

## JOURNAL OF THE HOUSE

## Sixty-first Legislative Assembly

\* \* \* \* \*

Bismarck, April 7, 2009

The House convened at 12:30 p.m., with Speaker Monson presiding.

The prayer was offered by Pastor Lionel Muthiah, United Methodist Church.

The roll was called and all members were present except Representatives Froelich and Schatz.

A quorum was declared by the Speaker.

## POINT OF PERSONAL PRIVILEGE

**REP. HUNSKOR:** Mr. Speaker: I rise on a point of personal privilege.

Mr. Speaker and members of the House of Representatives, please join Rep. Glen Froseth and I in honoring the Minot State University - Bottineau Lumberjacks Ice Hockey Team.

The athletes on this team, representing four different countries, won the Men's National Junior College Athletic Association Ice Hockey Tournament in Saranac, New York. The 2009 championship was their third consecutive national title and seventh national title overall.

The Lumberjacks skated to a 4-3 semi-final victory over Monroe Community College, Rochester, New York and a 4-1 championship win over Erie Community College, Buffalo, New York.

It should be noted that MSU-Bottineau has a student enrollment of 655 while Monroe Community College and Erie Community College, respectively, have student enrollments of over 18,000 and 12,000.

Winning a third consecutive national title requires countless hours of practice and a selfless dedication to a common goal. It brings a well deserved sense of honor and pride to all North Dakotans...especially parents, teachers, coaches and supporters of these young men.

Lumberjack head coach Travis Rybchinski received the Coach of the Tournament award, Isaac Friesen was named Most Valuable Player, and Colby Rehak, Danny Urban and Joe Caruso were selected to the All Tournament Team.

Coach Rybchinski, coaches Ron Gullett and Jeremy Tweed and members of the MSU Bottineau Ice Hockey Team - the House of Representatives of the Great State of North Dakota takes pride in extending our congratulations on winning the 2009 National Junior College Ice Hockey Tournament.

Thank you Mr. Speaker and members of the House of Representatives.

## MOTION

**REP. BOUCHER MOVED** that the remarks of Rep. Hunsakor be printed in the Journal, which motion prevailed.

## SIXTH ORDER OF BUSINESS

**SPEAKER MONSON DEEMED** approval of the amendments to Engrossed SB 2002, SB 2006, SB 2008, SB 2011, and Engrossed SB 2023.

Engrossed SB 2002, SB 2006, SB 2008, SB 2011, and Engrossed SB 2023, as amended, were placed on the Fourteenth order of business on the calendar for the succeeding legislative day.

## MOTION

**REP. VIGESAA MOVED** that House Rule 508 be suspended and the deadline be moved to the 62nd legislative day, which motion prevailed.

## MOTION

**REP. VIGESAA MOVED** that SB 2199 be returned to the House floor from the **Appropriations Committee** and be rereferred to the **Finance and Taxation Committee**, which motion prevailed. Pursuant to Rep. Vigesaa's motion, SB 2199 was rereferred.

**SECOND READING OF HOUSE CONCURRENT RESOLUTION**

**HCR 3063:** A concurrent resolution affirming North Dakota's sovereignty under the 10th Amendment to the Constitution of the United States and to demand the federal government halt its practice of assuming powers and imposing mandates on the states for purposes not enumerated in the Constitution of the United States.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 52 YEAS, 40 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Bellew; Belter; Berg; Boehning; Brandenburg; Carlson; Clark; Dahl; Damschen; DeKrey; Delzer; Dosch; Drovdal; Frantsvog; Froseth; Grande; Hatlestad; Headland; Heller; Hofstad; Johnson, D.; Karls; Kasper; Keiser; Kempenich; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Martinson; Meier, L.; Nathe; Pietsch; Pinkerton; Pollert; Porter; Ruby; Rust; Skarphol; Sukut; Svedjan; Thoreson; Uglem; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Wrangham; Speaker Monson

**NAYS:** Amerman; Boe; Boucher; Conklin; Conrad; Delmore; Ekstrom; Glassheim; Griffin; Gruchalla; Hanson; Hawken; Holman; Hunsakor; Johnson, N.; Kaldor; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kerzman; Kilichowski; Kretschmar; Kroeber; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nelson; Nottestad; Onstad; Potter; Schmidt; Schneider; Thorpe; Vig; Williams; Winrich; Wolf; Zaiser

**ABSENT AND NOT VOTING:** Froelich; Schatz

HCR 3063 passed and the title was agreed to.

\*\*\*\*\*

**SECOND READING OF HOUSE BILL**

**HB 1577:** A BILL for an Act to provide for a legislative council study of factors impacting the cost of health insurance and health insurance company reserves.

**ROLL CALL**

The question being on the final passage of the bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 92 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; Damschen; DeKrey; Delmore; Delzer; Dosch; Drovdal; Ekstrom; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Holman; Hunsakor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Onstad; Pietsch; Pinkerton; Pollert; Porter; Potter; Ruby; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

**ABSENT AND NOT VOTING:** Froelich; Schatz

HB 1577 passed and the title was agreed to.

\*\*\*\*\*

**SECOND READING OF SENATE BILL**

**SB 2350:** A BILL for an Act to provide for the creation of an ethanol council; to amend and reenact sections 4-24-09 and 4-24-10 of the North Dakota Century Code, relating to the agricultural commodity assessments funds and a report to the legislative assembly; to provide a penalty; and to provide a continuing appropriation.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 86 YEAS, 2 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Belter; Berg; Boehning; Boucher; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; Damschen; DeKrey; Delmore; Delzer; Dosch; Drovdal; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland;

Heller; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kempenich; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Onstad; Pietsch; Pinkerton; Pollert; Porter; Potter; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

**NAYS:** Bellew; Ruby

**ABSENT AND NOT VOTING:** Boe; Ekstrom; Froelich; Kelsh, S.; Kerzman; Schatz

Engrossed SB 2350, as amended, passed and the title was agreed to.

\*\*\*\*\*

### SECOND READING OF SENATE BILL

**SB 2028:** A BILL for an Act to amend and reenact section 29-26-22 of the North Dakota Century Code, relating to the community service supervision fee.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 89 YEAS, 3 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Carlson; Clark; Conklin; Dahl; Damschen; DeKrey; Delmore; Delzer; Dosch; Drovdal; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Onstad; Pietsch; Pinkerton; Pollert; Porter; Potter; Ruby; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

**NAYS:** Amerman; Conrad; Ekstrom

**ABSENT AND NOT VOTING:** Froelich; Schatz

SB 2028, as amended, passed and the title was agreed to.

\*\*\*\*\*

### SECOND READING OF SENATE BILL

**SB 2042:** A BILL for an Act to create and enact six new sections to chapter 14-09 and chapter 14-09.2 of the North Dakota Century Code, relating to parental rights and responsibilities and to parenting coordinators; to amend and reenact sections 14-05-22, 14-05-23, 14-09-05.1, 14-09-06.2, 14-09-06.3, 14-09-06.4, 14-09-06.6, and 14-09-07 of the North Dakota Century Code, relating to parental rights and responsibilities; to repeal sections 14-09-04, 14-09-05, 14-09-06, 14-09-06.1, and 14-09-28 of the North Dakota Century Code, relating to child custody and parental custody and visitation rights and duties; and to provide an expiration date.

### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 92 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; Damschen; DeKrey; Delmore; Delzer; Dosch; Drovdal; Ekstrom; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Onstad; Pietsch; Pinkerton; Pollert; Porter; Potter; Ruby; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

**ABSENT AND NOT VOTING:** Froelich; Schatz

Reengrossed SB 2042, as amended, passed and the title was agreed to.

\*\*\*\*\*

### **SECOND READING OF SENATE BILL**

**SB 2121:** A BILL for an Act to provide an appropriation for defraying expenses of the judicial branch of state government related to the establishment of two additional district court judgeships; and to amend and reenact sections 27-05-01 and 27-05-02.1 of the North Dakota Century Code, relating to the number of district court judges and vacancies in judicial office.

### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 92 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; Damschen; DeKrey; Delmore; Delzer; Dosch; Drovdal; Ekstrom; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Onstad; Pietsch; Pinkerton; Pollert; Porter; Potter; Ruby; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

**ABSENT AND NOT VOTING:** Froelich; Schatz

SB 2121, as amended, passed and the title was agreed to.

\*\*\*\*\*

### **MOTION**

**REP. GLASSHEIM MOVED** that the House reconsider its action whereby SB 2173 failed to pass, which motion lost on a verification vote.

### **SECOND READING OF SENATE BILL**

**SB 2178:** A BILL for an Act to provide an appropriation to the office of management and budget for community service supervision grants.

### **ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 92 YEAS, 0 NAYS, 0 EXCUSED, 2 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; Damschen; DeKrey; Delmore; Delzer; Dosch; Drovdal; Ekstrom; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Onstad; Pietsch; Pinkerton; Pollert; Porter; Potter; Ruby; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

**ABSENT AND NOT VOTING:** Froelich; Schatz

SB 2178, as amended, passed and the title was agreed to.

\*\*\*\*\*

### **SECOND READING OF SENATE BILL**

**SB 2201:** A BILL for an Act to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to a property tax credit for disabled veterans; to amend and reenact subsection 20 of section 57-02-08 and subdivision c of subsection 1 of section 57-55-10 of the North Dakota Century Code, relating to the property tax and

mobile home tax exemptions for disabled veterans; to provide an appropriation; to provide for a reduction of appropriation authority; and to provide an effective date.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 82 YEAS, 9 NAYS, 0 EXCUSED, 3 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Belter; Berg; Boehning; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; DeKrey; Delmore; Delzer; Dosch; Drovdal; Frantsvog; Froseth; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Pietsch; Pinkerton; Pollert; Porter; Potter; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Wolf; Wrangham; Speaker Monson

**NAYS:** Bellew; Boe; Boucher; Damschen; Ekstrom; Glassheim; Ruby; Winrich; Zaiser

**ABSENT AND NOT VOTING:** Froelich; Onstad; Schatz

SB 2201, as amended, passed and the title was agreed to.

\*\*\*\*\*

#### SECOND READING OF SENATE BILL

**SB 2212:** A BILL for an Act to amend and reenact section 15.1-38-02 of the North Dakota Century Code, relating to English language learners; and to provide for grant applications.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 89 YEAS, 0 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Bellew; Belter; Berg; Boe; Boehning; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; Damschen; DeKrey; Delmore; Delzer; Dosch; Drovdal; Ekstrom; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Pietsch; Pinkerton; Pollert; Porter; Potter; Ruby; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

**ABSENT AND NOT VOTING:** Boucher; Froelich; Kaldor; Onstad; Schatz

Engrossed SB 2212, as amended, passed and the title was agreed to.

\*\*\*\*\*

#### SECOND READING OF SENATE BILL

**SB 2216:** A BILL for an Act to amend and reenact section 12.1-34-07 of the North Dakota Century Code, relating to reimbursement for medical screening examinations that precede child forensic medical examinations and acute forensic medical examinations; to provide an appropriation; and to declare an emergency.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 88 YEAS, 0 NAYS, 0 EXCUSED, 6 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Bellew; Belter; Berg; Boe; Boehning; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; Damschen; Delmore; Delzer; Dosch; Drovdal; Ekstrom; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Holman; Hunskor; Johnson, D.; Johnson, N.; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemin; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf;

Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Pietsch; Pinkerton; Pollert; Porter; Potter; Ruby; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

**ABSENT AND NOT VOTING:** Boucher; DeKrey; Froelich; Kaldor; Onstad; Schatz

SB 2216, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

\*\*\*\*\*

## SECOND READING OF SENATE BILL

**SB 2229:** A BILL for an Act to amend and reenact sections 57-51-15 and 57-62-06 of the North Dakota Century Code, relating to allocation of oil and gas gross production taxes; to provide an appropriation; to provide an effective date; and to declare an emergency.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 88 YEAS, 1 NAYS, 0 EXCUSED, 5 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; Damschen; Delmore; Delzer; Dosch; Drovda; Ekstrom; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Hunsakor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemm; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Pietsch; Pinkerton; Pollert; Porter; Potter; Ruby; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

**NAYS:** Bellew

**ABSENT AND NOT VOTING:** DeKrey; Froelich; Holman; Onstad; Schatz

Reengrossed SB 2229, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

\*\*\*\*\*

## SECOND READING OF SENATE BILL

**SB 2230:** A BILL for an Act to provide an appropriation to the state department of health for providing grants to domestic violence sexual assault organizations; and to provide a contingent appropriation.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 90 YEAS, 0 NAYS, 0 EXCUSED, 4 ABSENT AND NOT VOTING.

**YEAS:** Amerman; Bellew; Belter; Berg; Boe; Boehning; Boucher; Brandenburg; Carlson; Clark; Conklin; Conrad; Dahl; Damschen; DeKrey; Delmore; Delzer; Dosch; Drovda; Ekstrom; Frantsvog; Froseth; Glassheim; Grande; Griffin; Gruchalla; Hanson; Hatlestad; Hawken; Headland; Heller; Hofstad; Holman; Hunsakor; Johnson, D.; Johnson, N.; Kaldor; Karls; Kasper; Keiser; Kelsch, R.; Kelsh, J.; Kelsh, S.; Kempenich; Kerzman; Kilichowski; Kingsbury; Klein; Klemm; Koppelman; Kreidt; Kretschmar; Kroeber; Martinson; Meier, L.; Metcalf; Meyer, S.; Mock; Mueller; Myxter; Nathe; Nelson; Nottestad; Pietsch; Pinkerton; Pollert; Porter; Potter; Ruby; Rust; Schmidt; Schneider; Skarphol; Sukut; Svedjan; Thoreson; Thorpe; Uglem; Vig; Vigesaa; Wald; Wall; Weiler; Weisz; Wieland; Williams; Winrich; Wolf; Wrangham; Zaiser; Speaker Monson

**ABSENT AND NOT VOTING:** Froelich; Onstad; Schatz; Wald

Engrossed SB 2230, as amended, passed and the title was agreed to.

\*\*\*\*\*

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed: SB 2072, SB 2133, SB 2231, SB 2295, SB 2358, SB 2412, SCR 4010, SCR 4014, SCR 4015.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2444.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed: SB 2444.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** The President has signed: SB 2444.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed: HCR 3001, HCR 3003, HCR 3004, HCR 3005, HCR 3006, HCR 3011, HCR 3016, HCR 3017, HCR 3020, HCR 3022, HCR 3023, HCR 3026, HCR 3028, HCR 3036, HCR 3041, HCR 3042, HCR 3044, HCR 3051, HCR 3061, HCR 3064.

**SIGNING OF BILLS AND RESOLUTIONS**

The Speaker signed the following enrolled resolution: HMR 7001.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolutions were delivered to the Secretary of State for filing on April 7, 2009: HCR 3001, HCR 3003, HCR 3004, HCR 3005, HCR 3006, HCR 3011, HCR 3016, HCR 3017, HCR 3020, HCR 3022, HCR 3023, HCR 3026, HCR 3028, HCR 3036, HCR 3041, HCR 3042, HCR 3044, HCR 3051, HCR 3061, HCR 3064, HMR 7001.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1029, HB 1113, HB 1435, HB 1463.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** The President has signed: SB 2091, SB 2153, SB 2209, SB 2210, SB 2211, SB 2214, SB 2217, SB 2233, SB 2236, SB 2253, SB 2259, SB 2265, SB 2269, SB 2274, SB 2281, SB 2282, SB 2289, SB 2297, SB 2298, SB 2300, SB 2309.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** The President has signed: SB 2052, SB 2085, SB 2124, SB 2139, SB 2160.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** The President has signed: SB 2313, SB 2321, SB 2322, SB 2328, SB 2349, SB 2354, SB 2357, SB 2368, SB 2370, SB 2378, SB 2380, SB 2388, SB 2389, SB 2416, SB 2422, SCR 4009, SCR 4019, SCR 4022, SCR 4026, SCR 4028.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has passed and your favorable consideration is requested on: HB 1577, HCR 3063.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has failed to pass unchanged: SB 2173.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has amended, subsequently passed, and the emergency clause carried: SB 2216, SB 2229.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2028, SB 2042, SB 2121, SB 2178, SB 2201, SB 2212, SB 2230, SB 2350.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** The President has signed: HB 1229, HCR 3027.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed: HB 1024, HB 1027, HB 1037, HB 1038, HB 1048, HB 1060, HB 1064, HB 1067, HB 1069, HB 1070, HB 1086, HB 1091, HB 1094, HB 1101, HB 1109, HB 1121, HB 1123, HB 1126, HB 1127, HB 1128, HB 1130, HB 1131, HB 1135, HB 1136, HB 1139, HB 1140, HB 1142, HB 1147, HB 1153, HB 1159, HB 1168, HB 1176, HB 1192, HB 1196, HB 1199, HB 1223, HB 1232, HB 1234, HB 1244, HB 1245.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**

**MR. PRESIDENT:** The Speaker has signed: HB 1257, HB 1271, HB 1272, HB 1277, HB 1280, HB 1291, HB 1294, HB 1296, HB 1302, HB 1318, HB 1321, HB 1323, HB 1340, HB 1341, HB 1344, HB 1345, HB 1351, HB 1362, HB 1365, HB 1367, HB 1383, HB 1386, HB 1389, HB 1402, HB 1403, HB 1413, HB 1420, HB 1428, HB 1460, HB 1475, HB 1477, HB 1484, HB 1491, HB 1495, HB 1497, HB 1505, HB 1525, HB 1545, HB 1566, HB 1567.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 7, 2009: HB 1024, HB 1027, HB 1037, HB 1038, HB 1048, HB 1060, HB 1064, HB 1067, HB 1069, HB 1070, HB 1086, HB 1091, HB 1094, HB 1101, HB 1109, HB 1121, HB 1123, HB 1126, HB 1127, HB 1128, HB 1130, HB 1131, HB 1135, HB 1136, HB 1139, HB 1140, HB 1142, HB 1147, HB 1153, HB 1159, HB 1168, HB 1176, HB 1192, HB 1196, HB 1199, HB 1223, HB 1232, HB 1234, HB 1244, HB 1245.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 7, 2009: HB 1257, HB 1271, HB 1272, HB 1277, HB 1280, HB 1291, HB 1294, HB 1296, HB 1302, HB 1318, HB 1321, HB 1323, HB 1340, HB 1341, HB 1344, HB 1345, HB 1351, HB 1362, HB 1365, HB 1367, HB 1383, HB 1386, HB 1389, HB 1402, HB 1403, HB 1413, HB 1420, HB 1428, HB 1460, HB 1475, HB 1477, HB 1484, HB 1491, HB 1495, HB 1497, HB 1505, HB 1525, HB 1545, HB 1566, HB 1567.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**

**MR. SPEAKER:** The Senate has amended, subsequently passed, and the emergency clause carried: HB 1010, HB 1013, HB 1400, HB 1509.

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1010**

Page 1, line 3, replace the first "and" with "to create and enact a new subsection to section 26.1-36-23 of the North Dakota Century Code, relating to the continuation of group hospital, surgical, and medical coverage after termination of employment;"

Page 1, line 4, after "salary" insert "; and to declare an emergency"

Page 1, line 12, replace "419,738" with "688,433" and replace "6,206,485" with "6,475,180"

Page 1, line 13, replace "(115,113)" with "(76,113)" and replace "2,063,264" with "2,102,264"

Page 1, line 15, replace "380,000" with "500,000" and replace "6,870,000" with "6,990,000"

Page 1, line 16, replace "854,625" with "1,282,320" and replace "15,309,749" with "15,737,444"

Page 1, after line 17, insert:

**"SECTION 2. APPROPRIATION - TRANSFER - STATE BONDING FUND.**

There is appropriated out of any moneys in the insurance regulatory trust fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, which the office of management and budget shall transfer to the state bonding fund, for the period beginning with the effective date of this Act and ending June 30, 2011."

Page 1, line 19, replace "\$6,500,000" with "\$6,820,000"

Page 1, line 21, replace "\$300,000" with "\$620,000"

Page 1, line 22, remove "Funding"

Page 1, remove line 23

Page 2, remove lines 19 through 24

Page 2, after line 30, insert:

**"SECTION 10.** A new subsection to section 26.1-36-23 of the North Dakota Century Code is created and enacted as follows:

- a. Notwithstanding any other provision of this section, an employee or member who does not have an election of continuation coverage as described in this section in effect on the effective date of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111-5], but who would be an assistance-eligible individual under title III of division B of



the Act if the election were in effect, may elect continuation coverage. The employer or the group policyholder shall provide employees or members with additional written notice of the right to elect coverage under this subsection within sixty days of the date of enactment of the American Recovery and Reinvestment Act of 2009 or within fourteen days of the effective date of this Act, whichever is later. The employee or member may make the election in writing no later than sixty days after the date the employer or the group policyholder provides the notice to the employee or member.

- b. Continuation coverage elected under this subsection commences with the first period of coverage beginning after February 16, 2009, and may not extend beyond the period of continuation coverage that would have been required if the coverage had instead been elected under subsection 4.
- c. The period beginning on the date that the employee or member was involuntarily terminated and ending when the continuation coverage starts must be disregarded for the purpose of determining whether a preexisting condition exclusion period applies.
- d. An employee or member electing continuation under this subsection shall pay to the group policyholder or the employer, on a monthly basis in advance, the amount of contribution required by the policyholder or employer, but not more than the group rate for the insurance being continued under the group policy on the due date of each payment. The employee's or member's written election of continuation, together with the contribution required to establish contributions on a monthly basis in advance, must be given to the policyholder or employer within thirty-one days of the date the employee's or member's election of continuation coverage.
- e. Continuation of insurance under this subsection terminates at the earlier of the date when the person fails to satisfy subsection 2 or when the person fails to satisfy any requirement of subsection 6.
- f. The notification described in subsection 7 is not required for continuation coverage elected under this subsection.
- g. Except as otherwise provided in this subsection, the provisions of this section apply to an employee or member electing continuation coverage.

**SECTION 11. EMERGENCY.** Sections 2 and 10 of this Act are declared to be an emergency measure."

Renumber accordingly

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1013**

Page, 1, line 21, replace "1,330,606" with "2,283,467" and replace "12,746,140" with "13,699,001"

Page 1, line 22, replace "11,242,300" with "11,313,692" and replace "30,980,594" with "31,051,986"

Page 1, line 23, replace "100,800,000" with "99,000,000" and replace "826,965,879" with "825,165,879"

Page 2, line 1, replace "5,000,000" with "10,000,000" and replace "38,500,000" with "43,500,000"

Page 2, line 2, replace "14,829,915" with "15,287,915" and replace "242,531,721" with "242,989,721"

Page 2, line 4, replace "55,000" with "62,500" and replace "95,000" with "102,500"

Page 2, line 5, replace "131,257,821" with "135,947,574" and replace "1,167,349,334" with "1,172,039,087"

Page 2, line 6, replace "34,366,125" with "34,786,136" and replace "360,034,363" with "360,454,374"

Page 2, line 7, replace "96,891,696" with "101,161,438" and replace "807,314,971" with "811,584,713"

Page 2, line 8, replace "2.00" with "5.00" and replace "96.75" with "99.75"

Page 2, line 13, replace "501,421" with "656,518" and replace "3,129,915" with "3,285,012"

Page 2, line 16, replace "606,222" with "761,319" and replace "6,464,988" with "6,620,085"

Page 2, line 17, replace "35,230" with "58,442" and replace "1,916,483" with "1,939,695"

Page 2, line 18, replace "570,992" with "702,877" and replace "4,548,505" with "4,680,390"

Page 2, line 24, replace "569,456" with "738,561" and replace "5,334,629" with "5,503,734"

Page 2, line 26, replace "162,640" with "179,140" and replace "212,640" with "229,140"

Page 2, line 28, replace "955,021" with "1,140,626" and replace "7,284,477" with "7,470,082"

Page 2, line 29, replace "288,092" with "295,443" and replace "1,327,110" with "1,334,461"

Page 2, line 30, replace "666,929" with "845,183" and replace "5,957,367" with "6,135,621"

Page 3, line 5, replace "330,886" with "585,796" and replace "3,309,781" with "3,564,691"

Page 3, line 6, replace "18,200" with "39,854" and replace "658,998" with "680,652"

Page 3, line 9, replace "298,486" with "575,050" and replace "4,060,279" with "4,336,843"

Page 3, line 10, replace "(35,546)" with "(23,275)" and replace "808,311" with "820,582"

Page 3, line 11, replace "334,032" with "598,325" and replace "3,251,968" with "3,516,261"

Page 3, line 12, replace "0.00" with "1.50" and replace "28.00" with "29.50"

Page 3, line 17, replace "98,463,649" with "103,307,823" and replace "821,072,811" with "825,916,985"

Page 3, line 18, replace "34,653,901" with "188,486,482" and replace "364,086,267" with "517,918,848"

Page 3, line 19, replace "133,117,550" with "291,794,305" and replace "1,185,159,078" with "1,343,835,833"

Page 4, after line 12, insert:

**"SECTION 3. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the superintendent of public instruction, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Fiscal stabilization - Education funds	\$85,644,337
Title I - Part A	27,415,262
Title I - School improvement	7,145,000
Title II - Part D - Technology	3,209,375
Individuals With Disabilities Education Act	27,413,988
McKinney-Vento Homeless Assistance Act	150,000
National school lunch program	230,000
The emergency food assistance program	85,426
Clean diesel (passthrough from the state department of health)	1,730,000
Total federal funds	<u>\$153,023,388</u>

The superintendent of public instruction may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional

federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

**SECTION 4. APPROPRIATION - FEDERAL FISCAL STABILIZATION - OTHER GOVERNMENT SERVICES - ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal fiscal stabilization - other government services funds made available to the governor under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the superintendent of public instruction, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Department of public instruction administrative costs relating to federal fiscal stimulus payment to schools, including salaries (\$152,533) and operating expenses (\$173,815)	\$326,348
Early childhood learning council operating expenses	20,000
Total federal funds from governor's office	\$346,348

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

**SECTION 5. LINE ITEM TRANSFERS - SCHOOL FOR THE DEAF.** Notwithstanding section 54-16-04, the director of the office of management and budget and the state treasurer shall transfer funds from the salaries and wages line item to the operating expenses line item contained in subdivision 3 of section 1 of this Act of up to \$100,000 as requested by the superintendent of public instruction to provide funding for a future services plan and implementation for the school for the deaf, for the biennium beginning July 1, 2009, and ending June 30, 2011."

Page 5, line 25, after "of" insert "individuals pursuing a" and replace "graduates" with a comma

Page 7, after line 7, insert:

**"SECTION 18. CONTINGENT APPROPRIATION - DEFERRED MAINTENANCE AND PHYSICAL PLANT IMPROVEMENT GRANTS.**

1. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of awarding grants to eligible school districts for deferred maintenance and physical plant improvements, for the biennium beginning July 1, 2009, and ending June 30, 2011.
2. If the office of management and budget determines by July 31, 2010, that the June 30, 2011, ending balance of the state general fund will be more than \$30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2009 legislative session, the superintendent of public instruction shall forward to each eligible school district:
  - a. Twenty 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. If the general fund balance requirements of subsection 2 are not met and if the office of management and budget determines by April 30, 2011, that the June 30, 2011, ending balance of the state general fund will be more than \$30,000,000 in excess of the amount predicted by the office of management and budget at the conclusion of the 2009 legislative session,

the superintendent of public instruction shall forward to each eligible school district:

- a. Twenty 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.
4. By June 30, 2012, each school district that receives a deferred maintenance and physical plant improvement grant from the superintendent of public instruction shall:
- a. Submit to the superintendent documentation detailing how the grant funds were expended; and
  - b. Return any unexpended grant funds to the superintendent for deposit in the general fund.
5. The superintendent of public instruction may provide a deferred maintenance and physical plant improvement grant only to a school district that:
- a. Has a general fund levy equal to at least one hundred fifty mills for the taxable year 2008;
  - b. Is not precluded from receiving state aid by the provisions of section 15.1-27-35.3; and
  - c. Provides a monetary match equal to the grant amount."

Page 8, line 19, replace "Section 5 of this Act is" with "Sections 3, 4, and 8 of this Act are"

Renumber accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT - LC 98014.0202 FN 2**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

#### **SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1400**

In lieu of the amendments adopted by the Senate as printed on pages 834-858 and 889 of the Senate Journal, Engrossed House Bill No. 1400 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 15-20.1, two new sections to chapter 15.1-02, two new sections to chapter 15.1-06, a new section to chapter 15.1-07, a new section to chapter 15.1-13, chapter 15.1-18.2, five new sections to chapter 15.1-21, sections 15.1-21-02.3, 15.1-21-02.4, 15.1-21-02.5, and 15.1-21-02.6, two new sections to chapter 15.1-27, and three new sections to chapter 15.1-37 of the North Dakota Century Code, relating to career development facilitation, student health insurance, the use of federal stimulus dollars, school personnel, national board certification, program and course requirements, assessments, state aid payments, and an early childhood education council; to amend and reenact sections 15.1-06-04, 15.1-09.1-10, 15.1-21-02, 15.1-21-02.1, 15.1-27-03.1, 15.1-27-04, 15.1-27-07.2, 15.1-27-11, 15.1-27-19, 15.1-27-35, 15.1-27-35.3, 15.1-27-41, and 15.1-32-18 of the North Dakota Century Code and section 55 of chapter 163 of the 2007 Session Laws, relating to school calendars, course requirements, state aid payments, and special education; to provide an appropriation; to provide a continuing appropriation; to provide for teacher compensation increases; to provide for the distribution of teacher support system grants, transportation grants, reorganization planning grants, regional education association grants, baseline recalculation grants, and contingency payments; to provide for a contingent transfer; to provide for reports to the legislative council; to repeal sections 15.1-21-02.2, 15.1-27-20.1, 15.1-27-41, and 15.1-38-01.2 of the North Dakota Century Code, relating to high school graduation requirements, the minimum mill levy offset, the commission on education improvement, and new immigrant English language learners; 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.** A new section to chapter 15-20.1 of the North Dakota Century Code is created and enacted as follows:

**Career development facilitation - Certificate - Qualifications.**

1. The department shall develop a program leading to a certificate in career development facilitation. The department shall award the certificate to any individual who:
  - a. Holds a baccalaureate degree from an accredited institution of higher education;
  - b. Has at least a five-year employment history; and
  - c. Successfully completes the department's programmatic requirements.
2. An individual holding a certificate awarded under this section is a career advisor.

**SECTION 2.** A new section to chapter 15-20.1 of the North Dakota Century Code is created and enacted as follows:

**Career development facilitation - Provisional approval.**

1. The department may provisionally approve an individual to serve as a career advisor if the individual:
  - a. Holds a baccalaureate degree from an accredited institution of higher education;
  - b. Has at least a five-year employment history; and
  - c. Provides the department with a plan for completing the department's programmatic requirements within a two-year period.
2. Provisional approval under subsection 1 is valid for a period of two years and may not be extended by the department.

**SECTION 3.** A new section to chapter 15.1-02 of the North Dakota Century Code is created and enacted as follows:

**Health insurance programs - Joint enrollment program.** The superintendent of public instruction and the department of human services jointly shall develop a system under which families of children enrolling in the public school system are provided with information regarding state and federally funded health insurance programs and encouraged to apply for such coverage if determined to be eligible.

**SECTION 4.** A new section to chapter 15.1-02 of the North Dakota Century Code is created and enacted as follows:

**Federal stimulus dollars - Notification of nonreplacement - Publication of notice.**

1. The superintendent of public instruction shall notify the superintendent and board of each school district in the state, by registered mail, that any federal stimulus dollars received by the district as a result of the American Recovery and Reinvestment Act of 2009 should be used only for one-time, nonrecurring expenditures because this state is not responsible for replacing that level of funding or otherwise sustaining that level of funding during the 2011-13 biennium.
2. During the thirty-day period following receipt of the notification, the superintendent of each school district shall arrange to publish the notice at least twice in the official newspaper of the district.

**SECTION 5. AMENDMENT.** Section 15.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-06-04. School calendar - Length.**

1.
  - ~~a.~~ a. During ~~each~~ the 2009-10 school year, a school district shall provide for a school calendar of at least one hundred eighty days, apportioned as follows:
    - ~~a.~~ (1) One hundred seventy-three full days of instruction;
    - ~~b.~~ (2) 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;
    - ~~c.~~ (3) Up to two full days during which parent-teacher conferences are held or which are deemed by the school board to be compensatory time for parent-teacher conferences held outside regular school hours; and
    - ~~d.~~ (4) Two days for professional development activities.
  - b. Beginning with the 2010-11 school year, a school district shall provide for a school calendar of at least one hundred eighty-two days, apportioned as follows:
    - (1) One hundred seventy-four full days of instruction;
    - (2) 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;
    - (3) Up to two full days during which parent-teacher conferences are held or which are deemed by the school board to be compensatory time for parent-teacher conferences held outside regular school hours; and
    - (4) Three days for professional development activities.
2.
  - a. In meeting the requirements for two days of professional development activities under subsection 1, a school district may require that its teachers attend the North Dakota education association instructional conference and may pay teachers for attending the conference, provided attendance is verified.
  - b. In meeting the requirements for two days of professional development activities under subsection 1, a school district may consider attendance at the North Dakota education association instructional conference to be optional, elect not to pay teachers for attending the instructional conference, and instead direct any resulting savings toward providing alternate professional development opportunities.
  - c. For purposes of this section, a "day for professional development activities" means:
    - (1) Six hours of professional development activities, exclusive of meals and other breaks, conducted within a single day; or
    - (2) Two four-hour periods of professional development activities, exclusive of meals and other breaks, conducted over two days.
3. If a school district offers a four-hour period of professional development activities, as permitted in subdivision c of subsection 2, the school district may schedule instruction during other available hours on that same day and be credited with providing one-half day of instruction to students. The provisions of this subsection do not apply unless the one-half day of instruction equals at least one-half of the time required for a full day of instruction, as defined in this section.
4. A school district may not require the attendance of teachers in school or at any school-sponsored, school-directed, school-sanctioned, or school-related activities and may not schedule classroom instruction time

nor alternate professional development activities on any day that conflicts with the North Dakota education association instructional conference.

5. ~~a. During the 2007-08 school year, a full day of instruction consists of:~~
  - ~~(1) At least five and one-half hours for elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and~~
  - ~~(2) At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.~~
- ~~b. Beginning with the 2008-09 school year, a A full day of instruction consists of:~~
  - ~~(1) a. At least five and one-half hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and~~
  - ~~(2) b. At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.~~
6. If a school's calendar provides for an extension of each schoolday beyond the statutorily required minimum number of hours, and if the extensions when aggregated over an entire school year amount to more than eighty-four hours of additional classroom instruction during the school year, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. In order to make up lost classroom instruction time beyond the six hours, the school must extend its normal school calendar day by at least thirty minutes.
7. A school that does not qualify under ~~the provisions of~~ subsection 6 must extend its normal schoolday by at least thirty minutes to make up classroom instruction time lost as a result of weather-related closure.
8. If because of weather a school must dismiss before completing a full day of instruction, the school is responsible for making up only those hours and portions of an hour between the time of early dismissal and the conclusion of a full day of classroom instruction.

**SECTION 6.** A new section to chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

**Counselor positions - Requirement.**

1. Beginning with the 2010-11 school year, each school district must have available one full-time equivalent counselor for every three hundred students in grades seven through twelve.
2. Up to one-third of the full-time equivalency requirement established in subsection 1 may be met by career advisors.
3. For purposes of this section, a "career advisor" means an individual who holds a certificate in career development facilitation issued by the department of career and technical education under section 1 of this Act or an individual who is provisionally approved by the department of career and technical education under section 2 of this Act to serve as a career advisor.

**SECTION 7.** A new section to chapter 15.1-06 of the North Dakota Century Code is created and enacted as follows:

**Career advisor - Duties.** A career advisor shall provide sequential career development activities, current career information, and related career exploration opportunities to students in grades seven through twelve. A career advisor shall use computer-assisted career guidance systems and work at the direction and under the supervision of the school district counseling staff.

**SECTION 8.** A new section to chapter 15.1-07 of the North Dakota Century Code is created and enacted as follows:

**Student performance strategist - Verification - Qualifications.** Beginning with the 2010-11 school year, 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 the qualifications of an elementary school teacher as set forth in section 15.1-18-07 and serve as a tutor or an instructional coach.

**SECTION 9. AMENDMENT.** Section 15.1-09.1-10 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09.1-10. State aid - Payable to a regional education association - Obligation of district.**

1. The superintendent of public instruction shall forward the portion of a school district's state aid ~~that~~ which is payable by the superintendent under subdivision m of subsection 1 of section 15.1-27-03.1 as a result of the district's participation in a regional education association directly to the association in which the district participates. The superintendent shall forward the amount payable under this subsection at the same time and in the same manner as provided for other state aid payments under section 15.1-27-01.
2. If the superintendent of public instruction determines that a school district failed to meet any contractual or statutory obligation imposed upon it as a result of the district's participation in a regional education association, the superintendent shall subtract the amount for which the district was not eligible from any future distribution of state aid to the district under section 15.1-27-01.

**SECTION 10.** A new section to chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

**National board certification fund - Creation - Continuing appropriation.**

1. The national board certification fund is a special fund in the state treasury. The state investment board shall invest the fund in accordance with chapter 21-10. All interest and income received on investments are appropriated on a continuing basis to the education standards and practices board for the purpose of awarding grants to teachers pursuing national board certification.
2. The education standards and practices board shall make grants available to applicants in an amount equal to the cost of obtaining national board certification, but not exceeding two thousand five hundred dollars per applicant. The board shall make the grants available to applicants in chronological order, based on the date the board receives an applicant's completed application.
3. As a condition of the grant, the education standards and practices board may require recipients who achieve national board certification to mentor other individuals who are licensed to teach by the board.

**SECTION 11.** Chapter 15.1-18.2 of the North Dakota Century Code is created and enacted as follows:

**15.1-18.2-01. Professional development plan - Adoption - Review by school district.**

1. Each school district shall adopt a professional development plan. The plan must include a description of the professional development activities that the district offers or makes available, the district's requirements for



participation by teachers, and the manner in which participation is documented.

2. Each school district shall review and if necessary modify its plan at least once every five years.
3. Each school district shall file a copy of its most recent professional development plan with the superintendent of public instruction.

**15.1-18.2-02. Professional development plan - Review by superintendent of public instruction.** The superintendent of public instruction shall review each school district's professional development plan to ensure that the plan meets the requirements of section 15.1-18.2-01, is designed to improve the quality of teaching and learning in the district, and is implemented in an efficient and effective manner.

**15.1-18.2-03. Professional development advisory committee - Duties - Staff support.**

1. The superintendent of public instruction shall appoint a professional development advisory committee to:
  - a. Examine the delivery of professional development in this state;
  - b. Review professional development needs from the perspective of teachers, school administrators, school board members, and parents;
  - c. Review the professional development plans filed by school districts and propose changes to improve the opportunities for professional development; and
  - d. Advise the superintendent regarding regulatory and statutory measures that could be pursued to improve the quality and availability of professional development opportunities.
2. The superintendent shall provide staff support to the professional development advisory committee.

**SECTION 12. AMENDMENT.** Section 15.1-21-02 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-02. High schools - Required units.**

1. In order to be approved by the superintendent of public instruction, each public and nonpublic high school shall make available to each student:
  - a. Four units of English language arts;
  - b. Four units of mathematics;
  - c. Four units of science;
  - d. Four units of social studies, including one of world history and one of United States history;
  - e. One-half unit of health;
  - f. One-half unit of physical education during each school year, provided that once every four years the unit must be a concept-based fitness class that includes instruction in the assessment, improvement, and maintenance of personal fitness;
  - g. Two units of fine arts, at least one of which must be music;
  - h. Two units of the same foreign or native American language; and
  - i. Two units of career and technical education.
2. In addition to the requirements of subsection 1, each public and nonpublic high school shall make available to each student, at least once every two

years, one-half unit of North Dakota studies, with an emphasis on the geography, history, and agriculture of this state.

3. Each unit which must be made available under this section must meet or exceed the state content standards.
4. For purposes of this section, unless the context otherwise requires, "make available" means that:
  - a. Each public high school and nonpublic high school shall allow students to select units over the course of a high school career from a list that includes at least those required by this section;
  - b. If a student selects a unit from the list required by this section, the public high school or the nonpublic high school shall provide the unit to the student; and
  - c. The unit may be provided to the student through any delivery method not contrary to state law and may include classroom or individual instruction and distance learning options, including interactive video, computer instruction, correspondence courses, and postsecondary enrollment under chapter 15.1-25.
5. The board of a school district may not impose any fees or charges upon a student for the provision of or participation in units as provided in this section, other than the fees permitted by section 15.1-09-36.
6. If in order to meet the minimum requirements of this section a school district includes academic courses offered by a postsecondary institution under chapter 15.1-25, the school district shall:
  - a. Pay all costs of the student's attendance, except those fees that are permissible under section 15.1-09-36; and
  - b. Transport the student to and from the location at which the course is offered or provide mileage reimbursement to the student if transportation is provided by the student or the student's family.
7. The requirements of this section do not apply to alternative high schools or alternative high school education programs.
8. The requirements of subdivisions g and h of subsection 1 do not apply to the North Dakota youth correctional center.

**SECTION 13. AMENDMENT.** Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-02.1. High school graduation - Diploma requirements.** ~~Before~~ 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 at least twenty-one the following twenty-two units of high school coursework from the minimum required curriculum offerings established by section 15.1-21-02. ~~Beginning with the 2009-10 school year, the number of units required by this section increases to twenty two and beginning with the 2011-12 school year, the number of units required by this section increases to twenty four.~~

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;
3. 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. 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. One unit of physical education; or
  - b. One-half unit of physical education and one-half unit of health;
- 6. Three units of:
  - a. Foreign languages;
  - b. Native American languages;
  - c. Fine arts; or
  - d. Career and technical education courses; and
- 7. Any five additional units.

**SECTION 14.** Section 15.1-21-02.3 of the North Dakota Century Code is created and enacted as follows:

**15.1-21-02.3. Optional high school curriculum - Requirements.** If after completing at least two years of high school a student has failed to pass at least one-half unit from three subsections in section 15.1-21-02.1 or has a grade point average at or below the twenty-fifth percentile of other students in the district who are enrolled in the same grade, the student may request that the student's career advisor, guidance counselor, or principal meet with the student and the student's parent to determine if the student should be permitted to pursue an optional high school curriculum, in place of the requirements set forth in section 15.1-21-02.1. If a student's parent consents in writing to the student pursuing the optional high school curriculum, the student is eligible to receive a high school diploma upon completing the following requirements:

- 1. Four units of English language arts from a sequence that includes literature, composition, and speech;
- 2. Two units of mathematics;
- 3. Two units of science;
- 4. Three units of social studies, which may include up to one-half unit of North Dakota studies and one-half unit of multicultural studies;
- 5. a. One unit of physical education; or
  - b. One-half unit of physical education and one-half unit of health;
- 6. Two units of:
  - a. Foreign languages;
  - b. Native American languages;
  - c. Fine arts; or
  - d. Career and technical education courses; and

7. Any seven additional units.

**SECTION 15.** Section 15.1-21-02.4 of the North Dakota Century Code is created and enacted 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 is eligible to receive a North Dakota career and technical education scholarship provided the student completes all requirements set forth in subsections 1 through 5 and subsection 7 of section 15.1-21-02.1 for a high school diploma and:

1. a. Completes one unit of algebra II in fulfillment of the mathematics requirement set forth in subsection 2 of section 15.1-21-02.1;
  - b. Completes 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; and
  - c. Completes three additional units, two of which must be in the area of career and technical education;
2. Obtains a grade of at least "C" in each unit or one-half unit required for the diploma;
3. Obtains a cumulative grade point of at least "B"; and
4. Receives:
  - a. A composite score of at least twenty-four on an ACT;
  - b. A score of at least one thousand one hundred on the critical reading and mathematics portions of the SAT; or
  - c. 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.

**SECTION 16.** Section 15.1-21-02.5 of the North Dakota Century Code is created and enacted 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 completes all requirements set forth in subsections 1 through 5 and subsection 7 of section 15.1-21-02.1 for a high school diploma and:

1. a. Completes one unit of algebra II in fulfillment of the mathematics requirement set forth in subsection 2 of section 15.1-21-02.1;
  - b. Completes one additional unit of mathematics for which algebra II is a prerequisite; and
  - c. Completes:
    - (1) Two units of the same foreign or native American language;
    - (2) One unit of fine arts or career and technical education; and
    - (3) One unit of a foreign or native American language, fine arts, or career and technical education;
2. Obtains a grade of at least "C" in each unit or one-half unit required for the diploma;
3. Obtains a cumulative grade point of at least "B";
4. Receives a composite score of at least twenty-four on an ACT or a score of at least one thousand one hundred on the critical reading and mathematics portions of the SAT; and

5. Completes one unit of an advanced placement course and examination or a dual-credit course.

**SECTION 17.** Section 15.1-21-02.6 of the North Dakota Century Code is created and enacted as follows:

**15.1-21-02.6. North Dakota scholarship - Amount - Applicability.**

1. The state board of higher education shall provide to any eligible student a North Dakota 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 grade point average of 2.75.
2. A student is not entitled to receive more than six thousand dollars under this section.
3. The state board of higher education shall forward the scholarship directly to the institution in which the student is enrolled.
4. This section does not require a student to be enrolled in consecutive semesters. 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.
5. A scholarship under this section is available to any eligible student who graduates from a high school in this state or from a high school in a bordering state under chapter 15.1-29.

**SECTION 18.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Summer school courses and programs - Eligibility for payment.** The summer school courses and programs for which a school district may receive payment as provided in section 15.1-27-19 are:

1.
  - a. Remedial mathematics provided to students enrolled in any grade from kindergarten through eight;
  - b. Remedial reading provided to students enrolled in any grade from kindergarten through eight;
  - c. Mathematics provided to students enrolled in any grade from five through nine;
  - d. Reading provided to students enrolled in any grade from five through nine;
  - e. Science provided to students enrolled in any grade from five through nine; and
  - f. Social studies provided to students enrolled in any grade from five through nine; and
2. Any other high school summer courses that satisfy requirements for graduation, comprise at least as many clock-hours as courses offered during the regular school term, and comply with rules adopted by the superintendent of public instruction.

**SECTION 19.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Interim assessment.** Each school district shall administer annually to students in grades two through ten the measures of academic progress test or any other interim assessment approved by the superintendent of public instruction.

**SECTION 20.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Career interest inventory.** A school district shall administer to students, once during their enrollment in grade seven or eight and once during their enrollment in grade nine or ten, a career interest inventory recommended by the department of career and technical education and approved by the superintendent of public instruction.

**SECTION 21.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Summative assessment - Selection - Cost - Exemptions.**

1. Except as otherwise provided, each student in grade eleven shall take the ACT, the SAT, or three WorkKeys assessments recommended by the department of career and technical education and approved by the superintendent of public instruction. The student shall determine which summative assessment to take. The student's school district is responsible for the cost of one summative assessment and its administration per student.
2. The student's career advisor or guidance counselor shall meet with the student to review the student's assessment results.
3. A school district superintendent may exempt a student from the requirements of this section if taking the test is not required by the student's individualized education program plan or if the superintendent determines that other special circumstances exist.

**SECTION 22.** A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

**Summative assessment - General educational development diploma - Selection - Cost.**

1. Except as otherwise provided, each student pursuing a general educational development diploma may take the ACT, the SAT, or three WorkKeys assessments recommended by the department of career and technical education and approved by the superintendent of public instruction. The student shall determine which summative assessment to take. The student's school district is responsible for the cost of one summative assessment and its administration per student.
2. The student's career advisor or guidance counselor shall meet with the student to review the student's assessment results.

**SECTION 23. AMENDMENT.** Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-03.1. 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. 0.25 the number of full-time equivalent students enrolled in an alternative high school;
  - f. 0.25 the number of full-time equivalent students enrolled in an isolated elementary school;

- g. 0.25 the number of full-time equivalent students enrolled in an isolated high school;
  - h. 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;
  - i. 0.20 the number of full-time equivalent students enrolled in a new immigrant English language learner program;
  - j. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;
  - ~~j.~~ k. ~~0.14~~ 0.10 the number of full-time equivalent students, other than those provided for in subdivision i, who are enrolled in a new immigrant an English language learner program;
  - ~~k.~~ l. ~~0.067~~ 0.07 the number of students enrolled in average daily membership, in order to support the provision of special education services; and
  - ~~l. 0.02 the number of full-time equivalent students, other than those provided for in subdivision j, who are enrolled in an English language learner program~~
  - m. 0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1.
2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.

**SECTION 24. AMENDMENT.** Section 15.1-27-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-03.1. 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. 0.25 the number of full-time equivalent students enrolled in an alternative high school;
  - f. 0.25 the number of full-time equivalent students enrolled in an isolated elementary school;
  - g. 0.25 the number of full-time equivalent students enrolled in an isolated high school;
  - h. 0.20 the number of full-time equivalent students attending school in a bordering state in accordance with section 15.1-29-01;
  - i. 0.20 the number of full-time equivalent students enrolled in a new immigrant English language learner program;
  - j. 0.17 the number of full-time equivalent students enrolled in an early childhood special education program;

- j. ~~k.~~ ~~0.14~~ 0.10 the number of full-time equivalent students, other than those provided for in subdivision i, who are enrolled in a new immigrant an English language learner program;
  - ~~k.~~ l. ~~0.067~~ 0.07 the number of students enrolled in average daily membership, in order to support the provision of special education services; ~~and~~
  - ~~l.~~ m. ~~0.02~~ 0.05 the number of ~~full-time equivalent students, other than those provided for in subdivision j, who are enrolled in an English language learner program~~ 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.]; and
  - n. 0.004 the number of students enrolled in average daily membership in a school district that is a participating member of a regional education association meeting the requirements of chapter 15.1-09.1.
2. The superintendent of public instruction shall determine each school district's weighted average daily membership by adding the products derived under subsection 1 to the district's average daily membership.

**SECTION 25. AMENDMENT.** Section 15.1-27-04 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-04. Per student payment rate.**

- 1. a. The per student payment rate to which each school district is entitled for the first year of the biennium is three thousand ~~two~~ four hundred ~~fifty~~ twenty dollars.
- b. The per student payment rate to which each school district is entitled for the second year of the biennium is three thousand ~~three~~ seven hundred ~~twenty-five~~ seventy-nine dollars.
- 2. In order to determine the state aid payment to which each district is entitled, the superintendent of public instruction shall multiply each district's weighted student units by the per student payment rate set forth in subsection 1.

**SECTION 26. AMENDMENT.** Section 15.1-27-07.2 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-07.2. Baseline funding - Determination - Minimum and maximum allowable increases.**

- 1. The superintendent of public instruction shall determine each school district's baseline funding per weighted student unit by:
  - a. Adding together all state aid received by the district during the 2006-07 school year;
  - b. Subtracting the amount received by the district during the 2006-07 school year for transportation aid, special education excess cost reimbursements, special education contracts, prior year funding adjustments, and per student payments for participation in educational associations governed by joint powers agreements; and
  - c. Dividing the amount determined under subdivision b by the district's 2007-08 weighted student units.
- 2. a. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, for the ~~2007-08~~ 2009-10 school year, is at least equal to one hundred ~~three and one-half~~ eight percent of the baseline funding per weighted student unit, as established in subsection 1.



- b. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, for each school year after the ~~2007-08~~ 2009-10 school year, is at least equal to one hundred ~~six~~ twelve and one-half percent of the baseline funding per weighted student unit, as established in subsection 1.
- 3. a. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, less any amount received as equity payments under section 15.1-27-11 per weighted student unit, does not exceed, for the ~~2007-08~~ 2009-10 school year, one hundred ~~seven~~ twenty percent of the baseline funding per weighted student unit, as established in subsection 1.
- b. ~~Beginning with the 2008-09 school year, the maximum percentage of allowable growth in the baseline funding per weighted student unit provided in subdivision a must be annually increased by three percentage points, plus the district's share of any increased state aid for that year. Payments received by districts for the provision of full day kindergarten do not constitute increases in state aid for purposes of this subdivision. The superintendent of public instruction shall ensure that the total amount of state aid payable to a district per weighted student unit, less any amount received as equity payments under section 15.1-27-11 per weighted student unit, does not exceed, for each school year after the 2009-10 school year, one hundred thirty-four percent of the baseline funding per weighted student unit, as established in subsection 1.~~

**SECTION 27. AMENDMENT.** Section 15.1-27-11 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-11. Equity payments.**

- 1. The superintendent of public instruction shall:
  - a. Divide the imputed taxable valuation of the state by the total average daily membership of all school districts in the state in order to determine the state average imputed taxable valuation per student.
  - b. Divide the imputed taxable valuation of each school district by the district's total average daily membership in order to determine each district's average imputed taxable valuation per student.
- 2. ~~a. If a school district's imputed taxable valuation per student is less than eighty eight and one half percent of the statewide imputed taxable valuation per student, the superintendent of public instruction shall calculate the valuation deficiency by:~~
  - ~~(1) Determining the difference between eighty eight and one half percent of the state average imputed taxable valuation per student and the district's average imputed taxable valuation per student; and~~
  - ~~(2) Multiplying that difference by the district's total average daily membership.~~
- ~~b. Beginning July 1, 2008, if~~ If a school district's imputed taxable valuation per student is less than ninety percent of the statewide imputed taxable valuation per student, the superintendent of public instruction shall calculate the valuation deficiency by:
  - ~~(1)~~ a. Determining the difference between ninety percent of the state average imputed taxable valuation per student and the district's average imputed taxable valuation per student; and
  - ~~(2)~~ b. Multiplying that difference by the district's total average daily membership.

3. Except as provided in subsection 4, the equity payment to which a district is entitled under this section equals the district's valuation deficiency multiplied by the lesser of:
  - a. The district's general fund ~~mill~~ levy for the taxable year 2008; or
  - b. One hundred eighty-five mills.
4.
  - a. The equity payment to which a district is entitled may not exceed the district's taxable valuation multiplied by its general fund ~~mill~~ levy for the taxable year 2008.
  - b. If a district's general fund levy for the taxable year 2008 is less than one hundred eighty-five mills, the superintendent of public instruction shall subtract the district's general fund ~~mill~~ levy for the taxable year 2008 from one hundred eighty-five mills, multiply the result by the district's taxable valuation, and subtract that result from the equity payment to which the district is otherwise entitled.
  - c. If a district's imputed taxable valuation per student is less than fifty percent of the statewide imputed taxable valuation per student, the payment to which the district is entitled under this section may not be less than twenty percent of the statewide imputed taxable valuation per student times the school district's average daily membership, multiplied by one hundred eighty-five mills.
5. In determining the amount to which a school district is entitled under this section, the superintendent of public instruction may not include any payments received by the district as a result of Public Law No. 81-874 [64 Stat. 1100; 20 U.S.C. 236 et seq.] and may not include in the district's average daily membership students who are dependents of members of the armed forces and students who are dependents of civilian employees of the department of defense.
6. For purposes of this section:
  - a. "General fund levy" includes a district's high school transportation levy and its high school tuition levy.
  - b. "Imputed taxable valuation" means the valuation of all taxable real property in the district ~~plus an amount determined by dividing sixty percent of the district's mineral and tuition revenue by the district's general fund mill levy. Beginning July 1, 2008, "imputed taxable valuation" means the valuation of all taxable real property in the district plus an:~~
    - (1) An amount determined by dividing seventy percent of the district's mineral and tuition revenue, revenue from payments in lieu of property taxes on distribution and transmission of electric power, and revenue from payments in lieu of taxes from electricity generated from sources other than coal by the district's general fund mill levy; and
    - (2) An amount determined by dividing the district's revenue from mobile home taxes and telecommunications taxes by the district's general fund mill levy.
  - c. "Mineral revenue" includes all revenue from county sources 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.
  - d. "Tuition revenue" includes all revenue 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. "Tuition revenue" does not include tuition income received specifically for the operation of an educational program provided at a residential treatment facility.

**SECTION 28.** A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**Reorganized district - Continuation of equity payment.** If a school district that received an equity payment under section 15.1-27-11 becomes part of a reorganized district after June 30, 2010, the newly reorganized district is entitled to receive, for a period of two years, an amount equal to the greater of:

1. The equity payment received by each of the school districts during the school year immediately preceding the reorganization; or
2. The equity payment to which the newly reorganized school district is entitled under section 15.1-27-11.

**SECTION 29.** A new section to chapter 15.1-27 of the North Dakota Century Code is created and enacted as follows:

**Dissolved district - Continuation of equity payment.** If a school district that received an equity payment under section 15.1-27-11 dissolves after June 30, 2009, any school district that receives a portion of the dissolved district's land is entitled to receive, for a period of two years, an amount equal to the greatest of:

1. That percentage of the dissolved school district's equity payment from the school year immediately preceding the dissolution which is the same as that percentage of the dissolved district's land which was attached to the receiving district;
2. The same equity payment to which the receiving school district was entitled in the school year immediately preceding the dissolution; or
3. The equity payment to which the receiving school district is entitled under section 15.1-27-11.

**SECTION 30. AMENDMENT.** Section 15.1-27-19 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-19. Summer school courses and programs - Payments to school districts.**

1. Before a weight may be assigned under section 15.1-27-03.1 for a student enrolled in a high school summer course, the superintendent of public instruction shall verify that the course ~~satisfies requirements for graduation, comprises at least as many clock hours as courses offered during the regular school term, and complies with rules adopted by the superintendent of public instruction~~ meets the requirements of section 18 of this Act.
2. Before a weight may be assigned under section 15.1-27-03.1 for a student enrolled in an elementary summer program, the superintendent of public instruction shall verify that the program meets the requirements of section 18 of this Act and complies with rules adopted by the superintendent of public instruction.

**SECTION 31. 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.~~ Average 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:
  - ~~a.~~ (1) The school district's calendar; or
  - ~~b.~~ (2) One hundred eighty.

- b. Beginning with 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-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~~ three 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. ~~During the 2007-08 school year, a student enrolled full time in an approved regular education kindergarten program may not exceed an average daily membership of 0.50. Beginning with the 2008-09 school year, a~~ 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 32. 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 - Report to legislative council.**

- 1. The superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of fifty percent of its actual expenditures, plus twenty thousand dollars. Beginning July 1, 2008, the superintendent of public instruction shall determine the amount of payments due a school district and shall subtract from that the amount by which the unobligated general fund balance of the district on the preceding June thirtieth is in excess of forty-five percent of its actual expenditures, plus twenty thousand dollars.
- 2. In making the determination required by subsection 1, the superintendent of public instruction may not include in a district's unobligated general fund balance any moneys that:
  - a. Were received by the district during the school year ending June 30, 2009, on account of the leasing of lands acquired by the United States

for flood control, navigation, and allied purposes in accordance with 33 U.S.C. 701c-3; and

- b. Exceeded the amount received by the district during the school year ending June 30, 2008, for the purpose stated in subdivision a.
3. Any district having more than fifty thousand dollars excluded in the determination of its ending fund balance, as required by subsection 2, shall provide a report to the legislative council. The report, which must be presented at the time and in the manner directed by the legislative council, must address how the money was expended, including the number of mills by which the district was able to decrease its property taxes.

**SECTION 33. AMENDMENT.** Section 15.1-27-41 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-27-41. North Dakota commission on education improvement - Membership - Duties - Report to legislative council - Reimbursement for expenses.**

1. The North Dakota commission on education improvement consists of:
  - a.
    - (1) The governor or an individual designated by the governor, who shall serve as the chairman;
    - (2) One individual, appointed by the ~~governor~~ chairman of the legislative council, who is employed as the superintendent of a high school district having more than one thousand students in average daily membership, and who has not served on the commission for more than one interim;
    - (3) One individual, appointed by the ~~governor~~ chairman of the legislative council, who is employed as the superintendent of a high school district having more than two hundred twenty but fewer than one thousand students in average daily membership, and who has not served on the commission for more than one interim;
    - (4) One individual, appointed by the ~~governor~~ chairman of the legislative council, who is employed as the superintendent of a high school district having fewer than two hundred twenty students in average daily membership, and who has not served on the commission for more than one interim;
    - (5) ~~One individual, appointed by the governor, who is employed as a school district business manager;~~
    - ~~(6)~~ (6) The chairman of the senate education committee or the chairman's designee;
    - ~~(7)~~ (6) The chairman of the house education committee or the chairman's designee;
    - ~~(8)~~ (7) The senate minority leader or the leader's designee;
    - ~~(9)~~ (8) One legislator appointed by the chairman of the legislative council; ~~and~~
    - ~~(10)~~ (9) The superintendent of public instruction or an assistant superintendent designated by the superintendent of public instruction; and
    - (10) The director of the department of career and technical education or the director's designee; and
  - b. The following nonvoting members:
    - (1) One ~~nonvoting member~~ individual representing the North Dakota council of educational leaders, ~~one nonvoting member;~~

- (2) One individual representing the North Dakota education association; and one nonvoting member;
  - (3) One individual representing the North Dakota school boards association;
  - (4) One individual representing nonpublic schools, appointed by the chairman of the legislative council;
  - (5) One individual who is the owner or manager of a business located in this state, appointed by the chairman of the legislative council from a list of three names forwarded by the North Dakota chamber of commerce; and
  - (6) The commissioner of higher education or the commissioner's designee.
2. The commission shall establish its own duties and rules of operation and procedure, including rules relating to appointments, terms of office, vacancies, quorums, and meetings, provided that the duties and the rules do not conflict with any provisions of this section.
3.
  - a. The members of the commission are entitled to reimbursement for actual and necessary expenses incurred in the same manner as state officials.
  - b. In addition, members of the legislative assembly who serve on the commission and the individual who is the owner or manager of a business located in this state are entitled to receive compensation in the amount of one hundred thirty-five dollars per day if they are attending meetings or performing duties directed by the commission. The superintendent of public instruction shall use up to forty thousand dollars from moneys appropriated in the grants - state school aid line item in ~~section 3 of Senate Bill No. 2013~~ the appropriation bill for the superintendent of public instruction, as approved by the ~~sixtieth~~ legislative assembly, to provide the compensation and reimbursements.
4. The commission shall ~~examine~~:
  - a. Examine the current system of delivering and financing public elementary and secondary education and shall develop recommendations addressing educational adequacy, the equitable distribution of state education funds, the allocation of funding responsibility between federal, state, and local sources, and any other matters that could result in the improvement of elementary and secondary education in the state;
  - b. Examine the state's high school graduation requirements, curricular standards, and assessments to ensure that students have the academic skills necessary to move seamlessly and without remediation from high schools to institutions of higher education or to meet the performance levels expected by employers;
  - c. Examine the measures enacted by the most recent legislative assembly to improve student performance, confirm their full implementation, and recommend future measures for continued improvement; and
  - d. Examine the measures enacted by the most recent legislative assembly to improve the quality of instruction, confirm their full implementation, and recommend future measures for continued improvement.
5. The commission shall provide periodic reports to the governor and to the legislative council.

**SECTION 34. AMENDMENT.** Section 15.1-32-18 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-32-18. Cost - Liability of school district for special education.**

1. Each year the superintendent of public instruction shall identify the approximately one percent of special education students statewide who are not eligible for cost reimbursement under section 15.1-29-14 and who require the greatest school district expenditures in order to provide them with special education and related services. This percentage represents the number of students that would qualify for excess cost reimbursement beyond the multiplier that is established in subsection 3.
2. The excess costs of providing special education and related services to these students are the responsibility of the state and the superintendent of public instruction shall reimburse the school districts for any excess costs incurred in the provision of special education and related services to the identified students.
3. "Excess costs" are those that exceed four ~~and one-half~~ times the state average cost of education per student and which are incurred by the special education students identified in subsection 1.
4. All costs of providing special education and related services to those students identified in subsection 1, other than excess costs reimbursed by the state, are the responsibility of the student's school district of residence.
5. In addition to any other reimbursements provided under this section, if a school district expends more than two percent of its annual budget for the provision of special education and related services to one student, the district shall notify the superintendent of public instruction. Upon verification, the superintendent shall reimburse the district for the difference between:
  - a. Two percent of the district's annual budget; and
  - b. The lesser of:
    - (1) The amount actually expended by the district for the provision of special education and related services to that student; or
    - (2) The amount representing four ~~and one-half~~ times the state average cost of education per student.

**SECTION 35.** A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

**North Dakota early childhood education council - Membership - Terms.**

1. The North Dakota early childhood education council consists of:
  - a. A chairman appointed by the governor;
  - b. The superintendent of public instruction, or the superintendent's designee;
  - c. The state health officer, or the officer's designee;
  - d. The director of the department of human services, or the director's designee;
  - e. The North Dakota head start - state collaboration administrator, or the administrator's designee;
  - f. The commissioner of higher education, or the commissioner's designee;
  - g. The chairman of the senate education committee, or the chairman's designee;
  - h. The chairman of the house of representatives education committee, or the chairman's designee; and

- i. The following gubernatorial appointees:
  - (1) The superintendent of a school district having at least one thousand students in average daily membership;
  - (2) The superintendent of a school district having fewer than one thousand students in average daily membership;
  - (3) The superintendent of a school district headquartered on a reservation or including reservation land within its boundaries;
  - (4) The principal of a school district;
  - (5) An individual employed as an elementary school teacher;
  - (6) An individual representing a non-religious-based provider of preschool education;
  - (7) An individual representing a religious-based provider of preschool education;
  - (8) An individual representing a center-based licensed child care provider;
  - (9) An individual representing a home-based licensed child care provider;
  - (10) An individual representing a reservation-based head start program; and
  - (11) An elected member of a school board;
  - (12) The parent of a child not yet enrolled in elementary school; and
  - (13) The parent of a child with special needs not yet enrolled in elementary school.
2.
  - a. The term of each member enumerated in subdivision g of subsection 1 is three years and begins on July first. The terms must be staggered by lot so that four of the terms expire each year.
  - b. If at any time during a member's term the member ceases to possess the qualifications required by this section, the member's seat is deemed vacant and the governor shall appoint another qualified individual to serve for the remainder of the term.
  - c. A member may not serve more than two consecutive terms. If an individual is appointed to complete a vacancy, that service is not counted as a term, for purposes of this section, unless the duration of that service exceeds one year.
3. The council shall meet at least twice each year, at the call of the chairman.

**SECTION 36.** A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

**Council - Duties.** The council shall:

1. Review the delivery of early childhood education in this state;
2. Conduct a needs assessment;
3. Review early childhood education standards and propose revisions to the standards as needed;
4. Review opportunities for public and private sector collaboration in the delivery of early childhood education in this state;
5. Develop a comprehensive plan governing the delivery of early childhood education in this state; and



6. Provide a biennial report regarding its activities to the governor and the legislative council.

**SECTION 37.** A new section to chapter 15.1-37 of the North Dakota Century Code is created and enacted as follows:

**Council members - Reimbursement for expenses.** Each member of the council is entitled to receive reimbursement for expenses as provided by law for state officers if the member is attending meetings or performing duties directed by the council. In addition, each member of the legislative assembly who serves on the council is entitled to receive compensation in the amount provided per day for members of the legislative council under section 54-35-10 for attending meetings or performing duties as directed by the council.

**SECTION 38. APPROPRIATION - TEACHER SUPPORT SYSTEM GRANT PROGRAM.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,300,000, or so much of the sum as may be necessary, to the education standards and practices board for the purpose of funding a teacher support system grant program, for the biennium beginning July 1, 2009, and ending June 30, 2011.

1. The board shall:
  - a. Employ an individual to serve as a teacher support system coordinator;
  - b. Administer and evaluate the program; and
  - c.
    - (1) Select and train experienced teachers who will serve as mentors for first-year teachers and assist the first-year teachers with instructional skills development; or
    - (2) If a district is not in need of mentors for first-year teachers, the board shall select and train experienced teachers who will work with school district administrators to identify the needs of non-first-year teachers and through research-validated interventions and the use of proven instructional methods help non-first-year teachers address their particular needs.
2. The board may use any moneys provided under this section for staff compensation, training, evaluation, stipends for mentors and experienced teachers who assist first-year and non-first-year teachers participating in the program, and any other administrative expenses resulting from the program; provided, however, that the board may not expend more than five percent of the funds appropriated in this section for administrative expenses.

**SECTION 39. APPROPRIATION - NATIONAL BOARD CERTIFICATION FUND.** 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 education standards and practices board for the purpose of creating the national board certification fund, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 40. USE OF NEW MONEY - TEACHER COMPENSATION INCREASES - REPORTS TO LEGISLATIVE COUNCIL.**

1. During the 2009-11 biennium, the board of each school district shall use an amount equal to at least seventy percent of all new money received by the district for per student payments to increase the compensation paid to teachers and to provide compensation to teachers who begin employment with the district on or after July 1, 2009.
2.
  - a. For purposes of this section, the superintendent of public instruction shall calculate the amount of new money received by a district during the 2009-11 biennium by:
    - (1) Determining the total amount of state dollars received by each district during the 2007-09 biennium as per student payments,

provided that neither equity payments under section 15.1-27-11, transportation payments, mill levy reduction payments, regional education association participation payments, nor contingency distributions are to be included in the total;

- (2) Determining the total amount of state dollars received by each district during the 2009-11 biennium as per student payments, provided that neither equity payments under section 15.1-27-11, transportation payments, nor contingency distributions are to be included in the total; and
  - (3) Subtracting the amount arrived at under paragraph 1 from the amount arrived at under paragraph 2.
- b. Money made available to the state as a result of federal action to stimulate the national economy or to address state fiscal recovery does not constitute new money, unless it is used on a dollar-for-dollar basis to postpone state funding increases that would otherwise constitute new money within this section.
3. School districts providing educational services under a cooperative agreement approved by the superintendent of public instruction must be treated as a single district for purposes of this section.
4.
  - a. This section does not apply to a school district if the board of the school district, after a public hearing at which public testimony and documentary evidence are accepted, determines in its discretion and by an affirmative vote of two-thirds of the members of the board that complying with subsection 1 would place the school district in the position of having insufficient fiscal resources to meet the school district's other obligations.
  - b. Within ten days of the vote required by subdivision a, the school board shall notify the superintendent of public instruction of its action and shall file a report detailing the grounds for its determination and action.
  - c. The superintendent of public instruction shall report all notices received under this subsection to the legislative council.

#### **SECTION 41. TRANSPORTATION GRANTS - DISTRIBUTION.**

1. During each year of the 2009-11 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. Eighty-six cents per mile for schoolbuses having a capacity of ten or more passengers;
  - b. Forty-two cents per mile for vehicles having a capacity of nine or fewer passengers; and
  - c. Twenty-two cents per student for each one-way trip, provided that a "student" includes a participant in an early childhood education program that is eligible for funding under section 15.1-27-03.1.
2. The superintendent of public instruction shall use the latest available student enrollment count in each school district in applying the provisions of the transportation formula as it existed on June 30, 2001.
3. If any moneys provided for transportation payments in the grants - transportation line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, 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 42. SCHOOL DISTRICT REORGANIZATION PLANNING GRANTS.**

The superintendent of public instruction may expend up to \$100,000 from the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, for the purpose of providing planning grants to school districts participating in reorganizations under chapter 15.1-12, for the biennium beginning July 1, 2009, and ending June 30, 2011. A grant provided under this section may not exceed \$25,000 and may not be awarded unless the student enrollment of the participating districts exceeds three hundred sixty. If a grant is provided and the recipient districts vote not to reorganize, the superintendent of public instruction shall withhold the grant amount that each district received under this section from any state aid payable to the district.

**SECTION 43. REGIONAL EDUCATION ASSOCIATIONS - GRANTS.** During each year of the 2009-11 biennium, the superintendent of public instruction shall expend up to \$200,000 from the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, for the purpose of providing grants in the amount of \$25,000, to each group of school districts which has been designated as a regional education association under section 15.1-09.1-02. Before September first of each year, the superintendent of public instruction shall divide each grant by the number of school districts in the respective association and forward that portion of each school district's individual grant directly to the association in which the district participates.

#### **SECTION 44. FEDERAL IMPACT AID - BASELINE RECALCULATION - GRANT.**

1. If the amount of federal impact aid received by a school district during the 2006-07 school year resulted in that district losing state aid under section 15.1-27-35.3 during the 2007-09 biennium, the superintendent shall reestablish that district's baseline by:
  - a. Adding together the amount of state aid that the district would have received during the 2006-07 school year if in determining the district's ending fund balance the average amount of federal impact aid received by the district during the 2005-06 and 2006-07 school years had been used, rather than the actual amount received during the 2006-07 school year;
  - b. Subtracting the amount received by the district during the 2006-07 school year for transportation aid, special education excess reimbursements, special education contracts, prior year funding adjustments, and per student payments for participation in regional education associations; and
  - c. Dividing the amount determined under subdivision b by the district's 2007-08 weighted student units.
2. On or before August 1, 2009, the superintendent of public instruction shall use up to \$300,000 from moneys appropriated in the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the legislative assembly, to provide to a school district a grant equaling the difference in the 2007-09 biennium state aid payments that resulted from the baseline recalculation required by this section.

**SECTION 45. AMENDMENT.** Section 55 of chapter 163 of the 2007 Session Laws is amended and reenacted as follows:

#### **SECTION 55. CONTINGENT MONEY - 2007-09.**

1. In determining the availability of contingent money under this section, the superintendent of public instruction shall first add to the money in the grants - state school aid line item in Senate Bill No. 2013, as approved by the sixtieth legislative assembly, any money that was appropriated to the superintendent for special education contracts in Senate Bill No. 2013 and which remains after the superintendent complied with all statutory special

education contract payment obligations imposed for the biennium beginning July 1, 2007, and ending June 30, 2009.

2. If any money that was appropriated to the superintendent of public instruction for state aid payments to school districts or added to the grants - state school aid line item in accordance with subsection 1 remains after the superintendent complies with all statutory payment obligations imposed for the biennium beginning July 1, 2007, and ending June 30, 2009, the superintendent shall:
  - 4- a. Use the first \$1,000,000, or so much of that amount as may be necessary, to pay any state obligations in excess of the amount appropriated for special education contract charges;
  - 2- b. Use the next \$2,000,000, or so much of that amount as may be necessary, for the purpose of providing additional per student payments to school districts participating in regional education associations under chapter 15.1-09.1;
  - 3- c. Use the next \$550,000, or so much of that amount as may be necessary, for the purpose of providing additional payments to school districts serving English language learners and new immigrant English language learners, in accordance with chapter 15.1-38;
  - 4- d. Use the next \$200,000, or so much of that amount as may be necessary, for the purpose of providing additional payments to school districts offering an adult education program during the 2007-09 biennium; and
  - 5- e. Use the remainder of the moneys to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district.

#### **SECTION 46. CONTINGENT MONEY - 2009-11.**

1. In determining the availability of contingent money under this section, the superintendent of public instruction shall first add to the money in the grants - state school aid line item in the appropriation bill for the superintendent of public instruction, as approved by the sixty-first legislative assembly, any money that was appropriated to the superintendent for special education contracts and which remains after the superintendent complied with all statutory special education contract payment obligations imposed for the biennium beginning July 1, 2009, and ending June 30, 2011.
2. If any money that was appropriated to the superintendent of public instruction for grants - state aid payments to school districts or added to the grants - state school aid line item in accordance with subsection 1 remains after the superintendent complies with all statutory payment obligations imposed for the biennium beginning July 1, 2009, and ending June 30, 2011, the superintendent shall use the money to provide additional per student payments on a prorated basis according to the latest available average daily membership of each school district.

**SECTION 47. CONTINGENT TRANSFER BY BANK OF NORTH DAKOTA FOR SPECIAL EDUCATION.** If during the biennium beginning July 1, 2009, and ending June 30, 2011, the superintendent of public instruction determines that, using all available sources, there are insufficient funds with which to fully reimburse school districts for the excess costs of serving the one percent of special education students statewide who require the greatest school district expenditures in order to be provided with special education and related services, the industrial commission shall transfer from the earnings and accumulated and undivided profits of the Bank of North Dakota the amount the superintendent of public instruction certifies is necessary to provide the statutorily required level of reimbursement. The superintendent of public instruction shall file for introduction legislation requesting that the sixty-second legislative assembly return any amount transferred under this section to the Bank of North Dakota.

**SECTION 48. REPEAL.** Sections 15.1-21-02.2, 15.1-27-20.1, and 15.1-38-01.2 of the North Dakota Century Code are repealed.

**SECTION 49. REPEAL.** Section 15.1-27-41 of the North Dakota Century Code is repealed.

**SECTION 50. EFFECTIVE DATE.**

1. Sections 13 and 14 of this Act become effective on July 1, 2010.
2. Section 49 of this Act becomes effective on December 31, 2010.
3. Section 24 of this Act becomes effective on July 1, 2011.

**SECTION 51. EXPIRATION DATE.** Section 32 of this Act is effective through June 30, 2010, and after that date is ineffective.

**SECTION 52. EMERGENCY.** Sections 32 and 45 of this Act are declared to be an emergency measure."

Renumber accordingly

**SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1509**

Page 1, line 2, after "leases" insert "; to provide a contingent effective date; and to declare an emergency"

Page 1, line 8, remove "Must be written in a clear and coherent manner using words with common"

Page 1, remove lines 9 and 10

Page 1, line 11, remove "b."

Page 1, line 23, replace "c." with "b." and replace "five" with "ten"

Page 2, line 1, replace "d." with "c."

Page 2, line 3, replace "e." with "d."

Page 2, line 4, after the underscored period insert "When a wind energy facility is being constructed and when it is completed, the property owner must make accommodations to the developer, owner, or operator of the facility for the facility's business operations to allow the construction and operation of the wind energy facility."

Page 2, line 5, replace "f." with "e."

Page 2, line 7, replace "g." with "f."

Page 2, line 11, replace "h." with "g."

Page 2, line 14, replace "i." with "h."

Page 2, line 17, replace "j." with "i."

Page 2, line 18, after "years" insert ", unless the property owner receives the normal lease payments that would have occurred if the turbine had been operating during that time. For the purposes of this subdivision, the term "normal lease payments" means payments at least equal to the periodic payments received by the property owner in the last calendar year that the turbine was in full operation"

Page 2, line 19, replace "k." with "j."

Page 2, line 22, replace "l." with "k."

Page 2, line 25, replace "property" with "general liability" and replace "on the" with "relating to events occurring on the wind energy facility project site. At minimum, the insurance must"

Page 2, line 26, remove "facility and" and remove the second "and"

Page 2, line 27, remove "waive subrogation actions against the property owner"

Page 3, replace lines 4 through 7 with:

**"SECTION 2. CONTINGENT EFFECTIVE DATE.** Subdivision h of subsection 1 of section 1 of this Act becomes effective if Senate Bill No. 2245 as enacted by the sixty-first legislative assembly does not become effective.

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

Renumber accordingly

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1324, HB 1481.

**SENATE AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1324**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact subsection 1 of section 6-09.8-01, subsection 4 of section 10-33-124, subsection 5 of section 11-37-08, sections 27-17-06 and 37-28-07, subsections 1 and 3 of section 40-63-04, section 40-63-06, subsection 4 of section 40-63-07, subsections 1 and 2 of section 57-38-01.7, subsections 1 and 4 of section 57-38-01.8, sections 57-38-01.14, 57-38-01.16, and 57-38-01.17, subsection 1 of section 57-38-01.20, subsections 2 and 4 of section 57-38-01.21, sections 57-38-01.22, 57-38-01.23, 57-38-01.24, 57-38-01.25, and 57-38-01.26, subsection 6 of section 57-38-01.27, subsection 1 of section 57-38-01.29, subsection 1 of section 57-38-01.30, section 57-38-04, subsection 2 of section 57-38-08.1, sections 57-38-30.3 and 57-38-30.5, subdivision b of subsection 1 of section 57-38-40, and sections 57-38.5-03 and 57-38.6-03 of the North Dakota Century Code, relating to elimination of the optional long-form individual, estate, and trust income tax return; to repeal sections 57-38-01.2, 57-38-01.18, 57-38-02, 57-38-06.1, 57-38-29, 57-38-29.2, 57-38-30.4, 57-38-67, 57-38-68, 57-38-69, and 57-38-70 of the North Dakota Century Code, relating to elimination of the optional long-form individual, estate, and trust income tax return; to provide an effective date; and to provide an expiration date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Subsection 1 of section 6-09.8-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Beginning farmer" means ~~a person~~ an individual who qualifies as a beginning farmer ~~under subsection 2 of section 57-38-67~~ who:
  - a. Is a resident of this state;
  - b. Receives more than half of that person's gross annual income from farming, unless the person initially commences farming during the year of the application under this chapter;
  - c. Intends to use any farmland to be purchased or rented for agricultural purposes;
  - d. Is adequately trained by education in the type of farming operation which the person wishes to begin on the purchased or rented land referred to in subdivision c through satisfactory participation in the adult farm management education program of the state board for career and technical education or an equivalent program approved by the agriculture commissioner; and
  - e. Has, including the net worth of any dependents and spouse, a net worth of less than one hundred thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

**SECTION 2. AMENDMENT.** Subsection 4 of section 10-33-124 of the North Dakota Century Code is amended and reenacted as follows:

4. a. ~~An individual or a~~ A corporation that buys membership in, or pays dues or contributes to, a nonprofit development corporation is entitled

to an income tax credit against the tax liability under section 57-38-30 equal to twenty-five percent of the amount paid.

- b. This credit may not be claimed by ~~an individual who elects to file an income tax return under section 57-38-30.3 or~~ by a corporation that is recognized as a subchapter S corporation under section 57-38-01.4.
- c. No taxpayer is entitled to more than two thousand dollars in total income tax credits under this section.
- d. The amount of the credit under this section in excess of the taxpayer's income tax liability may be carried forward for up to seven taxable years.

**SECTION 3. 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, ~~57-38-29~~, 57-38-30, and 57-38-30.3.

**SECTION 4. AMENDMENT.** Section 27-17-06 of the North Dakota Century Code is amended and reenacted as follows:

**27-17-06. Immediate withdrawal of present active judges from judges retirement fund.**

1. From and after July 1, 1973, each judge of the supreme or district court serving on that date and each former judge of the supreme or district court, not receiving judicial retirement salary, may elect to withdraw the judge's previous contributions made pursuant to this chapter, and thereafter not participate in a judicial retirement program provided for by law. This option ceases to be available and may not be exercised after June 30, 1975. If a judge selects this option, the judge is entitled to receive the combined total of the following sums:
  - a. The entire amount of the judge's previous contributions made pursuant to this chapter, to be calculated to the date of election under this section; plus
  2. b. An amount calculated by applying the vesting schedule set forth in section 54-52-11 to an amount equal to sixty percent of the judge's individual contributions as calculated in subsection 1, plus earnings thereon as calculated in subsection 3; plus
  3. c. An amount calculated by applying the figure .05625 to the periodic annual or partial annual balances in the individual judge's account during the judge's years of service prior to selecting the option provided by this section. The figure applied pursuant to this ~~subsection~~ subdivision must be compounded annually.
2. The total amounts received pursuant to this section may not be considered taxable income for the purposes of chapter 57-38 ~~and may be treated as an additional adjustment reducing the amount of taxable income in addition to those provided in section 57-38-01.2.~~ Selection of the option provided by this section must be made in writing to the director of the office of management and budget.

**SECTION 5. AMENDMENT.** Section 37-28-07 of the North Dakota Century Code is amended and reenacted as follows:

**37-28-07. Payments exempt from taxation and from execution - Assignments void - Debts to state and political subdivisions not deducted.** Payments under this chapter are exempt from all state and local taxes, including taxes determined under section ~~57-38-29 or~~ 57-38-30.3, and from levy, garnishment, attachment, and sale on execution. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any claim or payment under this chapter is void

and payment to the veteran may not be denied because of any sums owed to the state or any political subdivisions, except as provided in section 37-26-05.

**SECTION 6. AMENDMENT.** Subsections 1 and 3 of section 40-63-04 of the North Dakota Century Code are amended and reenacted as follows:

1. An individual taxpayer who purchases or rehabilitates single-family residential property for the individual's primary place of residence as a zone project is exempt from up to ten thousand dollars of personal income tax liability as determined under section ~~57-38-29~~ or 57-38-30.3 for five taxable years beginning with the date of occupancy or completion of rehabilitation.
3. If the cost of a new business purchase or expansion of an existing business, approved as a zone project, exceeds seventy-five thousand dollars, and the business is located in a city with a population of not more than two thousand five hundred, an individual taxpayer may, in lieu of the exemption provided in subsection 2, elect to take an income tax exemption of up to two thousand dollars of personal income tax liability as determined under section ~~57-38-29~~ or 57-38-30.3. The election must be made on the taxpayer's zone project application. The election is irrevocable and binding for the duration of the exemptions provided in subsection 2 or this subsection. If no election is made on the zone project application, the taxpayer is only eligible for the exemption provided in subsection 2.

**SECTION 7. AMENDMENT.** Section 40-63-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-63-06. Historic preservation and renovation tax credit.** A credit against state tax liability as determined under sections 57-35.3-03, ~~57-38-29~~, 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 8. AMENDMENT.** Subsection 4 of section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

4. A credit against state tax liability as determined under section 57-35.3-03, ~~57-38-29~~, 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 9. AMENDMENT.** Subsections 1 and 2 of section 57-38-01.7 of the North Dakota Century Code are amended and reenacted as follows:

1. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a credit against the income tax ~~imposed by this chapter~~ liability under section 57-38-30 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher college education located within the state or to the North Dakota independent college fund.
  - a. ~~In the case of a taxpayer other than a corporation, the amount allowable as a credit under this subsection for any taxable year may not exceed forty percent of the taxpayer's total income tax under this chapter for the year, or two hundred fifty dollars, whichever is less.~~
  - b. ~~In the case of a corporation, the~~ The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.
2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a credit against the income tax ~~imposed by this chapter~~ liability under section 57-38-30 for the



taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state.

- a. ~~In the case of a taxpayer other than a corporation, the amount allowable as a credit under this subsection for any taxable year may not exceed forty percent of the taxpayer's total income tax under this chapter for the year, or two hundred fifty dollars, whichever is less.~~
- b. ~~In the case of a corporation, the~~ The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.

**SECTION 10. AMENDMENT.** Subsections 1 and 4 of section 57-38-01.8 of the North Dakota Century Code are amended and reenacted as follows:

- 1. ~~Any~~ A taxpayer filing a North Dakota income tax return pursuant to the provisions of this chapter may claim a credit against the tax liability under section 57-38-30 for the cost of a geothermal, solar, wind, or biomass energy device installed before January 1, 2011, in a building or on property owned or leased by the taxpayer in North Dakota. The credit provided in this section for a device installed before January 1, 2001, must be in an amount equal to five percent per year for three years, and for a device installed after December 31, 2000, must be in an amount equal to three percent per year for five years of the actual cost of acquisition and installation of the geothermal, solar, wind, or biomass energy device and must be subtracted from any income tax liability of the taxpayer as determined pursuant to the provisions of this chapter.
- 4. A partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity that installs a geothermal, solar, wind, or biomass energy device in a building or on property owned or leased by the passthrough entity must be considered to be the taxpayer for purposes of this section, and the amount of the credit allowed with respect to the entity's investments 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 corporate partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

**SECTION 11. AMENDMENT.** Section 57-38-01.14 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.14. No gain recognized on property subject to eminent domain sale or transfer.** If any private property, through the exercise of eminent domain, is involuntarily converted into property of either like or unlike kind, no gain, either ordinary or capital, may be recognized for corporate income tax purposes.

**SECTION 12. AMENDMENT.** Section 57-38-01.16 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.16. Income tax credit for employment of developmentally disabled or chronically mentally ill persons.** ~~Any~~ A taxpayer filing an income tax return under this chapter, ~~except a return on which liability is determined under section 57-38-30.3,~~ may claim a credit against the tax liability imposed under section 57-38-30 for a portion of the wages paid to a developmentally disabled or chronically mentally ill employee. The credit allowed under this section equals five percent of up to six thousand dollars in wages paid during the first twelve months of employment by the taxpayer for each developmentally disabled or chronically mentally ill employee of the taxpayer. Only wages actually paid during the taxpayer's taxable year may be considered for purposes of this section. An employee of a subcontractor is considered an employee of the contractor to the extent of any wages paid under the contract.

The total of credits allowed under this section may not exceed fifty percent of the taxpayer's liability under this chapter.

**SECTION 13. AMENDMENT.** Section 57-38-01.17 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.14. Credit for investments in development corporations.** An individual, estate, trust, or a corporation is allowed, as a credit against a tax otherwise due under section ~~57-38-29~~ or 57-38-30, the credit for buying membership in, or paying dues or contributions to, a certified nonprofit development corporation as provided in section 10-33-124.

**SECTION 14. AMENDMENT.** Subsection 1 of section 57-38-01.20 of the North Dakota Century Code is amended and reenacted as follows:

1. An individual is entitled to a credit against the tax imposed under section ~~57-38-29~~ or 57-38-30.3 in the amount of qualified care expenses under this section paid by the individual for the care of a qualifying family member during the taxable year.

**SECTION 15. AMENDMENT.** Subsections 2 and 4 of section 57-38-01.21 of the North Dakota Century Code are amended and reenacted as follows:

2. An individual is allowed a tax credit against the tax imposed by section ~~57-38-29~~ or 57-38-30.3 in an amount equal to forty percent of the present value of the aggregate amount of the charitable gift portion of planned gifts made by the taxpayer during the year to a qualified nonprofit organization or qualified endowment. The maximum credit that may be claimed under this subsection for contributions made in a taxable year is ten thousand dollars, or twenty thousand dollars for married individuals filing a joint return. The credit allowed under this section may not exceed the taxpayer's income tax liability.
4. An estate or trust is allowed a tax credit in an amount equal to forty percent of a charitable gift to a qualified endowment. The maximum credit allowed under this subsection for contributions made in a taxable year is ten thousand dollars. The allowable credit must be apportioned to the estate or trust and to its beneficiaries on the basis of the income of the estate or trust allocable to each, and the beneficiaries may claim their share of the credit against the tax imposed by section ~~57-38-29~~, 57-38-30, or 57-38-30.3. A beneficiary may claim the credit only in the beneficiary's taxable year in which the taxable year of the estate or trust ends. Subsections 6 and 7 apply to the estate or trust and its beneficiaries with respect to their respective shares of the apportioned credit.

**SECTION 16. 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.** A fuel supplier licensed pursuant to section 57-43.2-05 who blends biodiesel fuel is entitled to a credit against tax liability determined under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 in the amount of five cents per gallon [3.79 liters] of biodiesel fuel of at least five percent blend, otherwise known as B5. For purposes of this section, "biodiesel" means fuel meeting the specifications adopted by the American society for testing and materials. 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 17. 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 sales equipment costs.** A seller of biodiesel fuel is entitled to a credit against tax liability determined under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 in the amount of ten percent per year for five years of the biodiesel 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 by volume. For purposes of this section, "biodiesel fuel" means fuel meeting the specifications adopted by the

American society for testing and materials. 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 fuel seller is limited to fifty thousand dollars in the cumulative amount of credits under this section for all taxable years. A biodiesel 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 fuel containing at least two percent biodiesel 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 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 18. AMENDMENT.** Section 57-38-01.24 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.24. Internship employment tax credit.**

1. A taxpayer that is an employer within this state is entitled to a credit as determined under this section against state income tax liability under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 for qualified compensation paid to an intern employed in this state by the taxpayer. To qualify for the credit under this section, the internship program must meet the following qualifications:
  - a. The intern must be an enrolled student in an institution of higher education or vocational technical education program who is seeking a degree or a certification of completion in a major field of study closely related to the work experience performed for the taxpayer;
  - b. The internship must be taken for academic credit or count toward the completion of a vocational technical education program;
  - c. The intern must be supervised and evaluated by the taxpayer; and
  - d. The internship position must be located in this state.
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 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 19. AMENDMENT.** Section 57-38-01.25 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.25. Workforce recruitment credit for hard-to-fill employment positions.** A taxpayer that is an employer in this state is entitled to a credit as determined under this section against state income tax liability under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 for costs the taxpayer incurred during the tax year to recruit and hire employees for hard-to-fill employment positions within this state for which the annual salary for the position meets or exceeds the state average wage.

1. The amount of the credit to which a taxpayer is entitled is five percent of the salary paid for the first twelve consecutive months to the employee hired for the hard-to-fill employment position. To qualify for the credit under this section, the employee must be employed by the taxpayer in the hard-to-fill employment position for twelve consecutive months.
2. For purposes of this section:
  - a. "Extraordinary recruitment methods" means using all of the following:
    - (1) A person with the exclusive business purpose of recruiting employees and for which a fee is charged by that recruiter.
    - (2) An advertisement in a professional trade journal, magazine, or other publication, the main emphasis of which is providing information to a particular trade or profession.
    - (3) A web site, the sole purpose of which is to recruit employees and for which a fee is charged by the web site.
    - (4) Payment of a signing bonus, moving expenses, or nontypical fringe benefits.
  - b. "Hard-to-fill employment position" means a job that requires the employer to use extraordinary recruitment methods and for which the employer's recruitment efforts for the specific position have been unsuccessful for six consecutive calendar months.
  - c. "State average wage" means one hundred twenty-five percent of the state average wage published annually by job service North Dakota and which is in effect at the time the employee is hired.
3. The taxpayer may claim the credit in the first tax year beginning after the employee hired for the hard-to-fill position has completed the employee's first twelve consecutive months of employment in the hard-to-fill position with the taxpayer.
4. The credit under this section may not exceed a taxpayer's liability for the taxable year as determined under this chapter. Any amount of unused credit may be carried forward for up to four taxable years after the taxable year in which the credit could initially be claimed.
5. A partnership, subchapter S corporation, or limited liability company that for tax purposes is treated like a partnership 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 members in proportion to their respective interests in the passthrough entity.

**SECTION 20. AMENDMENT.** Section 57-38-01.26 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.26. Angel fund investment tax credit.** A taxpayer is entitled to a credit against state income tax liability under section ~~57-38-29~~, 57-38-30; or 57-38-30.3 for an investment made in an angel fund that is incorporated in this state. The angel fund must be in compliance with the securities laws of this state for the investment to qualify for the tax credit under this section. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in 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. To be eligible for the credit, the investment must be at risk in the angel fund for at least three years. 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 four 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.

**SECTION 21. AMENDMENT.** Subsection 6 of section 57-38-01.27 of the North Dakota Century Code is amended and reenacted as follows:

6. A taxpayer that is certified as a microbusiness is entitled to tax credits against tax liability as determined under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 equal to twenty percent of the taxpayer's new investment and new employment in the microbusiness during the taxable year. A taxpayer may not obtain more than ten thousand dollars in credits under this section over any combination of taxable years.

**SECTION 22. AMENDMENT.** Subsection 1 of section 57-38-01.29 of the North Dakota Century Code is amended and reenacted as follows:

1. In addition to any other credit or deduction allowed by law for a homeowner, an individual is entitled to a credit against the tax imposed under section ~~57-38-29~~ or 57-38-30.3 for taxable years 2007 and 2008 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against the individual's homestead in this state. For purposes of this section, "property taxes" does not include any special assessments.

**SECTION 23. AMENDMENT.** Subsection 1 of section 57-38-01.30 of the North Dakota Century Code is amended and reenacted as follows:

1. In addition to any other credit or deduction allowed by law for a property owner, an individual or corporation is entitled to a credit against the tax imposed under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 for taxable years 2007 and 2008 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against commercial property in this state. For purposes of this section, "property taxes" does not include any special assessments.
  - a. The amount of the credit under this section may not exceed one thousand dollars for any taxpayer.
  - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
  - c. The amount of the credit under this section may not exceed one thousand dollars for married persons filing a joint return or five hundred dollars for a single individual or married individual filing separate returns.

**SECTION 24. AMENDMENT.** Section 57-38-04 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-04. Allocation and apportionment of gross income of individuals.** The gross income of individuals must be allocated and apportioned as follows:

1.
  - a. Income from personal or professional services performed in this state by individuals must be assigned to this state regardless of the residence of the recipients of such income, except that income from such services performed within this state by an individual who resides and has the individual's place of abode in another state to which place of abode the individual customarily returns at least once a month must be excluded from the individual's income for the purposes of this chapter if such income is subject to an income tax imposed by the state in which the individual resides, provided that the state in which the individual resides allows a similar exclusion for income received from similar services performed in that state by residents of North Dakota.
  - b. Notwithstanding any other provision of this chapter, the compensation received from services performed within this state by an individual, who performs services for a common carrier engaged in interstate transportation and who resides and has the individual's place of abode to which the individual customarily returns at least once a month in another state, must be excluded from income to the extent that the

income is subject to an income tax imposed by the state of the individual's residence; provided, that the state allows a similar exclusion of the compensation received by residents of North Dakota for similar services performed therein, or a credit against the tax imposed on the income of residents of this state that is substantially similar in effect. For purposes of this subdivision, the term an individual who performs services for a common carrier engaged in interstate transportation is limited to an individual who performs the services for a common carrier only during the course of making regular runs into North Dakota or from within North Dakota to outside North Dakota, or both, on the transportation system of the common carrier.

2. a. Income received from personal or professional services performed by residents of this state, regardless of where such services are performed, and income received by residents of this state from intangible personal property must be assigned to this state.
- b. ~~A resident individual, estate, or trust is entitled to a credit against the tax imposed under this chapter equal to the amount of income tax paid for the taxable year to another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also taxable under this section. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subdivision may not exceed an amount equal to the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by total federal adjusted gross income less the amounts under subdivisions a and s of subsection 1 of section 57-38-01.2. For an individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subdivision may not exceed the lesser of the following:~~
  - (1) ~~The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under this subsection.~~
  - (2) ~~The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from sources in the other states.~~
3. Income and gains received from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if such business consists principally of the holding of such property and collection of income and gains therefrom, must be assigned to this state without regard to the residence of the recipient if such property has a situs within this state.
4. Income derived from business activity carried on by an individual as a sole proprietorship, or through a partnership, subchapter S corporation, or other passthrough entity, must be assigned to this state without regard to the residence of the individual if the business activity is conducted wholly within this state. Income derived from gaming activity carried on in this state by an individual must be assigned to this state without regard to the residence of the individual.
5. Whenever business activity is carried on partly within and partly without this state by a nonresident of this state as a sole proprietorship, or through a partnership, subchapter S corporation, or other passthrough entity, the entire income therefrom must be allocated to this state and to other states, according to the provisions of chapter 57-38.1, providing for allocation and apportionment of income of corporations doing business within and without this state.

6.
  - a. Income and gains received by a resident of this state from tangible property not employed in the business and from tangible property employed in the business of the taxpayer, if the business consists principally of the holding of the property and the collection of income and gains from the business, must be assigned to this state without regard to the situs of the property.
  - b. Income derived from business activity carried on by residents of this state, whether the business activity is conducted as a sole proprietorship, or through a partnership, subchapter S corporation, or other passthrough entity, must be assigned to this state without regard to where the business activity is conducted, and the provisions of chapter 57-38.1 do not apply. If the taxpayer believes the operation of this subdivision with respect to the taxpayer's income is unjust, the taxpayer may petition the tax commissioner who may allow use of another method of reporting income, including separate accounting.
  - ~~c. A resident individual, estate, or trust is entitled to a credit against the tax imposed under this chapter equal to the amount of income tax paid for the taxable year to another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also subject to tax under this section. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subdivision may not exceed an amount equal to the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by total federal adjusted gross income less the amounts under subdivisions a and b of subsection 1 of section 57-38-01.2. For an individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subdivision may not exceed the lesser of the following:~~
    - ~~(1) The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under subdivisions a and b of subsection 2.~~
    - ~~(2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from sources in the other states.~~
7. All other items of gross income must be assigned to the taxpayer's domicile.
8. The privileges granted nonresidents apply only when other states grant to the residents of North Dakota the same privilege.

~~This section applies to every income year beginning after December 31, 1956.~~

**SECTION 25. AMENDMENT.** Subsection 2 of section 57-38-08.1 of the North Dakota Century Code is amended and reenacted as follows:

2. Resident partners, limited to individuals, estates, and trusts, must report their entire distributive share to this state as provided in subdivision b of subsection 6 of section 57-38-04, and may claim a credit for taxes paid to another state on that portion of their distributive share attributable to and taxed by another state, as provided in subdivision e j of subsection 6 1 of section ~~57-38-04~~ 57-38-30.3.

**SECTION 26. AMENDMENT.** Section 57-38-30.3 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30.3. Simplified method of computing Individual, estate, and trust income tax.**

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 <del>\$27,050</del> <u>\$33,950</u>	<del>2.40%</del> <u>1.70%</u>
Over <del>\$27,050</del> <u>\$33,950</u> but not	<del>\$668.05</del> <u>\$577.15</u> plus <del>3.92%</del> <u>3.40%</u>
over <del>\$65,550</del> <u>\$82,250</u>	of amount over <del>\$27,050</del> <u>\$33,950</u>
Over <del>\$65,550</del> <u>\$82,250</u> but not	<del>\$2,077.25</del> <u>\$2,219.35</u> plus <del>4.34%</del> <u>3.60%</u>
over <del>\$136,750</del> <u>\$171,550</u>	of amount over <del>\$65,550</del> <u>\$82,250</u>
Over <del>\$136,750</del> <u>\$171,550</u> but not	<del>\$6,467.33</del> <u>\$5,434.15</u> plus <del>5.04%</del> <u>4.25%</u>
over <del>\$297,350</del> <u>\$372,950</u>	of amount over <del>\$136,750</del> <u>\$171,550</u>
Over <del>\$297,350</del> <u>\$372,950</u>	<del>\$13,261.57</del> <u>\$13,993.65</u> plus <del>5.54%</del> <u>5.00%</u>
	of amount over <del>\$297,350</del> <u>\$372,950</u>

b. Married filing jointly and surviving spouse.

If North Dakota taxable income is:	The tax is equal to:
Not over <del>\$45,200</del> <u>\$56,750</u>	<del>2.40%</del> <u>1.70%</u>
Over <del>\$45,200</del> <u>\$56,750</u> but not	<del>\$949.20</del> <u>\$964.75</u> plus <del>3.92%</del> <u>3.40%</u>
over <del>\$109,250</del> <u>\$137,050</u>	of amount over <del>\$45,200</del> <u>\$56,750</u>
Over <del>\$109,250</del> <u>\$137,050</u> but not	<del>\$3,459.96</del> <u>\$3,694.95</u> plus <del>4.34%</del> <u>3.60%</u>
over <del>\$166,500</del> <u>\$208,850</u>	of amount over <del>\$109,250</del> <u>\$137,050</u>
Over <del>\$166,500</del> <u>\$208,850</u> but not	<del>\$5,944.64</del> <u>\$6,279.75</u> plus <del>5.04%</del> <u>4.25%</u>
over <del>\$297,350</del> <u>\$372,950</u>	of amount over <del>\$166,500</del> <u>\$208,850</u>
Over <del>\$297,350</del> <u>\$372,950</u>	<del>\$12,539.45</del> <u>\$13,254</u> plus <del>5.54%</del> <u>5.00%</u>
	of amount over <del>\$297,350</del> <u>\$372,950</u>

c. Married filing separately.

If North Dakota taxable income is:	The tax is equal to:
Not over <del>\$22,600</del> <u>\$28,375</u>	<del>2.40%</del> <u>1.70%</u>
Over <del>\$22,600</del> <u>\$28,375</u> but not	<del>\$474.60</del> <u>\$482.38</u> plus <del>3.92%</del> <u>3.40%</u>
over <del>\$54,625</del> <u>\$68,525</u>	of amount over <del>\$22,600</del> <u>\$28,375</u>
Over <del>\$54,625</del> <u>\$68,525</u> but not	<del>\$1,729.98</del> <u>\$1,847.48</u> plus <del>4.34%</del> <u>3.60%</u>
over <del>\$83,250</del> <u>\$104,425</u>	of amount over <del>\$54,625</del> <u>\$68,525</u>
Over <del>\$83,250</del> <u>\$104,425</u> but not	<del>\$2,972.34</del> <u>\$3,139.88</u> plus <del>5.04%</del> <u>4.25%</u>
over <del>\$148,675</del> <u>\$186,475</u>	of amount over <del>\$83,250</del> <u>\$104,425</u>
Over <del>\$148,675</del> <u>\$186,475</u>	<del>\$6,269.73</del> <u>\$6,627.01</u> plus <del>5.54%</del> <u>5.00%</u>
	of amount over <del>\$148,675</del> <u>\$186,475</u>

d. Head of household.

If North Dakota taxable income is:	The tax is equal to:
Not over <del>\$36,250</del> <u>\$45,500</u>	<del>2.40%</del> <u>1.70%</u>
Over <del>\$36,250</del> <u>\$45,500</u> but not	<del>\$761.25</del> <u>\$773.50</u> plus <del>3.92%</del> <u>3.40%</u>
over <del>\$93,650</del> <u>\$117,450</u>	of amount over <del>\$36,250</del> <u>\$45,500</u>
Over <del>\$93,650</del> <u>\$117,450</u> but not	<del>\$3,041.33</del> <u>\$3,219.80</u> plus <del>4.34%</del> <u>3.60%</u>
over <del>\$151,650</del> <u>\$190,200</u>	of amount over <del>\$93,650</del> <u>\$117,450</u>
Over <del>\$151,650</del> <u>\$190,200</u> but not	<del>\$5,528.53</del> <u>\$5,838.80</u> plus <del>5.04%</del> <u>4.25%</u>
over <del>\$297,350</del> <u>\$372,950</u>	of amount over <del>\$151,650</del> <u>\$190,200</u>
Over <del>\$297,350</del> <u>\$372,950</u>	<del>\$12,871.84</del> <u>\$13,605.68</u> plus <del>5.54%</del> <u>5.00%</u>
	of amount over <del>\$297,350</del> <u>\$372,950</u>

e. Estates and trusts.

If North Dakota taxable income is:	The tax is equal to:
Not over <del>\$1,800</del> <u>\$2,300</u>	<del>2.40%</del> <u>1.70%</u>
Over <del>\$1,800</del> <u>\$2,300</u> but not	<del>\$37.80</del> <u>\$39.10</u> plus <del>3.92%</del> <u>3.40%</u>



over <del>\$4,250</del> <u>\$5,350</u>	of amount over <del>\$1,800</del> <u>\$2,300</u>
Over <del>\$4,250</del> <u>\$5,350</u> but not	<del>\$133.84</del> <u>\$142.80</u> plus <del>4.34%</del> <u>3.60%</u>
over <del>\$6,500</del> <u>\$8,200</u>	of amount over <del>\$4,250</del> <u>\$5,350</u>
Over <del>\$6,500</del> <u>\$8,200</u> but not	<del>\$231.49</del> <u>\$245.40</u> plus <del>5.04%</del> <u>4.25%</u>
over <del>\$8,900</del> <u>\$11,150</u>	of amount over <del>\$6,500</del> <u>\$8,200</u>
Over <del>\$8,900</del> <u>\$11,150</u>	<del>\$352.45</del> <u>\$370.78</u> plus <del>5.54%</del> <u>5.00%</u>
	of amount over <del>\$8,900</del> <u>\$11,150</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. For taxable years beginning after December 31, 2001, 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.

- i. A resident individual, estate, or trust is entitled to a credit against the tax imposed under this chapter equal to the amount of income tax paid for the taxable year to another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also taxable under this section. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subdivision may not exceed an amount equal to the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by total federal adjusted gross income. For an individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subdivision may not exceed the lesser of the following:

- (1) The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under this subsection.
- (2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided

by federal adjusted gross income derived from sources in the other states.

- j. A resident individual, estate, or trust is entitled to a credit against the tax imposed under this chapter equal to the amount of income tax paid for the taxable year to another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also subject to tax under this section. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subdivision may not exceed an amount equal to the tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by total federal adjusted gross income. For an individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subdivision may not exceed the lesser of the following:
  - (1) The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under subdivision i.
  - (2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from sources in the other states.
- 2. For purposes of this section, "North Dakota taxable income" means the federal taxable income of an individual, estate, or trust as computed under the Internal Revenue Code of 1986, as amended, adjusted as follows:
  - a. Reduced by interest income from obligations of the United States and income exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.
  - b. Reduced by the portion of a distribution from a qualified investment fund described in section 57-38-01 which is attributable to investments by the qualified investment fund in obligations of the United States, obligations of North Dakota or its political subdivisions, and any other obligation the interest from which is exempt from state income tax under federal statute or United States or North Dakota constitutional provisions.
  - 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.
  - d. Reduced by thirty percent of 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.
  - e. Increased by the amount of a lump sum distribution for which income averaging was elected under section 402 of the Internal Revenue Code of 1986 [26 U.S.C. 402], as amended. This adjustment does not apply if the taxpayer received the lump sum distribution while a nonresident of this state and the distribution is exempt from taxation by this state under federal law.
  - 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.

- g. Reduced by the amount received by the taxpayer as payment for services performed when mobilized under title 10 United States Code federal service as a member of the national guard or reserve member of the armed forces of the United States. This subdivision does not apply to federal service while attending annual training, basic military training, or professional military education.
  - h. Reduced by income from a new and expanding business exempt from state income tax under section 40-57.1-04.
  - i. Reduced by interest and income from bonds issued under chapter 11-37.
  - j. Reduced by up to ten thousand dollars of qualified expenses that are related to a donation by a taxpayer or a taxpayer's dependent, while living, of one or more human organs to another human being for human organ transplantation. A taxpayer may claim the reduction in this subdivision only once for each instance of organ donation during the taxable year in which the human organ donation and the human organ transplantation occurs but if qualified expenses are incurred in more than one taxable year, the reduction for those expenses must be claimed in the year in which the expenses are incurred. For purposes of this subdivision:
    - (1) "Human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person.
    - (2) "Organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow.
    - (3) "Qualified expenses" means lost wages not compensated by sick pay and unreimbursed medical expenses as defined for federal income tax purposes, to the extent not deducted in computing federal taxable income, whether or not the taxpayer itemizes federal income tax deductions.
  - k. Increased by the amount of the contribution upon which the credit under section 57-38-01.21 is computed, but only to the extent that the contribution reduced federal taxable income.
  - l. Reduced by the amount of any payment received by a veteran or beneficiary of a veteran under section 37-28-03 or 37-28-04.
  - m. Reduced by the amount received by a taxpayer that was paid by an employer under paragraph 4 of subdivision a of subsection 2 of section 57-38-01.25 to hire the taxpayer for a hard-to-fill position under section 57-38-01.25, but only to the extent the amount received by the taxpayer is included in federal taxable income. The reduction applies only if the employer is entitled to the credit under section 57-38-01.25. The taxpayer must attach a statement from the employer in which the employer certifies that the employer is entitled to the credit under section 57-38-01.25 and which specifically identified the type of payment and the amount of the exemption under this section.
  - n. Reduced by the amount up to a maximum of five thousand dollars, or ten thousand dollars if a joint return is filed, for contributions made under a higher education savings plan administered by the Bank of North Dakota, pursuant to section 6-09-38.
  - o. Reduced by the amount of income of a taxpayer, who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe, from activities or sources within the boundaries of any reservation in this state.
3. Married individuals filing a joint federal income tax return shall file a joint state income tax return if the return is filed under this section. If separate federal income tax returns are filed, one spouse's state income tax return

may be filed under this section and the other spouse's income tax return may be filed under the other provisions of this chapter.

4.
  - a. A resident individual, estate, or trust is entitled to a credit against the tax imposed under this section for the amount of income tax paid by the taxpayer for the taxable year by another state or territory of the United States or the District of Columbia on income derived from sources in those jurisdictions that is also subject to tax under this section.
  - b. For an individual, estate, or trust that is a resident of this state for the entire taxable year, the credit allowed under this subsection may not exceed an amount equal to the tax imposed under this section multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction divided by federal adjusted gross income less the amounts under subdivisions a and b of subsection 2.
  - c. For an individual, estate, or trust that is a resident of this state for only part of the taxable year, the credit allowed under this subsection may not exceed the lesser of the following:
    - (1) The tax imposed under this chapter multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from North Dakota sources less the amounts under subdivisions a and b of subsection 2.
    - (2) The tax paid to the other jurisdiction multiplied by a ratio equal to federal adjusted gross income derived from sources in the other jurisdiction received while a resident of this state divided by federal adjusted gross income derived from sources in the other states.
  - d. The tax commissioner may require written proof of the tax paid to another state. The required proof must be provided in a form and manner as determined by the tax commissioner.
5. Individuals, estates, or trusts that file an amended federal income tax return changing their federal taxable income figure for a year for which an election to file state income tax returns has been made under this section shall file an amended state income tax return to reflect the changes on the federal income tax return.
6. The tax commissioner may prescribe procedures and guidelines to prevent requiring income that had been previously taxed under this chapter from becoming taxed again because of the provisions of this section and may prescribe procedures and guidelines to prevent any income from becoming exempt from taxation because of the provisions of this section if it would otherwise have been subject to taxation under the provisions of this chapter.
7. A taxpayer filing a return under this section is entitled to the following tax credits:
  - a. Family care tax credit under section 57-38-01.20.
  - b. Renaissance zone tax credits under sections 40-63-04, 40-63-06, and 40-63-07.
  - c. Agricultural business investment tax credit under section 57-38.6-03.
  - d. Seed capital investment tax credit under section 57-38.5-03.
  - e. Planned gift tax credit under section 57-38-01.21.
  - f. Biodiesel fuel tax credits under sections 57-38-01.22 and 57-38-01.23.
  - g. Internship employment tax credit under section 57-38-01.24.

- h. Workforce recruitment credit under section 57-38-01.25.
  - i. Angel fund investment tax credit under section 57-38-01.26.
  - j. Microbusiness tax credit under section 57-38-01.27.
  - k. Marriage penalty credit under section 57-38-01.28.
  - l. Homestead income tax credit under section 57-38-01.29.
  - m. Commercial property income tax credit under section 57-38-01.30.
  - n. Research and experimental expenditures under section 57-38-30.5.
8. A taxpayer filing a return under this section is entitled to the exemption provided under section 40-63-04.
9. a. If an individual taxpayer engaged in a farming business elects to average farm income under section 1301 of the Internal Revenue Code [26 U.S.C. 1301], the taxpayer may elect to compute tax under this subsection. If an election to compute tax under this subsection is made, the tax imposed by subsection 1 for the taxable year must be equal to the sum of the following:
- (1) The tax computed under subsection 1 on North Dakota taxable income reduced by elected farm income.
  - (2) The increase in tax imposed by subsection 1 which would result if North Dakota taxable income for each of the three prior taxable years were increased by an amount equal to one-third of the elected farm income. However, if other provisions of this chapter other than this section were used to compute the tax for any of the three prior years, the same provisions in effect for that prior tax year must be used to compute the increase in tax under this paragraph. For purposes of applying this paragraph to taxable years beginning before January 1, 2001, the increase in tax must be determined by recomputing the tax in the manner prescribed by the tax commissioner.
- b. For purposes of this subsection, "elected farm income" means that portion of North Dakota taxable income for the taxable year which is elected farm income as defined in section 1301 of the Internal Revenue Code of 1986 [26 U.S.C. 1301], as amended, reduced by the portion of an exclusion claimed under subdivision d of subsection 2 that is attributable to a net long-term capital gain included in elected farm income.
- c. The reduction in North Dakota taxable income under this subsection must be taken into account for purposes of making an election under this subsection for any subsequent taxable year.
- d. The tax commissioner may prescribe rules, procedures, or guidelines necessary to administer this subsection.
10. The tax commissioner may prescribe tax tables, to be used in computing the tax according to subsection 1, if the amounts of the tax tables are based on the tax rates set forth in subsection 1. If prescribed by the tax commissioner, the tables must be followed by every individual, estate, or trust determining a tax under this section.

**SECTION 27. AMENDMENT.** Section 57-38-30.5 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-30.5. Income tax credit for research and experimental expenditures.**

A taxpayer is allowed a credit against the tax imposed under section ~~57-38-29~~, 57-38-30, or 57-38-30.3 for conducting qualified research in this state.

1. The amount of the credit for taxpayers that earned or claimed a credit under this section in taxable years beginning before January 1, 2007, is calculated as follows:

- a. For the first taxable year beginning after December 31, 2006, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to seven and one-half percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
  - b. For the second taxable year beginning after December 31, 2006, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to eleven percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
  - c. For the third taxable year beginning after December 31, 2006, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to fourteen and one-half percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
  - d. For the fourth through the tenth taxable years beginning after December 31, 2006, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to eighteen percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
  - e. For the eleventh taxable year beginning after December 31, 2006, and for each subsequent taxable year in which the taxpayer conducts qualified research in this state, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to eight percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
  - f. The maximum annual credit a taxpayer may obtain under this section is two million dollars. Any credit amount earned in the taxable year in excess of two million dollars may not be carried back or forward as provided in subsection 7.
2. For taxpayers that have not earned or claimed a credit under this section in taxable years beginning before January 1, 2007, and which begin conducting qualified research in North Dakota in any of the first four taxable years beginning after December 31, 2006, the amount of the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to twenty percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
    - a. This rate applies through the tenth taxable year beginning after December 31, 2006.
    - b. For the eleventh taxable year beginning after December 31, 2006, and for each subsequent taxable year in which the taxpayer conducts qualified research in this state, the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to eight percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.

3. For taxpayers that have not earned or claimed a credit under this section in taxable years beginning before January 1, 2007, and which begin conducting qualified research in North Dakota in any taxable year following the fourth taxable year beginning after December 31, 2006, the amount of the credit is equal to twenty-five percent of the first one hundred thousand dollars of the qualified research expenses for the taxable year in excess of the base period research expenses and equal to eight percent of all qualified research expenses for the taxable year more than one hundred thousand dollars in excess of the base period research expenses.
4. For purposes of this section:
  - a. "Base period research expenses" means base period research expenses as defined in section 41(c) of the Internal Revenue Code [26 U.S.C. 41(c)], except it does not include research conducted outside the state of North Dakota.
  - b. "Director" means the director of the department of commerce division of economic development and finance.
  - c. "Primary sector business" means a qualified business that through the employment of knowledge or labor adds value to a product, process, or service.
  - d. "Qualified research" means qualified research as defined in section 41(d) of the Internal Revenue Code [26 U.S.C. 41(d)], except it does not include research conducted outside the state of North Dakota.
  - e. "Qualified research and development company" means a taxpayer that is a primary sector business with annual gross revenues of less than seven hundred fifty thousand dollars and which has not conducted new research and development in North Dakota.
  - f. "Qualified research expenses" means qualified research expenses as defined in section 41(b) of the Internal Revenue Code [26 U.S.C. 41(b)], except it does not include expenses incurred for basic research conducted outside the state of North Dakota.
5. The credit allowed under this section for the taxable year may not exceed the liability for tax under this chapter.
6. In the case of a taxpayer that is a partner in a partnership or a member in a limited liability company, 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.
7. Except as provided in subsection 1, if the amount of the credit determined under this section for any taxable year exceeds the limitation under subsection 5, the excess may be used as a research credit carryback to each of the three preceding taxable years and a research credit carryover to each of the fifteen succeeding taxable years. The entire amount of the excess unused credit for the taxable year must be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried and the amount of the unused credit which may be added under this subsection may not exceed the taxpayer's liability for tax less the research credit for the taxable year.
8. A taxpayer that is certified as a qualified research and development company by the director may elect to sell, transfer, or assign all or part of the unused tax credit earned under this section. The director shall certify whether a taxpayer that has requested to become a qualified research and development company meets the requirements of subsection 4. The director shall establish the necessary forms and procedures for certifying qualifying research and development companies. The director shall issue

a certification letter to the taxpayer and the tax commissioner. A tax credit can be sold, transferred, or assigned subject to the following:

- a. A taxpayer's total credit assignment under this section may not exceed one hundred thousand dollars over any combination of taxable years.
  - b. If the taxpayer elects to assign or transfer an excess credit under this subsection, the tax credit transferor and the tax credit purchaser jointly shall file with the tax commissioner a copy of the purchase agreement and a statement containing the names, addresses, and taxpayer identification numbers of the parties to the transfer, the amount of the credit being transferred, the gross proceeds received by the transferor, and the taxable year or years for which the credit may be claimed. The taxpayer and the purchaser also shall file a document allowing the tax commissioner to disclose tax information to either party for the purpose of verifying the correctness of the transferred tax credit. The purchase agreement, supporting statement, and waiver must be filed within thirty days after the date the purchase agreement is fully executed.
  - c. The purchaser of the tax credit shall claim the credit beginning with the taxable year in which the credit purchase agreement was fully executed by the parties. A purchaser of a tax credit under this section has only such rights to claim and use the credit under the terms that would have applied to the tax credit transferor, except the credit purchaser may not carry back the credit as otherwise provided in this section. This subsection does not limit the ability of the tax credit purchaser to reduce the tax liability of the purchaser, regardless of the actual tax liability of the tax credit transferor.
  - d. The original purchaser of the tax credit may not sell, assign, or otherwise transfer the credit purchased under this section.
  - e. If the amount of the credit available under this section is changed as a result of an amended return filed by the transferor, or as the result of an audit conducted by the internal revenue service or the tax commissioner, the transferor shall report to the purchaser the adjusted credit amount within thirty days of the amended return or within thirty days of the final determination made by the internal revenue service or the tax commissioner. The tax credit purchaser shall file amended returns reporting the additional tax due or claiming a refund as provided in section 57-38-38 or 57-38-40, and the tax commissioner may audit these returns and assess or issue refunds, even though other time periods prescribed in these sections may have expired for the purchaser.
  - f. Gross proceeds received by the tax credit transferor must be assigned to North Dakota. The amount assigned under this subsection cannot be reduced by the taxpayer's income apportioned to North Dakota or any North Dakota net operating loss of the taxpayer.
  - g. The tax commissioner has four years after the date of the credit assignment to audit the returns of the credit transferor and the purchaser to verify the correctness of the amount of the transferred credit and if necessary assess the credit purchaser if additional tax is found due. This subdivision does not limit or restrict any other time period prescribed in this chapter for the assessment of tax.
  - h. The tax commissioner may adopt rules to permit verification of the validity and timeliness of the transferred tax credit.
9. If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base period must be adjusted in the manner provided by section 41(f)(3) of the Internal Revenue Code [26 U.S.C. 41(f)(3)].
  10. If a taxpayer entitled to the credit provided by this section is a member of a group of corporations filing a North Dakota consolidated tax return using



the combined reporting method, the credit may be claimed against the aggregate North Dakota tax liability of all the corporations included in the North Dakota consolidated return. This section does not apply to tax credits received or purchased under subsection 8.

11. An individual, estate, or trust that purchases a credit under this section is entitled to claim the credit against state income tax liability under section ~~57-38-29~~ or 57-38-30.3.
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 ~~sections 57-38-29 and 57-38-30~~ section 57-38-30.3.

**SECTION 28. AMENDMENT.** Subdivision b of subsection 1 of section 57-38-40 of the North Dakota Century Code is amended and reenacted as follows:

- b. An individual who filed a return of income as a resident of this state and is assessed tax by another state or territory of the United States or the District of Columbia on that income after the time for filing a claim has expired under this section is entitled to a credit or refund for the amount of tax paid to the other jurisdiction, not including penalty or interest, as provided under subsection ~~2 or 6 of section 57-38-04~~ 1 or subsection 4 of section 57-38-30.3, notwithstanding the time limitations of this section. The claim for the credit or refund under this subdivision must be submitted to the commissioner within one year from the date the taxes were paid to the other jurisdiction. The taxpayer must submit sufficient proof to show entitlement to a credit or refund under this subdivision.

**SECTION 29. AMENDMENT.** Section 57-38.5-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.5-03. Seed capital investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability under section ~~57-38-29~~, 57-38-30, or 57-38-30.3.

1. The amount of the credit to which a taxpayer is entitled is forty-five percent of the amount invested by the taxpayer in qualified businesses during the taxable year.
2. The maximum annual credit a taxpayer may claim under this section is not more than one hundred twelve thousand five hundred dollars. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
3. Any amount of credit under subsection 1 not allowed because of the limitation in subsection 2 may be carried forward for up to four taxable years after the taxable year in which the investment was made.
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 members in proportion to their respective interests in the passthrough entity.
5. 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 chapter if a separate account is maintained for the plan participant and the participant directly controls where the account assets are invested.

6. The investment must be made on or after the certification effective date and must be at risk in the business to be eligible for the tax credit under this section. An investment for which a credit is received under this section must remain in the business for at least three years. Investments placed in escrow do not qualify for the credit.
7. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business.
8. A taxpayer who owns a controlling interest in the qualified business or who receives more than fifty percent of the taxpayer's gross annual income from the qualified business is not entitled to a credit under this section. A member of the immediate family of a taxpayer disqualified by this subsection is not entitled to the credit under this section. For purposes of this subsection, "immediate family" means the taxpayer's spouse, parent, sibling, or child or the spouse of any such person.
9. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The commissioner has four years after the due date of the return or after the return was filed, whichever period expires later, to audit the credit and assess additional tax that may be found due to failure to comply with the provisions of this chapter. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest as provided under section 57-38-45, must be paid by the taxpayer.
10. An angel fund that invests in a qualified business must be considered to be the taxpayer for purposes of the investment limitations in this section. The amount of the credit allowed with respect to an angel fund's investment in a qualified business must be determined at the angel fund level. The amount of the total credit determined at the angel fund level must be allowed to the investors in the angel fund in proportion to the investor's respective interests in the fund. An angel fund that is subject to the tax imposed under chapter 57-38 is not eligible for the investment tax credit under this chapter.

**SECTION 30. AMENDMENT.** Section 57-38.6-03 of the North Dakota Century Code is amended and reenacted as follows:

**57-38.6-03. Agricultural business investment tax credit.** If a taxpayer makes a qualified investment in a qualified business, the taxpayer is entitled to a credit against state income tax liability as determined under section ~~57-38-29~~, 57-38-30, or 57-38-30.3.

1. The amount of the credit to which a taxpayer is entitled is thirty percent of the amount invested by the taxpayer in qualified businesses during the taxable year.
2. The maximum annual credit a taxpayer may obtain under this section is fifty thousand dollars and no taxpayer may obtain more than two hundred fifty thousand dollars in credits under this section over any combination of taxable years. This subsection may not be interpreted to limit additional investment by a taxpayer for which that taxpayer is not applying for a credit.
3. The credit under this section may not exceed the liability for tax under chapter 57-38. If the amount of credit under this section exceeds the liability for tax, the excess may be carried forward for up to ten taxable years after the taxable year in which the investment was made.
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, in proportion to their respective ownership interests in the passthrough entity.

5. 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 purposes of this chapter if a separate account is maintained for the plan participant and the participant directly controls where the account assets are invested.
6. The investment must be made on or after the certification effective date and must be at risk in the business to be eligible for the tax credit under this section. A qualified investment must be in the form of a purchase of ownership interests or the right to receive payment of dividends from the business. An investment for which a credit is received under this section must remain in the business for at least three years. An investment placed in escrow does not qualify for the credit.
7. The entire amount of an investment for which a credit is claimed under this section must be expended by the qualified business for plant, equipment, research and development, marketing and sales activity, or working capital for the qualified business. Real property that qualifies as an investment must be used in, and be an integral part of, the qualified business's North Dakota business operations.
8. If the investment is a contribution of real property:
  - a. The value of the contribution may not exceed the appraised value as established by a licensed or certified appraiser licensed or certified under the requirements of sections 43-23.3-04, 43-23.3-04.1, 43-23.3-05, 43-23.3-06, 43-23.3-07, 43-23.3-08, 43-23.3-09, 43-23.3-10, 43-23.3-11, and 43-23.3-12.
  - b. The value of the contribution must be approved by the governing body of the qualified business applying the valuation standards set forth in subsection 3 of section 10-19.1-63.
  - c. The qualified business receiving the contribution of real property shall provide to the tax commissioner a copy of the appraised valuation, a copy of the governing body's resolution approving the value of the contribution, and a copy of the statement of full consideration within thirty days after the instrument transferring title to the real property is recorded with the register of deeds as provided in chapter 47-19.
  - d. A taxpayer making a contribution of real property is entitled to the tax credit in the taxable year in which the instrument transferring title to the real property is recorded with the register of deeds as provided in chapter 47-19.
9. The tax commissioner may disallow any credit otherwise allowed under this section if any representation by a business in the application for certification as a qualified business proves to be false or if the taxpayer or qualified business fails to satisfy any conditions under this section or any conditions consistent with this section otherwise determined by the tax commissioner. The amount of any credit disallowed by the tax commissioner that reduced the taxpayer's income tax liability for any or all applicable tax years, plus penalty and interest provided under section 57-38-45, must be paid by the taxpayer.

**SECTION 31. REPEAL.** Sections 57-38-01.2, 57-38-01.18, 57-38-02, 57-38-06.1, 57-38-29, 57-38-29.2, 57-38-30.4, 57-38-67, 57-38-68, 57-38-69, and 57-38-70 of the North Dakota Century Code are repealed.

**SECTION 32. EFFECTIVE DATE - EXPIRATION DATE - APPLICATION.** This Act is effective for taxable years beginning after December 31, 2009. Section 26 of this Act is effective for the first two taxable years beginning after December 31, 2009, and is thereafter ineffective. The income amounts shown in the tax brackets in the

amendment to section 57-38-30.3 in this Act are the income amounts as indexed for taxable year 2009. The tax commissioner shall apply appropriate indexing factors, as determined under subdivision g of subsection 1 of section 57-38-30.3, to the dollar amounts of the brackets to update those amounts for taxable years after 2009."

Renumber accordingly

#### **SENATE AMENDMENTS TO HOUSE BILL NO. 1481**

Page 1, replace line 2 with "legislative intent."

Page 1, line 6, after the comma insert "out of any moneys in the permanent oil tax trust fund in the state treasury, the sum of \$7,000,000, or so much of the sum as may be necessary,"

Page 1, replace lines 9 through 24 with:

**"SECTION 2. CONSTRUCTION AUTHORIZATION.** Section 1 of this Act includes \$25,000,000, of which \$18,000,000 is from the general fund and \$7,000,000 is from the permanent oil tax trust fund, which the state historical society shall use for site work and for construction of the heritage center building addition enclosed structure. Construction may not begin until May 1, 2010, and until the state historical society certifies to the budget section that fifty percent of the federal or special funds required to complete the project, up to \$6,000,000, has been pledged to the state historical society.

**SECTION 3. LEGISLATIVE INTENT - USE OF FEDERAL FUNDS AND OTHER INCOME.** It is the intent of the sixty-first legislative assembly that the \$12,000,000 of special funds derived from federal funds or other income to the state historical society included in section 1 of this Act be used for renovating the existing heritage center building, finishing the lower level of the heritage center addition, and developing exhibits.

**SECTION 4. LEGISLATIVE INTENT - ADDITIONAL FUNDING.** It is the intent of the sixty-first legislative assembly that the sixty-second legislative assembly provide additional funding of \$14,700,000 from the general fund to complete the upper level of the heritage center addition."

Page 2, line 5, replace "30,000,000" with "37,000,000"

Page 2, line 6, replace "30,000,000" with "37,000,000"

Page 2, line 7, replace "12,000,000" with "19,000,000"

Renumber accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT - LC 90850.0101 FN 1**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently failed to pass: HB 1180.

**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1370.

#### **SENATE AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1370**

Page 1, line 1, after "to" insert "create and enact a new section to chapter 38-18.1 of the North Dakota Century Code, relating to perfecting title to dormant minerals; and to"

Page 1, line 2, remove "; and"

Page 1, line 3, remove "to provide a penalty"

Page 2, line 25, after the period insert "A statement of claim filed after July 31, 2009, by a person other than the owner of record of the mineral interest is not effective to preserve a mineral interest unless accompanied by a reference to the name of the record owner under whom the owner of the mineral interest claims."

Page 2, line 28, remove "- Penalty"

Page 2, line 29, remove "1."

Page 3, line 7, replace "a." with "1."

Page 3, line 10, replace "(1)" with "a."

Page 3, line 11, remove "which is dated and notarized to confirm that the"

Page 3, line 12, remove "statement was signed before the first publication of notice"

Page 3, line 13, replace "(2)" with "b."

Page 3, line 17, replace "b." with "2."

Page 3, line 20, remove "the following:"

Page 3, line 21, replace "(1) An" with "an"

Page 3, line 24, replace "; and" with an underscored period

Page 3, remove lines 25 through 31

Page 4, line 11, after "inquiry" insert "as defined in subsection 6"

Page 4, line 25, remove the overstrike over "entitled" and remove "required"

Page 4, after line 28, insert:

"6. To constitute a reasonable inquiry as provided in subsection 2, the owner or owners of the surface estate or the owner's authorized agent must conduct a search of:

- a. The county recorder's records for the existence of any uses as defined in section 38-18.1-03 by the owner of the mineral interest;
- b. The clerk of court's records for the existence of any judgments, liens, or probate records which identify the owner of the mineral interest;
- c. The social security death index for the last-known residence of the owner of the mineral interest, if deceased; and
- d. One or more public internet databases to locate or identify the owner of the mineral interest or any known heirs of the owner. The owner or owners of the surface estate are not required to conduct internet searches on private fee internet databases.

**SECTION 5.** A new section to chapter 38-18.1 of the North Dakota Century Code is created and enacted as follows:

**Perfecting title in surface owner.**

- 1. Upon completion of the procedure provided in section 38-18.1-06, the owner or owners of the surface estate may maintain an action in district court in the county in which the minerals are located and obtain a judgment in quiet title in the owner or owners of the surface estate. This action must be brought in the same manner and is subject to the same procedure as an action to quiet title pursuant to chapter 32-17.
- 2. In an action brought under this section, the owner or owners of the surface estate shall submit evidence to the district court establishing that all procedures required by this chapter were properly completed and that a reasonable inquiry as defined by subsection 6 of section 38-18.1-06 was conducted. If the district court finds that the surface owner has complied with all procedures of the chapter and has conducted a reasonable inquiry, the district court shall issue its findings of fact, conclusions of law, and enter judgment perfecting title to the mineral interest in the owner or owners of the surface estate.
- 3. A judgment obtained by the owner or owners of the surface estate in compliance with this section is deemed conclusive except for fraud, misrepresentation, or other misconduct.

4. A mineral lessee that obtains a lease from the owner of the surface estate, which owner has obtained a judgment to minerals pursuant to this section, is deemed a bona fide purchaser and its lease remains effective in the event the judgment is subsequently vacated for any reason. Further, the lessee is not liable to any third party for lease bonus, royalties, or any other proceeds paid to the surface owner under the lease before the judgment being vacated.
5. Absent fraud or misrepresentation, the owner or owners of the surface estate which obtain a judgment under this section and lease minerals to a lessee are entitled to retain all lease bonus, royalties, or any other proceeds paid to the surface owner under the lease before the judgment being vacated."

Renumber accordingly

#### MOTION

**REP. VIGESAA MOVED** that the absent members be excused, which motion prevailed.

#### MOTION

**REP. VIGESAA MOVED** that the House be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the House stand adjourned until 12:30 p.m., Wednesday, July 8, 2009, which motion prevailed.

#### REPORT OF STANDING COMMITTEE

**SB 2021, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2021 was placed on the Sixth order on the calendar.

Page 1, line 2, after the first semicolon insert "to provide a contingent appropriation;", after the second semicolon insert "to provide for a legislative council study; to provide statements of legislative intent; to provide for a report to the legislative council;", and replace "and" with "to create and enact a new subsection to section 54-59-05 of the North Dakota Century Code, relating to the powers of the information technology department;"

Page 1, line 4, after "committee" insert "; and to declare an emergency"

Page 1, line 14, replace "6,462,653" with "4,882,814" and replace "44,144,782" with "42,564,943"

Page 1, line 19, replace "2,238,371" with "(25,512)" and replace "2,466,325" with "202,442"

Page 1, line 22, replace "1,910,451" with "1,310,451" and replace "5,976,970" with "5,376,970"

Page 1, line 24, replace "2,508,533" with "2,408,533" and replace "3,709,239" with "3,609,239"

Page 2, line 1, replace "16,288,104" with "11,744,382" and replace "139,342,795" with "134,799,073"

Page 2, line 2, replace "7,974,129" with "8,205,993" and replace "120,980,899" with "121,212,763"

Page 2, line 3, replace "8,313,975" with "3,538,389" and replace "18,361,896" with "13,586,310"

Page 2, after line 4, insert:

**"SECTION 2. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated from federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009, not otherwise appropriated, to the information technology department, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Statewide longitudinal data system	\$2,263,883
------------------------------------	-------------

The information technology department may seek emergency commission and budget section approval under chapter 54-16 for authority to spend any additional

federal funds received under the federal American Recovery and Reinvestment Act of 2009 in excess of the amounts appropriated in this section, for the period beginning with the effective date of this Act and ending June 30, 2011.

Any federal funds appropriated under this section are not a part of the agency's 2011-13 base budget. Any program expenditures made with these funds will not be replaced with state funds after the federal American Recovery and Reinvestment Act of 2009 funds are no longer available.

**SECTION 3. CONTINGENT GENERAL FUND APPROPRIATION - BUDGET SECTION APPROVAL.** If the federal funds appropriated under section 2 of this Act are not available to provide the sum of \$2,263,883, there is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,263,883, or so much of the sum as may be necessary, to the information technology department for costs associated with a statewide longitudinal data system, for the biennium beginning July 1, 2009, and ending June 30, 2011. The information technology department may only spend the general fund moneys to the extent that federal funds are not available to provide the \$2,263,883 appropriated under section 2 of this Act and subject to approval by the budget section."

Page 2, line 14, replace "369,748" with "269,748"

Page 2, line 15, replace "1,200,000" with "600,000"

Page 2, remove line 16

Page 2, line 18, replace "2,606,386" with "969,748"

Page 3, replace lines 3 through 30 with:

**"SECTION 7. DEPARTMENT OF PUBLIC INSTRUCTION - STATEWIDE LONGITUDINAL DATA SYSTEM EXPENDITURES - APPROVAL.** The department of public instruction may spend only the federal funds appropriated in House Bill No. 1013 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, 2009, and ending June 30, 2011.

**SECTION 8. LEGISLATIVE COUNCIL STUDY - CRIMINAL JUSTICE INFORMATION SHARING INITIATIVE.** During the 2009-10 interim, the legislative council shall consider studying the value of the information technology department's criminal justice information sharing initiative. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

**SECTION 9. INFORMATION TECHNOLOGY DEPARTMENT - REVENUES FOR THE 2009-11 BIENNIUM.** The information technology department shall monitor its revenue collections by funding source for the 2009-11 biennium and provide a report on revenue collections for the biennium to date by funding source to the appropriations committees of the sixty-second legislative assembly.

**SECTION 10. LEGISLATIVE INTENT - OUTSOURCING.** It is the intent of the sixty-first legislative assembly that the information technology department outsource 10 percent of its information technology services during the 2009-11 biennium and 20 percent of its information technology services during the 2011-13 biennium.

**SECTION 11. INFORMATION TECHNOLOGY DEPARTMENT OUTSOURCING - REPORT TO LEGISLATIVE COUNCIL.** The information technology department shall report to the legislative council at its November 2010 meeting on:

1. The department's current level of outsourcing of its information technology services.
2. Nonessential information technology services that could be considered for outsourcing.
3. The number of the department's employees who have resigned from the department to provide information technology consulting services in the private sector and the number of which have been rehired by the department.

4. The department's efforts to assist in the creation of North Dakota technology-related companies.

**SECTION 12. AMENDMENT.** Section 15.1-02-18 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-02-18. Statewide longitudinal data system committee - Membership - Powers and duties - Report to interim committee - Continuing appropriation.**

1. The statewide longitudinal data system committee consists of ~~the~~:
  - a. The chancellor of the board of higher education or chancellor's designee, ~~the~~.
  - b. The superintendent of public instruction or superintendent of public instruction's designee, ~~the~~.
  - c. The chief information officer or chief information officer's designee, ~~the~~.
  - d. The director of the department of career and technical education or the director's designee, ~~the~~.
  - e. The director of job service North Dakota or the director's designee, ~~the director~~.
  - f. The commissioner of ~~the department of~~ commerce or the ~~director's~~ commissioner's designee, ~~the~~.
  - g. The director of the department of human services or the director's designee, ~~and one person appointed by the governor~~.
  - h. The director of the North Dakota educational technology council.
  - i. The director of the North Dakota council of educational leaders or the director's designee.
  - j. The director of the North Dakota workforce development council or the director's designee.
2. The governor shall appoint the chair of the committee. The committee may appoint advisory committees that would serve in an advisory capacity to the committee.
- ~~2.~~ 3. The committee shall ~~plan and propose~~ manage a longitudinal data system which:
  - a. Provides for dissemination of management information to stakeholders and partners of state education, training, and employment systems; and
  - b. Uses data from educational and workforce systems as central sources of longitudinal data.
- ~~4.~~ 4. The information technology department, at the direction of the committee, shall maintain a statewide longitudinal data system among education, workforce, and training entities. The department and the committee, subject to federal and state privacy laws, may enter interagency agreements, including agreements designating authorized representatives of the educational agencies participating in the system pursuant to the Family Educational Rights and Privacy Act (FERPA) [20 U.S.C. 1232g; 34 CFR 99].
- ~~3.~~ 5. The committee shall ~~recommend policies, procedures, and guidelines to protect the privacy and security of personal information as provided by state and federal law~~ set policy and adopt rules relating to access to and the collection, storage, and sharing of information and the systems necessary to perform those functions, subject to applicable federal and state privacy laws and interagency agreements and restrictions relating to confidential information required to conform with applicable federal and



state privacy laws. The committee shall provide operational oversight for information-sharing activities and make recommendations for and provide oversight of information-sharing budgets. The committee may authorize studies to benefit and improve workforce training and education.

4. 6. The committee shall provide a report to the information technology committee, interim committee on education issues, and interim committee on economic development prior to the sixty-first legislative assembly on the status of the statewide longitudinal data system plan. The report shall must include recommendations for further development, cost proposals, proposals for legislation, and data sharing governance, including recommendations concerning the long-term role and administration of the followup information in North Dakota for education and training program.
7. The committee may solicit and receive moneys from public and private sources and those funds are appropriated on a continuing basis for the support of the longitudinal data system.
8. The information technology department shall provide staff and other necessary support to the committee.

**SECTION 13.** A new subsection to section 54-59-05 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding any other provision of law, may enter a contract with an information technology vendor to provide professional services to the department for a term of up to five years. However, the department may not renew any such contract with a vendor under this subsection beyond a total of five years.

**SECTION 14. EMERGENCY.** Section 2 of this Act is declared to be an emergency measure."

Page 4, remove lines 1 through 29

Page 5, remove lines 1 through 5

Renumber accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT - LC 98040.0205 FN 3**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

#### **REPORT OF STANDING COMMITTEE**

**SB 2063, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (17 YEAS, 8 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2063 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation for defraying the expenses of the state department of health for the development, implementation, and administration of the comprehensive tobacco prevention and control plan; to provide for a transfer; to provide for reports to the budget section; to amend and reenact sections 23-42-01, 23-42-02, 23-42-05, 23-42-06, 23-42-07, and 54-27-25 of the North Dakota Century Code, relating to the comprehensive tobacco prevention and control plan and advisory committee and the tobacco settlement trust fund; to repeal sections 23-42-01, 23-42-02, 23-42-03, 23-42-04, 23-42-05, 23-42-06, and 23-42-07 of the North Dakota Century Code, relating to the tobacco prevention and control executive committee and advisory committee; to provide an effective date; to provide for retroactive application; and to declare an emergency.

#### **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the tobacco prevention and control trust fund, not otherwise appropriated, to the state department of health for the purpose of defraying the expenses of the comprehensive

tobacco prevention and control plan, for the biennium beginning July 1, 2009, and ending June 30, 2011, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$0	\$252,128	\$252,128
Grants	0	12,629,872	12,629,872
Total special funds	\$0	\$12,882,000	\$12,882,000
Full-time equivalent positions	0.00	2.00	2.00

**SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the tobacco prevention and control trust fund, not otherwise appropriated, the sum of \$62,403, or so much of the sum as may be necessary, to the state department of health for the purpose of defraying the expenses of the tobacco prevention and control advisory committee, developing the comprehensive tobacco prevention and control plan, and contracting with a consultant to facilitate the development of the comprehensive plan, for the period beginning January 1, 2009, and ending July 1, 2009.

**SECTION 3. COMMUNITY HEALTH TRUST FUND - TRANSFER.** The office of management and budget shall transfer the sum of \$4,100,000 from the tobacco prevention and control trust fund to the community health trust fund, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 4. REPORTS TO THE BUDGET SECTION.** The state department of health shall report to the budget section quarterly on the implementation of the comprehensive tobacco prevention and control plan and outcomes achieved, for the biennium beginning July 1, 2009, and ending June 30, 2011.

**SECTION 5. AMENDMENT.** Section 23-42-01 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-01. Definitions.** As used in this chapter:

1. "Advisory committee" is the nine-member tobacco prevention and control advisory committee ~~responsible to develop the comprehensive plan.~~
2. "Comprehensive plan" means a comprehensive statewide tobacco prevention and control program ~~that developed by the state department of health which~~ is consistent with the centers for disease control and prevention best practices for comprehensive tobacco prevention and control programs and does not duplicate the work of the community health grant program created in chapter 23-38.
3. ~~"Executive committee" means the three member committee selected by the advisory committee and charged with implementation and administration of the comprehensive plan.~~
4. "Tobacco prevention and control fund" consists of all principal and interest of the tobacco prevention and control trust fund established by section 54-27-25.

**SECTION 6. AMENDMENT.** Section 23-42-02 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-02. Tobacco prevention and control advisory committee - Membership - Terms - Duties - Removal.**

1. The advisory board consists of nine North Dakota residents appointed by the governor for three-year terms as follows:
  - a. A practicing respiratory therapist familiar with tobacco-related diseases;
  - b. Four nonstate employees who have demonstrated expertise in tobacco prevention and control;
  - c. A practicing medical doctor familiar with tobacco-related diseases;
  - d. A practicing nurse familiar with tobacco-related diseases;
  - e. A youth between the ages of fourteen and twenty-one; and

- f. A member of the public with a previously demonstrated interest in fostering tobacco prevention and control.
2. The governor shall select the youth and public member independently; the respiratory therapist from a list of three nominations provided by the North Dakota society for respiratory care; the four tobacco control experts from a list of two nominations per member provided by the North Dakota public health association's tobacco control section; the medical doctor from a list of three nominations provided by the North Dakota medical association; and the nurse from a list of three nominations provided by the North Dakota nurses association. The governor must make the appointments within three weeks of receiving the respective list of nominees. If the governor fails to make an appointment within three weeks, the association that provided the list of nominees shall select the committee member. In the initial appointments for the advisory committee, the governor shall stagger the terms of the members so that the terms of three members expire each fiscal year and that three members are appointed each year by June thirtieth. Accordingly, the governor's initial appointments, in some instances, must be for terms less than three years. The governor shall fill vacancies for the unexpired term as provided in this section.
3. No individual may serve more than two consecutive three-year terms. However, terms of less than three years are not considered in determining an individual's eligibility for reappointment.
4. A quorum of the advisory committee is required to conduct business, but the advisory committee may conduct a meeting with less than a quorum present. A quorum is a majority of the members of the committee. Any action taken requires a vote of the majority of the members present at the meeting.
5. The advisory board shall:
  - a. ~~Select the executive committee;~~
  - b. Fix the compensation of the advisory committee ~~and the executive committee~~. However, compensation may not exceed compensation allowed to the ~~legislature~~ legislative assembly. ~~Advisory and executive~~ committee members are entitled to reimbursement for mileage and expenses as provided for state officers in addition to any compensation provided;
  - ~~e.~~ b. ~~Develop~~ Advise the state department of health on the development of the initial comprehensive statewide tobacco prevention and control program ~~that includes~~, including support for cessation interventions, community and youth interventions, and health communication; and
  - ~~d.~~ c. Evaluate the effectiveness of the plan and its implementation ~~as carried out by the state department of health~~ and, before April first of each year, propose any necessary changes to the plan to the ~~executive committee~~ state department of health.
6. The governor may remove any member of the advisory committee for malfeasance in office, but the advisory committee is not subject to section 54-07-01.2.
7. No nomination to, or member of, the advisory committee ~~shall~~ may have any past or current affiliation with the tobacco industry or any industry, contractor, agent, or organization that engages in the manufacturing, marketing, distributing, sale, or promotion of tobacco or tobacco-related products.

**SECTION 7. AMENDMENT.** Section 23-42-05 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-05. Development of the comprehensive plan.** The advisory committee shall ~~develop~~ advise the state department of health on the development of the initial comprehensive plan within one hundred eighty days of the initial meeting of the advisory committee. The comprehensive plan must be funded at a level equal to or

greater than the centers for disease control and prevention recommended funding level. Funding for the comprehensive plan must supplement and may not supplant any funding that in the absence of this chapter would be or has been provided for the community health trust fund or other health initiatives.

**SECTION 8. AMENDMENT.** Section 23-42-06 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-06. Conflict of interest.** No member of the advisory committee ~~or of the executive committee~~ who has a direct and substantial personal or pecuniary interest in a matter before them may vote or take any action on that matter.

**SECTION 9. AMENDMENT.** Section 23-42-07 of the North Dakota Century Code is amended and reenacted as follows:

**23-42-07. Audit.** At least once a biennium, the ~~executive committee~~ state department of health shall provide for an independent review of the comprehensive plan to assure that the comprehensive plan is consistent with the centers for disease control and prevention best practices. The ~~executive committee~~ state department of health shall report the results of that review to the governor and to the state health officer on or before September first in each odd-numbered year.

**SECTION 10. AMENDMENT.** Section 54-27-25 of the North Dakota Century Code is amended and reenacted as follows:

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

1. There is created in the state treasury a tobacco settlement trust fund. The fund consists of the tobacco settlement dollars obtained by the state under subsection IX(c)(1) of the master settlement agreement and consent agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Except as provided in subsection 2, moneys received by the state under subsection IX(c)(1) must be deposited in the fund. Interest earned on the fund must be credited to the fund and deposited in the fund. The principal and interest of the fund must be allocated as follows:
  - a. Transfers to a community health trust fund to be administered by the state department of health. The state department of health may use funds as appropriated for community-based public health programs and other public health programs, including programs with emphasis on preventing or reducing tobacco usage in this state. Transfers under this subsection must equal ten percent of total annual transfers from the tobacco settlement trust fund of which a minimum of eighty percent must be used for tobacco prevention and control.
  - b. Transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal forty-five percent of total annual transfers from the tobacco settlement trust fund.
  - c. Transfers to the water development trust fund to be used to address the long-term water development and management needs of the state. Transfers under this subsection must equal forty-five percent of the total annual transfers from the tobacco settlement trust fund.
2. There is created in the state treasury a tobacco prevention and control trust fund. The fund consists of the tobacco settlement dollars obtained by the state under section IX(c)(2) of the agreement adopted by the east central judicial district court in its judgment entered December 28, 1998 [Civil No. 98-3778] in State of North Dakota, ex rel. Heidi Heitkamp v. Philip Morris, Inc. Interest earned on the fund must be credited to the fund and deposited in the fund. Moneys received into the fund are to be administered by the ~~executive committee~~ state department of health for the purpose of creating and implementing the comprehensive plan provided for under chapter 23-42. If in any biennium, the tobacco prevention and control trust fund does not have adequate dollars to fund a comprehensive plan, the treasurer shall transfer money from the water development trust fund to the tobacco prevention and control trust fund in an amount equal to

the amount determined necessary by the ~~executive committee~~ legislative assembly to fund a comprehensive plan.

3. Transfers to the funds under this section must be made within thirty days of receipt by the state.

**SECTION 11. REPEAL.** Sections 23-42-03 and 23-42-04 of the North Dakota Century Code are repealed.

**SECTION 12. REPEAL.** Sections 23-42-01, 23-42-02, 23-42-05, 23-42-06, and 23-42-07 of the North Dakota Century Code are repealed.

**SECTION 13. EFFECTIVE DATE.** Section 12 of this Act becomes effective July 1, 2017.

**SECTION 14. RETROACTIVE APPLICATION.** Section 2 of this Act is retroactive to January 1, 2009.

**SECTION 15. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SB 2162, as engrossed: Human Services Committee (Rep. Weisz, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2162 was placed on the Sixth order on the calendar.

Page 1, line 1, after "enact" insert "a new section to chapter 50-06 and"

Page 1, line 2, after "to" insert "criminal history record checks and to"

Page 1, line 3, after "reenact" insert "subdivision g of subsection 2 of section 12-60-24 and"

Page 1, line 7, after "to" insert "criminal history record checks,"

Page 1, after line 13, insert:

**"SECTION 1. AMENDMENT.** Subdivision g of subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

- g. The department of human services for ~~carecheck registrations under section 50-11.1-06.2~~ criminal history record checks authorized under section 2 of this Act.

**SECTION 2.** A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

**Criminal history record checks.** The department may require criminal history record checks as the department determines appropriate for:

1. Employees of the department upon hiring;
2. Providers licensed by the department under chapter 50-12, as well as for any employees of those providers; and
3. Providers holding and applicants for early childhood services licensure, nonlicensed holders of a self-declaration, and in-home providers under chapter 50-11.1. The department also may require criminal history records checks for staff members of those providers and for household members of a provider if the provider is providing early childhood services within the provider's home and the household member resides within that home."

Page 2, line 9, replace "two" with "three"

Page 10, remove lines 28 through 31

Page 11, remove lines 1 through 7

Page 11, line 8, replace "3." with "2."

Page 11, line 27, replace "Applicants" with "Upon a determination by the department that a criminal history record check is appropriate, a provider holding or an applicant", replace the first "or" with an underscored comma, and after "self-declaration" insert an underscored comma

Page 12, line 10, after "the" insert "provider or"

Page 12, line 20, after the first "the" insert "provider or"

Page 13, line 2, replace the first "or" with an underscored comma and after "denial" insert ", or revocation"

Page 19, line 11, replace "7" with "9"

Page 23, line 29, replace "3" with "5"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**SCR 4030, as engrossed: Constitutional Revision Committee (Rep. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SCR 4030 was placed on the Sixth order on the calendar.

Page 1, line 1, after "resolution" replace the remainder of the resolution with "to create and enact a new section to article X of the Constitution of North Dakota, relating to establishment and use of a North Dakota legacy fund; and to provide an effective date.

#### STATEMENT OF INTENT

This measure establishes a North Dakota legacy fund, provides for deposit of certain oil and gas tax revenues in the fund, and imposes limitations on use of moneys in the fund.

#### BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES 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 2010, 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:

Revenue derived from taxes on oil and gas production or extraction except those revenues allocated by constitutional or statutory provisions to impact grants, political subdivisions, the oil and gas research fund, water development bond principal and interest payments, the resources trust fund, the common schools trust fund, and the foundation aid stabilization fund must be allocated during each biennium as follows:

1. The first one hundred million dollars, eighty percent to the state general fund and twenty percent to the North Dakota legacy fund.
2. The next one hundred million dollars, seventy percent to the state general fund and thirty percent to the North Dakota legacy fund.
3. The next one hundred million dollars, sixty percent to the state general fund and forty percent to the North Dakota legacy fund.
4. The next one hundred million dollars, fifty percent to the state general fund and fifty percent to the North Dakota legacy fund.
5. All revenues exceeding four hundred million dollars, forty percent to the state general fund and sixty percent to the North Dakota legacy fund.

The state investment board shall invest the principal of the North Dakota legacy fund. The state treasurer shall transfer earnings of the North Dakota legacy fund to the state general fund at the end of each fiscal year. The legislative assembly may transfer funds

from any source into the legacy fund and such transfers become part of the principal of the legacy fund. The principal of the North Dakota legacy fund may not be expended except upon a vote of two-thirds of the members elected to each house of the legislative assembly and not more than twenty percent of the principal may be expended during any biennium.

**SECTION 2. EFFECTIVE DATE.** If approved by the voters, this measure becomes effective for oil and gas produced after June 30, 2011."

Renumber accordingly

**FIRST READING OF SENATE CONCURRENT RESOLUTIONS**

**SCR 4034:** A concurrent resolution urging the Secretary of the Treasury to authorize the placement of the image of President Theodore Roosevelt on the obverse of the quarters in the national parks quarter dollar series.

Was read the first time and referred to the **Government and Veterans Affairs Committee**.

**SCR 4035:** A concurrent resolution urging Congress to establish the Red River Valley authority as an agency or authorized board of the federal government for the purpose of the regulation and control of water quality of the Red River and regulation and control of the retention and flow of water, including retention by dams or retention ponds or other areas, and of drainage on the Red River.

Was read the first time and referred to the **Natural Resources Committee**.

The House stood adjourned pursuant to Representative Vigesaa's motion.

**Buell J. Reich, Chief Clerk**

