commission authority.

1. As permitted under rules of the industrial commission, gas produced with crude oil from an oil well may be flared during a one-year period from the date of first production from the well. Thereafter,
2. After the time period in subsection 1, flaring of gas from the well must cease and the well must be capped, connected to a gas gathering line, or equipped with an electrical generator that consumes at least seventy-five percent of the gas from the well.:
 - a. Capped;
 - b. Connected to a gas gathering line;
 - c. Equipped with an electrical generator that consumes at least seventy-five percent of the gas from the well;
 - d. Equipped with a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons; or
 - e. Equipped with other value-added processes as approved by the industrial commission which reduce the volume or intensity of the flare by more than sixty percent.

3. An electrical generator and its attachment units to produce electricity from gas and a collection system described in subdivision d of subsection 2 must be considered to be personal property for all purposes.
4. For a well operated in violation of this section, the producer shall pay royalties to royalty owners upon the value of the flared gas and shall also pay gross production tax on the flared gas at the rate imposed under section 57-51-02.2.
5. The industrial commission may enforce this section and, for each well operator found to be in violation of this section, may determine the value of flared gas for purposes of payment of royalties under this section and its determination is final.
6. A producer may obtain an exemption from this section from the industrial commission upon application ~~and a showing that shows to the satisfaction of the industrial commission~~ that connection of the well to a natural gas gathering line is economically infeasible at the time of the application or in the foreseeable future or that a market for the gas is not available and that equipping the well with an electrical generator to produce electricity from gas or employing a collection system described in subdivision d of subsection 2 is economically infeasible.

SECTION 2. AMENDMENT. Section 57-39.2-04.5 of the North Dakota Century Code is amended and reenacted as follows:

57-39.2-04.5. Sales and use tax exemption for materials used in compressing, processing, gathering, collecting, or refining of gas.

1. Gross receipts from sales of tangible personal property used to construct or expand a system used to compress, process, gather, collect, 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 are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated into a system used to compress, process, gather, collect, or refine gas. Tangible personal property used to replace an existing system to compress, process, gather, collect, or refine 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, processing, gathering, collecting, or refining system must receive from the tax commissioner a certificate that the tangible personal property used to construct or expand a system used to compress, process, gather, collect, 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 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.
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, processing, gathering, collecting, or refining 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 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.

4. For purposes of this section, a gas collecting system means a collection system described in subdivision d of subsection 2 of section 38-08-06.4.

SECTION 3. Section 57-51-02.6 of the North Dakota Century Code is created and enacted as follows:

57-51-02.6. Temporary exemption for oil and gas wells employing a system to avoid flaring.

Gas is exempt from the tax under section 57-51-02.2 for a period of two years and thirty days from the time of first production if the gas is:

1. Collected and used at the well site to power an electrical generator that consumes at least seventy-five percent of the gas from the well; or
2. Collected at the well site by a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission.

SECTION 4. Section 57-51.1-02.1 of the North Dakota Century Code is created and enacted as follows:

57-51.1-02.1. Temporary exemption for oil and gas wells employing a system to avoid flaring.

Liquids produced from a collection system described in subdivision d of subsection 2 of section 38-08-06.4 utilizing absorption, adsorption, or refrigeration are exempt from the tax under section 57-51.1-02 for a period of two years and thirty days from the time of first production.

SECTION 5. EFFECTIVE DATE. This Act becomes effective July 1, 2013.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 473

HOUSE BILL NO. 1198

(Representatives Headland, Brandenburg, Pollert)
(Senator Wanzek)

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to income tax withholding for oil and gas royalties; to amend and reenact section 15-05-10, subsection 4 of section 38-08-04, sections 57-51.1-01 and 57-51.1-03, subsection 1 of section 57-51.1-03.1, and section 57-51.2-02 of the North Dakota Century Code, relating to oil extraction tax definitions and exemptions and the state-tribal oil tax agreement; to provide for a study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15-05-10 of the North Dakota Century Code is amended and reenacted as follows:

15-05-10. Royalties from oil leases - Rents from other leases - Rules.

Oil leases must be made by the board of university and school lands at such annual minimum payments as are determined by the board, but the royalty shall be not less than twelve and one-half percent of the gross output of oil from the lands leased. Oil leases made by the board may authorize a royalty of less than twelve and one-half percent for production from stripper well properties or individual stripper wells and qualifying secondary recovery and qualifying tertiary recovery projects as defined in section 57-51.1-01. Leases for gas, coal, cement materials, sodium sulfate, sand and gravel, road material, building stone, chemical substances, metallic ores, or colloidal or other clays must be made by the board in such annual payments as are determined by the board. The board may adopt rules regarding annual payments and royalties under this section.

²¹² **SECTION 2. 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 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 section 57-51.1-01, and the date of qualification for the reduced rate of oil extraction tax for secondary and tertiary recovery operations.

SECTION 3. A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

²¹² Section 38-08-04 was also amended by section 2 of House Bill No. 1333, chapter 277.

Withholding requirement for oil and gas royalty payments to nonresidents.

1. For purposes of this section:
 - a. "Publicly traded partnership" means a publicly traded partnership as defined in section 7704 of the Internal Revenue Code [26 U.S.C. 7704] which is not treated as a corporation.
 - b. "Remitter" means any person who distributes royalty payments to royalty owners.
 - c. "Royalty owner" means a person or entity entitled to receive periodic royalty payments for a nonworking interest in the production of oil or gas.
2. Except as provided in subsection 3, each remitter shall deduct and withhold from the net 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 57-38-30.3. Sections 57-38-59 and 57-38-60 apply to the filing of the returns and payment of the tax under this subsection.
3. This section does not apply to royalty payments made to a royalty owner if the royalty owner is:
 - a. The United States or an agency of the federal government, this state or a political subdivision of this state, or another state or a political subdivision of another state;
 - b. A federally recognized Indian tribe with respect to on-reservation oil and gas production pursuant to a lease entered under the Indian Mineral Leasing Act of 1938 [25 U.S.C. 396a through 396g];
 - c. The United States as trustee for individual Indians;
 - d. A publicly traded partnership;
 - e. An organization that is exempt from the tax under this chapter; or
 - f. The same person or entity as the remitter.
4.
 - a. This section does not apply to a remitter that produced less than three hundred fifty thousand barrels of oil or less than five hundred million cubic feet of gas in the preceding calendar year as certified to the tax commissioner in the manner and on forms prescribed by the tax commissioner.
 - b. Each remitter that is exempt from withholding under this subsection shall make an annual return to report royalty payments that exceed the dollar amounts in subsection 6 and must be reported in the same manner as provided in section 57-38-60.
5.
 - a. Each year, a publicly traded partnership that is exempt from withholding under subsection 3 shall transmit to the tax commissioner, in an electronic format approved by the tax commissioner, each partner's United States department of the treasury schedule K-1, form 1065, or form 1065-B, as

applicable, filed electronically for the year with the United States internal revenue service.

b. A royalty owner that is a publicly traded partnership, or an organization exempt from taxation under section 57-38-09, shall report to the remitter and tax commissioner under oath, on a form prescribed by the tax commissioner, all information necessary to establish that the remitter is not required under subsection 2 to withhold royalty payments made to the partnership or organization.

6. If the royalty payment made to a royalty owner under this section is less than six hundred dollars for the current withholding period, or is less than one thousand dollars if the payment is annualized, the tax commissioner may grant a remitter's request to forego withholding the tax from the royalty payment made to that royalty owner for the current withholding period or, if applicable, the royalty payments for the annual period.

SECTION 4. 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 the oil extraction tax law, the following words and terms shall have the meaning ascribed to them in this section~~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 those 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. "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. "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. "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 5 of section 57-51.1-03.
8. "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 5 of section 57-51.1-03.

9. "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. "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. "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.
- 44-12. "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.
- 42-13. "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 5. AMENDMENT. Section 57-51.1-03 of the North Dakota Century Code is amended and reenacted as follows:

57-51.1-03. (Effective through June 30, 2013) 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 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.
 - 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 and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter 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 located 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. 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.

~~(Effective after June 30, 2013) 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.
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.
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.
 - 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 and which has been certified as a qualified project by the industrial commission is exempt from any taxes imposed under this chapter 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 located within the boundaries of an Indian reservation;
 - b. The well is drilled and completed on lands held in trust by the United States for an Indian tribe or individual Indian; or
 - c. The well is drilled and completed on lands held by an Indian tribe if the interest is in existence on August 1, 1997.
9. The first seventy-five thousand barrels of oil produced during the first eighteen months after completion, from a horizontal well drilled and completed in the Bakken formation after June 30, 2007, and before July 1, 2008, 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.

SECTION 6. AMENDMENT. Subsection 1 of section 57-51.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

1. To receive, from the first day of eligibility, a tax exemption on production from a stripper well property or individual stripper well under subsection 2 of section 57-51.1-03, the industrial commissioner's certification must be submitted to the tax commissioner within eighteen months after the end of the stripper well property's or stripper well's qualification period.

²¹³ **SECTION 7. 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.
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.
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 may not exceed six and one-half percent but may be reduced through negotiation between the governor and the Three Affiliated Tribes.

²¹³ Section 57-51.2-02 was also amended by section 5 of House Bill No. 1005, chapter 5.

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 except as otherwise provided in the agreement.
5. The allocation of revenue from oil and gas production taxes on the Fort Berthold 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 must be evenly divided between the tribe and the state.
 - b. All other production. The tribe must receive ~~twenty~~twenty-five 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 in lieu of the application of the Three Affiliated Tribes' fees and taxes related to production on such lands. The state must receive the remainder.
 - c. The state's share of the revenue as divided in subdivisions a and b is subject to distribution among political subdivisions as provided in chapters 57-51 and 57-51.1.
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 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 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 division of North Dakota is the venue for any dispute arising from a revenue-sharing agreement between the state and the Three Affiliated Tribes.
12. The agreement must require that the Three Affiliated Tribes 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 8. LEGISLATIVE MANAGEMENT STUDY - ANALYSIS OF FUTURE OIL INDUSTRY CHANGES - CONSULTANT ASSISTANCE. The legislative management shall study the likely changes to oil industry practices, production, impacts, and tax policy in the foreseeable future. To assist with this study, the legislative management shall obtain the services of an independent consultant with demonstrated insight into current and future production advances, including use of carbon dioxide and water or other means of enhancing production; effects of mature production areas on state and local tax policy; future infrastructure needs; and environmental considerations. The objective of the study is development of a legislative vision of appropriate long-term policy issues and revenue and expenditure expectations. The legislative management shall report its findings and recommendations, together with any legislation to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 9. EFFECTIVE DATE. Section 3 of this Act is effective for taxable years beginning after December 31, 2013, and the remainder of this Act is effective for taxable events occurring after June 30, 2013.

Approved May 6, 2013
Filed May 7, 2013

CHAPTER 474**SENATE BILL NO. 2048**

(Legislative Management)
(Water-Related Topics Overview Committee)

AN ACT to amend and reenact subsection 3 of section 57-51.1-07.1 of the North Dakota Century Code, relating to the resources trust fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 57-51.1-07.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The state water commission shall adopt rules for governing the review and recommendation of proposed water projects for which financial assistance by legislative appropriation from the resources trust fund is being sought under this section. The rules must consider project revenues, local cost sharing, and ability to pay. The rules may provide for repayment of a portion of funds allocated from the resources trust fund.

Approved March 18, 2013

Filed March 18, 2013

CHAPTER 475

SENATE BILL NO. 2105

(Finance and Taxation Committee)
(At the request of the State Treasurer)

AN ACT to amend and reenact paragraph 5 of subdivision b of subsection 2 of section 57-62-02 of the North Dakota Century Code, relating to reimbursement of coal severance tax allocated to a non-coal-producing county; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Paragraph 5 of subdivision b of subsection 2 of section 57-62-02 of the North Dakota Century Code is amended and reenacted as follows:

- (5) The state treasurer shall allocate funds provided by legislative appropriation to cities, the county general fund, and school districts within a coal-producing county according to the allocation method provided in subdivision a in an amount to offset fifty percent of the loss of that county's share of coal severance tax revenue allocated to a non-coal-producing county under this subdivision in the previous calendar year. The state treasurer shall make the allocation and distribute the funds, within the limits of legislative appropriations, under this paragraph ~~at the time and in the manner funds are distributed under this section during the first month of each calendar year~~. The state treasurer shall include in each biennial budget request the amounts estimated to be necessary for the biennium for purposes of this paragraph, based on the allocations under this subdivision in the most recent calendar years.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 2014.

Approved March 19, 2013
Filed March 19, 2013

TOWNSHIPS

CHAPTER 476

SENATE BILL NO. 2180

(Senators Murphy, Andrist, Campbell, Luick)
(Representatives Kreidt, Vigesaa)

AN ACT to create and enact a new section to chapter 58-03 of the North Dakota Century Code, relating to the issuance of building permits by townships.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 58-03 of the North Dakota Century Code is created and enacted as follows:

Building permit - Decision within sixty days of application.

1. A township that regulates the construction, erection, reconstruction, repair, or alteration of buildings and structures and issues building permits shall respond to a building permit application within sixty days of receiving the application either by approving the application and delivering the building permit or by providing the applicant written notice of the grounds for rejection of the application.
2. If the building or structure for which a permit is requested meets all applicable zoning regulations and the board of township supervisors or other appropriate official fails to respond as required under subsection 1, the application is deemed to be approved and the applicant may proceed with the construction, erection, reconstruction, repair, or alteration of the building or structure and the township shall return any permit fee submitted with the application.
3. A township's building permit application form must include a statement that if the building or structure for which the permit is requested meets all applicable zoning regulations and the board of township supervisors or other appropriate official fails to respond within sixty days of receiving the application, the application is deemed approved. Upon receipt of a building permit application, a township shall note on the application the date of receipt and shall provide a copy of the submitted application to the applicant with the date of receipt noted.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 477

HOUSE BILL NO. 1252

(Representatives Klemin, Hatlestad, K. Koppelman)
(Senators Andrist, Sorvaag, Dotzenrod)

AN ACT to amend and reenact section 58-08-01 of the North Dakota Century Code, relating to compensation of township treasurers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 58-08-01 of the North Dakota Century Code is amended and reenacted as follows:

58-08-01. Compensation of treasurer.

The township treasurer is entitled to receive as compensation for services up to sixty dollars a day for each day necessarily devoted to the work of the treasurer's office not exceeding two thousand dollars in a calendar year. The electors of the township shall establish the daily compensation rate for the township treasurer at each annual township meeting. Additional compensation over two thousand dollars may be provided for reimbursement of expenses as provided in section 44-08-04 and for mileage as provided in section 54-06-09 for each mile [1.61 kilometers] necessarily traveled in the performance of the treasurer's duties. The township treasurer may not be allowed a percentage on the balance turned over to the treasurer's successor in office.

Approved March 27, 2013
Filed March 27, 2013

WATERS

CHAPTER 478

HOUSE BILL NO. 1206

(Representatives Schmidt, Devlin, Kasper, Pollert, Skarphol, Streyle, Thoreson)
(Senators Bowman, Lyson)

AN ACT to create and enact section 61-02-01.3 of the North Dakota Century Code, relating to development of a comprehensive water development plan; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 61-02-01.3 of the North Dakota Century Code is created and enacted as follows:

61-02-01.3. Comprehensive water development plan.

Biennially, the commission shall develop and maintain a comprehensive water development plan organized on a river basin perspective, including an inventory of future water projects for budgeting and planning purposes. As part of the commission's planning process, in order to facilitate local project sponsor participation and project prioritization and to assist in project cost-benefit analysis for projects expected to cost more than five hundred thousand dollars, the commission shall develop a policy that outlines procedures for commissioner-hosted meetings within the Red River, James River, Mouse River, upper Missouri River, lower Missouri River, and Devils Lake drainage basins.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - WATER PROJECT PRIORITIZATION. During the 2013-2014 interim, the legislative management shall conduct a study to evaluate current water project prioritization processes for effectiveness in determining high-priority water projects for state water commission funding. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 479

HOUSE BILL NO. 1067

(Judiciary Committee)
(At the request of the State Water Commission)

AN ACT to amend and reenact section 61-02-09 of the North Dakota Century Code, relating to the state water commission acting as a public corporation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-02-09 of the North Dakota Century Code is amended and reenacted as follows:

61-02-09. Commission a ~~public corporation~~state agency - Function as state.

The commission shall be a ~~public corporation~~state agency with all of the powers and authority possessed by such a ~~corporation~~state agency in the performance of its duties. The commission may sue and be sued, plead and be impleaded, and contract and be contracted with, ~~in its corporate name~~. The commission in the exercise of all its powers and in the performance of all its duties shall be the state of North Dakota functioning in its sovereign and governmental capacity.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 480

HOUSE BILL NO. 1061

(Energy and Natural Resources Committee)
(At the request of the State Engineer)

AN ACT to amend and reenact sections 61-03-23, 61-04-27, and 61-04-30 of the North Dakota Century Code, relating to water rights; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-03-23 of the North Dakota Century Code is amended and reenacted as follows:

61-03-23. Penalties - Civil.

In addition to criminal sanctions that may be imposed pursuant to law, a person who knowingly violates any provision of this title or any rules adopted under this title may be assessed a civil penalty not to exceed ~~five~~twenty-five thousand dollars for each day the violation occurred and continues to occur and may be required by the state engineer to forfeit any right to the use of water. The civil penalty for violation of an irrigation appropriation permit may not exceed five thousand dollars for each day the violation occurred and continues to occur. The civil penalty or forfeiture of a right to use water may be adjudicated by the courts or by the state engineer through an administrative hearing under chapter 28-32.

If a civil penalty levied by the state engineer after an administrative hearing is not paid within thirty days after a final determination that the civil penalty is owed, the civil penalty may be assessed against the property of the landowner responsible for the violation leading to the assessment of the penalty. The assessment must be collected as other assessments made under this title are collected. Notwithstanding the provisions of section 57-20-22, all interest and penalties due on the assessment must be paid to the state. Any civil penalty assessed under this section must be in addition to any costs incurred by the state engineer for enforcement of the order.

SECTION 2. AMENDMENT. Section 61-04-27 of the North Dakota Century Code is amended and reenacted as follows:

61-04-27. Information filed with state engineer - Installation of measuring devices.

On or before the ~~first~~thirty-first day of ~~February~~March of each year all persons holding a water permit, ~~including irrigation districts, federal agencies, and political subdivisions,~~ shall file with the state engineer, on forms supplied by the state engineer, topographic, mapping, foundation test borings, design, water use, and such other information as the state engineer shall require. The state engineer may also require any such persons to install measuring devices, which must conform to the state engineer's specifications, at all points specified by the state engineer.

SECTION 3. AMENDMENT. Section 61-04-30 of the North Dakota Century Code is amended and reenacted as follows:

61-04-30. Penalty.

A person who constructs works for an appropriation, or diverts, impounds, withdraws, or uses a significant amount of water from any source without a permit specifically authorizing such action, except as otherwise provided in section 61-04-02; who violates an order of the state engineer; who fails or refuses to install meters, gauges, or other measuring devices or to control works; who violates an order establishing corrective controls for an area or for a source of water; who violates the terms of the permit; or who knowingly makes a false or misleading statement in a declaration of existing rights is guilty of a class A misdemeanor. As used in this section, "significant amount of water" means any amount of water in excess of that allowed in a valid water permit, or any amount of water in excess of the needs for domestic and livestock purposes where no permit has been issued. The state engineer shall inform the tax commissioner of violations of industrial use permits.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 481

HOUSE BILL NO. 1063

(Energy and Natural Resources Committee)
(At the request of the State Engineer)

AN ACT to amend and reenact section 61-02-01 of the North Dakota Century Code, relating to the term nonnavigable; and to repeal sections 61-15-01, 61-15-02, and 61-15-08 of the North Dakota Century Code, relating to water conservation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-02-01 of the North Dakota Century Code is amended and reenacted as follows:

61-02-01. Water conservation, flood control, management, and development declared a public purpose.

It is hereby declared that the general welfare and the protection of the lives, health, property, and the rights of all the people of this state require that the conservation, management, development, and control of waters in this state, public or private, navigable or ~~unnavigable~~nonnavigable, surface or subsurface, the control of floods, and the management of the atmospheric resources, involve and necessitate the exercise of the sovereign powers of this state and are affected with and concern a public purpose. It is declared further that any and all exercise of sovereign powers of this state in investigating, constructing, maintaining, regulating, supervising, and controlling any system of works involving such subject matter embraces and concerns a single object, and that the state water commission in the exercise of its powers, and in the performance of all its official duties, shall be considered and construed to be performing a governmental function for the benefit, welfare, and prosperity of all the people of this state.

SECTION 2. REPEAL. Sections 61-15-01, 61-15-02, and 61-15-08 of the North Dakota Century Code are repealed.

Approved April 26, 2013
Filed April 26, 2013

CHAPTER 482

SENATE BILL NO. 2199

(Senators G. Lee, Burckhard, Luick, Dotzenrod)
(Representatives Hofstad, Kreun)

AN ACT to amend and reenact sections 61-16.1-02, 61-16.1-40.1, 61-16.1-45, 61-16.1-51, 61-16.1-53, 61-21-46, 61-21-47, and 61-32-07 of the North Dakota Century Code, relating to drainage projects.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.1-02 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-02. Definitions.

In this chapter, unless the context or subject matter otherwise provides:

1. "Affected landowners" means landowners whose land is subject to special assessment or condemnation for a project.
2. "Assessment drain" means any natural watercourse opened, or proposed to be opened, and improved for the purpose of drainage, and any artificial drain of any nature or description constructed for the purpose of drainage, including dikes and appurtenant works, which are financed in whole or in part by special assessment. This definition may include more than one watercourse or artificial channel constructed for the purpose of drainage when the watercourses or channels drain land within a practical drainage area.
3. "Commission" means the state water commission.
4. "Conservation" means planned management of water resources to prevent exploitation, destruction, neglect, or waste.
5. "Costs of the frivolous complaint" means all reasonable costs associated with the requisite proceedings regarding the removal of obstructions to a drain, removal of a noncomplying dike or dam, or closing a noncomplying drain, including all reasonable construction costs; all reasonable attorney's fees and legal expenses; all reasonable engineering fees, including investigation and determination costs; compliance inspections; and necessary technical memorandum and deficiency review; and all costs associated with any hearing conducted by a district, including preparation and issuance of any findings of fact and any final closure order.
6. "District" means a water resource district.
6. "~~Person" means any person, firm, partnership, association, corporation, limited liability company, agency, or any other private or governmental organization, which includes any agency of the United States, a state agency, or any political subdivision of the state.~~

7. "Frivolous" means allegations and denials in any complaint filed with a district made without reasonable cause and not in good faith.
8. "Project" means any undertaking for water conservation, flood control, water supply, water delivery, erosion control and watershed improvement, drainage of surface waters, collection, processing, and treatment of sewage, or discharge of sewage effluent, or any combination thereof, including incidental features of any such undertaking.
- 8-9. "Water resource board" means the water resource district's board of managers.

SECTION 2. AMENDMENT. Section 61-16.1-40.1 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-40.1. Maintenance of federally constructed projects - Assessment district established.

With regard to projects constructed by a federal agency, including the soil conservation service or natural resources conservation service, the water resource board may finance in whole or in part the maintenance of the project with funds raised through the collection of a special assessment levied against the land and premises benefited by maintenance of the project. The assessments to be levied may not exceed ~~two~~four dollars per acre [.40 hectare] annually on agricultural lands and may not exceed two dollars annually for each five hundred dollars of taxable valuation of nonagricultural property. No action is required for the establishment of the assessment district or the assessments except the water resource board must approve the maintenance and assessment therefor by a vote of two-thirds of the members and the board of county commissioners of the county in which the project is located must approve and levy the assessments to be made by a vote of two-thirds of its members. If a board that undertakes a project finds that the project may benefit lands in this state outside water resource district boundaries, the board shall provide notice to the water resource board where the benefited lands are located. The board of each water resource district containing lands benefited by a project must approve the project and assessment by vote of two-thirds of its members. The board of county commissioners in each county that contains lands benefited by a project must approve and levy the assessment to be made by vote of two-thirds of its members. If a project and assessment is not approved by all affected water resource boards and boards of county commissioners, the board of each water resource district and the board of county commissioners of each county shall meet to ensure that all common water management problems are jointly addressed. In addition, the water resource board that undertakes the project may proceed with the project if the board finances the cost of the project and does not assess land outside of the district. Before an assessment may be levied under this section, a public hearing must be held. The hearing must be preceded by notice as to date, time, location, and subject matter published in the official newspaper in the county or counties in which the proposed assessment is to be levied. The notice must be published at least ten days but not more than thirty days before the public hearing.

SECTION 3. AMENDMENT. Section 61-16.1-45 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-45. Maintenance of drainage projects.

1. If it is desired to provide for maintenance of an assessment drain in whole or in part by means of special assessments, the levy in any year for the

maintenance may not exceed ~~two~~four dollars per acre [.40 hectare] on any agricultural lands benefited by the drain. The district, at its own discretion, may utilize either of the following methods for levying special assessments for the maintenance:

- 1-a. Agricultural lands that carried the highest assessment when the drain was originally established, or received the most benefits under a reassessment of benefits, may be assessed the maximum amount of ~~two~~four dollars per acre [.40 hectare]. The assessment of other agricultural lands in the district must be based upon the proportion that the assessment of benefits at the time of construction or at the time of any reassessment of benefits bears to the assessment of the benefits of the agricultural land assessed the full ~~one dollar~~four dollars per acre [.40 hectare]. Nonagricultural property must be assessed the sum in any one year as the ratio of the benefits under the original assessments or any reassessment bears to the assessment of agricultural lands bearing the highest assessment.
- 2-b. Agricultural lands must be assessed uniformly throughout the entire assessed area. Nonagricultural property must be assessed an amount not to exceed ~~one dollar~~two dollars for each five hundred dollars of taxable valuation of the nonagricultural property.
2. In case the maximum levy or assessment on agricultural and nonagricultural property for any year will not produce an amount sufficient to cover the cost of cleaning out and repairing the drain, a water resource board may accumulate a fund in an amount not exceeding the sum produced by the maximum permissible levy for six years.
3. If the cost of, or obligation for, the cleaning and repairing of any drain exceeds the total amount that may be levied by the board in any six-year period, the board shall obtain the approval of the majority of the landowners as determined by chapter 61-16.1 before obligating the district for the costs.

SECTION 4. AMENDMENT. Section 61-16.1-51 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-51. Removal of obstructions to drain - Notice and hearing - Appeal - Injunction - Definition.

1. If a water resource board determines that an obstruction to a drain has been caused by the negligent act or omission of a landowner or tenant, the board shall notify the landowner by registered mail at the landowner's post-office address of record. A copy of the notice must also be sent to the tenant, if any. The notice must specify the nature and extent of the obstruction, the opinion of the board as to its cause, and must state that if the obstruction is not removed within such period as the board determines, but not less than fifteen days, the board shall procure removal of the obstruction and assess the cost of the removal, or the portion the board determines appropriate, against the property of the landowner responsible. The notice must also state that the affected landowner, within fifteen days of the date the notice is mailed, may demand, in writing, a hearing on the matter. Upon receipt of the demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting a landowner or tenant from maintaining an obstruction. Assessments levied under the provisions of this section must be collected in the same manner as other assessments

authorized by this chapter. If, in the opinion of the board, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in accordance with the proportionate responsibility of the landowners. A landowner aggrieved by action of the board under this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided in section 28-34-01. A hearing as provided for in this section is not a prerequisite to an appeal. If a complaint is frivolous in the discretion of the board, the board may assess the costs of the frivolous complaint against the complainant. If the obstruction is located in a road ditch, the timing and method of removal must be approved by the appropriate road authority before the notice required by this section is given and appropriate construction site protection standards must be followed.

2. For the purposes of this section, "an obstruction to a drain" means a barrier to a watercourse, as defined by section 61-01-06, or an artificial drain, including if the watercourse or drain is located within a road ditch, which materially affects the free flow of waters in the watercourse or drain.
3. Following removal of an obstruction to a drain, either by a water resource board or by a party complying with an order of a water resource board, the board may assess its costs against the property of the responsible landowner.

²¹⁴ **SECTION 5. AMENDMENT.** Section 61-16.1-53 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-53. Removal of a noncomplying dike or dam - Notice and hearing - Appeal - Injunction.

1. Upon receipt of a complaint of unauthorized construction of a dike, dam, or other device for water conservation, flood control, regulation, watershed improvement, or storage of water, the water resource board shall promptly investigate and make a determination thereon. If the board determines that a dam or other device, capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08 cubic meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a medium-hazard or high-hazard dam, has been established or constructed by a landowner or tenant contrary to this title or any rules adopted by the board, the board shall notify the landowner by registered mail at the landowner's post-office address of record. A copy of the notice must also be sent to the tenant, if any. The notice must specify the nature and extent of the noncompliance and must state that if the dike, dam, or other device is not removed within the period the board determines, but not less than fifteen days, the board shall cause the removal of the dike, dam, or other device and assess the cost of the removal, or the portion the board determines, against the property of the landowner responsible. The notice must also state that the affected landowner, within fifteen days of the date the notice is mailed, may demand, in writing, a hearing upon the matter. Upon receipt of the demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the dike, dam, or other device, or ordering the landowner to remove the dike, dam, or other device. Assessments levied under this section must be collected in the

²¹⁴ Section 61-16.1-53 was also amended by section 1 of House Bill No. 1062, chapter 484.

same manner as other assessments authorized by this chapter. If, in the opinion of the board, 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. A person aggrieved by action of the board under this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided in section 28-34-01. A hearing as provided for in this section is not prerequisite to an appeal. If a complaint is frivolous in the discretion of the board, the board may assess the costs of the frivolous complaint against the complainant.

2. Following removal of an unauthorized dike, dam, or other device, either by a water resource board or by a party complying with an order of a water resource board, the board may assess its costs against the property of the responsible landowner.

SECTION 6. AMENDMENT. Section 61-21-46 of the North Dakota Century Code is amended and reenacted as follows:

61-21-46. Maximum levy - Accumulation of fund.

1. The levy in any year for cleaning out and repairing a drain may not exceed ~~two~~four dollars per acre [.40 hectare] on any agricultural lands in the drainage district.
 - 1-a. Agricultural lands that carried the highest assessment when the drain was originally established, or received the most benefits under a reassessment of benefits, may be assessed the maximum amount of ~~two~~four dollars per acre [.40 hectare]. The assessment of other agricultural lands in the district must be based upon the proportion that the assessment of benefits at the time of construction or at the time of any reassessment of benefits bears to the assessment of the benefits of the agricultural land assessed the full ~~two~~four dollars per acre [.40 hectare]. Nonagricultural property must be assessed the sum in any one year as the ratio of the benefits under the original assessments or any reassessments bears to the assessment of agricultural land bearing the highest assessment.
 - 2-b. Agricultural lands must be assessed uniformly throughout the entire assessed area. Nonagricultural property must be assessed an amount not to exceed ~~one dollar~~two dollars for each five hundred dollars of taxable valuation of the nonagricultural property.
2. In case the maximum levy or assessment on agricultural and nonagricultural property for any year will not produce an amount sufficient to cover the cost of cleaning out and repairing the drain, the board may accumulate a fund in an amount not exceeding the sum produced by the maximum permissible levy for six years. If the cost of, or obligation for, the cleaning and repair of any drain exceeds the total amount that can be levied by the board in any six-year period, the board shall obtain an affirmative vote of the majority of the landowners as determined by section 61-21-16 before obligating the district for the costs.

SECTION 7. AMENDMENT. Section 61-21-47 of the North Dakota Century Code is amended and reenacted as follows:

61-21-47. Expenditures in excess of maximum levy.

If the cost of maintenance, cleaning out, and repairing any drain shall exceed the amount produced by the maximum levy of ~~two~~^{four} dollars per acre [.40 hectare] in any year, with the amount accumulated in the drainage fund, the board may proceed with such cleaning out and make an additional levy only upon petition of at least sixty-one percent of the affected landowners. The percentage of the affected landowners signing such petition shall be determined in accordance with the weighted voting provisions in section 61-21-16.

²¹⁵ **SECTION 8. AMENDMENT.** Section 61-32-07 of the North Dakota Century Code is amended and reenacted as follows:

61-32-07. Closing a noncomplying drain - Notice and hearing - Appeal - Injunction - Frivolous complaints.

1. Only a landowner experiencing flooding or adverse effects from an unauthorized drain constructed before January 1, 1975, may file a complaint with the water resource board. Any person may file a complaint about an unauthorized drain constructed after January 1, 1975. Upon receipt of a complaint of unauthorized drainage, the water resource board shall promptly investigate and make a determination of the facts with respect to the complaint. If the board determines that a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to this title or any rules adopted by the board, the board shall notify the landowner by registered mail at the landowner's post-office address of record. A copy of the notice must also be sent to the tenant, if known. 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 a reasonable time as the board determines, but not less than fifteen days, the board shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost of the closing or filling, or the portion the board determines, against the property of the landowner responsible. The notice must also state that the affected landowner, within fifteen days of the date the notice is mailed, may demand, in writing, a hearing on the matter. Upon receipt of the demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the drain, lateral drain, or ditch and ordering the closure of the illegal drain. Assessments levied under this section must be collected in the same manner as assessments authorized by chapter 61-16.1. If, in the opinion of the board, 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. A person aggrieved by action of the board under this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided in section 28-34-01. A hearing as provided for in this section is not a prerequisite to an appeal. ~~If, after the first complaint, in the opinion of the board, the a complaint is frivolous in the discretion of the board,~~ the board may assess the costs of the frivolous complaint against the complainant.

²¹⁵ Section 61-32-07 was also amended by section 3 of House Bill No. 1062, chapter 484.

2. Following the closing or filling of an unauthorized drain, either by a water resource board or by a party complying with an order of a water resource board, the board may assess its costs against the property of the responsible landowner.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 483

SENATE BILL NO. 2052

(Natural Resources Committee)
(At the request of the State Engineer)

AN ACT to amend and reenact section 61-16.1-38 of the North Dakota Century Code, relating to a permit to construct or modify a dam, dike, or other device.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-16.1-38 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-38. Permit to construct or modify dam, dike, or other device required - Penalty - Emergency.

No dikes, dams, or other devices for water conservation, flood control regulation, watershed improvement, or storage of water which are capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08 cubic meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a medium-hazard or high-hazard dam, may be constructed within any district except in accordance with the provisions of this chapter. An application for the construction of any dike, dam, or other device, along with complete plans and specifications, must be presented first to the state engineer. Except for low-hazard dams less than ten feet [3.05 meters] in height, the plans and specifications must be completed by a professional engineer registered in this state. After receipt, the state engineer shall consider the application in such detail as the state engineer deems necessary and proper. The state engineer shall refuse to allow the construction of any unsafe or improper dike, dam, or other device which would interfere with the orderly control of the water resources of the district, or may order such changes, conditions, or modifications as in the judgment of the state engineer may be necessary for safety or the protection of property. Within forty-five days after receipt of the application, except in unique or complex situations, the state engineer shall complete the state engineer's initial review of the application and forward the application, along with any changes, conditions, or modifications, to the water resource board of the district within which the contemplated project is located. The board thereupon shall consider, within forty-five days, the application, and suggest any changes, conditions, or modifications to the state engineer. If the application meets with the board's approval, the board shall forward the approved application to the state engineer. If the board fails to respond within forty-five days, it shall be determined the board has no changes, conditions, or modifications. The state engineer shall make the final decision on the application and forward that decision to the applicant and the local water resource board. The state engineer may issue temporary permits for dikes, dams, or other devices in cases of an emergency. Any person constructing a dam, dike, or other device, which is capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08 cubic meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a medium-hazard or high-hazard dam, without first securing a permit to do so, as required by this section, is liable for all damages proximately caused by the dam, dike, or other device, and is guilty of a class B misdemeanor.

Approved March 18, 2013
Filed March 18, 2013

CHAPTER 484

HOUSE BILL NO. 1062

(Energy and Natural Resources Committee)
(At the request of the State Engineer)

AN ACT to amend and reenact sections 61-16.1-53, 61-16.1-53.1, 61-32-07, and 61-32-08 of the North Dakota Century Code, relating to appeals of removal or closing of a noncomplying dam, dike, or other device and drains.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁶ **SECTION 1. AMENDMENT.** Section 61-16.1-53 of the North Dakota Century Code is amended and reenacted as follows:

61-16.1-53. Removal of a noncomplying dike or dam, or other device - Notice and hearing - Appeal - Injunction.

Upon receipt of a complaint of unauthorized construction of a dike, dam, or other device for water conservation, flood control, regulation, watershed improvement, or storage of water, the water resource board shall promptly investigate and make a determination thereon. If the board determines that a dike, dam, or other device, capable of retaining, obstructing, or diverting more than fifty acre-feet [61674.08 cubic meters] of water or twenty-five acre-feet [30837.04 cubic meters] of water for a medium-hazard or high-hazard dam, has been established or constructed by a landowner or tenant contrary to this title or any rules adopted by the board, the board shall notify the landowner by registered certified mail at the landowner's post-office address of record. A copy of the notice must also be sent to the tenant, if any. The notice must specify the nature and extent of the noncompliance and must state that if the dike, dam, or other device is not removed within the period the board determines, but not less than fifteen days, the board shall cause the removal of the dike, dam, or other device and assess the cost of the removal, or the portion the board determines, against the property of the landowner responsible. The notice must also state that the affected landowner, within fifteen days of the date the notice is mailed, may demand, in writing, a hearing upon the matter. Upon receipt of the demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the dike, dam, or other device, or ordering the landowner to remove the dike, dam, or other device. Assessments levied under this section must be collected in the same manner as other assessments authorized by this chapter. If, in the opinion of the board, 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. A person aggrieved by action of the board under this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided in section 28-34-01. A hearing as provided for in this section is not prerequisite to an appeal.

²¹⁶ Section 61-16.1-53 was also amended by section 5 of Senate Bill No. 2199, chapter 482.

SECTION 2. 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.

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 ~~registered~~certified mail. 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 the complaint.

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. The state engineer, 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. 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. Notify the landowner by ~~registered~~certified mail at the landowner's post-office address of record;
2. Return the matter to the jurisdiction of the board along with the investigation report; or
3. Forward the dam, dike, or other device complaint and investigation report to the state's attorney.

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 reasonable time as 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 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 chapter 28-32. A hearing by the state engineer as provided for in this section is a prerequisite to such an appeal.

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 the terms of this section.

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 the statutory responsibilities prescribed in chapter 11-16.

In addition to the penalty imposed by the court in the event of conviction under this statute, the court shall order the dam, dike, or other device removed within such 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.

~~The authority granted in this section may only be exercised for dams, dikes, or other devices constructed after August 1, 1999.~~

²¹⁷ **SECTION 3. AMENDMENT.** Section 61-32-07 of the North Dakota Century Code is amended and reenacted as follows:

61-32-07. Closing a noncomplying drain - Notice and hearing - Appeal - Injunction - Frivolous complaints.

Only a landowner experiencing flooding or adverse effects from an unauthorized drain constructed before January 1, 1975, may file a complaint with the water resource board. Any person may file a complaint about an unauthorized drain constructed after January 1, 1975. Upon receipt of a complaint of unauthorized drainage, the water resource board shall promptly investigate and make a determination of the facts with respect to the complaint. If the board determines that a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to this title or any rules adopted by the board, the board shall notify the landowner by ~~registered~~^{certified} mail at the landowner's post-office address of record. A copy of the notice must also be sent to the tenant, if known. 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 a reasonable time as the board determines, but not less than fifteen days, the board shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost of the closing or filling, or the portion the

²¹⁷ Section 61-32-07 was also amended by section 8 of Senate Bill No. 2199, chapter 482.

board determines, against the property of the landowner responsible. The notice must also state that the affected landowner, within fifteen days of the date the notice is mailed, may demand, in writing, a hearing on the matter. Upon receipt of the demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the drain, lateral drain, or ditch and ordering the closure of the illegal drain. Assessments levied under this section must be collected in the same manner as assessments authorized by chapter 61-16.1. If, in the opinion of the board, 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. ~~A person aggrieved by action of the board under this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided in section 28-34-01. A hearing as provided for in this section is not a prerequisite to an appeal.~~ If, after the first complaint, in the opinion of the board, the complaint is frivolous, the board may assess the costs of the frivolous complaint against the complainant.

SECTION 4. 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.

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 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 nonappealing party. 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 the complaint.

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 such complaint with the state engineer. 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.

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:

1. Notify the landowner by ~~registered~~certified mail at the landowner's post-office address of record;
2. Return the matter to the jurisdiction of the board along with the investigation report; or

3. Forward the drainage complaint and investigation report to the state's attorney.

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 reasonable time as 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 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 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 chapter 28-32. A hearing by the state engineer as provided for in this section shall be a prerequisite to such an appeal.

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 be forwarded to the board and it shall 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 the terms of this section.

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 the statutory responsibilities prescribed in chapter 11-16.

In addition to the penalty imposed by the court in the event of conviction under this statute, the court shall order the drain, lateral drain, or ditch closed or filled within such 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.

~~The authority granted in this section may only be exercised for drainage constructed after January 1, 1987.~~

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 485

SENATE BILL NO. 2053

(Natural Resources Committee)
(At the request of the State Water Commission)

AN ACT to create and enact a new section to chapter 61-24.6 of the North Dakota Century Code, relating to the sale of property owned by the state water commission obtained for construction of the northwest area water supply project.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 61-24.6 of the North Dakota Century Code is created and enacted as follows:

Commission has authority to sell property.

If the commission determines property acquired for the northwest area water supply project is no longer necessary for project purposes and the unnecessary parcel is five contiguous acres [2.03 hectares] or less, sections 54-01-05.2 and 54-01-05.5 do not apply. The commission shall have the authority to sell, transfer, or exchange the unnecessary parcel to the current owner of the parent parcel from which the unnecessary parcel was taken. If the parent parcel's current owner does not accept the commission's offer within sixty days, the commission may offer the property to any other adjacent property owner for a period of sixty days. If no offers are accepted within sixty days, the property sale will be governed by sections 54-01-05.2 and 54-01-05.5.

Approved March 18, 2013
Filed March 18, 2013

CHAPTER 486

SENATE BILL NO. 2049

(Legislative Management)
(Water-Related Topics Overview Committee)

AN ACT to amend and reenact sections 54-35-02.7 and 61-06-21, subsection 13 of section 61-07-03, and sections 61-24.8-09 and 61-24.8-10 of the North Dakota Century Code and section 4 of chapter 496 of the 2011 Session Laws, relating to the water topics overview committee, irrigation districts, irrigation project financing, and the expiration date of Garrison Diversion Conservancy District irrigation special assessments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁸ **SECTION 1. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.7. (Effective through November 30, 2013) Water-related ~~Water~~ topics overview committee - Duties.

The legislative management, during each interim, shall appoint a ~~water-related~~ 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-related~~ water topics and related matters, ~~the Garrison diversion project~~, and for any necessary discussions with adjacent states on ~~water-related~~ water topics. ~~During the 2011-12 interim, the committee shall review the state's irrigation laws and rules and evaluate the process of the prioritization of water projects. The committee consists of thirteen members and 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.~~

~~(Effective after November 30, 2013) Garrison diversion overview. The legislative management is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics.~~

SECTION 2. AMENDMENT. Section 61-06-21 of the North Dakota Century Code is amended and reenacted as follows:

61-06-21. Meetings of board - Regular and special - Quorum - Records of board.

The board shall hold regular meetings in its office or usual place of meeting in January, March, July, and November of each year. The board by rule or bylaw authorized by section 61-07-03 shall fix dates for such regular meetings and may also fix dates for additional regular meetings as it shall deem needed. The board also may hold special meetings as may be required for the transaction of the district's business.

²¹⁸ Section 54-35-02.7 was also amended by section 17 of House Bill No. 1020, chapter 20, and section 3 of Senate Bill No. 2233, chapter 490.

A majority of the members of the board constitutes a quorum for the transaction of business. Special meetings shall be called by the secretary upon the order of the chairman of the board or upon the request in writing of two members. The order must be entered of record on the minutes of the meeting and notice of such special meeting shall be delivered or mailed to each member of the board at least five days prior to the date of such special meeting. A special meeting of the board may be called at any time by the chairman without notice and the meeting thus called shall be legal and valid if all members of the board of directors are present. ~~A majority of the members of the board shall constitute a quorum for the transaction of business, but upon all questions requiring a vote there shall be a~~ con concurrence of at least a majority of the board is necessary on any question requiring a vote. All records of the board must be open to the inspection of any elector during business hours.

SECTION 3. AMENDMENT. Subsection 13 of section 61-07-03 of the North Dakota Century Code is amended and reenacted as follows:

13. Enter into contracts and leases as the board determines appropriate with the Garrison Diversion Conservancy District; the water commission of North Dakota; or with the United States of America, its instrumentalities, departments, or agencies, for the purpose of financing the construction of any irrigation works authorized by law, and in such contracts and leases may authorize ~~such~~the Garrison Diversion Conservancy District; the commission; or the United States, its instrumentalities, departments, or agencies, as the case may be, to supervise and approve the construction, maintenance, and operation of such irrigation works, or any part or portion thereof, until such times as any money expended, advanced, or loaned by the commission or by the United States, its instrumentalities, departments, or agencies, and agreed to be repaid thereto by said board, shall have been repaid fully. The board may accept cooperation from ~~such~~the Garrison Diversion Conservancy District; the commission; or from the United States, its instrumentalities, departments, and agencies, in the construction, maintenance, and operation, and in financing the construction of any work authorized by the board. The board shall have full power to do any and all things necessary to avail itself of such aid, assistance, and cooperation under existing or future state laws or federal legislation enacted by the Congress of the United States.

SECTION 4. AMENDMENT. Section 61-24.8-09 of the North Dakota Century Code is amended and reenacted as follows:

61-24.8-09. (Effective through July 31, 2013) Engineer's report required - Contents.

After a special improvement district has been created, the board, if the board determines it necessary to make any of the improvement set out in section 61-24.8-05 in the manner provided in this chapter, shall direct the engineer for the district, or ~~some other competent~~another registered professional engineer, to prepare a report as to the general nature, purpose, and feasibility of the proposed improvement. The engineer shall prepare profiles, plans, and specifications of the proposed project and estimates of the total cost. The estimate of costs prepared by the engineer must include acquisition of right of way and other costs specified in section 61-24.8-19 and must be in sufficient detail to allow the board to determine the probable share of the total costs that will be assessed against each of the affected landowners in the proposed assessment district.

SECTION 5. AMENDMENT. Section 61-24.8-10 of the North Dakota Century Code is amended and reenacted as follows:

61-24.8-10. (Effective through July 31, 2013) Approval of plans, specifications, and estimates.

After receiving the engineer's report required by section 61-24.8-09, the board may direct the engineer to prepare detailed plans and specifications for construction of the improvement. The plans and specifications must be certified by a registered professional engineer and must be approved by a resolution of the board.

SECTION 6. AMENDMENT. Section 4 of Chapter 496 of the 2011 Session Laws is amended and reenacted as follows:

SECTION 4. EXPIRATION DATE. ~~This~~Sections 2 and 3 of this Act ~~is~~are effective through July 31, ~~2013~~2015, and after that date ~~is~~are ineffective except for projects for which all steps up to and including approval as described in section 61-24.8-14 are completed before August 1, ~~2013~~2015.

Approved March 18, 2013
Filed March 18, 2013

CHAPTER 487

SENATE BILL NO. 2308

(Senators Bowman, Luick, Lyson)
(Representatives Hatlestad, Wall, Williams)

AN ACT to create and enact four new subsections to section 61-28-02 and a new section to chapter 61-28 of the North Dakota Century Code, relating to the regulation of septic system servicing; to amend and reenact subsection 4 of section 61-28-08 of the North Dakota Century Code, relating to civil penalties for violating chapter 61-28 of the North Dakota Century Code; to repeal chapter 23-19 of the North Dakota Century Code, relating to the regulation of cesspools, septic tanks, and privies; to provide a penalty; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²¹⁹ **SECTION 1.** A new subsection to section 61-28-02 of the North Dakota Century Code is created and enacted as follows:

"Septage" means the liquid or solid material removed from septic systems, cesspools, privies, chemical toilets, holding tanks, and similar devices that receive domestic wastewater.

²²⁰ **SECTION 2.** A new subsection to section 61-28-02 of the North Dakota Century Code is created and enacted as follows:

"Septic system" means a disposal system, and all of its components, used to receive, treat, and dispose of domestic wastewater through microbiological decomposition and soil absorption.

²²¹ **SECTION 3.** A new subsection to section 61-28-02 of the North Dakota Century Code is created and enacted as follows:

"Septic system servicer" means a person that engages in the business of servicing septic systems, cesspools, privies, chemical toilets, holding tanks, and similar devices that receive domestic wastewater.

²¹⁹ Section 61-28-02 was also amended by section 2 of Senate Bill No. 2308, chapter 487, section 3 of Senate Bill No. 2308, chapter 487, and section 4 of Senate Bill No. 2308, chapter 487.

²²⁰ Section 61-28-02 was also amended by section 1 of Senate Bill No. 2308, chapter 487, section 3 of Senate Bill No. 2308, chapter 487, and section 4 of Senate Bill No. 2308, chapter 487.

²²¹ Section 61-28-02 was also amended by section 1 of Senate Bill No. 2308, chapter 487, section 2 of Senate Bill No. 2308, chapter 487, and section 4 of Senate Bill No. 2308, chapter 487.

222 **SECTION 4.** A new subsection to section 61-28-02 of the North Dakota Century Code is created and enacted as follows:

"Service" or "servicing" means cleaning septic systems, cesspools, privies, chemical toilets, holding tanks, and similar devices that receive domestic wastewater; removing septage from these devices; transporting septage; or disposing septage by applying it to land or otherwise.

SECTION 5. A new section to chapter 61-28 of the North Dakota Century Code is created and enacted as follows:

Septic system servicing - Permit required - Inspection authority - Fees.

1. A person engaging in the business of servicing septic systems must have a permit issued by the department and must comply with the conditions imposed by the permit.
2. The department shall administer and enforce a permitting program for septic system servicers and has the following powers and duties:
 - a. To require training of and to examine septic system servicers and their employees;
 - b. To establish standards and procedures for permitting of septic system servicers;
 - c. To issue permits to all applicants who satisfy the requirements for certification under this section and any rules under this section, to renew permits, and to suspend or revoke permits for cause after notice and opportunity for hearing;
 - d. To establish reasonable fees for permitting septic system servicers;
 - e. To establish criteria for the sanitary management of septage, including standards for the transportation, treatment, and disposal of septage;
 - f. To require preapproval of land application sites;
 - g. To require recordkeeping and reporting;
 - h. To require spill reporting, corrective action, and evidence of financial responsibility; and
 - i. To adopt and enforce rules as necessary for implementation of this section.
3. In adopting its rules the department shall apply different standards based on the size of the septic system servicer, on the type of the service provided, quantity of septage handled, and number of units. The department may not require preapproval of a land application site for an application from a rural single-family residence on property owned or leased by the owner or lessee of the single-family residence.

222 Section 61-28-02 was also amended by section 1 of Senate Bill No. 2308, chapter 487, section 2 of Senate Bill No. 2308, chapter 487, and section 3 of Senate Bill No. 2308, chapter 487.

4. The department may inspect all septic system servicing activities, including records, equipment, and disposal sites at all reasonable times to ensure compliance with the laws of this state. Nothing in this section removes the duty of any person to comply with applicable public health standards.

SECTION 6. AMENDMENT. Subsection 4 of section 61-28-08 of the North Dakota Century Code is amended and reenacted as follows:

4. 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 ~~five~~twelve thousand ~~five~~hundred dollars per day per violation.

SECTION 7. REPEAL. Chapter 23-19 of the North Dakota Century Code is repealed.

SECTION 8. EFFECTIVE DATE. This Act becomes effective January 1, 2014.

Approved April 15, 2013

Filed April 16, 2013

CHAPTER 488

HOUSE BILL NO. 1440

(Representatives Kreun, Haak, Hofstad, D. Johnson, Looysen, Maragos, Streyle)
(Senators Andrist, Grabinger, Larsen)

AN ACT to create and enact sections 61-35-26.1, 61-35-26.2, 61-35-26.3, and 61-35-26.4 of the North Dakota Century Code, relating to water services by cities and water districts and state water commission policies on funds for water districts and cities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 61-35-26.1 of the North Dakota Century Code is created and enacted as follows:

61-35-26.1. Statement of intent.

It is the intent of the legislative assembly that potable water should be available in sufficient quality and quantity to meet citizens' needs for a healthy and safe standard of living and to promote economic growth and development. In order to meet this objective in the most economical way, water service districts and city water service systems shall coordinate their service plans. Competition for users and duplication of service must be avoided whenever possible.

SECTION 2. Section 61-35-26.2 of the North Dakota Century Code is created and enacted as follows:

61-35-26.2. Plans for water service by providers - Filing plans - Existing agreements.

1. A city planning to expand water service through annexation shall develop a city water service area plan. The city shall consult with any other water service provider, including a district, whose water service area is affected by the city's water service area plan of the establishment of the plan.
2. The city shall file the city water service area plan with the commission. Upon filing of the plan with the commission, the city may proceed with water service to the annexed area as provided in section 61-35-26. A city water service area plan is enforceable when there is a water service agreement among the water service providers, including a district, that are encompassed by or which abut the water service area boundary.
3. Sections 61-35-26.1 through 61-35-26.4 do not supersede an existing water service agreement between a city and a district.

SECTION 3. Section 61-35-26.3 of the North Dakota Century Code is created and enacted as follows:

61-35-26.3. State water commission funding.

Before providing a grant or loan to a district or city for a water service project in any area within the extraterritorial zoning jurisdiction of any affected city, the commission shall require that district and city to have a water service agreement. The absence of a water service agreement may not affect the funding by the commission of other projects for a district or city which are not related to potable water service and are not located within the extraterritorial zoning jurisdiction.

SECTION 4. Section 61-35-26.4 of the North Dakota Century Code is created and enacted as follows:

61-35-26.4. Water service agreement - Mediation - Administrative law judge.

1. If a water service agreement between the district and the city is not executed within sixty days after the city notifies the district that a city water service area plan has been developed, the matter must be submitted to a committee for mediation. The committee must be comprised of a mediator retained jointly by the city and the district, two members appointed by the governing body of the city, and two members appointed by the district. The retained mediator shall arrange and preside over the mediation proceedings.
2. If the mediation committee is unable to resolve the dispute to the satisfaction of the parties involved, either party may petition the office of administrative hearings to appoint an administrative law judge to determine the terms of the water service agreement. Before a hearing may be held, at least two weeks' written notice must be given to the parties involved in the dispute. At the hearing, the retained mediator who presided over the mediation proceedings may provide information to the administrative law judge on the dispute between the parties involved and any proposed resolutions or recommendations made by a majority of the members appointed to the committee. Any resident of or person owning property in a city or district involved in the dispute, or a representative of such a resident or property owner, and any representative of a city or district involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge must consider the following factors related to water service in the annexed area in making a decision under this subsection:
 - a. The recommendation of the mediation committee;
 - b. The firefighting flow capacity of the water system;
 - c. The anticipated growth patterns of the district and city involved in the dispute;
 - d. Special conditions or needs, including topographic or physical features influencing service;
 - e. The system capacity and trunk main delivery structure of each provider;
 - f. The age, condition, and worth of the affected existing infrastructure;
 - g. Outstanding debt attributable to current users;
 - h. The impact on future revenues lost from existing and future customers;

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- i. Whether development would have occurred without annexation; and
 - j. Any other factor determined to be relevant by the administrative law judge.

Approved April 24, 2013
Filed April 24, 2013

CHAPTER 489

HOUSE BILL NO. 1060

(Energy and Natural Resources Committee)
(At the request of the State Water Commission)

AN ACT to amend and reenact sections 61-36-01, 61-36-02, and 61-36-04 of the North Dakota Century Code, relating to the composition and duties of the Devils Lake outlets management advisory committee; and to repeal section 61-36-03 of the North Dakota Century Code, relating to compensation and expenses of the Devils Lake outlet management advisory committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 61-36-01 of the North Dakota Century Code is amended and reenacted as follows:

61-36-01. Devils Lake ~~outlet~~outlets management advisory committee - Members - Terms - Vacancies.

1. ~~The Devils Lake outletoutlets management advisory committee consists of the state engineer or the state engineer's designee, one member appointed by the Red River joint water resource board, one member appointed by the Devils Lake joint water resource board, one member appointed by the upper Sheyenne River joint water resource board, one county commissioner from Ramsey County appointed by the Ramsey County board of county commissioners, one county commissioner from Benson County appointed by the Benson County board of county commissioners, a representative of the Spirit Lake Nation appointed by the tribal council of the Spirit Lake Nation, and three members appointed by the governor. The members appointed by the governor must represent the interests affected by downstream impacts of operating an outlet to Devils Lake. An appointed member may designate a substitute to serve in that person's capacity at such meetings that person may be unable to attend. Except for the first term, all appointed members serve for a term of four years or until their successors are appointed and qualified. For the first term, two of the members from the Devils Lake basin must serve two-year terms and two of the other appointed members must serve two-year terms, provided that at least one member representing the interests affected by downstream impacts of operating an outlet to Devils Lake must remain on the committee for a four-year term. The chairman shall hold the first meeting within two months after August 1, 1997.;~~

- a. The governor or governor's designee;
- b. A representative from Benson County appointed by the governor;
- c. A representative from Ramsey County appointed by the governor;
- d. A representative from Towner County appointed by the governor;
- e. A representative from Nelson County appointed by the governor;

- f. A representative from the Devils Lake joint water resource board appointed by the governor;
 - g. A representative from the Spirit Lake Nation appointed by the governor;
 - h. A representative from the city of Devils Lake appointed by the governor;
 - i. A representative from Barnes County appointed by the governor;
 - j. A representative from Valley City appointed by the governor;
 - k. A representative from Lisbon or Fort Ransom appointed by the governor;
 - l. A representative from Fargo appointed by the governor;
 - m. A representative from Grand Forks appointed by the governor;
 - n. The governor of Minnesota or a designee appointed by the governor of Minnesota;
 - o. The premier of Manitoba or the premier's designee; and
 - p. A member of the house and a member of the senate, one representing the Devils Lake basin region and one representing the downstream region, appointed by the chairman of the legislative management.
2. All appointed members serve for a term of four years or until their successors are appointed and qualified.
 3. ~~Terms expire on the first day of July. Each appointed member must be a qualified elector of the state and is subject to removal by judicial procedure.~~
 4. The terms of appointed members must be staggered by lot so that at least three of the terms expire each year.
 5. Members of the committee may be reappointed for additional terms and except for the legislative members, serve at the pleasure of the governor.
 6. ~~A vacancy must be filled in the same manner as original appointments for the remainder of the unexpired term. Before entering upon the discharge of official duties, each appointed member shall take, subscribe, and file with the secretary of state the oath prescribed for civil officers.~~

SECTION 2. AMENDMENT. Section 61-36-02 of the North Dakota Century Code is amended and reenacted as follows:

61-36-02. Chairman - Quorum - Meetings.

~~The state engineer or governor or governor's designee is the chairman of the committee. A majority of the members of the committee constitutes a quorum. The committee may shall hold meetings at the call of the chairman or at the request of three members before initial operation of the committee outlets, and at such other times and places as the chairman provides deems necessary.~~

SECTION 3. AMENDMENT. Section 61-36-04 of the North Dakota Century Code is amended and reenacted as follows:

61-36-04. Development of an annual operating planDuties of the committee.

~~The committee shall develop an annual operating plan for the operation of the Devils Lake outlet. The plan must specify the lake elevation at which pumping will take place. In developing the annual operating plan, the committee shall consider spring runoff forecasts, weather forecasts, summer flooding potential, downstream impacts, including water quality and streambank erosion, flooding, and any other factors the committee determines should be considered. The committee must recommend a plan of operation to the state water commission within two weeks following the first official numeric national weather service spring snowmelt flood outlook. If a majority of members are unable to agree on a plan, one or more minority plans may be submitted to the state water commission. The state water commission may approve, recommend changes, or make changes to the annual operating plan advise the governor and the state water commission regarding operations of all Devils Lake outlets. The committee may recommend criteria for operation of each outlet based on outflow volumes, water quality considerations, and the risk of an overflow of Devils Lake. Any recommendations developed by the committee must receive support from ten of the seventeen members of the committee before submission to the governor or state water commission. Any recommendation not receiving majority support but receiving support from at least five members may be submitted as a minority recommendation.~~

SECTION 4. REPEAL. Section 61-36-03 of the North Dakota Century Code is repealed.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 490

SENATE BILL NO. 2233

(Senators Grindberg, Wardner, Heckaman)
(Representatives Carlson, Hofstad, Onstad)

AN ACT to provide a declaration of water policy and goals and objectives for water project development, the Mouse River enhanced flood control project, the lower Heart River Morton County enhanced flood control project, the southwest pipeline project, the Garrison diversion unit, and the Fargo-Moorhead flood control project; to create and enact a new subdivision to subsection 2 of section 28-32-01, a new subdivision to subsection 1 of section 54-10-14, a new section to chapter 61-02, and four new sections to chapter 61-40 of the North Dakota Century Code, relating to exempting certain activities of the industrial commission from the Administrative Agencies Practice Act, western area water supply authority industrial water sales audits, an infrastructure revolving loan fund, and franchise protection rights of the western area water supply authority; to amend and reenact sections 54-35-02.7, 61-24.7-01, 61-24.7-05, 61-40-01, 61-40-02, 61-40-03, 61-40-04, 61-40-05, and 61-40-09 of the North Dakota Century Code, relating to jurisdiction of the water-related topics overview committee, the Red River valley water supply project, the location of industrial water depots, and the western area water supply project; to repeal sections 61-24.7-02, 61-24.7-03, 61-24.7-04, and 61-40-06 of the North Dakota Century Code, relating to funding of the Red River valley water supply project and oversight of western area water supply authority projects; to provide a continuing appropriation; to provide a statement of legislative intent; and to provide for reports to the legislative management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 28-32-01 of the North Dakota Century Code is created and enacted as follows:

The industrial commission with respect to approving or setting water rates under chapter 61-40.

²²³ **SECTION 2.** A new subdivision to subsection 1 of section 54-10-14 of the North Dakota Century Code is created and enacted as follows:

Western area water supply authority industrial water sales on an annual basis.

²²⁴ **SECTION 3. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

²²³ Section 54-10-14 was also amended by section 1 of Senate Bill No. 2246, chapter 403.

²²⁴ Section 54-35-02.7 was also amended by section 17 of House Bill No. 1020, chapter 20, and section 1 of Senate Bill No. 2049, chapter 486.

~~54-35-02.7. (Effective through November 30, 2013) Water-related topics overview committee - Duties.~~

~~The legislative management, during each interim, shall appoint a water-related 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-related topics and related matters, the Garrison diversion project, and for any necessary discussions with adjacent states on water-related topics. During the 2011-12 interim, the committee shall review the state's irrigation laws and rules and evaluate the process of the prioritization of water projects. The committee shall work collaboratively with the state water commission to develop policies to further define the state role in major flood control projects and in the prioritization of water projects. During the 2013-14 interim, the committee shall review water supply routes and alternatives for the Red River valley water supply project. The committee consists of thirteen members and 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.~~

~~(Effective after November 30, 2013) Garrison diversion overview. The legislative management is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics.~~

SECTION 4.

Declaration of policy.

The legislative assembly declares that major water development and water management goals must be set forth and implemented in order to protect the long-term interests, economic vitality, and future benefits of the state and its citizens; that such water development and water management goals are essential for the economic growth and quality of life across the entire state; that rights to the use and enjoyment of waters of the Missouri River flowing through this state cannot be restricted by the federal government; that it is necessary to develop and utilize waters of the Missouri River for municipal, domestic, rural, and industrial purposes in this state; that flood control works are necessary to protect the lives and property of the citizens of this state; that major flood control works in and around major cities and other cities are necessary to address the record and damaging floods that have occurred; that regional water supply and rural water projects must be completed in order to provide a long-term, dependable quality and adequate quantity water supply for municipal, domestic, rural, and industrial uses; that irrigation provides a significant opportunity to further the agricultural opportunities in the state; and that an infrastructure loan fund will enable these goals and policies to be achieved and implemented, and will provide significant economic and financial benefits to the people of this state.

SECTION 5.

Legislative intent - Reports to legislative assembly.

The legislative assembly declares and establishes the following goals and objectives:

1. That it is necessary for the long-term welfare and economic well-being of the Souris River basin, and the entire state and its citizens, that the planning,

- design, and construction of the Mouse River enhanced flood control project be completed and implemented.
2. That the Red River valley water supply project is critical to provide a dependable water supply for current and future generations in eastern North Dakota and is essential to provide for the long-term welfare, economic well-being, and quality of life for the entire state.
 3. That it is necessary for the long-term welfare and economic well-being of the Red River basin, and the entire state and its citizens, that the planning, design, and construction of the Fargo-Moorhead flood control project be completed and implemented.
 4. That regional water supply and rural water systems are necessary to provide a dependable and adequate quantity and quality water supply for municipal, domestic, rural, and industrial uses.
 5. That the state water commission and the southwest water authority shall begin 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; mill levies; 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 legislative assembly those steps necessary for the transfer of ownership and responsibility of the southwest pipeline project from the state water commission to the southwest water authority.
 6. That the state water commission and the Garrison Diversion Conservancy District shall enter discussions with the bureau of reclamation concerning Garrison diversion unit facilities.
 7. That projects receiving state funds for construction and implementation not assert, claim, or seek to prevent other opportunities, either public or private, to utilize waters of the Missouri River for industrial uses in this state.
 8. That local water management and flood control projects are necessary for the economic well-being and quality of life of citizens in those local areas.
 9. That irrigation development offers significant opportunities for agriculture in this state.
 10. That an infrastructure loan fund for water development and management will provide significant financial benefits to projects and the citizens of this state, and will provide new capabilities to implement necessary water infrastructure projects across the state.

SECTION 6.

Mouse River enhanced flood control project.

1. The legislative assembly declares its intent to provide state funding for a share of the nonfederal or local cost of constructing the Mouse River enhanced flood control project.
2. Any funds appropriated for the construction of the Mouse River enhanced flood control project may be carried over to future bienniums.

3. State funding for the Mouse River enhanced flood control project may be appropriated at the time and in the manner determined by the legislative assembly, either concurrently or separately from federal and local funding for the Mouse River enhanced flood control project.

SECTION 7.

Lower Heart River, Morton County, enhanced flood control project.

The legislative assembly declares its intent to provide state funding for a share of the nonfederal or local cost for construction of the lower Heart River, Morton County, flood control project.

SECTION 8.

Southwest pipeline project - Report to legislative assembly.

The state water commission and the southwest water authority shall begin 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 legislative assembly those steps necessary for the transfer of ownership and responsibility of the southwest pipeline project from the state water commission to the southwest water authority.

SECTION 9.

Garrison diversion unit.

The Garrison diversion unit has extensive federal facilities that have been constructed. It is the intent of the legislative assembly that the state water commission and Garrison Diversion Conservancy District begin discussions with the bureau of reclamation concerning the Garrison diversion unit facilities.

SECTION 10.

Fargo-Moorhead flood control project.

1. The sixty-third legislative assembly declares its intent to provide state funding not to exceed four hundred fifty million dollars for one-half of the nonfederal or local cost of constructing a federally authorized Fargo-Moorhead flood control project.
2. Notwithstanding any other law, any funds appropriated for the construction of the Fargo-Moorhead flood control project may be carried over to future bienniums.
3. State funding for the Fargo-Moorhead flood control project may be appropriated at the time and in the manner determined by the legislative assembly, either concurrently or separately from federal and local funding for the Fargo-Moorhead flood control project.

SECTION 11. A new section to chapter 61-02 of the North Dakota Century Code is created and enacted as follows:

Infrastructure revolving loan fund - Continuing appropriation - Rules.

1. An infrastructure revolving loan fund is established on January 1, 2015, within the resources trust fund to provide loans for water supply, flood protection, or other water development and water management projects. Ten percent of oil extraction moneys deposited in the resources trust fund are made available on a continuing basis for making loans in accordance with this section. Accounts may be established in the resources trust fund as necessary for its management and administration.
2. The commission shall consider the following information when evaluating projects:
 - a. A description of the nature and purposes of the proposed infrastructure project, including an explanation of the need for the project, the reasons why it is in the public interest, and the overall economic impact of the project.
 - b. The estimated cost of the project and the amount of the loan sought and other proposed sources of funding.
 - c. The extent to which completion of the project will provide a benefit to the state or regions within the state.
3. The commission shall approve projects and loans from the infrastructure loan fund, and the Bank of North Dakota shall manage and administer loans from the infrastructure loan fund and individual accounts in the fund. The commission may adopt policies for the review and approval of loans under this section. Loans made under this section must be made at an interest rate of one and one-half percent.
4. Annually the Bank of North Dakota may deduct a service fee of one-half of one percent for administering the infrastructure loan fund.
5. Projects not eligible for the state revolving fund will be given priority for these funds.

SECTION 12. AMENDMENT. Section 61-24.7-01 of the North Dakota Century Code is amended and reenacted as follows:

61-24.7-01. Legislative findings and intent - Authority to issue bonds.

1. The legislative assembly finds that the provision of water of sufficient quantity and quality to supply homes, businesses, industries, wildlife, and recreation in the Red River valley within this state is necessary for the protection of health, property, and enterprises and for the promotion of prosperity and the general welfare of the people of the Red River valley and that construction of the Red River valley water supply project involves and requires the exercise of the sovereign powers of the state and concerns a public purpose. Therefore, it is declared necessary and in the public interest that the state by and through the state water commission provide a one-third share of the cost of constructing the Red River valley water supply project.
2. ~~In furtherance of the public purpose set forth in subsection 1, the state water commission may issue bonds under chapter 61-02 and the proceeds are appropriated for construction of the Red River valley water supply project authorized and funded in part by the federal government and designed to~~

~~provide reliable sources of water of sufficient quantity and quality to supply homes, businesses, industries, wildlife, and recreation in the Red River valley within this state.~~

- ~~3. This chapter does not affect the state water commission's authority to otherwise issue bonds pursuant to chapter 61-02 or section 61-24.3-01.~~

SECTION 13. AMENDMENT. Section 61-24.7-05 of the North Dakota Century Code is amended and reenacted as follows:

61-24.7-05. State funding plan.

1. The legislative assembly declares its intent to provide state funding for ~~one-third a share~~ of the ~~total~~ nonfederal or local cost of constructing the Red River valley water supply project.
2. Any ~~general~~ funds appropriated for the construction of the Red River valley water supply project may be carried over to future bienniums.
3. State funding for the Red River valley water supply project may be appropriated at the time and in the manner determined by the legislative assembly, either concurrently or separately from federal and local funding for the Red River valley water supply project.

SECTION 14. AMENDMENT. Section 61-40-01 of the North Dakota Century Code is amended and reenacted as follows:

61-40-01. Legislative declarations - Authority of western area water supply authority.

The legislative assembly declares that many areas and localities in western North Dakota do not enjoy adequate quantities of high-quality drinking water; that other areas and localities in western North Dakota do not have sufficient quantities of water to ensure a dependable, long-term domestic or industrial water supply; that greater economic security and the protection of health and property benefits the land, natural resources, and water resources of this state; and that the promotion of the prosperity and general welfare of all of the people of this state depend on the effective development and utilization of the land and water resources of this state and necessitates and requires the exercise of the sovereign powers of this state and concern a public purpose. To accomplish this public purpose, it is declared necessary that a water authority to treat, store, and distribute water to western North Dakota be established to provide for the supply and distribution of water to the people of western North Dakota for purposes, including domestic, rural water, municipal, livestock, industrial, oil and gas development, and other uses, and provide for the future economic welfare and prosperity of the people of this state, and particularly the people of western North Dakota, by the creation and development of a western area water supply project for beneficial and public uses. The western area water supply authority may acquire, construct, improve, develop, and own water supply infrastructure and may enter water supply contracts with member cities, water districts, and private users, such as oil and gas producers, for the sale of water for use within or outside the authority boundaries or the state. The western area water supply authority shall consider in the process of locating industrial water depots the location of private water sellers so as to minimize the impact on private water sellers. The independent water providers shall consider in the process of locating industrial water depots the location of private water sellers so as to minimize the impact on private water sellers.

SECTION 15. AMENDMENT. Section 61-40-02 of the North Dakota Century Code is amended and reenacted as follows:

61-40-02. Western area water supply authority.

The western area water supply authority consists of participating political subdivisions located within McKenzie, Williams, Burke, Divide, and Mountrail Counties which enter a water supply contract with the authority. Other cities and water systems, within or outside the authority counties' boundaries, including cities or water systems in Montana, may contract with the authority for a bulk water supply. The authority is a political subdivision of the state, a governmental agency, body politic and corporate, with the authority to exercise the powers specified in this chapter, or which may be reasonably implied. Participating member entities may be required to pay dues or water sale income to the authority, as determined by the bylaws and future resolutions of the authority. Participating member entities may not withdraw from the authority or fail or refuse to pay any water sale income to the authority ~~if the twenty five million dollar zero interest loan from the state water commission has not been repaid until the state-guaranteed loans have been repaid. The provisions of subsections 1 through 5 of section 61-35-02.1 apply if the authority's board of directors unanimously votes to convert to a water district.~~

SECTION 16. AMENDMENT. Section 61-40-03 of the North Dakota Century Code is amended and reenacted as follows:

61-40-03. Western area water supply authority - Board of directors.

1. The initial board of directors of the western area water supply authority consists of two representatives from each of the following entities: Williams rural water district, McKenzie County water resource district, the city of Williston, BDW water system association, and R&T water supply association. The governing body of each member entity shall select two representatives to the authority board who are water users of the member entity. If a vacancy arises for a member entity, the governing body of the member entity shall select a new representative to act on its behalf on the authority board. ~~In addition, the state engineer or designee is a voting member on the authority's board of directors.~~ Directors have a term of one year and may be reappointed.
2. Additional political subdivisions or water systems may be given membership on the board upon two-thirds majority vote of the existing board. To be eligible for membership on the board, the member entity must first contract with the authority for financial participation in the project.
3. A member entity may designate an alternate representative to attend meetings and to act on the member's behalf. The board may designate associate members who are nonvoting members of the board. Notwithstanding this section, ~~except for the state engineer or designee,~~ initial board members must be removed if they have not entered a contract with the authority, before August 1, 2013, for financial participation in the project.

SECTION 17. AMENDMENT. Section 61-40-04 of the North Dakota Century Code is amended and reenacted as follows:

61-40-04. Board of directors - Officers - Meetings.

1. The board of directors shall adopt such rules and bylaws for the conduct of the business affairs of the authority as it determines necessary, including the time

and place of regular meetings of the board, financial participation structure for membership in the authority, and membership appointment and changes. Bylaws need to be approved by member entity boards.

2. The board shall elect from its members a chairman and a vice chairman. The board shall elect a secretary and a treasurer, which offices may be held by the same individual, and either or both offices may be held by an individual who is not a member of the board. Special meetings of the board may be called by the secretary on order of the chairman or upon written request of a majority of the qualified members of the board. Notice of a special meeting must be mailed to each member of the board at least six days before the meeting, provided that a special meeting may be held at any time when all members of the board are present or consent in writing.
3. Board members are entitled to receive as compensation an amount determined by the board not to exceed the amount per day provided members of the legislative management under section 54-35-10 and must be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09.
4. ~~The initial board bylaws must direct board voting protocol. A weighted voting structure for board members is acceptable if the voting is based upon the volume of water purchased, the financial contributions of the stakeholder entities, or any other formula agreed by a majority of the board.~~
5. ~~Before the bylaws become effective, the bylaws must be reviewed and approved by the attorney general.~~

SECTION 18. AMENDMENT. Section 61-40-05 of the North Dakota Century Code is amended and reenacted as follows:

61-40-05. Authority of the western area water supply authority.

In addition to authority declared under section 61-40-01, the board of directors of the western area water supply authority may:

1. Sue and be sued in the name of the authority.
2. Exercise the power of eminent domain in the manner provided by title 32 or as described in this chapter for the purpose of acquiring and securing any right, title, interest, estate, or easement necessary or proper to carry out the duties imposed by this chapter, and particularly to acquire the necessary rights in land for the construction of an entire part of any pipeline, reservoir, connection, valve, pumping installation, or other facility for the storage, transportation, or utilization of water and all other appurtenant facilities used in connection with the authority. However, if the interest sought to be acquired is a right of way for any project authorized in this chapter, the authority, 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 in which the right of way is located, may 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.

3. Accept funds, property, services, pledges of security, or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance, and operation of the authority. The authority may cooperate and contract with the state or federal government, or any department or agency of state or federal government, or any city, water district, or water system within the authority, in furnishing assurances and meeting local cooperation requirements of any project involving treatment, control, conservation, distribution, and use of water.
4. Cooperate and contract with the agencies or political subdivisions of this state or other states, in research and investigation or other activities promoting the establishment, construction, development, or operation of the authority.
5. Appoint and fix the compensation and reimbursement of expenses of employees as the board determines necessary to conduct the business and affairs of the authority and to procure the services of engineers and other technical experts, and to retain attorneys to assist, advise, and act for the authority in its proceedings.
6. Operate and manage the authority to distribute water to authority members and others within or outside the territorial boundaries of the authority and this state.
7. Hold, own, sell, or exchange any and all property purchased or acquired by the authority. All money received from any sale or exchange of property must be deposited to the credit of the authority and may be used to pay expenses of the authority.
8. Enter contracts to obtain a supply of bulk water through the purchase of infrastructure, bulk water sale or lease, which contracts may provide for payments to fund some or all of the authority's costs of acquiring, constructing, or reconstructing one or more water supply or infrastructure.
9. Acquire, construct, improve, and own water supply infrastructure, office and maintenance space in phases, in any location, and at any time.
10. Enter contracts to provide for a bulk sale, lease, or other supply of water for beneficial use to persons within or outside the authority. The contracts may provide for payments to fund some or all of the authority's costs of acquiring, constructing, or reconstructing one or more water system projects, as well as the authority's costs of operating and maintaining one or more projects, whether the acquisition, construction, or reconstruction of any water supply project actually is completed and whether water actually is delivered pursuant to the contracts. The contracts the cities, water districts, and other entities that are members of the western area water supply authority are authorized to execute are without limitation on the term of years.
11. Borrow money as provided in this chapter.
12. Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of its powers or in the performance of its covenants

or duties or in order to secure the payment of its obligations, but an encumbrance, mortgage, or other pledge of property of the authority may not be created by any contract or instrument.

13. Accept from any authorized state or federal agency loans or grants for the planning, construction, acquisition, lease, or other provision of a project, and enter agreements with the agency respecting the loans or grants. Other than state-guaranteed loans, additional debt that may form the basis of a claim for territorial or franchise protection for industrial water sales for oil and gas exploration and production may be acquired by the authority or member entities only upon approval by the industrial commission and the emergency commission.
14. Contract debts and borrow money, pledge property of the authority for repayment of indebtedness, and provide for payment of debts and expenses of the authority.
15. Operate and manage the authority to distribute water to any out-of-state cities or water systems that contract with the authority.
16. Accept, apply for, and hold water allocation permits.
17. Adopt rules concerning the planning, management, operation, maintenance, sale, and ratesetting regarding water sold by the authority. The authority may adopt a rate structure with elevated rates set for project industrial water depot and lateral supplies in recognition that a large component of the project expense is being incurred to meet the demands of industrial users. The industrial water depot and lateral rate structure must be approved in accordance with section 20 of this Act.
18. Develop water supply systems; store and transport water; and provide, contract for, and furnish water service for domestic, municipal, and rural water purposes; milling, manufacturing, mining, industrial, metallurgical, and any and all other beneficial uses; and fix the terms and rates therefore. The authority may acquire, construct, operate, and maintain dams, reservoirs, ground water storage areas, canals, conduits, pipelines, tunnels, and any and all treatment plants, works, facilities, improvements, and property necessary the same without any required public vote before taking action.
19. Contract to purchase or improve water supply infrastructure or to obtain bulk water supplies without requiring any vote of the public on the projects or contracts. In relation to the initial construction of the system and for the purposes of entering a contract with the authority, municipalities are exempt from the public voting requirements or water contract duration limitations otherwise imposed by section 40-33-16.
20. Accept assignment by member entities of contracts that obligate member entities to provide a water supply, contracts that relate to construction of water system infrastructure, or other member entity contracts that relate to authorities transferred to the authority under this chapter.

SECTION 19. A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

Industrial water depot and lateral sales.

1. An accounting of industrial water depot and lateral sales collected and distributed by the authority must be reported to the industrial commission on a monthly basis. Participating member entities shall transfer industrial water depot and lateral sales to the authority within thirty days of receipt of the revenues. The boards of the authority and participating member entities must be notified of the sweep of revenues; however, board approval is not required. Upon the receipt of industrial water depot and lateral revenues by the authority, the authority shall apply immediately all revenues each month in the following order:
 - a. One hundred fifty thousand dollars per biennium to the industrial commission for one additional full-time equivalent position to implement this Act.
 - b. Reimburse the authority for industrial water depot capital improvements and the cost for delivery of potable or nonpotable water sold at industrial water depots and lateral lines, at a cost no greater than the participating member, or submember, if applicable, entity rate at the location of the depot or lateral line.
 - c. Regular payments on the participating member entity debt as described in the agreements with the authority as of March 31, 2013, and baseline 2010 industrial water sales included in and subject to the terms of the authority and participating member agreements as of March 31, 2013. Baseline 2010 industrial water sales for the city of Tioga in the year 2013 are limited to the lesser of legally permitted industrial water sales or the amount in the member agreement.
 - d. Required monthly payments on state-guaranteed loans. The required transfer must occur no later than the twentieth day of the following month.
 - e. Additional principal payment on state-guaranteed loans.
 - f. Payment to the resources trust fund.
2. If the state-guaranteed loans have not been repaid, without the written consent of the industrial commission the authority may not sell, lease, abandon, encumber, or otherwise dispose of any part of the property used in a water system of the authority if the property is used to provide revenue. Any requirements on the state-guaranteed loans for establishment of reserve funds for operation and maintenance or debt service are waived.
3. The state water commission shall approve the planning, location, and water supply contracts of any authority depots, laterals, taps, turnouts, and risers for industrial sales for oil and gas exploration and production after the effective date of this Act.

SECTION 20. A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

Water rates.

The authority shall develop an industrial water depot and lateral retail rate and present the rate to the industrial commission for approval. Any industrial water depot

and lateral rate adjustment must have approval of the industrial commission before going into effect. The authority shall develop domestic water rates that must include all costs for operation, maintenance, and operating and capital reserves, and debt repayment of all infrastructure managed or constructed by the authority, with the exception of the costs identified in section 19 of this Act which are paid for by industrial water depot and lateral sales.

SECTION 21. A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

Construction funding.

The authority shall follow the state water commission requirements for funding through the resources trust fund or Bank of North Dakota state-guaranteed loans and shall present the overall plan and project components to the state water commission for funding approval. Priority on project funding first is reserved for state-guaranteed loan payments if not met by industrial water depot and lateral sales, second is for full repayment of existing federal debt if 7 U.S.C. 1926(b) protection for oil and gas exploration and production industrial water sales is asserted, and third for expanding domestic water supply to areas currently not served. In accepting construction funding, the authority and participating member entities agree to not hinder or prevent depot and lateral industrial water sales for oil and gas exploration and production.

SECTION 22. AMENDMENT. Section 61-40-09 of the North Dakota Century Code is amended and reenacted as follows:

61-40-09. Default.

~~If the authority is in default in the payment of the principal of or interest on any of the obligations of the authority under this chapter and if the budget section determines that the authority is unable to reimburse the state in the time period required by the budget section, the budget section may give written notice to the governing board of the authority that the state has taken possession and ownership of the water system of the authority and the liabilities of the authority. In addition, the state assumes the powers of the authority. The industrial commission may review the ability of water depot and lateral sales to meet expenses in subdivisions a through d of subsection 1 of section 19 of this Act, and if the industrial commission is uncertain of that ability, the industrial commission shall provide written notification to the state water commission and direct the Bank of North Dakota to consider revision of the terms of the loan repayments. If the authority is in default in the payment of the principal of or interest on the obligation to the Bank of North Dakota for a loan for which the Bank of North Dakota is the source of funds for the loan, the state water commission shall request funding from the legislative assembly to repay the principal and interest due. Upon written notice, the members of the governing board of the authority are immediately removed, and the state water commission is the governing board from the date of notice. If the state water commission determines that governance, possession, and ownership of the water system is not necessary for the authority to be able to reimburse the state in the necessary time period, the state water commission may develop a plan to return governance, possession, and ownership to the authority, subject to approval of the plan by the budget section.~~

SECTION 23. A new section to chapter 61-40 of the North Dakota Century Code is created and enacted as follows:

Franchise protection.

Notwithstanding any other provision of law, neither the authority nor its participating member entities may be required to waive the right to assert franchise protection under state or federal law with regard to water used for purposes other than industrial sales for oil and gas exploration and production.

SECTION 24. REPEAL. Sections 61-24.7-02, 61-24.7-03, 61-24.7-04, and 61-40-06 of the North Dakota Century Code are repealed.

SECTION 25. LEGISLATIVE INTENT. It is the intent of the sixty-third legislative assembly that after all loans to the state of North Dakota and contractual responsibilities to participating members are fulfilled, that any revenues generated by industrial water-related sales for oil and gas exploration and production be prioritized for use for infrastructure development in oil and gas-impacted areas of the state.

SECTION 26. REPORTS TO THE LEGISLATIVE MANAGEMENT. The independent water providers and the western area water supply authority shall report to the water-related topics overview committee on a regular basis and collaborate with the committee and the state water commission to monitor water usage, rates, and market share. The water-related topics overview committee shall report to the legislative management with recommendations to assure the state's ability to maintain its payment schedule. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

Approved April 30, 2013
Filed April 30, 2013

WEAPONS

CHAPTER 491

HOUSE BILL NO. 1327

(Representatives Porter, Karls, Louser, Maragos, Owens, Trottier)
(Senators Armstrong, Schaible)

AN ACT to create and enact subsection 3 to section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks; and to amend and reenact subsections 1 and 6 of section 62.1-01-01 and sections 62.1-01-03, 62.1-02-05, 62.1-02-10, 62.1-03-01, 62.1-03-05, and 62.1-04-03 of the North Dakota Century Code, relating to concealed weapons laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²²⁵ **SECTION 1.** Subsection 3 to section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

3.
 - a. The bureau of criminal investigation shall conduct a statewide and nationwide criminal history record check for the purpose of determining eligibility for a concealed weapons license for each applicant for an initial license or the renewal of a concealed weapons license under chapter 62.1-04. The nationwide criminal history record check must include an inquiry of the national instant criminal background check system, and if the applicant is not a United States citizen, an immigration alien query.
 - b. Each applicant for a concealed weapons license shall provide to the bureau of criminal investigation written consent to conduct the criminal history record check, to maintain, release, and disclose the information in accordance with state and federal law, and to make a determination on the application; two sets of fingerprints from a law enforcement agency or other individual authorized to take fingerprints; and any other information required under chapter 62.1-04. The person who takes fingerprints under this subsection may charge a reasonable fee for fingerprinting.
 - c. The bureau of criminal investigation shall resubmit the fingerprints to the federal bureau of investigation. Except as otherwise provided by law, federal bureau of investigation criminal history record information is confidential.

²²⁵ Section 12-60-24 was also amended by section 7 of House Bill No. 1012, chapter 12, section 1 of House Bill No. 1389, chapter 325, section 1 of Senate Bill No. 2110, chapter 324, and section 1 of Senate Bill No. 2304, chapter 232.

²²⁶ **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 stun gun;~~ 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.

²²⁷ **SECTION 3. AMENDMENT.** Subsection 6 of section 62.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Handgun" means any firearm that is not designed to be fired from the shoulder, which has a barrel less than sixteen inches [40.64 centimeters] long, and which is capable of firing, by the energy of an explosive in a fixed metallic cartridge, an exposed projectile through a rifled bore. The term includes ~~the Thompson contender forty five caliber single shot center fire with a pistol grip or similar firearm~~ all firearms that are designed to be readily modified between rifle and pistol forms, if in compliance with the National Firearms Act [26 U.S.C. 5801-5872].

SECTION 4. AMENDMENT. Section 62.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

62.1-01-03. Limitation on authority of political subdivision regarding firearms.

~~No~~ A political subdivision, including home rule cities or counties, may not enact any ordinance relating to the purchase, sale, ownership, possession, transfer of ownership, registration, or licensure of firearms and ammunition which is more restrictive than state law. All such existing ordinances are void.

²²⁸ **SECTION 5. 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.

²²⁶ Section 62.1-01-01 was also amended by section 3 of House Bill No. 1327, chapter 491.

²²⁷ Section 62.1-01-01 was also amended by section 2 of House Bill No. 1327, chapter 491.

²²⁸ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1283, chapter 496, and section 1 of Senate Bill No. 2145, chapter 497.

1. ~~A person~~An individual who 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 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 and publicly owned or operated buildings. ~~The term "public gathering" does not apply to a state or federal park.~~
2. This section does not apply to law:
 - a. A law enforcement officer~~officer~~; members
 - 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; competitors
 - c. A competitor participating in an organized sport shooting event~~event~~; gun and
 - d. A gun or antique show~~show~~; participants
 - e. A participant using a blank cartridge ~~firearms~~firearm at a sporting or theatrical event~~event~~; any firearms
 - f. A firearm or dangerous weapon carried in a temporary residence or motor vehicle; students and instructors
 - g. A student and an instructor at a hunter safety ~~classes~~class; or private
 - h. Private security personnel while on duty. ~~In addition, a;~~
 - 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; and
 - k. A municipal court judge licensed to practice law in this state, a district court judge, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer are ~~exempt from the prohibition and penalty in subsection 1,~~ 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 ~~which that~~ is less restrictive than this section relating to the possession of firearms or dangerous weapons at a public gathering. ~~Such an~~An enacted ordinance supersedes this section within the jurisdiction of the political subdivision.

SECTION 6. 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 - Penalty - Exceptions.

~~No person~~An individual may ~~not~~ keep or carry a loaded firearm in or on any motor vehicle in this state. ~~Any person~~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. ~~Any person~~An individual possessing a valid North Dakota concealed weapons license or a valid license issued by another state authorizing the ~~person~~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 ~~person~~individual is in the field engaged in hunting or trapping activities.
4. ~~Any person~~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 ~~by the attorney general~~.
6. ~~Any person~~An individual possessing a valid special permit issued pursuant to section 20.1-02-05.

SECTION 7. AMENDMENT. Section 62.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

62.1-03-01. Carrying handgun - Restrictions - Exceptions.

1. ~~A~~An unloaded handgun may be carried by a ~~person~~an individual not ~~otherwise prohibited from possessing one by section 62.1-02-01 or any other state statute, in a manner not prohibited by section 62.1-02-10~~ if:
 - a. Between the hours of one hour before sunrise and one hour after sunset, the handgun is ~~carried 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 ~~carried unloaded and~~ secured.
2. The restrictions provided in subdivisions a and b of subsection 1 do not apply to:
 - a. ~~Any person~~An individual possessing a valid North ~~Dakota~~ concealed weapons license from this state or a valid license issued by another state authorizing the ~~person~~ to carry a dangerous weapon concealed if that state permits a holder of a valid North ~~Dakota~~ concealed weapons license

~~to carry a dangerous weapon concealed in that state without obtaining a similar license from that state who has reciprocity under section 62.1-04-03.1.~~

- b. ~~Any person~~An individual on that person's land, or in that ~~person's~~individual's permanent or temporary residence, or fixed place of business.
- c. ~~Any person~~An individual while lawfully engaged in target shooting.
- d. ~~Any person~~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. ~~Any person~~An individual permitted by law to possess a ~~handgun~~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 ~~thereof~~of another state if on official duty within this state.
- h. Any armed security guard or investigator as authorized by ~~the attorney general~~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. ~~Any person~~An individual engaged in manufacturing, repairing, or dealing in handguns or the agent or representative of ~~such~~that person~~individual~~ possessing, using, or carrying a handgun in the usual or ordinary course of ~~such~~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 8. AMENDMENT. Section 62.1-03-05 of the North Dakota Century Code is amended and reenacted as follows:

62.1-03-05. Prohibited alterations in ~~handgun~~to firearms.

~~No~~A person may not change, alter, remove, or obliterate any mark of identification on a ~~handgun~~firearm, ~~such as including~~ the name of the maker, model, or manufacturer's number or knowingly possess a ~~handgun~~firearm on which ~~such~~these alterations have been made. Possession of any ~~handgun~~firearm upon which any ~~such~~

identification mark has been changed, altered, removed, or obliterated creates a rebuttable presumption that the possessor made the alterations.

229 **SECTION 9. AMENDMENT.** Section 62.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

62.1-04-03. License to carry a firearm or dangerous weapon concealed - Class 1 firearm license and class 2 firearm and dangerous weapon license.

1. The director of the bureau of criminal investigation shall issue a license to carry a firearm or dangerous weapon concealed upon review of an application submitted to the director ~~by a resident or nonresident citizen of the United States~~ if the following criteria are met:
 - a. The applicant is at least twenty-one years of age for a class 1 firearm license or at least eighteen years of age for a class 2 firearm and dangerous weapon license;
 - b. ~~The applicant has a valid reason for carrying the firearm or dangerous weapon concealed, including self-protection, protection of others, or work-related needs.~~ can demonstrate that the applicant is a resident of this state by providing a copy of a valid driver's license or state-issued identification card from this state that establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address in this state or the applicant possess a valid driver's license from the applicant's state of residence that establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address and a valid concealed weapons license from the applicant's state of residence, which state has reciprocity with this state under section 62.1-04-03.1;
 - c. The applicant is not a ~~person~~ an individual specified in section 62.1-02-01 and for a class 1 firearm license the applicant:
 - (1) Has not been convicted of a felony;
 - (2) Has not been convicted of a crime of violence;
 - (3) Has not been convicted of an offense involving the use of alcohol within ten years prior to the date of application;
 - (4) Has not been convicted of ~~an~~ a misdemeanor offense involving the unlawful use of narcotics or other controlled substances within ten years prior to the date of application;
 - (5) Has not been convicted of an offense involving moral turpitude;
 - (6) Has not been convicted of an offense involving domestic violence;
 - (7) Has not been adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and

229 Section 62.1-04-03 was also amended by section 28 of House Bill No. 1015, chapter 15.

- (8) Is qualified to purchase and possess a firearm under federal law;
- d. ~~The applicant has the written approval for the issuance of a license from the sheriff of the applicant's county of residence, and, if the city has one, the chief of police or a designee of the city in which the applicant resides. The approval by the sheriff may not be given until the applicant has successfully completed a background investigation in that county and has successfully completed the testing procedure conducted by a certified firearm or dangerous weapon instructor~~ test administrator. The person conducting the testing may assess a charge of up to fifty dollars for conducting this testing. The attorney general may certify a ~~firearm or dangerous weapon instructor~~ test administrator based upon criteria and guidelines prescribed by the director of the bureau of criminal investigation;
- e. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed ~~a background investigation or the criminal history records check conducted by that agency~~ the bureau of criminal investigation and the federal bureau of investigation. ~~To pass a background investigation, an~~ The applicant shall provide all documentation relating to any court-ordered treatment or commitment for mental health or alcohol or substance abuse or incidents of domestic violence. The applicant shall provide the director of the bureau of criminal investigation written authorizations for disclosure of the applicant's mental health and alcohol or substance abuse evaluation and treatment records. The bureau may deny approval for a class 1 firearm license if the bureau has reasonable cause to believe that the applicant or ~~permitholder~~ licenseholder ~~has been or is a danger to self or others as demonstrated by evidence, including past pattern of behavior involving unlawful violence or threats of unlawful violence; past participation in incidents involving unlawful violence or threats of unlawful violence; or conviction of a weapons offense. In determining whether the applicant or~~ permitholder licenseholder ~~has been or is a danger to self or others, the bureau may inspect expunged records of arrests and convictions of adults and juvenile court records;~~ and
- f. The applicant is not prohibited under federal law from owning, possessing, or having a firearm under that ~~person's~~ individual's control.
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 pursuant to~~ 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 ~~or dangerous weapon~~, and complete an actual shooting or certified proficiency exercise. Evidence of familiarity with a firearm ~~or dangerous weapon~~ to be concealed may be satisfied by one of the following:
- (1) Certification of familiarity with a firearm ~~or dangerous weapon~~ 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, ~~or dangerous weapon instructor;~~

- (2) Evidence of equivalent experience with a firearm or ~~dangerous weapon~~ through participation in an organized shooting competition, law enforcement, or military service, ~~or dangerous weapon course of training~~;
 - (3) Possession of a license from another state to carry a firearm or ~~dangerous weapon~~, 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 or ~~dangerous weapon~~.
- 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 one firearm license also may carry a class two dangerous weapon without any further testing required.
 - d. ~~Licenses issued before August 1, 2009, regardless of the age of the licenseholder, convert to a class 2 license upon renewal and no additional testing is not required. No additional testing is required to renew a class 2 concealed weapons~~firearm and dangerous weapon license. A class 1 firearm license may be renewed upon successful completion of the class 1 firearm requirements within one ~~year~~thirty days before submission of the application for renewal. A license issued under this section before August 1, 2009, and a class 2 license may be upgraded to a class 1 license upon successful completion of the class 1 requirements and satisfaction of the age requirement.
3. The director of the bureau of criminal investigation shall send by mail to a holder of a license a notice of the procedures for renewal of the license issued under this section. The director shall give the notice at least one hundred fifty days but not more than one hundred eighty days before the expiration of the license.
 4. ~~The sheriff is required to process the application within thirty days after the completion of the testing portion unless the application is for renewal of a license and in such case the application must be processed within thirty days after its receipt by the sheriff, the chief of police is required to process the application within ten working days of receipt by the agency, and the bureau of criminal investigation is required to process the application and make a determination within forty-fivesixty days of receipt from the forwarding agency of the properly completed application.~~
 - 4-5. The license fee for a concealed weapons license is forty-five dollars, which must be credited to the attorney general's operating fund. The license fee~~All fees~~ must be paid before the license is issued~~application may be processed by the director of the bureau of criminal investigation. The attorney general shall list the fees associated with the license, including the costs of the fingerprint-based federal criminal history record check, in the attorney general's administrative rules.~~
 - 5-6. The director of the bureau of criminal investigation shall prescribe the form of the application and license, which must include the name, address, description, a photograph, and the signature of the individual. The application

form must require sufficient information to properly conduct a ~~background investigation~~the criminal history record check and be accompanied by ~~two~~:

- a. ~~A photocopy of a valid driver's license or identification card issued by this state which establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address in this state or a valid state-issued driver's license from the applicant's state of residence which establishes personal identification through photographic means and shows the applicant's name associated with a valid residential street address and a valid concealed weapons license from the applicant's state of residence, which has reciprocity with this state under section 62.1-04-03.1; and~~
- b. ~~Two sets of classifiable fingerprints. The two sets of classifiable fingerprints are not required for a renewal of a concealed weapons license. The license is valid for five years. The original license must be prepared in triplicate, and the original must be delivered to the licensee, the duplicate must be sent by mail, within seven days after issuance, to the sheriff of the county in which the applicant resides, and the triplicate and an electronic copy must be preserved for six years by the director. In those cases in which the licensee resides in a city, an additional copy of the license must be made and sent by mail, within seven days after issuance, to the chief of police of the city in which the applicant resides. Access to license information must be available to law enforcement through electronic means for official law enforcement purposes. The individual applicant or licenseholder shall notify the director of the bureau of criminal investigation of any change of address or any other material fact which would affect the restrictions on or the need for the license.~~

~~6-7.~~ 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.

~~7-8.~~ The applicant may appeal a denial or revocation of this license to the district court of Burleigh County.

~~8-9.~~ Information collected from an applicant under this section is confidential information. However, the information may be disclosed:

- a. To a governmental agency or court for a law enforcement purpose, including the investigation, prosecution, or punishment of a violation of law.
- b. To a court to aid in a decision concerning sentence, probation, or release pending trial or appeal.
- c. Pursuant to a court order or a judicial, legislative, or administrative agency subpoena issued in this state.

~~9-10.~~ The attorney general may adopt any rules necessary to ~~carry out~~implement this title.

CHAPTER 492

HOUSE BILL NO. 1260

(Representatives Karls, Guggisberg, K. Koppelman, Maragos)
(Senators Lyson, Sorvaag)

AN ACT to amend and reenact subsection 1 of section 62.1-02-01.1 of the North Dakota Century Code, relating to jurisdiction for petitions to restore firearm rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 62.1-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual who is prohibited from possessing a firearm due to a conviction of a felony under subdivision b of subsection 1 of section 62.1-02-01 may petition the district court ~~in the district where the individual resides~~ for restoration of the individual's firearm rights. If the felony offense was committed in this state, the petition must be filed with the district court in the county where the offense occurred. If the offense was a felony of another state or the federal government, the petition must be filed with the district court in the county where the petitioner resides. A copy of the petition must be served on the state's attorney's office in the county where the petition is filed in accordance with Rule 5 of the North Dakota Rules of Civil Procedure. The state's attorney's office shall have twenty days to file a written response to the petition with the district court.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 493

HOUSE BILL NO. 1241

(Representatives B. Koppelman, Dosch, Heller,
Karls, K. Koppelman, Looysen, Ruby, Rust)
(Senators Armstrong, Sitte, Sorvaag, Unruh)

AN ACT to amend and reenact section 62.1-02-04 of the North Dakota Century Code, relating to a firearm or dangerous weapon in a gaming site.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 ~~or gaming site prohibited~~ - Penalty - Exceptions.

1. ~~Any person~~An individual who enters or remains in that part of the establishment that is set aside for the retail sale ~~in an establishment engaged in the retail sale~~ of alcoholic beverages or used as a gaming site at which bingo is the primary gaming activity while in the possession of a firearm or dangerous weapon is guilty of a class A misdemeanor.
2. This section does not apply to:
 - 1-~~a.~~ A law enforcement officer.
 - 2-~~b.~~ The proprietor.
 - 3-~~c.~~ The proprietor's employee.
 - 4-~~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.
 - 5-~~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.

Approved April 15, 2013
Filed April 16, 2013

CHAPTER 494

HOUSE BILL NO. 1224

(Representatives Kempenich, Brandenburg, Drovdal,
Kasper, Ruby, Streyle, Thoreson, Weisz)
(Senators Luick, Miller, Schaible)

AN ACT to create and enact a new section to chapter 62.1-02 of the North Dakota Century Code, relating to hunting with a loaded firearm in a vehicle; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 62.1-02 of the North Dakota Century Code is created and enacted as follows:

Carrying a loaded firearm in vehicle while hunting - Penalty.

An individual who is in the field engaged in the lawful hunting of big game or small game and who violates section 62.1-02-10 is not subject to a criminal penalty but is guilty of a class 2 noncriminal offense under chapter 20.1-01.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 495

SENATE BILL NO. 2239

(Senators Carlisle, Armstrong, Lyson)
(Representatives Dosch, Porter)

AN ACT to amend and reenact section 62.1-04-02 of the North Dakota Century Code, relating to dangerous weapons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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.

~~No person~~An individual, other than a law enforcement officer, may not carry any firearm or dangerous weapon concealed unless the ~~person~~individual is licensed to do so or exempted ~~pursuant to~~under this chapter. For purposes of this chapter, the term "dangerous weapon" does not mean include a spray or aerosol containing CS (ortho-chlorobenzamalonitrile), CN (alpha-chloroacetophenone); or other irritating agent intended for use in the defense of a person~~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.~~

Approved April 12, 2013
Filed April 12, 2013

CHAPTER 496

HOUSE BILL NO. 1283

(Representatives K. Koppelman, Boehning, Heilman,
Kasper, Larson, Ruby, Thoreson)
(Senator Sitte)

AN ACT to amend and reenact section 62.1-02-05 of the North Dakota Century Code, relating to the carrying of a firearm with a concealed weapons permit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³⁰ **SECTION 1. 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 at a public gathering - Penalty - Application.

1. ~~A person~~An individual who possesses a firearm at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" includes 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 and publicly owned or operated buildings. ~~The term "public gathering" does not apply to a state or federal park.~~
2. This section does not apply to law:
 - a. ~~A law enforcement officers~~officer; members
 - 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; ~~competitors~~
 - c. ~~A competitor~~ participating in ~~an~~ organized sport shooting event~~event~~; ~~gun and~~
 - d. ~~A gun or antique show~~show; ~~participants~~
 - e. ~~A participant~~ using ~~a~~ blank cartridge ~~firearms~~firearm at ~~a~~ sporting or theatrical event~~event~~; ~~any firearms~~
 - f. ~~A firearm~~ carried in a temporary residence or motor vehicle; ~~students and instructors~~
 - g. ~~A student and an instructor~~ at ~~a~~ hunter safety ~~classes~~class; ~~or private~~
 - h. ~~Private~~ security personnel while on duty. ~~In addition, a;~~

²³⁰ Section 62.1-02-05 was also amended by section 5 of House Bill No. 1327, chapter 491, and section 1 of Senate Bill No. 2145, chapter 497.

- i. A state or federal park;
 - j. An individual possessing a valid class 1 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
 - k. A municipal court judge licensed to practice law in this state, a district court judge, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer are exempt from the prohibition and penalty in subsection 1, 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 ~~which that~~ is less restrictive than this section relating to the possession of firearms at a public gathering. ~~Such an~~ An enacted ordinance supersedes this section within the jurisdiction of the political subdivision.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 497

SENATE BILL NO. 2145

(Senators Erbele, Lyson, O'Connell)
(Representatives Brabandt, Kretschmar, Maragos)

AN ACT to amend and reenact section 62.1-02-05 of the North Dakota Century Code, relating to carrying a firearm at a public gathering.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³¹ **SECTION 1. 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 at a public gathering - Penalty - Application.

1. A person who possesses a firearm at a public gathering is guilty of a class B misdemeanor. For the purpose of this section, "public gathering" includes 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 and publicly owned or operated buildings. The term "public gathering" does not apply to a state or federal park.
2. This section does not apply to law enforcement officers; members of the armed forces of the United States or national guard, organized reserves, state defense forces, or state guard organizations, when on duty; competitors participating in organized sport shooting events; gun and antique shows; participants using blank cartridge firearms at sporting or theatrical events; any firearms carried in a temporary residence or motor vehicle; students and instructors at hunter safety classes; or private security personnel while on duty. In addition, a municipal court judge licensed to practice law in this state, a district court judge, a staff member of the office of attorney general, and a retired North Dakota law enforcement officer are exempt from the prohibition and penalty in subsection 1 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 which is less restrictive than this section relating to the possession of firearms at a public gathering. Such an ordinance supersedes this section within the jurisdiction of the political subdivision.

Approved April 2, 2013
Filed April 2, 2013

²³¹ Section 62.1-02-05 was also amended by section 1 of House Bill No. 1283, chapter 496, and section 5 of House Bill No. 1327, chapter 491.

WORKFORCE SAFETY AND INSURANCE

CHAPTER 498

HOUSE BILL NO. 1163

(Representative Keiser)
(Senator Klein)

AN ACT to amend and reenact paragraph 7 of subdivision b of subsection 10 of section 65-01-02 of the North Dakota Century Code, relating to workers' compensation definitions of compensable injury; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³² **SECTION 1. AMENDMENT.** Paragraph 7 of subdivision b of subsection 10 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

- (7) Injuries attributable to a preexisting injury, disease, or other condition, including when the employment acts as a trigger to produce symptoms in the preexisting injury, disease, or other condition unless the employment substantially accelerates its progression or substantially worsens its severity. Pain is a symptom and may be considered in determining whether there is a substantial acceleration or substantial worsening of a preexisting injury, disease, or other condition, but pain alone is not a substantial acceleration or a substantial worsening.

SECTION 2. APPLICATION. This Act applies to all claims, regardless of the date of injury.

Approved April 26, 2013
Filed April 26, 2013

²³² Section 65-01-02 was also amended by section 1 of House Bill No. 1080, chapter 499.

CHAPTER 499

HOUSE BILL NO. 1080

(Industry, Business and Labor Committee)
(At the request of Workforce Safety and Insurance)

AN ACT to amend and reenact subsection 31 of section 65-01-02, sections 65-02-06.1, 65-02-09, and 65-05-05, subsection 2 of section 65-05-08, subsection 11 of section 65-05-12.2, subsection 3 of section 65-05.1-01, subdivision a of subsection 6 of section 65-05.1-01, subsection 7 of section 65-05.1-02, section 65-05.1-02.1, subsection 1 of section 65-05.1-03, subsections 3, 4, 5, and 6 of section 65-05.1-04, subsection 1 of section 65-05.1-06.1, subdivision f of subsection 2 of section 65-05.1-06.1, subsection 3 of section 65-05.1-06.1, and sections 65-05.1-06.2 and 65-05.1-07 of the North Dakota Century Code, relating to definition of wages and federal wages for national guard employees, biennial report requirements, out-of-state claim filing, discontinuation of benefits during incarceration, permanent partial impairment law for amputations, vocational consultants, and claimants; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

²³³ **SECTION 1. AMENDMENT.** Subsection 31 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

31. a. "Wages" means an:

(1) An employee's remuneration from all employment reportable to the internal revenue service as earned income for federal income tax purposes.

(2) For members of the national guard who sustain a compensable injury while on state active duty, "wages" includes income from federal employment and may be included in determining the average weekly wage.

(3) For purposes of chapter 65-04 only, "wages" means all gross earnings of all employees. The term includes all pretax deductions for amounts allocated by the employee for deferred compensation, medical reimbursement, retirement, or any similar program, but may not include dismissal or severance pay.

b. The organization may consider postinjury wages for which coverage was not required or otherwise secured in North Dakota for purposes of determining appropriate vocational rehabilitation options or entitlement to disability benefits under this title.

SECTION 2. AMENDMENT. Section 65-02-06.1 of the North Dakota Century Code is amended and reenacted as follows:

²³³ Section 65-01-02 was also amended by section 1 of House Bill No. 1163, chapter 498.

65-02-06.1. Allocated loss adjustment expenses - Continuing appropriation - Annual review.

Money in the workforce safety and insurance fund is appropriated on a continuing basis for the payment of all allocated loss adjustment expenses experienced by the organization in its administration of this title. In its annual audit ~~and its biennial report~~, the organization shall include a breakdown of those allocated loss adjustment expenses that reflect the attorney's fees and costs paid to attorneys who represent injured workers, the attorney's fees and costs paid to attorneys with whom it contracts to represent the organization, the amount paid for administrative law judges for hearings, and the court reporter and other legal expenses paid.

SECTION 3. AMENDMENT. Section 65-02-09 of the North Dakota Century Code is amended and reenacted as follows:

65-02-09. General information to public - Biennial report.

The organization, from time to time, may publish and distribute among employers and employees general information as to the business transacted by the organization as in its judgment may be useful. The director shall submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. The report must include:

1. A statement of the number of awards made by it.
2. A general statement of the causes of accidents leading to the injuries for which the awards were made.
3. A detailed statement of the disbursements from the fund.
4. A statement of the conditions of the various funds carried by the organization.
5. A breakdown of those allocated loss adjustment expenses that reflect the attorney's fees and costs paid to attorneys who represent injured workers, the attorney's fees and costs paid to attorneys with whom the organization contracts to represent the organization, the amount paid for administrative law judges for hearings, and the amount paid for the court reporter and any other legal expenses.
6. Any other matters which the organization wishes to call to the attention of the governor, including any recommendation for legislation or otherwise which it may have to make.

SECTION 4. AMENDMENT. Section 65-05-05 of the North Dakota Century Code is amended and reenacted as follows:

65-05-05. Payments made to insured employees injured in course of employment and to their dependents.

1. The organization shall disburse the fund for the payment of compensation and other benefits as provided in this chapter to employees, or to their dependents in case death has ensued, who:
 4. a. Are subject to the provisions of this title;
 2. b. Are employed by employers who are subject to this title; and

3. c. Have been injured in the course of their employment.
2. If an employee, or any person seeking benefits because of the death of an employee, applies for benefits from another state for the same injury, the organization will suspend all future benefits pending resolution of the application. If an employee, or any person seeking benefits because of the death of an employee, is determined to be eligible for benefits through some other state act or enters an agreement to resolve a claim through some other state act, no further compensation ~~shall~~may be allowed under this title and the employee, or any person seeking benefits because of the death of an employee, must reimburse the organization for the entire amount of benefits paid.

SECTION 5. AMENDMENT. Subsection 2 of section 65-05-08 of the North Dakota Century Code is amended and reenacted as follows:

2. All payments of disability and rehabilitation benefits ~~must be suspended during the period of confinement in excess of seventy-two consecutive hours~~ of any employee who is eligible for, or receiving, benefits under this title ~~whomust be suspended when the employee~~ is confined in a penitentiary, jail, youth correctional facility, or any other penal institution for a period of between seventy-two consecutive hours and one hundred eighty consecutive days. ~~After discharge from the institution, the organization shall pay subsequent disability or rehabilitation benefits as the employee otherwise would be entitled under this title.~~All payments of disability and rehabilitation benefits of any employee who is eligible for, or receiving, benefits under this title must be discontinued when the employee is confined in a penitentiary, jail, youth correctional facility, or any other penal institution for a period in excess of one hundred eighty consecutive days.

SECTION 6. AMENDMENT. Subsection 11 of section 65-05-12.2 of the North Dakota Century Code is amended and reenacted as follows:

11. An amputation of a finger or toe at the level of the distal interphalangeal joint or proximal to that joint, or the thumb or the great toe at the interphalangeal joint or proximal to that joint, which is determined to result in a whole body impairment of less than ~~sixteen~~fourteen percent and which is not identified in the following schedule, is payable as a ~~sixteen~~fourteen percent impairment. If an evaluation for the loss of an eye or for an amputation results in an award that is less than the permanent impairment multiplier identified in the following schedule, the organization shall pay an award equal to the permanent impairment multiplier set out in the following schedule:

For amputation of a thumb	permanent impairment multiplier of 65
For amputation of the second or distal phalanx of the thumb	permanent impairment multiplier of 28
For amputation of the first finger	permanent impairment multiplier of 40
For amputation of the middle or second phalanx of the first finger	permanent impairment multiplier of 28
For amputation of the third or distal phalanx of the first finger	permanent impairment multiplier of 22
For amputation of the second finger	permanent impairment multiplier of 30

For amputation of the middle or second phalanx of the second finger	permanent impairment multiplier of 22
For amputation of the third or distal phalanx of the second finger	permanent impairment multiplier of 14
For amputation of the third finger	permanent impairment multiplier of 20
For amputation of the middle or second phalanx of the third finger	permanent impairment multiplier of 16
For amputation of the fourth finger	permanent impairment multiplier of 16
For amputation of the middle or second phalanx of the fourth finger	permanent impairment multiplier of 12
For amputation of the leg at the hip	permanent impairment multiplier of 234
For amputation of the leg at or above the knee	permanent impairment multiplier of 195
For amputation of the leg at or above the ankle	permanent impairment multiplier of 150
For amputation of a great toe	permanent impairment multiplier of 30
For amputation of the second or distal phalanx of the great toe	permanent impairment multiplier of 18
For amputation of any other toe	permanent impairment multiplier of 12
For loss of an eye	permanent impairment multiplier of 150
For the loss of vision of an eye which equals or exceeds 20/200 corrected	permanent impairment multiplier of 100

The award for the amputation of more than one finger of one hand may not exceed an award for the amputation of a hand. The award for the amputation of more than one toe of one foot may not exceed an award for the amputation of a foot. If any of the amputations or losses set out in this subsection combine with other impairments for the same work-related injury or condition, the organization shall issue an impairment award based on the greater of the permanent impairment multiplier allowed for the combined rating established under the sixth edition of the American medical association's "Guides to the Evaluation of Permanent Impairment" or the permanent impairment multiplier set forth in this subsection.

²³⁴ **SECTION 7. AMENDMENT.** Subsection 3 of section 65-05.1-01 of the North Dakota Century Code is amended and reenacted as follows:

3. It is the goal of vocational rehabilitation to return the disabled employee to substantial gainful employment with a minimum of retraining, as soon as possible after an injury occurs. "Substantial gainful employment" means bona fide work, for remuneration, which is reasonably attainable in light of the individual's injury, functional capacities, education, previous occupation, experience, and transferable skills, and which offers an opportunity to restore the employee as soon as practicable and as nearly as possible to ninety percent of the employee's average weekly earnings at the time of injury, or to sixty-six and two-thirds percent of the average weekly wage in this state on

²³⁴ Section 65-05.1-01 was also amended by section 8 of House Bill No. 1080, chapter 499.

the date the rehabilitation consultant's report is issued under section 65-05.1-02.1, whichever is less. The purpose of defining substantial gainful employment in terms of earnings is to determine the first appropriate priority option under subsection 4 which meets this income test set out above.

²³⁵ **SECTION 8. AMENDMENT.** Subdivision a of subsection 6 of section 65-05.1-01 of the North Dakota Century Code is amended and reenacted as follows:

- a. If the ~~vocational consultant~~organization concludes that none of the priority options under subsection 4 are viable, and will not return the employee to the lesser of sixty-six and two-thirds percent of the average weekly wage, or ninety percent of the employee's preinjury earnings, the employee shall continue to minimize the loss of earnings capacity, to seek, obtain, and retain employment:

- (1) That meets the employee's functional capacities; and
- (2) For which the employee meets the qualifications to compete.

SECTION 9. AMENDMENT. Subsection 7 of section 65-05.1-02 of the North Dakota Century Code is amended and reenacted as follows:

7. ~~Appoint one or more vocational consultants, the identity of which must be determined by the organization. Determine and report~~ on a case-by-case basis, as the nature of the injury may require, for the purpose of assessing the worker's transferable skills, employment options, and the physical demand characteristics of the worker's employment options, and determining which option available under subdivisions a through f of subsection 4 of section 65-05.1-01 will enable the worker to return to employment within the physical restrictions and limitations provided by the medical assessment team. ~~The vocational consultant shall issue to the organization a report as provided in section 65-05.1-02.1.~~

SECTION 10. AMENDMENT. Section 65-05.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

65-05.1-02.1. Vocational consultant's report.

The ~~vocational consultant~~organization shall review all records, statements, and other pertinent information and prepare a report to the organization and employee.

1. The report must:
 - a. Identify the first appropriate rehabilitation option by following the priorities set forth in subsection 4 of section 65-05.1-01.
 - b. Contain findings of why a higher listed priority, if any, is not appropriate.
2. Depending on which option the consultant identifies as appropriate, the report also must contain findings that:
 - a. Identify jobs in the local or statewide job pool and the employee's anticipated earnings from each job; or

²³⁵ Section 65-05.1-01 was also amended by section 7 of House Bill No. 1080, chapter 499.

- b. Describe an appropriate retraining program, the employment opportunities anticipated upon the employee's completion of the program, and the employee's anticipated earnings.
3. ~~The vocational consultant's report is due within sixty days from the date the vocational assessment is performed under this chapter. However, if the vocational consultant determines that retraining options must be evaluated because higher priority options are not viable, the final report is due within ninety days of the vocational assessment to allow the employee to assist in formulating the choice among the qualified training programs.~~

SECTION 11. AMENDMENT. Subsection 1 of section 65-05.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~Direct the implementation of programs for individual workforce safety and insurance claimants~~injured employees in accordance with organization determinations in compliance with the purpose of this chapter.

SECTION 12. AMENDMENT. Subsections 3, 4, 5, and 6 of section 65-05.1-04 of the North Dakota Century Code are amended and reenacted as follows:

3. ~~The injured employee shall be available for testing under subsection 6 or 7 of section 65-05.1-02, and for any further examinations and testing as may be prescribed by the organization to determine whether or not a program of rehabilitation is necessary. The injured employee also shall participate in remedial or other educational services when those services are determined to be necessary by the organization or the vocational consultant. If the employee is noncompliant with this subsection, the organization shall suspend benefits during the period of noncompliance.~~
4. ~~If the first appropriate rehabilitation option under subsection 4 or 6 of section 65-05.1-01 is return to the same, modified, or alternative occupation, or return to an occupation that is suited to the employee's education, experience, and marketable skills, the employee is responsible to make a good-faith work trial or work search. If the employee fails to perform a good-faith work trial or work search, the organization may not pay additional disability benefits unless the employee meets the criteria for reapplying for benefits required under subsection 1 of section 65-05-08. If the employee meets the burden of proving that the employee made a good-faith work trial or work search and that the work trial or work search was unsuccessful due to the injury, the organization shall reevaluate the employee's vocational rehabilitation claim. When the first appropriate vocational rehabilitation option is identified for an employee, the organization shall notify the employee of the obligation to make a good-faith work search or good-faith work trial, and provide information to the employee regarding reinstatement of benefits if the work search or work trial is unsuccessful.~~
5. ~~If the first appropriate rehabilitation option under subsection 4 of section 65-05.1-01 is retraining, the employee shall cooperate with the necessary testing to determine whether the proposed training program meets the employee's medical limitations and aptitudes. The employee shall attend a qualified rehabilitation training program when ordered by the organization. A qualified training program is a rehabilitation plan that meets the criteria of this title, is the approved option of the rehabilitation consultant, and commences within a reasonable period of time such as the next quarter or semester. The~~

organization and the employee, by agreement, may waive the income test applicable under this subsection.

6. If, without good cause, the injured employee fails to make a good-faith work search in return to work utilizing the employee's transferable skills, the employee is in noncompliance with vocational rehabilitation. A good-faith work search that does not result in placement is not, in itself, sufficient grounds to prove the work injury caused the inability to acquire gainful employment. The employee shall show that the injury significantly impacts the employee's ability to successfully compete for gainful employment in that the injury leads employers to favor those without limitations over the employee. If, without good cause, the injured employee fails to attend specific vocational testing, remedial, or other vocational services determined necessary by the organization or the rehabilitation consultant, the employee is in noncompliance with vocational rehabilitation. If, without good cause, the injured employee fails to attend a scheduled medical or vocational assessment, fails to communicate or cooperate with the ~~vocational consultant organization~~, or fails to attend a specific qualified rehabilitation program within ten days from the date the rehabilitation program commences, the employee is in noncompliance with vocational rehabilitation. If, without good cause, the employee discontinues a training program in which the employee is enrolled, the employee is in noncompliance with vocational rehabilitation. If at any time the employee is noncompliant without good cause, subsequent efforts by the employee to come into compliance with vocational rehabilitation are not considered successful compliance until the employee has successfully returned to the job or training program for a period of thirty days. In all cases of noncompliance by the employee, the organization shall discontinue disability and vocational rehabilitation benefits. If the period of noncompliance continues for thirty days following the date benefits are discontinued, or a second instance of noncompliance occurs without good cause, the organization may not pay any further disability or vocational rehabilitation benefits, regardless of whether the employee sustained a significant change in medical condition due to the work injury.

²³⁶ **SECTION 13. 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 consultant's report, the organization shall issue an administrative order under chapter 28-32 detailing the employee's entitlement to disability and vocational rehabilitation services.

²³⁷ **SECTION 14. AMENDMENT.** Subdivision f of subsection 2 of section 65-05.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

- f. If the employee successfully concludes the rehabilitation program, the organization may make, in its sole discretion, additional awards for actual relocation expenses to move the household to the locale where the ~~claimant~~injured employee has actually located work.

²³⁶ Section 65-05.1-06.1 was also amended by section 14 of House Bill No. 1080, chapter 499, and section 15 of House Bill No. 1080, chapter 499.

²³⁷ Section 65-05.1-06.1 was also amended by section 13 of House Bill No. 1080, chapter 499, and section 15 of House Bill No. 1080, chapter 499.

²³⁸ **SECTION 15. AMENDMENT.** Subsection 3 of section 65-05.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

3. If the appropriate priority option is return to the same or modified position, or to a related position, the organization shall determine whether the employee is eligible to receive partial disability benefits pursuant to section 65-05-10. In addition, the organization, when appropriate, shall make an additional award for actual relocation expenses to move the household to the locale where the claimant/injured employee has actually located work.

SECTION 16. AMENDMENT. Section 65-05.1-06.2 of the North Dakota Century Code is amended and reenacted as follows:

65-05.1-06.2. Contract for vocational rehabilitation services.

The organization may contract with vocational rehabilitation vendors to provide vocational rehabilitation services to claimants/injured employees. The organization shall determine the criteria that render a vocational rehabilitation vendor qualified. If additional services are determined to be necessary as a result of failed or inappropriate rehabilitation of an injured employee through no fault of the employee, the organization may contract with the vendor for additional services. If the failure or inappropriateness of the rehabilitation of the injured employee is due to the vendor's failure to provide the necessary services to fulfill the contract, the organization is not obligated to use that vendor for additional services on that claim and the organization may refuse payment for a service that the vendor failed to perform which was a material requirement of the contract.

SECTION 17. AMENDMENT. Section 65-05.1-07 of the North Dakota Century Code is amended and reenacted as follows:

65-05.1-07. Person furnishing training exempt from civil liability - Claimant's/injured employee's remedy.

Any person, partnership, corporation, limited liability company, association, or agency that furnishes on-the-job or other similar training to ~~a workforce safety and insurance claimant~~ an injured employee as the result of a rehabilitation contract, without establishing an employment relationship with the claimant/injured employee, is exempt from all civil liability.

SECTION 18. APPLICATION. Sections 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 apply to all claims regardless of date of injury. Section 6 applies to permanent impairment evaluations performed on or after August 1, 2011.

Approved April 24, 2013
Filed April 24, 2013

²³⁸ Section 65-05.1-06.1 was also amended by section 13 of House Bill No. 1080, chapter 499, and section 14 of House Bill No. 1080, chapter 499.

CHAPTER 500

SENATE BILL NO. 2134

(Senators Lyson, Armstrong, Oehlke)
(Representatives Hatlestad, Porter)

AN ACT to amend and reenact subsection 4 of section 65-01-15.1 of the North Dakota Century Code, relating to definition of law enforcement officers for workforce safety and insurance purposes; to provide for application; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 65-01-15.1 of the North Dakota Century Code is amended and reenacted as follows:

4. For purposes of this section, "law enforcement officer" means a person who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, a county sheriff's department, or a city police department, or the parks and recreation department pursuant to section 55-08-04.

SECTION 2. APPLICATION. Section 1 of this Act applies only to injuries or conditions initially occurring on or after the effective date of this Act and to expenses related to those injuries and conditions.

SECTION 3. EFFECTIVE DATE. This Act becomes effective July 1, 2013.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 1, 2013
Filed April 1, 2013

CHAPTER 501**HOUSE BILL NO. 1081**

(Industry, Business and Labor Committee)
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact subsection 5 of section 65-04-03.1 of the North Dakota Century Code, relating to the reporting requirements to the budget section of the legislative management on the single state entities account program with workforce safety and insurance.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 65-04-03.1 of the North Dakota Century Code is amended and reenacted as follows:

5. The office of management and budget may adopt rules to administer the risk management workforce safety and insurance program. ~~The organization and the risk management division of the office of management and budget periodically shall report to the budget section of the legislative management on the success of this program.~~

Approved March 26, 2013
Filed March 27, 2013

CHAPTER 502

SENATE BILL NO. 2080

(Industry, Business and Labor Committee)
(At the request of Workforce Safety and Insurance)

AN ACT to amend and reenact sections 65-04-20 and 65-04-22, subsection 3 of section 65-04-33, subsection 1 of section 65-05-29, sections 65-06-03 and 65-06-04, subsection 2 of section 65-07-03, section 65-07.1-02, and subsection 5 of section 65-08-01 of the North Dakota Century Code, relating to premium payments, workers' compensation premiums, penalties for failure to secure coverage, assignment of claims, and volunteer health practitioner benefits; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-04-20 of the North Dakota Century Code is amended and reenacted as follows:

65-04-20. Installment payment of premiums - Interest required.

An employer, subject to section 65-04-22, may pay the annual premium in installments.

Interest must be charged at the prevailing base rate posted by the Bank of North Dakota plus two and one-half percent. The interest charged must be at least six percent per annum. Interest must be charged on all premiums deferred under this section. Upon default in payment of any installment, the penalties apply which are provided in sections 65-04-22 and 65-04-33.

SECTION 2. 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, ~~by its proper order, and notification upon the premium billing statement sent to an employer,~~ may require payment of a premium, including an advance premium, within any time ~~less than one month~~ which, in the judgment of the organization, is reasonable and necessary to secure the payment of the premium by any employer whose employment within this state is likely to continue for less than one month, and in such case, default shall begin at the end of the time allowed by the organization for the payment of the premium. ~~In the absence of an order and notification, the~~ The premium, whether the same is to be 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 ~~to be~~ 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 and ~~there where~~ a premium delinquency remains unresolved.

SECTION 3. AMENDMENT. Subsection 3 of section 65-04-33 of the North Dakota Century Code is 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 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 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. An employer may not appeal an organization decision not to reduce a penalty under this subsection.

SECTION 4. AMENDMENT. Subsection 1 of section 65-05-29 of the North Dakota Century Code is amended and reenacted as follows:

1. Any assignment of a claim for compensation under this title is void. All compensation and claims therefor are exempt from claims of creditors except any of the following:
 - a. A child support obligation ordered by a court of competent jurisdiction.
 - b. A claim by job service North Dakota for reimbursement of unemployment benefits, for the amount that was paid by job service North Dakota during the period for which the claimant is found eligible for temporary total or permanent total disability benefits, not to exceed the disability award actually made by the organization.
 - c. A claim by the organization for any payments made due to:
 - (1) Clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient, or any other circumstance of a similar nature, all not induced by fraud, in which cases the recipient shall repay it or recoupment of any unpaid amount may be made from any future payments due to the recipient on any claim with the organization;
 - (2) An adjudication by the organization or by order of any court, if the final decision is that the payment was made under an erroneous adjudication, in which cases the recipient shall repay it or recoupment

of any unpaid amount may be made from any future payments due to the recipient on any claim with the organization;

- (3) Fraud, in which case the recipient shall repay the payment or the unpaid amount of the sum may be recouped from any future payments due to the recipient on any claim with the organization; or
- (4) Overpayment due to application of section 65-05-09.1; or
- (5) A claim by the organization for premiums, penalties, and interest under chapter 65-04.

SECTION 5. 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 weekly wage of the claimant shall be determined from a computation of income derived from the claimant's business or employment.

SECTION 6. AMENDMENT. Section 65-06-04 of the North Dakota Century Code is amended and reenacted as follows:

65-06-04. Assessment of premiums.

For the purpose of making assessments of premiums to be charged against municipalities for protection of volunteer firefighters, emergency or disaster volunteers, volunteer health practitioners, and community emergency response team members, the organization shall make such survey as may seem advisable to ascertain the probable annual expenditures necessary to be paid out of the fund to carry out ~~the provisions of this chapter~~, and shall fix the annual charges and assessments which ~~shall~~must be made against municipalities employing volunteer firefighters, emergency or disaster volunteers, volunteer health practitioners, and community emergency response team members. ~~Such~~The charge ~~shall~~must be a fixed sum for each one hundred of the population of the municipality involved, ~~the same to be and~~ uniform as to all such involved municipalities but in proportion to the population ~~thereof of the municipality~~. In determining the amount of premium charge, the organization may apply the system of experience rating provided in this title, as applied to other risks. The organization may also establish a minimum charge or assessment to be applicable to ~~municipalities where~~any municipality for which the fixed rate or charge multiplied by the number of hundreds of the population thereof of the municipality would amount to less than the amount of such the minimum charge or assessment. The population of a municipality shall be that shown by the latest official North Dakota state or United States government census, whichever may be the later.

SECTION 7. AMENDMENT. Subsection 2 of section 65-07-03 of the North Dakota Century Code is amended and reenacted as follows:

2. A reasonable wage or fee as determined by the organization for employees in the same class of industry that the volunteer organization is engaged.

SECTION 8. AMENDMENT. Section 65-07.1-02 of the North Dakota Century Code is amended and reenacted as follows:

65-07.1-02. Vocational training or work evaluation programs - Organization may contract.

Whenever an agency or organization has been approved as an employer under subsection 2 of section 65-07.1-01, the organization may contract with the agency or organization for the coverage of participants in a program of vocational training or work evaluation. The premium for the coverage ~~shall~~must be computed ~~at the rate in which each participant is engaged and shall be based on a reasonable weekly wage as established in the contract~~based on a reasonable wage or fee as determined by the organization for employees in the same class of industry that the employer is engaged.

SECTION 9. AMENDMENT. Subsection 5 of section 65-08-01 of the North Dakota Century Code is amended and reenacted as follows:

5. An employer who opens an employer account with the organization under this section is obligated to report all wages ~~paid~~earned in this state, regardless of whether the significant contacts factors set forth in subsection 4 have been met.

SECTION 10. APPLICATION. Section 3 applies to all accounts in noncompliance on or after the effective date of this Act. Section 4 applies to all claims by the organization for premiums, penalties, and interest after the effective date of this Act.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 503

SENATE BILL NO. 2178

(Senators Klein, Krebsbach, Larsen)
(Representatives Maragos, Ruby, Streyle)

AN ACT to amend and reenact subsection 5 of section 65-05-07 of the North Dakota Century Code, relating to the workers' compensation vehicle allowance; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 65-05-07 of the North Dakota Century Code is amended and reenacted as follows:

5. Under this section, the organization may modify real estate and may provide for adaptations and modifications to motor vehicles as follows:
 - a. In the case of an injured employee who sustained a catastrophic injury, as defined in chapter 65-05.1, the organization may pay an amount not to exceed seventy-five thousand dollars to provide permanent additions, remodeling, or adaptations to real estate it determines necessary. The dollar limit is for the life of the injured employee, regardless of any subsequent claim. This subdivision does not allow the organization to purchase any real estate.
 - b. In the case of an injured employee who sustained a catastrophic injury, as defined in chapter 65-05.1, the organization may pay an amount not to exceed one hundred fifty thousand dollars to provide the most cost-effective, specially equipped motor vehicle or vehicle adaptations the organization determines medically necessary. The organization may establish factors to be used in determining whether a specially equipped motor vehicle or adaptation is necessary. Under this subdivision, the organization may not pay for insurance of or maintenance of the motor vehicle. Within the dollar limit and under this subdivision, the organization may pay for vehicle or adaptation replacement purchases. The dollar limit is for the life of the injured employee, regardless of any subsequent claim.
 - c. In the case of an injured employee who has not sustained a catastrophic injury, as defined in chapter 65-05.1, the organization may provide the benefits under subdivisions a and b if the organization determines the benefits would be cost-effective and appropriate because of exceptional circumstances as determined by the organization.

SECTION 2. APPLICATION. This Act applies to all vehicle purchases and adaptations that take place on or after the effective date of this Act.

Approved April 2, 2013
Filed April 2, 2013

CHAPTER 504

SENATE BILL NO. 2298

(Senators Kilzer, Carlisle)
(Representatives Hawken, Karls)

AN ACT to amend and reenact section 65-05-08.3 of the North Dakota Century Code, relating to workers' compensation consideration of treating doctor's opinions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05-08.3 of the North Dakota Century Code is amended and reenacted as follows:

65-05-08.3. Treating doctor's opinion.

1. ~~If the organization does not give an injured employee's treating~~A presumption may not be established in favor of any doctor's opinion controlling weight, the organization shall establish that the treating doctor's opinion is not well supported by medically acceptable clinical and laboratory diagnostic techniques or is inconsistent with the other substantial evidence in the injured employee's record based on one or more of. The organization shall resolve conflicting medical opinions and in doing so the organization shall consider the following factors:
 - a. The length of the treatment relationship and the frequency of examinations;
 - b. The nature and extent of the treatment relationship;
 - c. The amount of relevant evidence in support of the opinion;
 - d. How consistent the opinion is with the record as a whole;
 - e. Appearance of bias;
 - f. Whether the doctor specializes in the medical issues related to the opinion; and
 - g. Other relevant factors.
2. This section does not apply to managed care programs under section 65-02-20. For purposes of this section, the organization shall determine whether a doctor is an injured employee's treating doctor.

Approved May 3, 2013
Filed May 7, 2013

CHAPTER 505

HOUSE BILL NO. 1052

(Legislative Management)
(Workers' Compensation Review Committee)

AN ACT to amend and reenact section 65-05-28.2 of the North Dakota Century Code, relating to the workers' compensation preferred provider program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05-28.2 of the North Dakota Century Code is amended and reenacted as follows:

65-05-28.2. Preferred provider - Use required - Exceptions - Notice.

1. During the first thirty days after a work injury, an employee of an employer ~~who~~that has selected a preferred provider under this section may seek medical treatment only from the preferred provider for the injury. Treatment by a provider other than the preferred provider is not compensable and the organization may not pay for treatment by a provider who is not a preferred provider, unless a referral was made by the preferred provider. A provider who is not a preferred provider may not certify disability or render an opinion about any matter pertaining to the injury, including causation, compensability, impairment, or disability. This section does not apply to emergency care nor to any care the employee reasonably did not know was related to a work injury.
2. An employee of an employer ~~who~~that has selected a preferred provider may elect to be treated by a different provider provided the employee makes the election and notifies the employer in writing ~~prior to~~before the occurrence of an injury.
3. After thirty days have passed following the injury, the employee may make a written request to the organization to change providers. The employee shall make the request and serve it on the employer and the organization at least thirty days ~~prior to~~before treatment by the provider. The employee shall state the reasons for the request and the employee's choice of provider.
4. If the employer objects to the provider selected by the employee under subsection 2 or 3, the employer may file an objection to the change of provider. The employer shall detail in the objection the grounds for the objection and shall serve the objection on the employee and the organization within five days of service of the request. The employee may serve, within five days of service of the employer's objection, a written response on the employer and the organization in support of the request for change of provider. Within fifteen days after receipt of the response or of the expiration of the time for filing the response, the organization shall rule on the request. Failure of the organization to rule constitutes approval of the request. Treatment by the employee's chosen provider is not compensable until the organization approves the request. The preferred provider remains the treating provider until the organization approves the employee's request to change providers.

5. An employer that selects a preferred provider shall give notice and post notice as required under this subsection.
- a. An employer shall give written notice of the identity and the terms of the preferred provider program:
- (1) To the employer's employees when the employer makes an initial selection of a preferred provider or,
 - (2) To the employer's employees when the employer changes the selection of the preferred provider. ~~An employer shall give written notice identifying the selected preferred provider to every~~
 - (3) To an employee hired after the selection was made at the time of hire.
 - (4) To the employer's employees at least annually after the initial notice.
- b. An employer ~~who~~that has selected a preferred provider shall display notice of the identity of the preferred provider and the terms of the preferred provider program in a conspicuous manner at fixed worksites, and wherever feasible at mobile worksites, and in a sufficient number of places to reasonably inform employees of the identity of the preferred provider and of the ~~requirements of this section~~terms of the preferred provider program.
- c. Failure to give written notice or, to properly post notice, or to reasonably inform employees of the terms of the preferred provider program as required under this subsection invalidates the selection, ~~allowing the employee to make the initial selection of a medical provider for the employee's claim.~~

Approved April 15, 2013
Filed April 16, 2013

VETOED MEASURES

CHAPTER 506

HOUSE BILL NO. 1156

(Representatives Klemin, Frantsvog, Schmidt)
(Senators Andrist, Carlisle, Dotzenrod)

AN ACT to amend and reenact sections 11-09.1-03 and 11-09.1-04 and subsection 6 of section 11-09.1-04.1 of the North Dakota Century Code, relating to county home rule.

VETO

April 3, 2013

The Honorable Bill Devlin
Speaker of the House
House Chambers
State Capitol
Bismarck ND 58505

Dear Speaker Devlin:

Pursuant to Article V, Section 9, of the North Dakota Constitution, I have vetoed House Bill 1156 and returned it to the House.

House Bill 1156 is vetoed because a public vote on a home rule charter is an important decision for county residents and a very serious policy question. Home rule charters have a tendency to involve the incurring of debt and increased taxation to service that debt. These important questions should be voted upon at an election where a substantial turnout of eligible voters is likely to occur. A county special election would undoubtedly result in an extremely low turnout of voters. A question as important as the adoption of a home rule charter should take place at an election where a substantial number of voters will participate.

Therefore, I am vetoing House Bill 1156.

Sincerely,

Jack Dalrymple
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-09.1-03 of the North Dakota Century Code is amended and reenacted as follows:

11-09.1-03. Submission of charter to electors.

At least sixty days, but no more than two years, after submission of the charter to the board of county commissioners, the board of county commissioners shall submit the proposed charter ~~must be submitted~~ to a vote of the qualified electors of the county at a special election called by the board or at a primary or general election. If the proposed charter has been submitted to a vote of the qualified electors of the county, the board of county commissioners may call a special election to resubmit the proposed charter to a vote of the qualified electors of the county, and the special election must take place at least sixty days after the call for the special election. The board may amend the proposed charter prior to its resubmission to the electors.

SECTION 2. AMENDMENT. Section 11-09.1-04 of the North Dakota Century Code is amended and reenacted as follows:

11-09.1-04. Ratification by majority vote - Supersession of existing charter and conflicting state laws - Filing of copies of new charter.

If a majority of the qualified electors voting on the charter at the election vote in favor of the home rule charter, it is ratified and becomes the organic law of the county on the first day of January or July next following the election effective date specified in the charter or sixty days after the election, whichever is later, and extends to all its county matters. The charter and the ordinances made pursuant to the charter in county matters must be liberally construed to supersede within the territorial limits and jurisdiction of the county any conflicting state law except for any state law as it applies to cities or any power of a city to govern its own affairs, without the consent of the governing body of the city. The charter may not authorize the enactment of ordinances to diminish the authority of a board of supervisors of a township or to change the structure of township government in any organized civil township, without the consent of the board of supervisors of the township. No ordinance of a home rule county shall supersede section 49-22-16. One copy of the charter as ratified and approved must be filed with the secretary of state; one with the recorder for the county, unless the board of county commissioners designates a different official; and one with the auditor of the county to remain as a part of its permanent records. Courts shall take judicial notice of the charter.

SECTION 3. AMENDMENT. Subsection 6 of section 11-09.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

6. If a majority of the qualified electors voting in each county on the charter votes in favor of the multicounty home rule charter, it is ratified and becomes the organic law of the multicounty area on the first day of January following the election or other effective date specified in the charter or sixty days after the election, whichever is later.

Disapproved April 3, 2013
Filed April 22, 2013

CHAPTER 507**HOUSE BILL NO. 1209**

(Representatives Kreidt, Heller, Rohr, Schmidt, Wieland)
(Senators J. Lee, Unruh)

AN ACT to amend and reenact section 50-24.5-10 of the North Dakota Century Code, relating to compensation for top management personnel of basic care facilities.

VETO

April 11, 2013

The Honorable Bill Devlin
Speaker of the House
House Chambers
State Capitol
Bismarck ND 58505

Dear Speaker Devlin:

Pursuant to Article V, Section 9, of the North Dakota Constitution, I have vetoed House Bill 1209 and returned it to the House.

I hereby veto House Bill 1209 because the enhanced salary reimbursement proposed in the measure is not currently funded in the budget for the Department of Human Services, and there is no indication that it will be funded by either the House or the Senate. The proposal itself, which would allow reimbursement for higher compensation for top management personnel of a basic care facility, is a reasonable proposal, considering the difficulty of retaining good managers in our current economy. However, it is essential that any spending proposal have an identified source of funds. There is still time during this legislative session to amend the necessary language and the required funding of \$435,481 in the budget bill for the Department of Human Services. That decision remains with the legislature.

Therefore, I am vetoing House Bill 1209.

Sincerely,

Jack Dalrymple
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.5-10 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-10. Compensation for top management personnel - Department to adopt emergency rules.

1. Notwithstanding the requirements of subsection 2 of section 28-32-03, the department of human services has the authority to ~~create~~adopt emergency rules related to the compensation for top management personnel of a basic care facility combined with a hospital.
2. Except for a person with at least five percent ownership, a person on the governing board, or any person related within the third degree of kinship to top management personnel, the department of human services may not limit compensation for top management personnel of a basic care facility.

Disapproved April 11, 2013

Filed April 22, 2013

CHAPTER 508

HOUSE BILL NO. 1015

(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 create and enact a new subsection to section 54-44.1-18 of the North Dakota Century Code, relating to political subdivisions submitting budget information to the state budget database website; to amend and reenact section 14-03.2-05 as created by section 1 of House Bill No. 1128, as approved by the sixty-third legislative assembly, section 15.1-27-25, subsection 1 of section 23-35-07, subsection 4 of section 23-35-08, subsection 2 of section 41-09-87, sections 48-10-02 and 54-44.1-04, and subsection 1 of section 57-02-08.1 as amended by Senate Bill No. 2171, and subdivision e of subsection 1 of section 62.1-04-03 as amended by House Bill No. 1327, as approved by the sixty-third legislative assembly, of the North Dakota Century Code and section 12 of House Bill No. 1012, section 1 of House Bill No. 1019, section 5 of House Bill No. 1020, sections 5, 6, and 7 of House Bill No. 1358, and section 15 of Senate Bill No. 2018, as approved by the sixty-third legislative assembly, relating to marital agreement requirements, distributions of royalties, health district budgets, the capitol building fund, Uniform Commercial Code filings, agency budget requests, homestead tax credit, concealed weapons permits, grants to a jurisdiction adjacent to an Indian reservation, appropriations for defraying the expenses of the parks and recreation department, loans to the western area water supply authority, transportation funding distributions, and research North Dakota grants; to provide exemptions; to provide an exception to general fund transfers to the budget stabilization fund; to provide for the use of funds by the department of human services; to provide for various transfers; to provide legislative intent; to provide for a budget section report; to provide for legislative management studies; to provide an effective date; to provide a contingent effective date; and to declare an emergency.

VETO

May 23, 2013

The Honorable Bill Devlin
Speaker of the House
House Chambers
State Capitol
Bismarck, ND 58505

Dear Speaker Devlin:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed items in Sections 13 and 14 and all of Sections 15 and 25 of House Bill 1015 and returned it to the House.

I have vetoed that portion of Section 13 in the second paragraph that reads "The office of management and budget, subject to budget section approval, may adjust the

market policy point based on an estimated inflationary factor during the 2013-15 biennium." This sentence is vetoed because the budget section has no constitutional role in the administration and execution of the compensation plan as adopted by the legislative assembly. This responsibility is a purely executive function not appropriate for ratification by the budget section of the legislative assembly. See City of Carrington v. Foster County, 166 N.W.2d 377, 382 (N.D. 1969) ("[T]here is an implied exclusion of each branch from the exercise of the functions of the others."); NDAG 2007-L-08.

I have vetoed that portion of Section 14 beginning with "PILOT PROJECT" in the section title and continuing through the end of the second-to-last sentence, leaving only the last sentence of Section 14. This item is vetoed because it constitutes an unconstitutional insertion of the Emergency Commission into the management of the state's compensation program. The administration of salary dollars within the limits of legislative appropriations is properly reserved to the executive branch agency directors. The vetoed pilot program would grant the Emergency Commission, a majority of which are legislators, broad discretion to determine whether an agency had provided "documentation justifying the need" for the salary dollars in the accrued leave line. This broad, discretionary review and approval of a purely executive function violates the principle of constitutional separation of powers and is clearly impractical, considering the numerous Emergency Commission meetings that would be required to review and approve each agency's use of this last share of salary dollars. The last sentence of Section 14, which is not vetoed, confirms that accrued leave is simply a type of salary to which state employees are entitled by virtue of their employment. As a result of this item veto, both the accrued leave and salary and wages lines remain available for payment of salaries by any agency. Although the proposed pilot project is eliminated by this item veto, my intention is to direct agencies to rely first and foremost on the salary line and not access the accrued leave line for salary until necessary.

Section 15 is vetoed because it directs the office of management and budget to transfer funds at the request of the Racing Commission from the breeders' fund to the purse fund and racing promotion fund in conflict with N.D.C.C. Section 53-06.2-11, which states: "The commission may not transfer money among the funds." This kind of policy change should be brought forward by the Racing Commission itself and have a full legislative hearing where those who rely on the breeders' fund have an opportunity to be heard. North Dakota's horse breeders rely on the breeders' fund and it should not be accessed for racing promotion or other purposes without full consideration of their objections.

Section 25 is vetoed because a limitation of 60 days on the permissible extension of the July 15th filing date does not provide adequate time to prepare a budget proposal for agencies that experience circumstances justifying a delayed filing schedule. Such circumstances include: uncertainty of federal funding; variability in case load numbers for human service programs; variability in trends of inmate headcounts; unpredictable approvals in federal transportation funding programs; the importance of having more current, accurate revenue projections for water project appropriations from the resources trust fund; availability of fall enrollment numbers for estimating the appropriation necessary to cover the per-student payments for the biennium; and other similar situations.

Sincerely,

Jack Dalrymple
Governor

Disapproved May 23, 2013
Filed May 23, 2013

NOTE: For the full text of House Bill No. 1015, including sections 15 and 25, see chapter 15.

INITIATED MEASURES APPROVED

CHAPTER 509

FARMING AND RANCHING PROTECTED

This initiated measure would add a new section to Article XI of the North Dakota Constitution guaranteeing the right of farmers and ranchers to engage in modern farming and ranching practices.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 29 of article XI of the North Dakota Constitution is created and enacted as follows:

Section 29. The right of farmers and ranches to engage in modern farming and ranching practices shall be forever guaranteed in this state. No law shall be enacted which abridges the right of farmers and ranches to employ agricultural technology, modern livestock production and ranching practices.

Approved November 6, 2012

201,948 to 99,935

NOTE: This was measure No. 3 on the general election ballot.

CHAPTER 510

SMOKING IN PUBLIC PLACES AND WORKSITES PROHIBITED

This initiated measure would amend Chapter 23-12 of the North Dakota Century Code to prohibit smoking, including the use of electronic smoking devices, in public places and most places of employment in this state, including certain outdoor areas. It also provides for notification and enforcement responsibilities, along with penalties for violations.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-12-09 of the North Dakota Century Code is amended and reenacted as follows:

23-12-09. Smoking in public places and places of employment - Definitions.

In sections 23-12-09 through 23-12-11, unless the context or subject matter otherwise requires:

1. "Bar" means a retail alcoholic beverage establishment licensed under chapter 5-02 that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages. The term includes a bar located within a hotel, bowling center, or restaurant, or other establishment that is not licensed primarily or exclusively to sell alcoholic beverages ~~if the bar is in a separately enclosed area.~~
2. "Business" means a sole proprietorship, partnership, association, joint venture, corporation, or other business entity, either for profit or not for profit, including retail establishments where goods or services are sold and professional corporations and other entities where professional services are delivered.
3. "E-cigarette" means any electronic oral device, such as one composed of a heating element and battery or electronic circuit, or both, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, and e-pipe or under any other product, name, or descriptor.
- ~~3-4.~~ "Employee" means an individual who is employed by an employer in consideration for direct or indirect monetary wages or profit, or an individual who volunteers services for an employer.
- ~~4-5.~~ "Employer" means an individual, business, or private club, including a municipal corporation or trust, or the state and its agencies and political subdivisions that employs the services of one or more individuals.
- ~~5-6.~~ "Enclosed area" means all space between a floor and ceiling that ~~is enclosed on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling~~ has thirty-three percent or more of the surface area

of its perimeter bounded by opened or closed walls, windows, or doorways. A wall includes any physical barrier regardless of whether it is open or closed, temporary or permanent, or contains openings of any kind, and includes retractable dividers and garage doors.

- 6-7. "Health care facility" means any office or institution providing health care services, including a hospital; clinic; ambulatory surgery center; outpatient care facility; nursing, basic, or assisted living facility; and laboratory, or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions. Some examples of health care facilities include hospitals; clinics; ambulatory surgery centers; outpatient care facilities; weight control clinics; nursing homes; homes for the aging or chronically ill; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any medical professional licensed under title 43, including all specialties and subspecialties in those fields. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, wards within health care facilities, and any mobile or temporary health care facilities.
- 7-8. "Health care services" includemeans services provided by any health care facility. Some examples of health care services are medical, surgical, dental, vision, chiropractic, psychological, and pharmaceutical services.
- 8-9. "Place of employment" means an area under the control of a public or private employer that employees normally frequent during the course of employment, including work areas, auditoriums, classrooms, conference rooms, elevators, employee cafeterias, employee lounges, hallways, meeting rooms, private offices, restrooms, temporary offices, vehicles, and stairs. A private residence is not a place of employment unless it is used as a licensed child care, adult day care, or health care facility.
- 9-10. "Public place" means an enclosed area to which the public has access or in which the public is permitted, including aenters. Some examples of public places are publicly owned buildingbuildings, vehicles, or office, and enclosed areas available to and customarily used by the general public in businesses and nonprofit entities patronized by the public, including offices; bars; bingo facilities; gambling and gaming facilities as defined in section 12.1-28-01; child care and adult day care facilities subject to licensure by the department of human services, including those operated in private homes when any child cared for under that license is present; convention facilities; educational facilities, both public and private; facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance; financial institutions; health care facilities; hotels and motels, including all rooms that are rented to guests; laundromats; any common areas in apartment buildings, condominiums, mobile home parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; private and semiprivate nursing home rooms; museums, libraries, galleries, and aquariums; polling places; professional offices; public transportation facilities, including buses and trains, airplanes and similar aircraft, taxicabs and similar vehicles such as towncars and limousines when used for public transportation, and ticket, boarding, and waiting areas of public transit depotsfacilities, including bus and train stations and airports; reception areas; restaurants; retail food production and marketing establishments; retail service establishments; retail stores, including tobacco and hookah establishments; rooms, chambers, places of meeting or public assembly, including school

~~buildings; service lines; shopping malls; sports arenas, including enclosed places in outdoor arenas; theaters; and waiting rooms.~~

- ~~40-11. "Publicly owned building, vehicle, or office" means a place or vehicle owned, leased, or rented by any state or political subdivision, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of taxes.~~
- ~~44-12. "Restaurant" includes every building or other structure, or any part thereof, and all buildings in connection therewith that are kept, used, maintained, advertised, or held out to the public as a place where food is served, including, Some examples of restaurants include coffee shops, cafeterias, sandwich stands, private and public school cafeterias, kitchens, and catering facilities in which food is prepared on the premises for serving elsewhere, and a bar area within a restaurant.~~
- ~~12. "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.~~
13. "Shopping mall" means an enclosed public walkway or hall area that serves to connect retail or professional businesses.
14. "Smoking" means possessing a lighted cigar, cigarette, pipe, weed, plant, or any other lighted tobacco product inhaled, exhaled, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. Smoking also includes the use of an e-cigarette which creates a vapor, in any manner or any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Act.
15. "Sports arena" means any facility or area, whether enclosed or outdoor, where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events, including an indoor or outdoor place where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events. Some examples of sports arenas include sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling centers.
- ~~16. "Truckstop" means a roadside service station and restaurant that caters to truck drivers.~~

SECTION 2. AMENDMENT. Section 23-12-10 of the North Dakota Century Code is amended and reenacted as follows:

23-12-10. Smoking restrictions - Exceptions - Retaliation - Application.

1. In order to protect the public health and welfare and to recognize the need for individuals to breathe smoke-free air, smoking is prohibited in all enclosed areas of:
 - a. Public places; and
 - b. Places of employment.

2. Smoking is prohibited within twenty feet [6.10 meters] of entrances, exits, operable windows, air intakes, and ventilation systems of enclosed areas in which smoking is prohibited. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty feet [6.10 meters] is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or place of employment is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.
3. The following areas are exempt from ~~subsections~~subsections 1 and 2:
 - a. ~~Private residences, except when operating those residences used as a child care, adult day care, or health care facility subject to licensure by the department of human services and when any child cared for under that license is present in that facility.~~
 - b. ~~Hotel and motel rooms, and other places of lodging, that are rented to guests and are designated as smoking rooms.~~
 - c. ~~Retail tobacco stores, provided that smoke from these places does not infiltrate into areas where smoking is prohibited under this section.~~
 - d. b. Outdoor areas of places of employment, except a sports arena ~~those listed in subsection 2.~~
 - e. c. Any area that is not commonly accessible to the public and which is part of an owner-operated business having no employee other than the owner-operator.
 - f. Bars.
 - g. ~~Any place of public access rented or leased for private functions from which the general public and children are excluded and arrangements for the function are under the control of the function sponsor.~~
 - h. ~~Separately enclosed areas in truckstops which are accessible only to adults.~~
- 3.4. Smoking as part of a traditional American Indian spiritual or cultural ceremony is not prohibited.
- 4.5. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or other person because that person asserts or exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section. An employee who works in a setting where an employer allows smoking does not waive or surrender any legal rights the employee may have against the employer or any other party. Violations of this subsection shall be a class B misdemeanor.

- 5-6. This section may not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
- 6-7. ~~Before October 1, 2007, the office of management and budget shall develop and implement a uniform policy regarding smoking restrictions with respect to the outdoor areas near the public entrances of all buildings on the state capitol grounds. Notwithstanding any other provision of this chapter, an owner, operator, manager or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.~~

SECTION 3. Section 23-12-10.1 of the North Dakota Century Code is created and enacted as follows:

23-12-10.1. Responsibility of proprietors.

The owner, operator, manager or other person in control of a public place or place of employment where smoking is prohibited by this Act shall:

1. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place.
2. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
3. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Act at least one sign, visible from the vehicle's exterior, stating that smoking is prohibited.
4. Remove all ashtrays from any area where smoking is prohibited, except for ashtrays displayed for sale and not for use on the premises.
5. By the effective date of this Act, communicate to all existing employees and to all prospective employees upon their application for employment that smoking is prohibited in that place.
6. For places under his or her control, direct a person who is smoking in violation of this Act to extinguish the product being smoked. If the person does not stop smoking, the owner, operator, manager, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, operator, manager, or employee shall immediately report the violation to an enforcement agency identified in this Act. The refusal of the person to stop smoking or leave the premises in response to requests made under this section by an owner, operator, manager, or employee shall not constitute a violation of the Act by the owner, operator, manager, or employee.

SECTION 4. AMENDMENT. Section 23-12-10.2 of the North Dakota Century Code is amended and reenacted as follows:

23-12-10.2. Complaints and enforcement - City and county ordinances and home rule charters.

1. State agencies with statutory jurisdiction over a state-owned building or office shall enforce section 23-12-10. These agencies include the fire marshal department, state department of health, department of human services,

legislative council, and office of management and budget. ~~The agencies may mutually agree as to the manner in which enforcement is to be accomplished and may adopt administrative rules to ensure compliance with section 23-12-10, including referral of violations to an appropriate law enforcement agency for enforcement pursuant to section 23-12-11.~~

2. A city or county ordinance, a city or county home rule charter, or an ordinance adopted under a home rule charter may not provide for less stringent provisions than those provided under sections 23-12-09 through 23-12-11. Nothing in this Act shall preempt or otherwise affect any other state or local tobacco control law that provides more stringent protection from the hazards of ~~environmental tobacco~~secondhand smoke. This subsection does not preclude any city or county from enacting any ordinance containing penal language when otherwise authorized to do so by law.
3. The provisions of this Act shall be enforced by state's attorneys who may ask the North Dakota attorney general to adopt administrative rules to ensure compliance with this Act. State and local law enforcement agencies may apply for injunctive relief to enforce provisions of this Act.

SECTION 5. AMENDMENT. Section 23-12-11 of the North Dakota Century Code is amended and reenacted as follows:

23-12-11. Penalty.

1. An individual who smokes in an area in which smoking is prohibited under section 23-12-10 is guilty of an infraction punishable by a fine not exceeding fifty dollars.
2. ~~An~~Except as otherwise provided in subsection 5 of section 23-12-10, an owner or other person with general supervisory responsibility over a public place or place of employment who willfully fails to comply with section 23-12-10 is guilty of an infraction, subject to a fine not to exceed one hundred dollars for the first violation, to a fine not to exceed two hundred dollars for a second violation within one year, and a fine not to exceed five hundred dollars for each additional violation within one year of the preceding violation.
3. In addition to the fines established by this section, violation of this Act by a person who owns, manages, operates, or otherwise controls a public place or place of employment may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
4. Violations of this Act are declared to be a public nuisance that may be abated by restraining order, preliminary or permanent injunction, or other means provided by law.
5. Each day on which a violation of this Act occurs shall be considered a separate and distinct violation.

SECTION 6. Section 23-12-12 of the North Dakota Century Code is created and enacted as follows:

23-12-12. Construction and severability.

This Act shall be construed liberally so as to further its purposes. The provisions of this Act are declared to be severable. If any provision, clause, sentence, or paragraph of this Act, or its application to any person or circumstances, shall be held invalid, that invalidity shall not affect the other provisions of this Act that can be given without the invalid provision or applications.

SECTION 7. REPEAL. Section 23-12-10.3 of the North Dakota Century Code is repealed.

[23-12-10.3. Exceptions - Medical necessity.

1. Notwithstanding the provisions of any other state or local law, a patient may smoke in a hospital licensed by the state or on the grounds of a hospital licensed by the state if the patient's attending physician authorizes the activity based on medical policies adopted by the hospital organized medical staff.
2. Notwithstanding the provisions of any other state or local law, a resident of a licensed basic care facility or licensed nursing facility may smoke in the facility or on the grounds of the facility if approved by the board of the facility.]

Approved November 6, 2012

209,488 to 104,730

NOTE: This was measure No. 4 on the general election ballot.

INITIATED MEASURES DISAPPROVED

CHAPTER 511

PROPERTY TAXES ELIMINATED

This initiated measure would amend Sections 1, 4, 14, 15, and 16 of Article X of the Constitution of North Dakota and repeal Sections 5, 6, 7, 9, and 10 of that same article, eliminating property taxes, poll taxes, and acreage taxes, effective January 1, 2012. The measure would replace the lost revenues with allocations of various state-level taxes and other revenues, without restrictions on how these revenues may be spent.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1 of article X of the Constitution of North Dakota is amended and reenacted as follows:

Section 1. The legislative assembly shall be and all political subdivisions are prohibited from raising revenue to defray the expenses of the state or political subdivisions through the levying of a tax on the assessed value of real or personal property.

SECTION 2. AMENDMENT. Section 4 of article X of the Constitution of North Dakota is amended and reenacted as follows:

Section 4. ~~All taxable property except as hereinafter in this section provided, shall be assessed in the county, city, township, village or district in which it is situated, in the manner prescribed by law. The property, including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies, car equipment companies, or private car line companies, telegraph or telephone companies, the property of any person, firm or corporation used for the purpose of furnishing electric light, heat or power, or in distributing the same for public use, and the property of any other corporation, firm or individual now or hereafter operating in this state, and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the state board of equalization in a manner prescribed by such state board or commission as may be provided by law. But should any railroad allow any portion of its railway to be used for any purpose other than the operation of a railroad thereon, such portion of its railway, while so used shall be assessed in a manner provided for the assessment of other real property.~~

1. Taxes upon real property which were used before 2012 to fund the operations of counties, cities, townships, school districts, park districts, water districts, irrigation districts, fire protection districts, soil conservation districts, and other political subdivisions with authority to levy property taxes must be replaced with revenues from the proceeds of state sales taxes, individual and corporate income taxes, oil and gas production and extraction taxes, tobacco taxes, lottery revenues, financial institutions taxes, and other state resources.
2. The legislative assembly shall direct as much oil and gas production and extraction tax, tobacco tax, lottery revenue, and financial institutions tax as

necessary to fund the share of elementary and secondary education not funded through state revenue sources before 2012. The state cannot condition the expenditure of this portion of elementary and secondary education funding in any manner and school boards have sole discretion in how to allocate the expenditure of this portion of the elementary and secondary funding provided.

3. The legislative assembly shall direct a share of sales taxes, individual and corporate income taxes, insurance premium taxes, alcoholic beverage taxes, mineral leasing fees, and gaming taxes and any oil and gas production and extraction taxes, tobacco taxes, lottery revenues, and financial institutions taxes not allocated to elementary and secondary schools to counties, cities, and other political subdivisions according to a formula devised by the legislative assembly to fully and properly fund the legally imposed obligations of the counties, cities, townships, and other political subdivisions. The allocation of the amount determined by the legislative assembly must be provided to the governing bodies of counties, cities, townships, and other political subdivisions. How counties, cities, townships, and other political subdivisions choose to allocate the expenditures of this revenue is at the sole direction of the governing bodies of counties, cities, townships, and other political subdivisions.

SECTION 3. AMENDMENT. Section 14 of article X of the Constitution of North Dakota is amended and reenacted as follows:

Section 14.

1. Notwithstanding any other provision in the constitution, and for the purpose of promoting the economic growth of the state, the development of its natural resources, and the prosperity and welfare of its people, the state may issue bonds and use the proceeds thereof to make loans to privately or cooperatively owned enterprises to plan, construct, acquire, equip, improve, and extend facilities for converting natural resources into power and generating and transmitting such power, and to acquire real and personal property and water and mineral rights needed for such facilities.
2. The state may issue general obligation bonds for this purpose to an amount which, with all outstanding general obligation bonds, less the amount of all money on hand and taxes in process of collection which are appropriated for their payment, will not exceed five percent of the ~~full and true~~market value of all of the ~~taxable~~ property in the state, to be ascertained by the last assessment made for state and county purposes; ~~but nothing herein shall.~~ The provision does not increase or diminish the limitations established by other provisions of the constitution on the amount of bonds therein authorized to be issued.
3. The state may also issue revenue bonds for the purpose of providing part or all of the funds required for any project undertaken under subsection 1, payable solely from sums realized from payments of principal and interest on money loaned for such project, and from other similar projects if so determined by the legislature~~legislative assembly~~, and from the liquidation of security given for such payments. Revenue bonds issued for any project shall not exceed the cost thereof, including all expenses reasonably incurred to complete and finance the project, but shall not be subject to any other limitation of amount.

4. The full faith and credit of the state shall be pledged for the prompt and full payment of all bonds issued under subsection 2. Its obligation with respect to bonds issued under subsection 3 shall be limited to the prompt and full performance of such covenants as the legislature~~legislature~~ legislative assembly may authorize to be made respecting the enforcing of the provisions of underlying loan agreements and the segregation, accounting, and application of bond proceeds and of loan payments and other security pledged for the payment of the bonds. All bonds authorized by subsections 1 to 3, inclusive, shall mature within forty years from their respective dates of issue, but may be refunded at or before maturity in such manner and for such term and upon such conditions as the legislature~~legislature~~ legislative assembly may direct. Any such bonds may, but need not be, secured by mortgage upon real or personal property acquired with the proceeds of the same or any other issue of general obligation or revenue bonds, or upon other property mortgaged by the debtor. Pledges of revenues and mortgages of property securing bonds of any issue may be prior or subordinate to or on a parity with pledges and mortgages securing any other issue of general obligation or revenue bonds, as determined by the legislature~~legislature~~ legislative assembly from time to time in conformity with any provisions made for the security of outstanding bonds.
5. The legislature~~legislature~~ legislative assembly shall pass such laws as are appropriate to implement this amendment.
6. If any subsection of this amendment, or any part of a subsection, or any application thereof to particular circumstances should be held invalid for any reason, such invalidity shall not affect the validity of all remaining provisions of this amendment which may be given effect without that which is declared invalid, as applied to any circumstances and for this purpose all subsections and parts of subsections and applications thereof are declared to be severable.

SECTION 4. AMENDMENT. Section 15 of article X of the Constitution of North Dakota is amended and reenacted as follows:

Section 15. The debt of any county, township, city, ~~town~~, school district or any other political subdivision, shall never exceed five per centum upon the ~~assessed~~market value of the ~~taxable~~ property therein; provided that any incorporated city may, by a two-thirds vote, increase such indebtedness three per centum on such ~~assessed~~market value beyond said five per centum limit, and a school district, by a majority vote may increase such indebtedness five percent on such ~~assessed~~market value beyond said five per centum limit; provided also that any county or city by a majority vote may issue bonds upon any revenue-producing utility owned by such county or city, or for the purchasing or acquiring the same or building or establishment thereof, in amounts not exceeding the physical value of such utility, industry or enterprise.

In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount, exclusive of the bonds upon said revenue-producing utilities, whether contracted prior or subsequent to the adoption of this constitution, shall be included; provided further that any incorporated city may become indebted in any amount not exceeding four per centum of such ~~assessed~~market value without regard to the existing indebtedness of such city for the purpose of constructing or purchasing waterworks for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purposes whatever. All bonds and obligations in excess of the amount of

indebtedness permitted by this constitution, given by any city, county, township, ~~town~~, school district, or any other political subdivision shall be void.

SECTION 5. AMENDMENT. Section 16 of article X of the Constitution of North Dakota is amended and reenacted as follows:

Section 16. Any city, county, township, ~~town~~, school district or any other political subdivision incurring indebtedness shall, at or before the time of so doing, provide for ~~the collection of an annual tax~~ revenues sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrepealable until such debt be paid.

SECTION 6. REPEAL. Sections 5, 6, 7, 9, and 10 of article X of the Constitution of North Dakota are repealed.

SECTION 7. EFFECTIVE DATE. If approved by the voters, this measure becomes effective on January 1, 2012.

Disapproved June 12, 2012

40,438 to 131,903

NOTE: This was measure No. 2 on the primary election ballot.

CHAPTER 512

BURDENING RELIGIOUS LIBERTY PROHIBITED

This initiated measure would add a new section to Article I, of the Constitution of North Dakota, preventing the government from burdening the sincere exercise of religious liberty by a person or religious organization, absent proof of a compelling governmental interest, and then only by use of the least restrictive means.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. A new section to article I of the Constitution of North Dakota is created and enacted as follows:

Government may not burden a person's or religious organization's religious liberty. The right to act or refuse to act in a manner motivated by a sincerely held religious belief may not be burdened unless the government proves it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest. A burden includes indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access to facilities.

Disapproved June 12, 2012

60,611 to 107,831

NOTE: This was measure No. 3 on the primary election ballot.

CHAPTER 513

ANIMAL CRUELTY PREVENTION

This initiated measure would create new Section 36-21.1-02.1 to the North Dakota Century Code making it a Class C felony for an individual to maliciously and intentionally harm a living dog, cat, or horse and providing a court with certain sentencing options. The measure would not apply to production agriculture, or to lawful activities of hunters and trappers, licensed veterinarians, scientific researchers, or individuals engaged in lawful defense of life or property.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. Section 36-21.1-02.1 of the North Dakota Century Code is created and enacted as follows:

36-21.1-02.1. Aggravated animal cruelty - Prevention of Extreme Cruelty to Dogs, Cats, and Horses Act.

1. Any individual who maliciously and intentionally burns, poisons, crushes, suffocates, impales, drowns, blinds, skins, beats to death, drags to death, exsanguinates, disembowels, or dismembers any living dog, cat, or horse is guilty of a class C felony.
2. The prohibition in subsection 1 does not apply to:
 - a. Hunting, trapping, fishing, or any other activity that requires a license or permit under chapter 20.1-03;
 - b. The marking of an animal for identification, and any other activity that is a usual and customary practice in production agriculture;
 - c. Examination, testing, individual treatment, operation, or euthanasia performed by or under the supervision of a licensed veterinarian;
 - d. Lawful medical or scientific research conducted at a public or private facility or laboratory by or under the direction of a qualified researcher;
 - e. Any lawful activity undertaken to protect a person's life or property from a serious threat caused by a dog, cat, or horse; and
 - f. Any other lawful activity exempt from the definition of "'cruelty' or 'torture'" contained in section 36-21.1-01.
3. In addition to any imprisonment or fine, or both, ordered pursuant to chapter 12.1-32, any individual who violates subsection 1 also may, at the discretion of the court, be:
 - a. Ordered to undergo mandatory psychological or psychiatric evaluation and obtain psychological counseling, including counseling in responsible pet ownership or animal cruelty prevention, for which the person shall bear any costs incurred; and

- b. Ordered not to own or possess a dog, cat, or horse for up to five years after the date of the sentencing.

Disapproved November 6, 2012

109,401 to 206,547

NOTE: This was measure No. 5 on the general election ballot.

REFERRED MEASURES APPROVED

CHAPTER 514

SIoux NICKNAME AND LOGO

This referendum measure would reject Senate Bill No. 2370 as passed by the legislature in the November 2011 special session and printed below. Senate Bill No. 2370 repealed Section 15-10-46 of the North Dakota Century Code which had required that the Fighting Sioux nickname and logo be used by the University of North Dakota.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SENATE BILL NO. 2370

AN ACT relating to adoption of a nickname and logo for the university of North Dakota athletic teams; to repeal section 15-10-46 of the North Dakota Century Code, relating to the university of North Dakota fighting Sioux nickname and logo; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. UNIVERSITY OF NORTH DAKOTA ATHLETIC NICKNAME AND LOGO. Neither the state board of higher education nor the university of North Dakota may adopt or implement an athletic nickname or corresponding logo before January 1, 2015.

SECTION 2. REPEAL. Section 15-10-46 of the North Dakota Century Code is repealed.

SECTION 3. EFFECTIVE DATE. This Act becomes effective on December 1, 2011.

Approved June 12, 2012

113,865 to 55,225

NOTE: This was measure No. 4 on the primary election ballot.

CONSTITUTIONAL AMENDMENTS APPROVED

CHAPTER 515

HOUSE CONCURRENT RESOLUTION NO. 3047

(Representatives Carlson, Koppelman)
(Senator Christmann)

LEGISLATOR APPOINTMENT TO STATE OFFICE

A concurrent resolution to amend and reenact section 6 of article IV of the Constitution of North Dakota, relating to the appointment of a member of the legislative assembly to a full-time appointive state office.

STATEMENT OF INTENT

This measure provides that a member of the legislative assembly may not be appointed to an office for which the compensation has been increased in an amount greater than any general increase provided to full-time state employees by the legislative assembly during that member's term of office.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed amendment to section 6 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 primary election to be held in 2012, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 6 of article IV of the Constitution of North Dakota is amended and reenacted as follows:

Section 6. While serving in the legislative assembly, no member may hold any full-time appointive state office established by this constitution or designated by law. During the term for which elected, no member of the legislative assembly may be appointed to any full-time office ~~which that~~ has been created, ~~or by the legislative assembly.~~ During the term for which elected, no member of the legislative assembly may be appointed to any full-time office for which the compensation has been increased, by the legislative assembly during that term has increased the compensation in an amount greater than the general rate of increase provided to full-time state employees.

Approved June 12, 2012

96,951 to 63,350

NOTE: This was measure No. 1 on the 2012 primary election ballot.

CHAPTER 516**SENATE CONCURRENT RESOLUTION NO. 4006**

(Senators Dever, Lyson, Mathern)
(Representatives L. Meier, Koppelman)

POLL TAX ELIMINATED

A concurrent resolution for the repeal of section 6 of article X of the Constitution of North Dakota, relating to elimination of the authority for the legislative assembly to levy an annual poll tax.

STATEMENT OF INTENT

This measure removes the constitutional provision allowing the legislative assembly to levy an annual poll tax of not more than one dollar and fifty cents on every male inhabitant of this state over twenty-one and under fifty years of age, except paupers, idiots, insane persons, and Indians not taxed.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed repeal of section 6 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 2012, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. REPEAL. Section 6 of article X of the Constitution of North Dakota is repealed.

Approved November 6, 2012

206,178 to 82,518

NOTE: This was measure No. 1 on the 2012 general election ballot.

CHAPTER 517

HOUSE CONCURRENT RESOLUTION NO. 3009

(Representatives Conklin, Koppelman)
(Senators Mathern, Warner)

OATHS OF OFFICE

A concurrent resolution for the amendment of section 4 of article XI of the Constitution of North Dakota, relating to oaths of office of elected and appointed officials.

STATEMENT OF INTENT

This amendment provides that members of the executive branch are required to take the oath prescribed by this section.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed amendment to section 4 of article XI 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 2012, in accordance with section 16 of article IV of the Constitution of North Dakota.

SECTION 1. AMENDMENT. Section 4 of article XI of the Constitution of North Dakota is amended and reenacted as follows:

Section 4. Members of the legislative assembly and ~~the executive and judicial department branches,~~ except such inferior officers as may be by law exempted ~~shall,~~ before they enter on the duties of their respective offices, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm as the case may be) that I will support the Constitution of the United States and the Constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of _____ according to the best of my ability, so help me God" (if an oath), (under pains and penalties of perjury) if an affirmation, and ~~no~~any other oath, declaration, or test ~~shall~~may not be required as a qualification for any office or public trust.

Approved November 6, 2012

259,541 to 32,926

NOTE: This was measure No. 2 on the 2012 general election ballot.

CONSTITUTIONAL AMENDMENTS PROPOSED

CHAPTER 518

HOUSE CONCURRENT RESOLUTION NO. 3034

(Representatives Kretschmar, Brabandt, Delmore, Maragos, Paur)
(Senators Erbele, Lyson)

INITIATED MEASURE PETITION REQUIREMENTS

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 ~~ninety~~one 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.

Filed April 26, 2013

NOTE: This will be measure No. 1 on the 2014 primary election ballot.

CHAPTER 519**SENATE CONCURRENT RESOLUTION NO. 4009**

(Senators Sitte, Luick, Unruh)
(Representatives Damschen, Heller, Rohr)

**RIGHT TO LIFE AT EVERY
STAGE OF DEVELOPMENT PROTECTED**

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.

Filed March 25, 2013

NOTE: This will be measure No. 1 on the 2014 general election ballot.

CHAPTER 520**HOUSE CONCURRENT RESOLUTION NO. 3006**

(Representatives Louser, Beadle, Dosch, Headland,
K. Koppelman, Larson, Nathe, Schatz)
(Senators Cook, Hogue, Miller)

MORTGAGE AND TRANSFER 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.

Filed April 26, 2013

NOTE: This will be measure No. 2 on the 2014 general election ballot.

CHAPTER 521

HOUSE CONCURRENT RESOLUTION NO. 3047

(Representatives Carlson, Martinson, Nathe, Vigesaa)
(Senators Grindberg, Hogue, Schaible)

HIGHER EDUCATION COMMISSION

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.

Filed May 6, 2013

NOTE: This will be measure No. 3 on the 2014 general election ballot.

CHAPTER 522

HOUSE CONCURRENT RESOLUTION NO. 3011

(Representatives Carlson, Delzer, Devlin, Monson)
(Senators Grindberg, Hogue)

INITIATED MEASURE IMPACT AND PLACEMENT

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.

Filed May 6, 2013

NOTE: This will be measure No. 4 on the 2014 general election ballot.

HOUSE CONCURRENT RESOLUTIONS

CHAPTER 523

HOUSE CONCURRENT RESOLUTION NO. 3001

(Legislative Management)
(Advisory Commission on Intergovernmental Relations)

A concurrent resolution directing the Legislative Management to study issues related to development of group housing and crew camps, including infrastructure demands, health and safety requirements, regulation, and enforcement of regulatory violations.

WHEREAS, the number of crew camps and other group housing facilities and locations has grown significantly due to the lack of permanent housing in growth areas of the state; and

WHEREAS, the increase in population and the need for utilities and services have had significant impacts on the resources of local governments; and

WHEREAS, numerous cities and counties have enacted ordinances regulating the siting of group housing and crew camps and other jurisdictions are considering regulations as this type of housing continues to expand; and

WHEREAS, a comprehensive study of issues related to the development of group housing and crew camps could aid political subdivisions in the planning and development of necessary infrastructure and appropriate regulations and examine whether state agencies have resources and expertise to assist political subdivisions in ensuring that the health and safety of the public are protected while appropriate housing facilities are available to meet the needs of employers in the 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 development of group housing and crew camps, including infrastructure demands, health and safety requirements, regulation, and enforcement of regulatory violations; 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-fourth Legislative Assembly.

Filed April 8, 2013

CHAPTER 524**HOUSE CONCURRENT RESOLUTION NO. 3009**

(Representatives Beadle, Heilman, N. Johnson, Sanford, Mock)
(Senators Flakoll, Miller)

A concurrent resolution directing the Legislative Management to study the use of open textbooks in the North Dakota University System, including options to develop partnerships with other states to use open textbooks.

WHEREAS, a North Dakota University System student pays an estimated average of \$1,100 per year for academic course textbooks; and

WHEREAS, high textbook costs create a financial burden for students to attend a higher education institution which may limit student access to higher education; and

WHEREAS, open textbooks are published under a license that enables students to obtain free or low-cost versions of electronic or printed academic textbooks; and

WHEREAS, the use of open textbooks can significantly reduce higher education costs for students which increases student access to higher education; and

WHEREAS, the use of open textbooks among all North Dakota University System institutions and other states' higher education systems for common core courses may result in efficiencies reducing state costs related to higher education;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the use of open textbooks in the North Dakota University System, including options to develop partnerships with other states to use open textbooks; 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-fourth Legislative Assembly.

Filed March 22, 2013

CHAPTER 525**HOUSE CONCURRENT RESOLUTION NO. 3010**

(Representatives Steiner, Delzer, Froseth, Hatlestad,
Heller, Kreidt, Laning, Rohr, Schmidt, Onstad)
(Senators Lyson, Unruh)

A concurrent resolution urging Congress and the United States Army Corps of Engineers to ensure that access to Lake Sakakawea and Lake Oahe for agriculture, commerce, energy and water development, and recreation is not inhibited by unreasonable regulations and to address proper funding for all project purposes and weed control on Lake Sakakawea and Lake Oahe.

WHEREAS, North Dakota has sacrificed hundreds of thousands of acres of production farm and ranch land for the development of the Lake Sakakawea and Lake Oahe project areas; and

WHEREAS, Congress and the United States Army Corps of Engineers have legal and historical obligations to the state of North Dakota under the Flood Control Act of 1944 [Pub. L. 78-534; 58 Stat. 887; 16 U.S.C. 460d et seq.; 33 U.S.C. 701 et seq.] to ensure proper funding is provided for all project purposes, and public access to the project areas of Lake Sakakawea and Lake Oahe; and

WHEREAS, the United States Army Corps of Engineers has a federal legal obligation to adequately budget noxious weed control on all project lands pursuant to the Carlson-Foley Act of 1968 [Pub. L. 90-583; 82 Stat. 1146; 43 U.S.C. 1241 et seq.] and the Federal Noxious Weed Act of 1974 [Pub. L. 93-629; 88 Stat. 2148; 7 U.S.C. 2801 et seq.], and adequate funding to fulfill these duties has not been budgeted for by the United States Army Corps of Engineers nor provided by Congress; and

WHEREAS, the North Dakota Legislative Assembly requests that the United States Army Corps of Engineers include as agenda items the topics of lake, dock, and shoreline access as well as weed control in a public hearing held in North Dakota in 2013 to discuss lake management issues;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-third Legislative Assembly urges Congress and the United States Army Corps of Engineers to ensure that access to Lake Sakakawea and Lake Oahe for agriculture, commerce, energy and water development, and recreation is not inhibited by unreasonable regulations and to address proper funding for all project purposes and weed control on Lake Sakakawea and Lake Oahe; 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 and each member of the North Dakota Congressional Delegation.

Filed April 16, 2013

CHAPTER 526**HOUSE CONCURRENT RESOLUTION NO. 3012**

(Representatives Strinden, Owens, Sanford, Delmore,
Glassheim, Holman, Mock, Mooney, Oversen)
(Senators Murphy, Schneider, Triplett)

A concurrent resolution urging the United States Air Force to select the Grand Forks Air Force Base as the active duty main operating base for the new KC-46A refueling tanker mission.

WHEREAS, the Grand Forks Air Force Base is one of four finalists to serve as the active duty main operating base for the United States Air Force's new KC-46A tanker mission; and

WHEREAS, the Grand Forks Air Force Base successfully hosted a KC-135 tanker mission for over fifty years, from 1960 to 2010; and

WHEREAS, existing infrastructure and recent expansions in housing capacity would lend to successfully hosting the KC-46A tanker mission; and

WHEREAS, the Grand Forks Air Force Base has an exemplary record of service; and

WHEREAS, the vast, open airspace of the Northern Plains has proven to be an ideal setting for the operation of both training and active duty aerial missions; and

WHEREAS, the Grand Forks Air Force Base was selected to house and support unmanned aircraft missions being launched around the globe; and

WHEREAS, the geographic location of the Grand Forks Air Force Base provides access to strategic aerial routes over the North Pole; and

WHEREAS, the Grand Forks community showed its overwhelming support for the Grand Forks Air Force Base during base realignment and closure in 2005;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-third Legislative Assembly urges the United States Air Force to select the Grand Forks Air Force Base as the active duty main operating base for the new KC-46A refueling tanker mission; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Secretary of Defense, the Commander of the Grand Forks Air Force Base, the General Air Force Chief of Staff, and to each member of the North Dakota Congressional Delegation.

Filed March 22, 2013

CHAPTER 527

HOUSE CONCURRENT RESOLUTION NO. 3013

(Representatives Beadle, Heilman, N. Johnson,
Looyesen, Sanford, Mock, Oversen)
(Senator Flakoll)

A concurrent resolution urging the State Board of Higher Education and faculty members of North Dakota University System institutions to increase the use of open textbooks for academic courses in order to reduce the financial burden to higher education students.

WHEREAS, a North Dakota University System student pays an estimated average of \$1,100 per year for academic course textbooks; and

WHEREAS, high textbook costs create a financial burden for students to attend a higher education institution which may limit student access to higher education; and

WHEREAS, open textbooks are published under a license that enables students to obtain free or low-cost versions of electronic or printed academic textbooks; and

WHEREAS, the use of open textbooks can significantly reduce higher education costs for students which increases student access to higher education; and

WHEREAS, the use of open textbooks among all North Dakota University System institutions and other states' higher education systems for common core courses may result in efficiencies reducing state costs related to higher education;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-third Legislative Assembly urges the State Board of Higher Education and faculty members of North Dakota University System institutions to increase the use of open textbooks for academic courses in order to reduce the financial burden to higher education students; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the State Board of Higher Education, to the Chancellor of the North Dakota University System, and to each North Dakota University System institution president.

Filed March 22, 2013

CHAPTER 528**HOUSE CONCURRENT RESOLUTION NO. 3014**

(Representatives Mock, Dosch, Heller, N. Johnson,
Kreidt, Rohr, Schatz, Schmidt, Steiner, Thoreson)
(Senators Unruh, Wardner)

A concurrent resolution urging the United States Department of the Interior's Bureau of Reclamation and North Dakota's Congressional Delegation to work together to find a solution that allows people occupying lots around Lake Tschida under bureau-issued permits to freely transfer their permits and to leave nonpermanent structures, such as mobile homes, on their lots and that the state Attorney General consider taking such action as may be helpful to bring about the desired solution.

WHEREAS, the Bureau of Reclamation recently announced new policies that will restrict the transferability of permits to lots around Lake Tschida and that will require removal from those lots of nonpermanent structures, such as mobile homes; and

WHEREAS, these new policies change a half century of past policies; and

WHEREAS, these new policies adversely affect, and in many instances substantially so, economic and other decisions made by permitholders in reliance on the continuation of bureau policies; and

WHEREAS, businesses from the small towns near Lake Tschida, as well as officials in those towns, are concerned about the adverse consequences for them if the bureau's new policies are not rescinded or revised; and

WHEREAS, Lake Tschida permitholders have sought to work with the bureau and North Dakota's Congressional Delegation to find an amicable resolution to the concerns of all interests;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-third Legislative Assembly urges the United States Department of the Interior's Bureau of Reclamation and North Dakota's Congressional Delegation to work together to find a solution that allows people occupying lots around Lake Tschida under bureau-issued permits to freely transfer their permits and to leave nonpermanent structures, such as mobile homes, on their lots and that the state Attorney General consider taking such action as may be helpful to bring about the desired solution; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Secretary of the Department of the Interior, the Commissioner of the Bureau of Reclamation, to each member of the North Dakota Congressional Delegation, and to the state Attorney General.

Filed April 8, 2013

CHAPTER 529**HOUSE CONCURRENT RESOLUTION NO. 3015**

(Representatives Vigesaa, Carlson, Devlin, Nathe, Onstad)
(Senators Flakoll, Schneider, Wardner)

A concurrent resolution declaring Monday, February 11, 2013, "North Dakota Close-Up Day".

WHEREAS, the North Dakota Close-Up program is designed to ignite interest in the democratic process and instill in young people the desire to become active participants in their government; and

WHEREAS, the North Dakota Close-Up program concentrates on the functions and structures of state government and defines constitutional responsibilities assigned to each of the three branches of government; and

WHEREAS, the focus of the 2013 North Dakota Close-Up program is the legislative branch of government; and

WHEREAS, the North Dakota Close-Up program has been in existence over two decades; and

WHEREAS, it is anticipated that nearly 100 North Dakota high school students will participate in the 2013 North Dakota Close-Up program;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-third Legislative Assembly declares Monday, February 11, 2013, "North Dakota Close-Up Day"; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the North Dakota Council of Educational Leaders.

Filed February 7, 2013

CHAPTER 530**HOUSE CONCURRENT RESOLUTION NO. 3016**

(Representatives Kiefert, Bellew, Fehr, Heilman, K. Koppelman, Porter, Wall)
(Senators Dotzenrod, Grabinger, Heckaman, Luick, Miller)

A concurrent resolution directing the Legislative Management to study the use of natural gas as fuel in motor vehicles.

WHEREAS, this state has an abundance of natural gas and an increase in demand in natural gas would help reduce the flaring of natural gas; and

WHEREAS, for there to be a general acceptance of natural gas vehicles in this state, there needs to be the strategic placement of natural gas fueling stations throughout this state; and

WHEREAS, natural gas is approximately one-third cheaper than gasoline on a comparable unit basis and over time the savings would cover the cost of the fueling stations; and

WHEREAS, one manner in which to increase the number of fueling stations in this state is to have state and political subdivision vehicles powered with natural gas and have the fueling stations open to the public; and

WHEREAS, the retail petroleum distribution system already exists in this state;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the use of natural gas as fuel in motor vehicles; 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-fourth Legislative Assembly.

Filed April 23, 2013

CHAPTER 531

HOUSE CONCURRENT RESOLUTION NO. 3017

(Representatives Brandenburg, Belter, Headland, Kempenich, Schmidt, Boe)
(Senators Schaible, Wanzek, Dotzenrod, O'Connell)

A concurrent resolution urging the United States Fish and Wildlife Service and the United States Department of Agriculture's Natural Resources Conservation Service to fairly administer water management laws and regulations in a manner that allows landowners and tenants certainty and cooperation in the management of these laws and regulations.

WHEREAS, North Dakota agriculture is the state's number one industry and economic engine; and

WHEREAS, orderly water management is critical for agriculture's continued success in the state; and

WHEREAS, orderly water management is vital to soil stewardship and soil health; and

WHEREAS, orderly water management will reduce the number of unproductive acres of cropland, reducing prevent plant acres and decreasing the cost of the crop insurance program, while enhancing crop production for the benefit of the state and the world's population; and

WHEREAS, in the area of proper water management, North Dakota farmers and ranchers have been stymied by the regulatory burden caused by inconsistent and misinterpreted water management laws and regulations; and

WHEREAS, federal agencies, including the United States Department of Agriculture's Natural Resources Conservation Service and the United States Fish and Wildlife Service have perpetuated an environment of overregulation and misinterpretation of water management laws and regulations, instead of an environment of cooperation and assistance to North Dakota farmers and ranchers; and

WHEREAS, the Natural Resources Conservation Service and the Fish and Wildlife Service have made questionable "year specific" wetland conversion determinations without reasonable review of the historic rainfall events and the erosion of the rainfall events that have affected this state since 1992; and

WHEREAS, producers in this state have several hundred acres of cropland that have been awaiting wetland determinations by the Natural Resources Conservation Service for many years and have in good faith attempted to comply with the now rigorous implementation of an age-old wetlands law; and

WHEREAS, the Natural Resources Conservation Service and the Fish and Wildlife Service need to consider the emotional and financial well-being of the farmers, ranchers, landowners, and tenants being charged with purported wetland violations; and

WHEREAS, the United States Department of Agriculture's Farm Service Agency's relief authority, otherwise known as good-faith effort determinations, and reinstatement of benefits should not be bound by limitations on the number of good-faith effort determinations provided; and

WHEREAS, this state has the governmental agencies and resources to manage wetlands; and

WHEREAS, the waterfowl population is stable and secure, and the United States Fish and Wildlife Service should allow this state to manage wetlands within the state's boundaries;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-third Legislative Assembly urges the United States Fish and Wildlife Service specifically define all of its easement boundaries and present these easement boundaries to impacted landowners and tenants as soon as possible; and

That the United States Department of Agriculture's Natural Resources Conservation Service more clearly define and more consistently implement their mission statement of "Helping People Help the Land" and apply its rules and regulations accordingly regarding water management in North Dakota; and

That the Natural Resources Conservation Service clearly define, for North Dakota farmers, ranchers, landowners, and tenants, all of the options available for implementing orderly water management strategies; and

That the Natural Resources Conservation Service and Fish and Wildlife Service provide technical assistance to North Dakota farmers, ranchers, landowners, and tenants to achieve orderly water management without fear of retribution or findings of other wetland violations; and

That processes undertaken in regards to orderly water management by the Natural Resources Conservation Service and the Fish and Wildlife Service are completed in a timely fashion; and

That in cases where the Natural Resources Conservation Service and the Fish and Wildlife Service declares an area of land as converted wetlands and impose penalties, these agencies work with farmers, ranchers, landowners, and tenants to correct the unintentional land management practice; and

That in cases of disputes between farmers, ranchers, landowners, and tenants and the Natural Resources Conservation Service and the Fish and Wildlife Service, farmers, ranchers, landowners, and tenants are afforded time to employ corrective action before an official determination of a violation is made; and

That in cases of dispute between the Natural Resources Conservation Service or the Fish and Wildlife Service and farmers, ranchers, landowners, and tenants, the later are afforded mediation through the United States Department of Agriculture and the North Dakota Department of Agriculture and are provided the appeals processes in a timely fashion; and

That in the case of the United States Department of Agriculture's Farm Service Agency's review of relief, also known as good-faith effort determinations, no limitation of the number of good-faith effort determinations should be established for a farmer, rancher, landowner, or tenant due to the Natural Resources Conservation Service's erratic and delayed implementation of wetlands certifications and determinations; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, the Chairmen and ranking members of the United States Senate and United States House of Representatives Committees on Agriculture, the United States Secretary of Agriculture, the Chief of the United States Department of Agriculture's Natural Resources Conservation Service, the Director of the United States Fish and Wildlife Service, and to each member of the North Dakota Congressional Delegation.

Filed April 23, 2013

CHAPTER 532**HOUSE CONCURRENT RESOLUTION NO. 3019**

(Representative Louser)

A concurrent resolution directing the Legislative Management to study the property tax system.

WHEREAS, property taxes levied by political subdivisions constitute a very substantial share of the cost of owning and using property in the state; and

WHEREAS, assessment and levy of property taxes has been the primary funding source for local government services since before statehood but the system continues to be subject to criticism by taxpayers and ongoing legislative efforts to create more fairness and lower tax burdens; and

WHEREAS, the Legislative Assembly must closely monitor the property tax system and examine options for improvements that could reduce the property tax burden and enhance the fairness and uniformity of the property tax system;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study the property tax system; 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-fourth Legislative Assembly.

Filed April 17, 2013

CHAPTER 533**HOUSE CONCURRENT RESOLUTION NO. 3021**

(Representatives Amerman, J. Kelsh, Wall)
(Senators Dotzenrod, Luick)

A concurrent resolution directing the Legislative Management to study the feasibility and desirability of providing assistance to obtain rural water for households with arsenic and other harmful substances in the well water.

WHEREAS, water is essential for human life and production agriculture; and

WHEREAS, harmful substances in drinking water especially affect children; and

WHEREAS, there are wells that provide water to families in this state which have unsafe levels of arsenic in the present water supply; and

WHEREAS, the federal government has stopped funding to provide rural water to those households;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That Legislative Management study the feasibility and desirability of providing assistance to obtain rural water for households with arsenic and other harmful substances in the well water; 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-fourth Legislative Assembly.

Filed April 17, 2013

CHAPTER 534

HOUSE CONCURRENT RESOLUTION NO. 3022

(Representatives Schatz, Belter, Boehning, Dockter, Froseth, Headland, Larson)

A concurrent resolution urging Congress to amend the Federal Meat Inspection Act for the purpose of allowing flexibility in state meat inspection programs.

WHEREAS, the Federal Meat Inspection Act of 1906 was enacted to prevent adulterated or misbranded meat and meat products from being sold as food; and

WHEREAS, the Federal Meat Inspection Act of 1906 authorized the Secretary of Agriculture to inspect and condemn any meat or meat product found to be unfit for human consumption; and

WHEREAS, the Federal Meat Inspection Act authorizes the development and administration of state meat inspection programs that are equal to the federal provisions, for purposes of inspecting meat and meat products remaining in intrastate commerce; and

WHEREAS, the United States Supreme Court in 2012 held that the Preemption Clause of the Federal Meat Inspection Act prevents a state from imposing any additional or different requirements on slaughter facilities and operations; and

WHEREAS, the Federal Meat Inspection Act and its interpretation by the courts provides no flexibility to the states in addressing their own situations and circumstances with respect to their producers and consumers of meat and meat products;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-third Legislative Assembly urges the Congress of the United States to amend the Federal Meat Inspection Act so that each state can determine the nature and scope of protections necessary for its citizens and develop and implement an intrastate meat inspection program that is appropriate to its own culture and manner of producing and consuming meat and meat products; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Secretary of the United States Department of Agriculture and to each member of the North Dakota Congressional Delegation.

Filed April 8, 2013

CHAPTER 535

HOUSE CONCURRENT RESOLUTION NO. 3023

(Representatives Gruchalla, Guggisberg, Haak, Heilman, S. Kelsh, Kreun)
(Senators Grindberg, Laffen, Oehlke, Schneider)

A concurrent resolution directing the Legislative Management to study the feasibility and desirability of creating and encouraging the use of paved bike paths throughout the state.

WHEREAS, paved bicycle paths provide exercise and recreational opportunities for citizens along the entire age continuum; and

WHEREAS, paved bicycle paths provide a safe and effective means of commuting to and from home, work, and play; and

WHEREAS, bicycle paths preserve and restore open space and make our communities more livable and marketable; and

WHEREAS, bicycle paths provide an environmentally friendly venue for bicycle-centered tourism and a ready source of customers for retail outlets, restaurants, coffee houses, and other businesses; and

WHEREAS, bicycle paths encourage lifelong residents and newcomers to explore this state's geographic grandeur, its spectacular scenery, its storied history, and its cultural diversity;

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 creating and encouraging the use of paved bike paths throughout 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-fourth Legislative Assembly.

Filed April 8, 2013

CHAPTER 536**HOUSE CONCURRENT RESOLUTION NO. 3025**

(Representatives Heilman, Belter, Carlson, Kasper,
B. Koppelman, Thoreson, Wieland)
(Senators Flakoll, Grindberg, J. Lee, Nelson, Sorvaag)

A concurrent resolution of commendation to the North Dakota State University Bison football team and Coach Craig Bohl for achieving a rare level of dominance in NCAA Division I football.

WHEREAS, the North Dakota State University Bison football team captured back-to-back 2011 and 2012 NCAA Division I Football Championship Subdivision national football championships; and

WHEREAS, the "Thundering Herd" rolled through eight consecutive playoff game victories over high-caliber opponents to achieve consecutive national championships with an inspiring display of athleticism, hard work, courage, and superb coaching that repeatedly brought North Dakotans and Bison fans worldwide to their feet to applaud their achievements; and

WHEREAS, Bison Head Coach Craig Bohl has guided the Bison to national prominence in his 10 years at the helm, being the No. 1 ranked team in 23 weekly FCS polls in that time, and has earned recognition from several sources, including a well-deserved honor as the 2012 American Football Coaches Association Football Championship Subdivision Coach of the Year;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

The Sixty-third Legislative Assembly takes great pride in expressing its commendation to the North Dakota State University Bison football team and Coach Craig Bohl for achieving a rare level of dominance in NCAA Division I football; and

BE IT FURTHER RESOLVED, that the Secretary of State send an enrolled copy of this resolution to Bison Head Coach Craig Bohl, North Dakota State University Director of Athletics Gene Taylor, North Dakota State University President Dean L. Bresciani, and to each coach of the 2011 and 2012 championship teams.

Filed April 8, 2013

CHAPTER 537

HOUSE CONCURRENT RESOLUTION NO. 3026

(Representatives Belter, Boe, Delmore, Delzer, Headland, Kreidt, Porter)
(Senators Carlisle, Dotzenrod, Lyson, Unruh, Wardner)

A concurrent resolution urging the United States Environmental Protection Agency to refrain from enacting regulations that place unreasonable economic burden on electric consumers living in the Northern Great Plains.

WHEREAS, over the course of the 2011-13 interim the United States Environmental Protection Agency considered whether to regulate coal combustion residuals as hazardous or nonhazardous wastes under the Resource Conservation and Recovery Act; and

WHEREAS, the North Dakota Congressional Delegation in conjunction with members of other delegations across the region introduced legislation clarifying that coal combustion residuals should be regulated by states and not be deemed hazardous wastes; and

WHEREAS, in March 2012 the United States Environmental Protection Agency released a decision on the federal regional haze program approving the State Department of Health's decision to require selective noncatalytic reduction technology at the Milton R. Young Station and the Leland Olds Station, but requiring the installation of other technologies for the Antelope Valley Station and the Coal Creek Station resulting in a federal implementation plan for the two units; and

WHEREAS, in December 2012 the United States Environmental Protection Agency issued a notice that it intended to reopen the North Dakota regional haze issue in response to a petition filed by a number of environmental groups; and

WHEREAS, in April 2012 the United States Environmental Protection Agency proposed new carbon dioxide emission standards requiring new coal-based electric generation units to meet an emission standard based on the carbon dioxide emissions of a combined cycle natural gas plant; and

WHEREAS, new lignite-based electric generation units will not be able to meet the proposed carbon dioxide emission standards until carbon dioxide capture technology is developed for widespread, commercial installation; and

WHEREAS, the United States Environmental Protection Agency stated in the April 2012 proposed rule that no notable carbon dioxide or other pollutant emissions changes or monetized benefits were anticipated with the new carbon dioxide emission standards; and

WHEREAS, the North Dakota lignite industry employs thousands of individuals and contributes over \$3.5 billion in business activity in North Dakota each year; and

WHEREAS, if the United States Environmental Protection Agency continues to issue regulations that are not based on sound science and that will have significant

impact on consumer electricity costs, the North Dakota lignite industry will struggle to provide low-cost, reliable electricity to the two million consumers served by North Dakota lignite-based generation across the Northern Great Plains; and

WHEREAS, under the present federal regulatory agenda, the state is in danger of losing high-paying jobs related to the lignite industry as well as 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-third Legislative Assembly urges the United States Environmental Protection Agency to refrain from enacting regulations that regulate coal combustion residuals as hazardous wastes and allow the State Department of Health to continue to regulate coal combustion residuals under its current regulatory structure; and

That the United States Environmental Protection Agency support its March 2012 decision related to the state's regional haze implementation plan and delegate to the state the responsibility for working with the Antelope Valley Station and the Coal Creek Station to achieve the federal implementation plan; and

That the United States Environmental Protection Agency refrain from finalizing regulations for carbon dioxide emission standards which require coal to meet an emission standard based on the carbon dioxide emissions of a combined cycle natural gas plant and to refrain from proposing carbon dioxide emissions standards for existing coal-based electric generation units; and

That the Sixty-third Legislative Assembly urges the United States Environmental Protection Agency to work with the state, the North Dakota Congressional Delegation, and the North Dakota lignite industry to design regulatory programs that are based on sound science and that make economic sense for the consumers of North Dakota lignite; and

That the members of the Sixty-third Legislative Assembly support the efforts of the lignite industry to find common sense technology solutions that will facilitate the continuation of lignite-based electric generation; and

That the members of the Sixty-third Legislative Assembly support the efforts of the lignite industry to challenge regulations that will significantly impact the ability of the industry to continue to generate electricity from existing lignite-based plants; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution 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 March 22, 2013

CHAPTER 538

HOUSE CONCURRENT RESOLUTION NO. 3028

(Representatives Hawken, Delmore, N. Johnson, J. Nelson, Weisz)
(Senators J. Lee, Poolman)

A concurrent resolution urging the Sixty-third Legislative Assembly to recognize the month of November 2013 as "Chronic Obstructive Pulmonary Disease Awareness Month" throughout the state in recognition of this deadly disease and its effects on the citizens of North Dakota and encourage all residents of North Dakota to learn more about the prevention and treatment of chronic obstructive pulmonary disease.

WHEREAS, chronic obstructive pulmonary disease, also known as chronic bronchitis and emphysema, is the third-leading cause of death in the United States and is the second-leading cause of disability; and

WHEREAS, chronic obstructive pulmonary disease is a chronic and progressive disease that affects over 24 million individuals in the United States, one-half of whom have not been properly diagnosed and 70 percent of whom are under age 65; and

WHEREAS, the major risk factor for chronic obstructive pulmonary disease is smoking. Other risks include environmental and workplace exposure to air pollution, a history of childhood respiratory infection, and genetics; and

WHEREAS, chronic obstructive pulmonary disease currently accounts for 1.5 million emergency room visits, 726,000 hospitalizations, and 8 million physician office and hospital outpatient visits, all of which are a detriment to the United States economy; and

WHEREAS, the United States annual cost of chronic obstructive pulmonary disease in 2010 was estimated to be \$49.39 billion; and

WHEREAS, one-half of the persons with chronic obstructive pulmonary disease (51 percent) report that their condition limits their ability to work, while 34 percent say that chronic obstructive pulmonary disease keeps them from working and 17 percent say their condition limits them in the kind or amount of work they can do; and

WHEREAS, early chronic obstructive pulmonary disease screening and a diagnosis test for chronic obstructive pulmonary disease known as spirometry is available for office use, yet most people are not diagnosed until they have reached an advanced stage of chronic obstructive pulmonary disease; and

WHEREAS, there is no cure for chronic obstructive pulmonary disease, and its lung damage is irreversible. Treatments, however, can improve a patient's quality of life and prevent symptoms, reduce the frequency and severity of exacerbation, improve health status, and improve the ability to exercise; and

WHEREAS, until there is a cure, increased public awareness, early detection, and proper health management can slow the progression of the disease and lead to reduced costs and improved quality of life for our residents;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Sixty-third Legislative Assembly recognizes the month of November 2013 as "Chronic Obstructive Pulmonary Disease Awareness Month" throughout the state in recognition of this deadly disease and its effects on the citizens of North Dakota and encourages all residents of North Dakota to learn more about the prevention and treatment of chronic obstructive pulmonary disease.

Filed April 8, 2013

CHAPTER 539

HOUSE RESOLUTION NO. 3029

(Representatives Grande, Dosch, Heller, Kasper, Nathe, Thoreson)
(Senators Burckhard, Dever, Larsen, Miller, O'Connell)

A concurrent resolution commending the nation of Israel for its cordial and mutually beneficial relationship with the United States and with the state of North Dakota.

WHEREAS, the legal basis for the establishment of the modern state of Israel was a binding resolution under international law, which was unanimously adopted by the League of Nations in 1922 and subsequently affirmed by both houses of the United States Congress; and

WHEREAS, this resolution affirmed the establishment of a national home for the Jewish people in the historical region of the Land of Israel, including the areas of Judea, Samaria, and Jerusalem; and

WHEREAS, Article 80 of the United Nations charter recognized the continued validity of the rights granted to states or peoples which already existed under international instruments, and, therefore, the 1922 League of Nations resolution remains valid, and the 650,000 Jews currently residing in the areas of Judea, Samaria, and eastern Jerusalem reside there legitimately; and

WHEREAS, Israel declared its independence and self-governance on May 14, 1948, with the goal of reestablishing its God-given and legally recognized lands as a homeland for the Jewish people; and

WHEREAS, the United States, having been the first country to recognize Israel as an independent nation and as Israel's principal ally, has enjoyed a close and mutually beneficial relationship with Israel and her people; and

WHEREAS, Israel is the greatest friend and ally of the United States in the Middle East and the values of our two nations are so intertwined that it is impossible to separate one from the other; and

WHEREAS, there are those in the Middle East who have continually sought to destroy Israel, from the time of its inception as a state, and those same enemies of Israel also hate and seek to destroy, the United States; and

WHEREAS, the state of North Dakota and the nation of Israel have enjoyed cordial and mutually beneficial relations since 1948, a friendship that continues to strengthen with each passing year;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the members of the North Dakota Legislative Assembly commend Israel for its cordial and mutually beneficial relationship with the United States and with the

state of North Dakota and support Israel in its legal, historical, moral, and God-given right of self-governance and self-defense upon the entirety of its own lands, recognizing that Israel is neither an attacking force nor an occupier of the lands of others, and that peace can be afforded the region only through a whole and united Israel; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the President of the United States, the Israeli Ambassador to the United States, and each member of the North Dakota Congressional Delegation.

Filed April 17, 2013

CHAPTER 540

HOUSE CONCURRENT RESOLUTION NO. 3030

(Representatives D. Johnson, Devlin, Drovdal)
(Senators Flakoll, Grindberg, Klein)

A concurrent resolution endorsing Taiwan's participation as an observer in the International Civil Aviation Organization and United Nations Framework Convention on Climate Change.

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 supreme cause of the International Civil Aviation Organization (ICAO); and

WHEREAS, with an excellent geographic location, Taiwan is a key aviation hub for regions in northeastern and southeastern Asia; and

WHEREAS, the Taipei Flight Information Region (FIR), bordering the FIRs of Fukuoka, Manila, Hong Kong, and Shanghai, includes 14 international airways and 4 domestic airways, providing services for more than 1 million flights per year; and

WHEREAS, each year, 40 million travelers enter, leave, or pass through the Taipei FIR, making Taiwan a key part of air navigation in East Asia; and

WHEREAS, currently, more than 50 domestic and foreign airlines operate flights from Taiwan to 110 cities in the world and the annual number of passengers on international flights is approximately 30 million; and

WHEREAS, in 2010, the number of international passengers at Taiwan's largest airport--Taoyuan International Airport--ranks 16th worldwide, while international cargo ranks 9th, making Taiwan one of the busiest airspaces in the world; and

WHEREAS, without Taiwan's participation, international flight plans, regulations, and procedure that the ICAO formulates will be incomplete and unsafe; and

WHEREAS, as an island in the Pacific Ocean, Taiwan is imperiled by rising sea levels and the ravages of extreme weather; and

WHEREAS, Taiwan's exclusion from meaningful participation in United Nations Framework Convention on Climate Change (UNFCCC) has been to the detriment of both the Taiwanese people and the global community as Taiwan not only has the means but also incentive to make a meaningful contribution; and

WHEREAS, Taiwan's request to participate in the ICAO and the UNFCCC is fully in line with the United States government's policy of supporting Taiwan's meaningful participation in United Nation's specialized agencies;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the North Dakota Legislative Assembly endorses Taiwan's participation in the ICAO as an observer; and

BE IT FURTHER RESOLVED, that that the North Dakota Legislative Assembly is supportive of all efforts to grant Taiwan official observer status at the UNFCCC and as a collaborative partner of the United States on a wide range of public issues, Taiwan should be afforded the opportunity to participate in global efforts aimed at reducing and preventing natural disasters; and

BE IT FURTHER RESOLVED, that the copies of this resolution be sent to the United States Secretary of State, the United States Secretary of Transportation, the United States Administrator of the Environmental Protection Agency, each member of the North Dakota Congressional Delegation, and the Director-General of the Taipei Economic and Cultural Office in Kansas City.

Filed April 8, 2013

CHAPTER 541**HOUSE CONCURRENT RESOLUTION NO. 3031**

(Representatives Steiner, Hatlestad, N. Johnson, Kempenich, Larson)
(Senators Armstrong, Krebsbach)

A concurrent resolution directing the Legislative Management to study special enforcement measures in high-fatality zones on highways in this state.

WHEREAS, certain areas of this state have a disproportionately high number of motor vehicle accidents and fatalities, including the northwest portion of this state; and

WHEREAS, many accidents are caused by or are contributed to by speeding and unsafe and prohibited passing; and

WHEREAS, to reduce the injuries and deaths caused by traffic violations, on certain highways in this state it may be necessary to provide for higher traffic fees, camera utilization, public lists of violators, employer notification, and other actions;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management study special enforcement measures in high-fatality zones on highways in this 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-fourth Legislative Assembly.

Filed April 8, 2013

CHAPTER 542

HOUSE CONCURRENT RESOLUTION NO. 3038

(Representatives Becker, Brabandt, Headland, Heller,
B. Koppelman, K. Koppelman, Rohr, Ruby, Schatz, Toman)
(Senators Larsen, Miller)

A concurrent resolution directing the Legislative Management to 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 are refused, and whether the federal fiscal impact is a significant and necessary factor in assenting to the continuance of federal government involvement in the state's management processes.

WHEREAS, the budget surplus and strong economic vitality of the state has placed North Dakota in a position in which the state can potentially tend to more of its needs independent of sometimes onerous federal statutory and regulatory requirements and the oversights and controls placed on state agencies as a condition of receipt of federal funding; and

WHEREAS, a tenet of fiscal responsibility is to take care of one's own needs as much as possible with one's own resources before seeking assistance from outside sources; and

WHEREAS, state agencies have demonstrated the ability to take care of the state's needs much more efficiently and effectively when allowed to do so with minimal control and oversight from the federal government; and

WHEREAS, federal debts and deficits are at levels that are unsustainable and are placing a tremendous burden on our future generations; and

WHEREAS, we have a responsibility to do what we can in this state to reduce the burdens we place on the federal budget wherever possible while still seeing to the needs of our state and its citizens;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Management 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 are refused, and whether the federal fiscal impact is a significant and necessary

factor in assenting to the continuance of federal government involvement in the state's management processes; 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-fourth Legislative Assembly.

Filed April 17, 2013

HOUSE MEMORIAL RESOLUTIONS

CHAPTER 559

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:

Lorraine K. Allmaras, who served in the 53rd Legislative Assembly, from District 12, died August 7, 2011;

Arden Anderson, who served in the 58th Legislative Assembly, from District 25, died May 16, 2012;

James "Jim" Brokaw, who served in the 46th through the 52nd Legislative Assemblies, from District 28, died October 9, 2012;

Orlin Milton "Bill" Hanson, who served in the 47th through the 51st Legislative Assemblies, from District 3, died October 13, 2012;

Dr. Roland Harding, who served in the 35th Legislative Assembly, from District 15, died February 12, 2012;

Dean K. Horgan, who served in the 45th, 47th, and 48th Legislative Assemblies, from District 24, died January 22, 2013;

James "Jim" Hougen, who served in the 41st Legislative Assembly, from District 19, died December 25, 2012;

James Jungroth, who served in the 39th Legislative Assembly, from District 23, died March 15, 2011;

Ludger Kadlec, who served in the 36th Legislative Assembly, from District 3, died September 16, 2012;

William Kelsch, who served in the 40th and 41st Legislative Assemblies, from District 34, died July 13, 2012;

Donald W. Loder, who served in the 37th and 38th Legislative Assemblies, from District 16, died July 31, 2012;

Joann McCaffrey, who served in the 45th Legislative Assembly, from District 42, died January 30, 2012;

Ernest "Ernie" Miedema, who served in the 41st through the 43rd Legislative Assemblies, from District 24, died February 11, 2012;

Orville Schindler, who served in the 43rd through the 52nd Legislative Assemblies, from District 31, and in the 53rd Legislative Assembly, from District 14, died July 5, 2011;

Francis J. Wald, who served in the 46th and 47th Legislative Assemblies and in the 49th through the 61st Legislative Assemblies, from District 37, died May 3, 2011;

WHEREAS, we now pause to mourn the passing of our former House 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, 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 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, 2013

SENATE CONCURRENT RESOLUTIONS

CHAPTER 543

SENATE CONCURRENT RESOLUTION NO. 4001

(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 moneys expected for the next biennium by the Department of Commerce; and

WHEREAS, the Sixty-third Legislative Assembly cannot hold public hearings on revisions to current block grants or additional block grants that may be approved by Congress after the recess or adjournment of the Legislative Assembly; and

WHEREAS, the Legislative Assembly will not meet in regular session during 2014, and thus its public hearing responsibility for grants not approved by the Sixty-third Legislative Assembly must be delegated to a legislative entity;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES 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 moneys for the period ending September 30, 2015; 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-third Legislative Assembly through September 30, 2015, 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 22, 2013

CHAPTER 544**SENATE CONCURRENT RESOLUTION NO. 4002**

(Legislative Management)
(Health Services Committee)

A concurrent resolution directing the Legislative Management to study the feasibility and desirability of community paramedics providing additional clinical and public health services, particularly in rural areas of the state.

WHEREAS, the integration of public health and primary care at the community level may increase health care services to vulnerable citizens; and

WHEREAS, a shortage of clinical and public health providers exists in rural areas of the state; and

WHEREAS, demand for emergency medical services is increasing in many rural areas of the state; and

WHEREAS, emergency medical services systems in rural areas of the state are experiencing a shortage of volunteers; and

WHEREAS, emergency medical services systems in rural areas are often unable to generate sufficient operating revenues;

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 community paramedics providing additional clinical and public health services, particularly in rural areas of the state, including the ability to receive third-party reimbursement for the cost of these services and the effect of these services on the operations and sustainability of the current emergency medical services system; 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-fourth Legislative Assembly.

Filed April 2, 2013

CHAPTER 545

SENATE CONCURRENT RESOLUTION NO. 4003

(Senators Sitte, Wanzek, Warner)
(Representatives Heilman, Steiner, Muscha)

A concurrent resolution recognizing School Choice Week.

WHEREAS, every student in this state has a right to the highest quality schools possible; and

WHEREAS, citizens across this state agree that improving the quality of education and expanding access to highly effective schools is an issue of importance; and

WHEREAS, citizens across this state recognize the critical role that an effective and accountable system of education plays in preparing students to be successful adults in a global economy; and

WHEREAS, this state has a multitude of high-quality public schools, nonpublic schools, and home schools; and

WHEREAS, educational variety not only helps to diversify our economy, but also enhances the vibrancy of our state; and

WHEREAS, this state has many high-quality teachers in public schools, private schools, and home schools, who are committed to educating students; and

WHEREAS, the vital cause of education reform is one that transcends ideology and political affiliation; and

WHEREAS, research demonstrates conclusively that providing children with multiple schooling options improves academic performance; and

WHEREAS, School Choice Week is a nationally celebrated event during which legislators and elected officials can join with millions of parents, teachers, schools, and organizations to raise awareness of the need for effective educational options that challenge and motivate all our students to succeed;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-third Legislative Assembly recognizes January 27, 2013, through February 2, 2013, as School Choice Week.

Filed January 23, 2013

CHAPTER 546**SENATE CONCURRENT RESOLUTION NO. 4004**

(Senator Dever)
(Representative Martinson)

A concurrent resolution designating Senate and House employment positions and fixing compensation.

BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That for the Sixty-third Legislative Assembly, the following positions are designated as employee positions of the Senate and House and are to be paid the daily wages indicated:

SENATE		
Secretary of the Senate		\$171
Assistant secretary of the Senate		151
Journal reporter		167
Calendar clerk		151
Bill clerk		144
Recording clerk		144
Sergeant-at-arms		134
Administrative assistant to majority leader		157
Staff assistant to majority leader		157
Administrative assistant to minority leader		157
Staff assistant to minority leader		157
Chief committee clerk		157
Appropriations committee clerk		157
Assistant appropriations committee clerk		151
Committee clerk for three-day committee		151
Committee clerk for two-day committee		140
Assistant committee clerk		140
Deputy sergeant-at-arms		110
Chief page and bill book clerk		122
Legislative assistant		104
HOUSE		
Chief clerk		171
Assistant chief clerk		151
Journal reporter		167
Calendar clerk		151
Bill clerk		144
Recording clerk		144
Sergeant-at-arms		134
Administrative assistant to majority leader		157
Staff assistant to majority leader		157
Administrative assistant to minority leader		157
Staff assistant to minority leader		157
Administrative assistant to Speaker		157
Chief committee clerk		157

Appropriations committee clerk	157
Assistant appropriations committee clerk	151
Committee clerk for three-day committee	151
Committee clerk for two-day committee	140
Assistant committee clerk	140
Deputy sergeant-at-arms	110
Chief page and bill book clerk	122
Legislative assistant	104

BE IT FURTHER RESOLVED, that each employee of the Sixty-third 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 15, 2013

CHAPTER 547**SENATE CONCURRENT RESOLUTION NO. 4005**

(Senators Klein, G. Lee, Wardner)
(Representatives Porter, Weisz, Grande)

A concurrent resolution congratulating the establishment of the first North Dakota chapter of Pilots for Christ, International, and honoring Mr. John Timothy Rice for whom the chapter is named.

WHEREAS, Air Force Second Lieutenant John Timothy Rice of Maddock, North Dakota, graduated from the United States Air Force Academy with honors in May of 2010 and was a member of the United States Air Force Academy Flying Team; and

WHEREAS, while attending Texas Tech University in 2011 his rich and full life was tragically cut short; and

WHEREAS, Pilots for Christ is an international nondenominational ministry of pilots and aviation enthusiasts dedicated to the promotion of the Gospel through aviation; and

WHEREAS, Pilots for Christ will provide services, including mercy flights, ambulatory medical flights, missionary transportation, and incentive flights for youth groups, free of charge to any needy person through a one hundred percent volunteer organization that does not have any paid staff;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-third Legislative Assembly congratulates the establishment of the first North Dakota chapter of Pilots for Christ, International, and honors Mr. John Timothy Rice for whom the chapter is named; and

BE IT FURTHER RESOLVED, that the Secretary of State forward an enrolled copy to the immediate family of John Timothy Rice and to the North Dakota chapter of Pilots for Christ.

Filed March 22, 2013

CHAPTER 548**SENATE CONCURRENT RESOLUTION NO. 4007**

(Senators Cook, Hogue, Triplett)
(Representatives Klemin, Kretschmar)

A concurrent resolution directing the Legislative Management to study the growth in use of state False Claims Acts with qui tam provisions in state and local taxation matters and whether that approach is feasible and desirable in North Dakota.

WHEREAS, False Claims Acts, with qui tam provisions, have been enacted in twenty states which include incentives for private citizens to report and initiate action against other taxpayers for underpayment of taxes; and

WHEREAS, enactment of False Claims Act laws has sparked court actions and public policy debates on a national level about the application, administration, and wisdom of these laws; and

WHEREAS, detailed examination should be undertaken of the issues involved in court actions and debate of False Claims Act laws to determine the feasibility and desirability of employing such laws in this state;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study the growth in use of state False Claims Acts with qui tam provisions in state and local taxation matters and whether that approach is feasible and desirable 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-fourth Legislative Assembly.

Filed April 2, 2013

CHAPTER 549**SENATE CONCURRENT RESOLUTION NO. 4008**

(Senators Dever, Carlisle, Lyson)
(Representatives Bellew, Belter, Owens)

A concurrent resolution designating May 1 as "Cold War Victory Day".

WHEREAS, the Cold War lasted from 1945 to the Soviet Union's breakup in 1991 and prevented total nuclear war; and

WHEREAS, during this time the Cold War turned hot with the Korean War and the Vietnam War and sparked conflicts in Lebanon and Grenada; and

WHEREAS, between flareups, on duty members of the military did not do battle and are not properly recognized for their service to the United States; and

WHEREAS, this service included being on alert when Egypt claimed the Suez Canal in 1956, manning missile silos in North Dakota, piloting B52s aimed at Soviet targets, staffing nuclear-armed submarines, driving tanks in the Fulda Gap between West and East Germany, and other activities, some of which are still secret; and

WHEREAS, May 1 is an appropriate day for "Cold War Victory Day" because it is the same day as May Day in communist countries;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-third Legislative Assembly designates May 1 as "Cold War Victory Day"; and

BE IT FURTHER RESOLVED, that the Secretary of State forward enrolled copies of this resolution to the Governor; the American Legion; the Veterans of Foreign Wars; the American Veterans (AMVETS); the Disabled American Veterans; the veterans of World War II, Korea, and Vietnam; and the Vietnam Veterans of America.

Filed April 2, 2013

CHAPTER 550**SENATE CONCURRENT RESOLUTION NO. 4011**

(Senators Erbele, Hogue, Mathern)
(Representatives Kretschmar, Schmidt, Silbernagel)

A concurrent resolution urging the National Park Service to recognize the historical value of the Nokota horse and provide for its appropriate management in Theodore Roosevelt National Park.

WHEREAS, Nokota horses trace their ancestry to the early Native American and frontier ranch horses that were bred for use as war horses, buffalo runners, and all-purpose saddle horses; and

WHEREAS, Nokota horses are characterized by a square-set, angular frame, tapering musculature, V-shaped front end, angular shoulders with prominent withers, distinctly sloped croup, low tail set, strong bone, legs, and hooves, and "Spanish colonial" pigmentation; and

WHEREAS, during most of the 20th century, Nokota horses have lived and roamed in the wild and rugged Little Missouri Badlands; and

WHEREAS, some of the wild bands of Nokota horses were fenced in at the time Theodore Roosevelt National Park was created; and

WHEREAS, the Nokota horse is the honorary equine of North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-third Legislative Assembly urges the National Park Service to recognize the historical value of the Nokota horse in this state's ranching and Indian culture and to manage the feral horses in Theodore Roosevelt National Park in a manner that ensures the preservation of the Nokota bloodline and further ensures that Nokota horses will continue to be a magnificent part of the national park's landscape and treasured by future generations of North Dakotans and visitors from across the nation and around the world; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the Secretary of the United States Department of the Interior, the Director of the National Park Service, the Superintendent of Theodore Roosevelt National Park, and to each member of the North Dakota Congressional Delegation.

Filed April 2, 2013

CHAPTER 551

SENATE CONCURRENT RESOLUTION NO. 4012

(Senators Anderson, Carlisle, Kilzer, Sitte)
(Representatives Laning, Rust)

A concurrent resolution directing the Legislative Management to study state alternatives to the statutory and regulatory requirements placed on North Dakota schools and school districts by the United States Department of Education, determine whether there are viable options to achieve the federal government's goals without having the federal government's oversight and involvement, and determine whether the federal fiscal impact is a significant and necessary factor in assenting to the continuance of federal government involvement in this state's educational process.

WHEREAS, the original Department of Education was created in 1867 to collect information on schools and teaching that would help the states establish effective school systems; and

WHEREAS, in 1980, Congress established the United States Department of Education as a cabinet-level agency; and

WHEREAS, today, the United States Department of Education operates programs that touch on every area and level of education; and

WHEREAS, the United States Department of Education touts its leadership role in promoting student achievement and preparing students for global competitiveness by fostering educational excellence and ensuring equal access; and

WHEREAS, since 1965, the federal government has expended \$2 trillion on education programs and since 1970, in real inflation-adjusted dollars, federal spending per student has nearly tripled; and

WHEREAS, North Dakota parents, teachers, school administrators, personnel at the Department of Public Instruction, legislators, the Governor, representatives of our institutions of higher education, and other highly educated and successful residents of this state are well-positioned to identify and meet the needs of all North Dakota students;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study the statutory and regulatory requirements placed on North Dakota schools and school districts by the United States Department of Education, determine whether there are viable options to achieve the federal government's goals without having the federal government's oversight and involvement, and determine whether the federal fiscal impact is a significant and necessary factor in assenting to the continuance of federal government involvement in this state's educational process; 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-fourth Legislative Assembly.

Filed March 22, 2013

CHAPTER 552

SENATE CONCURRENT RESOLUTION NO. 4013

(Senators Flakoll, Carlisle, Wardner)
(Representatives Carlson, Gruchalla, D. Johnson)

A concurrent resolution supporting the second United States Navy ship to carry the name of our Great State - USS NORTH DAKOTA (SSN-784).

WHEREAS, the first United States Navy ship to carry the name of our Great State - USS NORTH DAKOTA (BB-29) was commissioned in 1910 and served until she was decommissioned in 1923; and

WHEREAS, USS NORTH DAKOTA (BB-29) was the first all big gun or dreadnought battleship launched by the United States Navy and she was the first ship launched to be driven by steam turbine engines; and

WHEREAS, the Great State of North Dakota is the state in the Union farthest away from a year-round saltwater port; and

WHEREAS, the Great State of North Dakota has seen many of her sons and daughters leave these prairies to serve with distinction and honor in the United States Navy; and

WHEREAS, it has been more than 90 years since a ship of the United States Navy has carried the name of the Great State of North Dakota; and

WHEREAS, in July 2008 the then Secretary of the Navy Donald Winter bestowed upon our Great State the honor of naming the eleventh VIRGINIA Class nuclear-powered attack submarine to be built USS NORTH DAKOTA (SSN-784); and

WHEREAS, as the eleventh submarine of the VIRGINIA Class NORTH DAKOTA will be the first submarine of the VIRGINIA Class to be equipped with two cylinders each holding six Tomahawk cruise missiles as well as the latest SONAR gear plus torpedoes with the added capability of carrying a wide variety of Special Forces and their equipment; and

WHEREAS, this fine ship is expected to be christened NORTH DAKOTA in September 2013 by her Ship's Sponsor, Mrs. Katie Fowler, the wife of Vice Admiral Jeff Fowler, USN (Ret), a 1973 Bismarck High School graduate; and

WHEREAS, NORTH DAKOTA is expected to be commissioned in the summer of 2014; and

WHEREAS, NORTH DAKOTA, when she joins the fleet in 2014, will be the most modern and capable attack submarine in the world, and she will operate for 33 years without refueling; and

WHEREAS, she will have a crew of 14 officers and 120 enlisted men, and she will go to sea under the command of Commander Douglas V. Gordon, United States Navy; and

WHEREAS, Electronics Technician Master Chief Tim Preabt, United States Navy, who was born in Minot, educated in Williston, and graduated from Mandan High School, serves as the Chief of the Boat and is the senior enlisted advisor to the Commanding Officer; and

WHEREAS, NORTH DAKOTA brings pride and patriotic joy to our Great State and its people; and

WHEREAS, our state's USS North Dakota Committee will not only support NORTH DAKOTA through its christening and commissioning, but will work to build and maintain a strong and close relationship between her and the people and communities of our Great State throughout her entire 33-year life expectancy;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-third Legislative Assembly thanks former Secretary of the Navy Donald Winter for the honor he has bestowed upon our Great State by naming the eleventh VIRGINIA Class submarine USS NORTH DAKOTA; and

BE IT FURTHER RESOLVED, that the people of our Great State are encouraged to join in the support of USS NORTH DAKOTA through her christening, commissioning, and her entire expected 33 years of service in the world's greatest Navy; and

BE IT FURTHER RESOLVED, that the Sixty-third Legislative Assembly extends its best wishes to Commander Gordon and his crew throughout the final stages of the construction of NORTH DAKOTA and it extends its blessings on all who command and serve on board her throughout her entire service life; and

BE IT FURTHER RESOLVED, that the Secretary of State forward an enrolled copy of this resolution to Commander Gordon. God speed NORTH DAKOTA. Fair winds and following seas.

Filed March 22, 2013

CHAPTER 553

SENATE CONCURRENT RESOLUTION NO. 4015

(Senators Grindberg, Holmberg, O'Connell)
(Representatives Delmore, Hawken, Meier)

A concurrent resolution urging the Department of Career and Technical Education to identify programs and initiatives in the fields of science, technology, engineering, and mathematics, and identify opportunities for coordinated public and private sector participation.

WHEREAS, scientific and technological innovations are the catalyzing agents in the creation of new industries, the spawning of job growth, and ultimately the improvement of lives; and

WHEREAS, scientific and technological innovations are dependent upon individuals possessing the knowledge, skills, creativity, and foresight to forge new paths; and

WHEREAS, business and government leaders, elementary and secondary teachers, and higher education faculty members and administrators are increasingly aware of workforce shortages and skill gaps in the innovative fields of science, technology, engineering, and mathematics; and

WHEREAS, in order to address such shortages and ensure our long-term competitiveness and prosperity as a state, it is incumbent upon us to promote a collective commitment to excellence in education and the development of talent in the fields of science, technology, engineering, and mathematics; and

WHEREAS, in order to identify and develop the next generation of innovators in the fields of science, technology, engineering, and mathematics, there must be a coordinated, proactive, and sustained pursuit of intellectual curiosity and engagement; and

WHEREAS, in order to ensure that multiple public and private sector interests are addressing responsibilities and opportunities in the fields of science, technology, engineering, and mathematics in an efficient, effective, coherent, and nonduplicative manner, it is appropriate to call for a state-level organized and consolidated approach;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Department of Career and Technical Education utilize its staff and contacts throughout the state to serve public and private sector participants by identifying meritorious programs and initiatives in the fields of science, technology, engineering, and mathematics, identifying opportunities for integrated activities and increased access, encouraging sustainable partnerships, and recommending policies and approaches to ensure that the state's resources and assets are utilized sagaciously; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the director of the Department of Career and Technical Education and to each member of the North Dakota Congressional Delegation.

Filed April 3, 2013

CHAPTER 554

SENATE CONCURRENT RESOLUTION NO. 4017

(Senators Sitte, Armstrong, Schaible)
(Representatives Heller, Porter, Streyle)

A concurrent resolution relating to the Obama Administration's proposal that the Senate of the United States consider adoption of a United Nations Arms Trade Treaty.

WHEREAS, the "First Law of Nature" has long been held to be the natural and fundamental right of all persons to "self-preservation", "self-defense", and a "right of revolution" against any and all dangers to life, liberty, and property; and

WHEREAS, this first law of nature is enshrined in both a collective and an individual right to keep and bear arms, a right that has been recognized in English law since the adoption of the English Bill of Rights of 1689; and

WHEREAS, the Founding Fathers of the United States of America codified that individual and collective right by adoption and ratification of the Second Amendment to the United States Constitution; and

WHEREAS, the Second Amendment to the United States Constitution reads as follows: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."; and

WHEREAS, such codification of the individual right to keep and bear arms is derivative of the natural right and not the creation of a new right, a fact which has been recognized by the United States Supreme Court; and

WHEREAS, the existence and recognition of such an individual right is necessary to resist invasion, to dissuade a tyrannical government, and to empower citizens in maintaining the natural right of self-defense, and is as essential as the collective right; and

WHEREAS, our nation's Founding Fathers expressed a deep belief in the individual right to keep and bear arms, expressed by Patrick Henry in Virginia's constitutional ratification convention on June 5, 1788, with the words: "Guard with jealous attention to the public liberty. Suspect everyone who approaches that jewel. Unfortunately, nothing will preserve it but downright force. Whenever you give up that force, you are inevitably ruined . . ."; and

WHEREAS, the individual right to keep and bear arms has been upheld by court opinions over the 225 years since the original 13 states ratified the United States Constitution, most recently in *District of Columbia v. Heller* and in *McDonald v. Chicago*; and

WHEREAS, the state of North Dakota further codifies the individual right to keep and bear arms in the North Dakota Constitution's Declaration of Rights, wherein Article I, Section 1, states "All individuals are by nature equally free and independent

and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing and protecting property and reputation; pursuing and obtaining safety and happiness; and to keep and bear arms for the defense of their person, family, property, and the state, and for lawful hunting, recreational, and other lawful purposes, which shall not be infringed."; and

WHEREAS, the United States Mission to the United Nations voted in November 2012 to move the Draft Paper for the United Nations Arms Trade Treaty (hereinafter the "Treaty") out of General Disarmament Committee to the full body of the United Nations for a vote on finalization of the Treaty in March 2013; and

WHEREAS, the current form of the Treaty covers both traditional military munitions as well as "small arms and light weapons" and does not distinguish between arms, such as rockets, and from vastly and distinctly different arms, such as handguns, rifles, or shotguns; and

WHEREAS, the Treaty would allow for an expansion of federal firearms controls on the transportation of arms across national territory, require maintaining records of all arms within the territory of a country which would include the identity of individual users, and create an obligation that would require the United States to take measures that would infringe on the individual right to keep and bear arms; and

WHEREAS, passages of the Treaty as currently drafted are written so broadly as to not only possibly impair or render our military unable to assert the national right of self-defense against other nations, but to also subject citizens of the United States to violation of international laws within the borders of the United States; and

WHEREAS, ratification of the Treaty would erroneously encourage politicians and courts to view the treaty power as a separate source of federal authority for the regulation of purely intrastate matters expressly delegated to the states, including the criminal law of self-defense and the individual right to keep and bear arms; and

WHEREAS, the harmful potential of the Treaty led a bipartisan coalition of 51 United States senators to express the strongest expression of concern and opposition on the potentially devastating consequences of the Treaty to President Barack Obama and Secretary of State Hillary Clinton in a letter dated July 26, 2012; and

WHEREAS, the adoption of the Treaty, or any document with as broad a scope as the Treaty as to imperil the individual and collective right to keep and bear arms, would constitute an absolute abandonment of the oath of office upon which every federal elected official, federal civilian employee, and military servicemember swears to upon entering office, namely the oath to either "preserve, protect, and defend the Constitution of the United States" or to "support and defend the Constitution of the United States against all enemies, foreign and domestic";

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Sixty-third Legislative Assembly hereby expresses its opposition to the current form of the United Nations Arms Trade Treaty, as well as to any treaty that infringes on the individual or collective right to keep and bear arms, in the strongest and most unequivocal terms; and

BE IT FURTHER RESOLVED, as duly elected representatives of the will of the people of North Dakota, strongly urge the President of the United States, the United States Secretary of State, the Ambassador of the United States to the United Nations, and all members of the United States Senate to soundly reject the current form of the United Nations Arms Trade Treaty or any other treaty which would endanger the individual or collective right to keep and bear arms; and

BE IT FURTHER RESOLVED, that the Secretary of State of North Dakota forward properly inscribed copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, the Ambassador of the United States to the United Nations, each member of the United States Senate, the Governor of each state, the Speaker of the House and President of the Senate of each state's legislature, and each member of the North Dakota Congressional Delegation.

Filed April 9, 2013

CHAPTER 555**SENATE CONCURRENT RESOLUTION NO. 4019**

(Senator Andrist)

A concurrent resolution directing the Legislative Management to study early childhood services in the state, including the United States Department of Agriculture's food reimbursement program for early childhood service providers and the income guidelines for the Department of Human Services' child care assistance program.

WHEREAS, early childhood services capacity in the state is in a state of crisis; and

WHEREAS, there appears to be a gap between the cost of early childhood services and the ability of families to pay for those services; and

WHEREAS, the staffing of early childhood facilities with trained personnel continues to be an issue; and

WHEREAS, the lack of early childhood services in the state is creating an impact on existing and projected workforce; and

WHEREAS, there is a need to enhance the sustainability of early childhood services facilities;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study early childhood services in the state, including the United States Department of Agriculture's food reimbursement program for early childhood service providers and the income guidelines for the Department of Human Services' child care assistance program; 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-fourth Legislative Assembly.

Filed April 2, 2013

CHAPTER 556**SENATE CONCURRENT RESOLUTION NO. 4022**

(Senator Dever)

A concurrent resolution directing the Legislative Management to study the desirability of and the potential process for licensing or certifying mechanical contractors.

WHEREAS, there is potential harm to the public resulting from the activity of unqualified mechanical contractors operating in the state; and

WHEREAS, there is a lack of uniformity across jurisdictions in the state with regard to licensure or certification of mechanical contractors; and

WHEREAS, there is a desire by the industry to have qualified mechanical contractors designated by the state as able to conduct business with assurances to the public that work on mechanical systems will be completed in accordance with all applicable laws and codes;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study the desirability of and the potential process for licensing or certifying mechanical contractors; 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-fourth Legislative Assembly.

Filed April 2, 2013

CHAPTER 557**SENATE CONCURRENT RESOLUTION NO. 4023**

(Senators Cook, Campbell, Wardner)
(Representatives Belter, Carlson, Headland)

A concurrent resolution directing the Legislative Management to study whether political subdivisions can become more efficient and effective to reduce costs to taxpayers.

WHEREAS, North Dakota ranks first among states in the number of local government elected officials and units of local government; and

WHEREAS, on the basis of governmental units per 10,000 population, North Dakota has over six times the governmental units of Minnesota, over three times the governmental units of Montana, and almost two times the governmental units of South Dakota; and

WHEREAS, an appropriate balance must be determined between the desire for accessibility of local government and the cost taxpayers are willing to bear to maintain the current level of governmental units and officials; and

WHEREAS, local government representatives should have a forum to suggest measures to make local government more efficient and effective to reduce costs to taxpayers;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study whether political subdivisions can become more efficient and effective to reduce costs to taxpayers; 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-fourth Legislative Assembly.

Filed April 2, 2013

CHAPTER 558**SENATE CONCURRENT RESOLUTION NO. 4030**

(Senator Cook)

A concurrent resolution to provide for a legislative management study of applying property tax rates against true and full value of property.

WHEREAS, property taxpayers continue to express frustration with the complexity of the property tax system's three levels of valuation for property and how mill rates are applied to determine the tax bill for a parcel of property; and

WHEREAS, it appears feasible and desirable to use true and full valuation of property and a percent of that value as a tax rate, to provide a more comprehensible method of determination of the tax bill for a parcel of property; and

WHEREAS, determining the statutory changes necessary to implement such a change will involve detailed consideration and adjustment of a very large volume of statutory provisions, which is feasible only in an interim study setting;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

WHEREAS, property taxpayers continue to express frustration with the complexity of the property tax system's three levels of valuation for property and how mill rates are applied to determine the tax bill for a parcel of property; and

WHEREAS, it appears feasible and desirable to use true and full valuation of property and a percent of that value as a tax rate, to provide a more comprehensible method of determination of the tax bill for a parcel of property; and

WHEREAS, determining the statutory changes necessary to implement such a change will involve detailed consideration and adjustment of a very large volume of statutory provisions, which is feasible only in an interim study setting;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Management study applying property tax rates against true and full value of property; 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-fourth Legislative Assembly.

Filed April 29, 2013

SENATE MEMORIAL RESOLUTIONS

CHAPTER 560

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:

Arden Anderson, who served in the 60th and 61st Legislative Assemblies, from District 25, died May 16, 2012;

Arthur Henry Behm, who served in the 60th and 61st Legislative Assemblies, from District 19, died July 6, 2012;

Dennis Bercier, who served in the 56th through the 59th Legislative Assemblies, from District 9, died June 11, 2012;

Thomas L. Fischer, who served in the 55th through the 62nd Legislative Assemblies, from District 46, died November 16, 2011;

Herbert T. Geving, who served in the 40th Legislative Assembly, from District 4, died April 23, 2011;

Erwin "Bud" Hanson, who served in the 51st and 52nd Legislative Assemblies, from District 2, died October 7, 2011;

Orlin Milton "Bill" Hanson, who served in the 52nd Legislative Assembly, from District 3, died October 13, 2012;

Ludger Kadlec, who served in the 39th Legislative Assembly, from District 3, died September 16, 2012;

George Longmire, who served in the 35th through the 39th Legislative Assemblies, from District 7, and in the 40th through the 44th Legislative Assemblies, from District 18, died March 25, 2012;

Ernest G. Pyle, who served in the 40th through the 44th Legislative Assemblies, from District 22, died May 28, 2011;

Earl H. Redlin, who served in the 39th Legislative Assembly, from District 25, and in the 40th through 42nd Legislative Assemblies, from District 28, died December 21, 2012;

Rolland "Rollie" Redlin, who served in the 36th through the 38th Legislative Assemblies, from District 40, in the 43rd and 44th Legislative Assemblies, from

District 5, in the 45th through the 52nd Legislative Assemblies, from District 40 and 50, and in the 53rd through the 56th Legislative Assemblies, from District 38, died September 23, 2011;

Chester Reiten, who served in the 43rd and 44th Legislative Assemblies, from District 5, and in the 45th through the 50th Legislative Assemblies, from District 40 and 50, died January 22, 2013;

Ernest Sands, who served in the 40th and 41st Legislative Assemblies and in the 43rd through the 46th Legislative Assemblies, from District 7, died April 9, 2012;

Marvin E. Sorum, who served in the 46th and 47th Legislative Assemblies, from District 3, died March 12, 2012;

Robert W. "Bob" Stenehjem, who served in the 53rd through the 62nd Legislative Assemblies, from District 30, died July 18, 2011;

Darlene Watne, who served in the 54th through the 57th Legislative Assemblies, from District 5, died October 12, 2012;

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 20, 2013