

## JOURNAL OF THE SENATE

## Sixty-first Legislative Assembly

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Bismarck, April 6, 2009

The Senate convened at 12:30 p.m., with President Dalrymple presiding.

The prayer was offered by Pastoral Assistant Rose Trenbeath, First Lutheran Church, Bismarck, and Peace Lutheran Church, Lincoln.

The roll was called and all members were present.

A quorum was declared by the President.

## CORRECTION AND REVISION OF THE JOURNAL

**MR. PRESIDENT:** Your **Committee on Correction and Revision of the Journal (Sen. Andrist, Chairman)** has carefully examined the Journal of the Fifty-sixth and Fifty-seventh Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 980, line 18, replace "13" with "8", replace "0" with "6", and replace "1" with "0"

Page 1000, line 19, replace "unchanged" with "and your favorable consideration is requested on"

Page 1016, line 39, replace "7" with "6", and replace "0 NAYS" with "1 NAY"

**SEN. ANDRIST MOVED** that the report be adopted, which motion prevailed.

## MOTION

**SEN. CHRISTMANN MOVED** that HB 1010, which is on the Sixth order, be laid over one legislative day, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**HB 1022, as engrossed: SEN. KREBSBACH (Appropriations Committee) MOVED** that the amendments on SJ pages 1005-1006 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

## SECOND READING OF HOUSE BILL

**HB 1022:** A BILL for an Act to provide an appropriation for defraying the expenses of various state retirement and investment agencies; and to provide a transfer.

## 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebigler; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1022, as amended, passed and the title was agreed to.

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## CONSIDERATION OF AMENDMENTS

**HB 1394, as engrossed: SEN. GRINDBERG (Appropriations Committee) MOVED** that the amendments on SJ page 1012 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

## SECOND READING OF HOUSE BILL

**HB 1394:** A BILL for an Act to amend and reenact sections 15-70-01, 15-70-04, 15-70-05, and 57-51.1-07.4 of the North Dakota Century Code, relating to the provision of financial

assistance to tribally controlled community colleges; to provide a statement of legislative intent; 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 40 YEAS, 7 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Cook; Dotzenrod; Erbele; Fiebiger; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Bowman; Christmann; Dever; Fischer; Kilzer; Klein; Nothing

Engrossed HB 1394, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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#### CONSIDERATION OF AMENDMENTS

**HB 1239, as engrossed: SEN. SCHNEIDER (Natural Resources Committee) MOVED** that the amendments on SJ page 1009 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1239:** A BILL for an Act to amend and reenact section 20.1-01-17 of the North Dakota Century Code, relating to posting of lands to prohibit hunting; and to provide a penalty.

#### 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 44 YEAS, 3 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nothing; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Schneider; Seymour; Stenehjem; Taylor; Wanzek; Wardner; Warner

**NAYS:** Fiebiger; Robinson; Triplett

Engrossed HB 1239, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1003, as engrossed: SEN. KILZER (Appropriations Committee) MOVED** that the amendments on SJ pages 1002-1003 be adopted and then be placed on the Fourteenth order with **DO PASS**.

#### REQUEST

**SEN. POTTER REQUESTED** a recorded roll call vote on the adoption of the proposed amendments to HB 1003, which request was granted.

#### REQUEST

**SEN. MATHERN REQUESTED** that the Senate divide the amendments to Engrossed HB 1003, which request was granted.

**DIVISION A:** The portion of the amendments relating to the annual salary of the Attorney General

**DIVISION B:** The remainder of the proposed amendments to HB 1003

#### ROLL CALL

The question being the motion to adopt Division A of the proposed amendments to Engrossed HB 1003, the roll was called and there were 43 YEAS, 4 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Krauter; Marcellais; Mathern; Potter

Division A of the proposed amendments to Engrossed HB 1003 was adopted.

#### ROLL CALL

The question being the motion to adopt Division B of the proposed amendments to Engrossed HB 1003, the roll was called and there were 46 YEAS, 1 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Cook; Dever; Dotzenrod; Erbele; Fiebig; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Christmann

Division B of the proposed amendments to Engrossed HB 1003 was adopted.

#### ROLL CALL

Therefore, the question being the adoption of the proposed amendments to Engrossed HB 1003, which consist of both Division A and Division B, the roll was called and there were 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

The motion to adopt the amendments to Engrossed HB 1003 passed.

#### SECOND READING OF HOUSE BILL

**HB 1003:** A BILL for an Act to provide an appropriation for defraying the expenses of the attorney general; to amend and reenact section 54-12-11 of the North Dakota Century Code, relating to the salary of the attorney general; to provide for a legislative council study; to provide legislative intent; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1003, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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#### CONSIDERATION OF AMENDMENTS

**HB 1377, as engrossed:** SEN. HOLMBERG (Appropriations Committee) MOVED that the amendments on SJ page 1012 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1377:** A BILL for an Act to provide for a legislative council study regarding the establishment of a searchable database of state expenditures.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1377, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1286, as engrossed: SEN. TRIPLETT (Natural Resources Committee) MOVED** that the amendments on SJ page 1010 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1286:** A BILL for an Act to amend and reenact subsections 3 and 6 of section 61-04-01.1 of the North Dakota Century Code, relating to the definitions of domestic use and irrigation use.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1286, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1499, as engrossed: SEN. ERBELE (Natural Resources Committee) MOVED** that the amendments on SJ page 1014 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1499:** A BILL for an Act to create and enact a new section to chapter 20.1-04 of the North Dakota Century Code, relating to permits for exempt training areas for gun dogs; and to amend and reenact section 20.1-04-12 of the North Dakota Century Code, relating to training of gun dogs and to provide an exempt training area permit.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 1 YEAS, 46 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Schneider

**NAYS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1499, as amended, lost.

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**CONSIDERATION OF AMENDMENTS**

**HB 1490: SEN. DEVER (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ pages 1013-1014 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1490:** A BILL for an Act to amend and reenact subsection 5 of section 16.1-08.1-01 and section 16.1-08.1-03.2 of the North Dakota Century Code, relating to campaign finance.

**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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebig; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

HB 1490, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1370, as engrossed: SEN. HOGUE (Natural Resources Committee) MOVED** that the amendments on SJ pages 1010-1012 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1370:** A BILL for an Act to 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 amend and reenact sections 38-18.1-03, 38-18.1-04, 38-18.1-05, and 38-18.1-06 of the North Dakota Century Code, relating to termination of mineral interests.

**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 45 YEAS, 2 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Dever; Dotzenrod; Erbele; Fiebig; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**NAYS:** Cook; Fischer

Engrossed HB 1370, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1180, as engrossed: SEN. HORNE (Government and Veterans Affairs Committee) MOVED** that the amendments on SJ page 1008 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1180:** A BILL for an Act to amend and reenact subdivision c of subsection 2 of section 16.1-07-15 of the North Dakota Century Code, relating to early voting precincts.

**ROLL CALL**

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 9 YEAS, 38 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Dever; Flakoll; Freborg; Holmberg; Klein; Lee, G.; Miller; Olafson; Stenehjem

**NAYS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dotzenrod; Erbele; Fiebiger; Fischer; Grindberg; Heckaman; Hogue; Horne; Kilzer; Krauter; Krebsbach; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; Nodland; O'Connell; Oehlke; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1180, as amended, lost.

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#### CONSIDERATION OF AMENDMENTS

**HB 1449, as engrossed: SEN. TRIPLETT (Natural Resources Committee) MOVED** that the amendments on SJ pages 1012-1013 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1449:** A BILL for an Act to amend and reenact section 49-02-27 of the North Dakota Century Code, relating to the decommissioning of wind energy conversion facilities.

#### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1449, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1170: SEN. HOGUE (Natural Resources Committee) MOVED** that the amendments on SJ page 1007 be adopted and then be placed on the Fourteenth order with **DO NOT PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1170:** A BILL for an Act to amend and reenact section 38-18.1-06 of the North Dakota Century Code, relating to termination of mineral interest notices.

#### ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO NOT PASS, the roll was called and there were 3 YEAS, 44 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Bowman; Miller; O'Connell

**NAYS:** Anderson; Andrist; Bakke; Behm; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Nelson; Nething; Nodland; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

HB 1170, as amended, lost.

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#### CONSIDERATION OF AMENDMENTS

**HB 1188: SEN. SCHNEIDER (Natural Resources Committee) MOVED** that the amendments on SJ pages 1008-1009 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1188:** A BILL for an Act to create and enact a new section to chapter 20.1-01 of the North Dakota Century Code, relating to exploitation of wildlife; to amend and reenact section

20.1-01-26 of the North Dakota Century Code, relating to suspension of hunting, trapping, or fishing privileges; and to provide a penalty.

#### 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wanzek; Wardner; Warner

HB 1188, as amended, passed and the title was agreed to.

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#### CONSIDERATION OF AMENDMENTS

**HB 1018, as engrossed: SEN. HOLMBERG (Appropriations Committee) MOVED** that the amendments on SJ page 1005 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1018:** A BILL for an Act to provide an appropriation for defraying the expenses of the state historical society; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1018, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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#### CONSIDERATION OF AMENDMENTS

**HB 1023, as engrossed: SEN. SEYMOUR (Appropriations Committee) MOVED** that the amendments on SJ page 1007 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1023:** A BILL for an Act to provide an appropriation for defraying the expenses of various state departments and institutions; 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 47 YEAS, 0 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Behm; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fiebiger; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Horne; Kilzer; Klein; Krauter; Krebsbach; Lee, G.; Lee, J.; Lindaas; Lyson; Marcellais; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wanzek; Wardner; Warner

Engrossed HB 1023, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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**CONSIDERATION OF AMENDMENTS**

**HB 1171, as engrossed: SEN. BAKKE (Education Committee) MOVED** that the amendments on SJ pages 1007-1008 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed on a verification vote.

**SECOND READING OF HOUSE BILL**

**HB 1171:** A BILL for an Act to amend and reenact sections 15.1-23-01, 15.1-23-03, 15.1-23-06, 15.1-23-08, and 15.1-23-17 of the North Dakota Century Code, relating to home education; 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 27 YEAS, 20 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bowman; Christmann; Cook; Dever; Dotzenrod; Erbele; Fischer; Freborg; Grindberg; Heckaman; Hogue; Holmberg; Klein; Krebsbach; Lee, G.; Lindaas; Lyson; Miller; Nodland; Oehlke; Olafson; Stenehjem; Taylor; Wanzek; Wardner

**NAYS:** Bakke; Behm; Fiebiger; Flakoll; Horne; Kilzer; Krauter; Lee, J.; Marcellais; Mathern; Nelson; Nething; O'Connell; Pomeroy; Potter; Robinson; Schneider; Seymour; Triplett; Warner

Engrossed HB 1171, as amended, passed and the title was agreed to.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**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.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

SCR 4035 was declared adopted, and the title was agreed to on a voice vote.

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**SECOND READING OF SENATE CONCURRENT RESOLUTION**

**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.

The question being on the final adoption of the resolution, which has been read, and has committee recommendation of DO PASS.

SCR 4034 was declared adopted, and the title was agreed to on a voice vote.

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**MOTION**

**SEN. CHRISTMANN MOVED** that Senate rule 508 be amended, replacing "fifty-eighth legislative day" with "fifty-ninth legislative day", which motion prevailed.

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

**MR. SPEAKER:** The Senate has passed and your favorable consideration is requested on: SCR 4034, SCR 4035.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1022, HB 1171, HB 1188, HB 1239, HB 1286, HB 1377, HB 1449, HB 1490.

**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 1003, HB 1018, HB 1023, HB 1394.



**MESSAGE TO THE HOUSE FROM THE SENATE (FRAN A. GRONBERG, SECRETARY)**  
**MR. SPEAKER:** The Senate has amended and subsequently failed to pass: HB 1170, HB 1499.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has passed, the emergency clause carried, unchanged: SB 2444.

**MESSAGE TO THE SENATE FROM THE HOUSE (BUELL J. REICH, CHIEF CLERK)**  
**MR. PRESIDENT:** The House has amended and subsequently passed: SB 2044, SB 2060, SB 2069, SB 2198, SB 2270, SB 2305, SB 2308, SB 2394.

**HOUSE AMENDMENTS TO SENATE BILL NO. 2044**

Page 1, line 4, after "capacity" insert "; and to provide for a legislative council study"

Page 1, line 9, replace "2013" with "2011"

Page 2, line 4, replace "2013" with "2011"

Page 2, after line 7, insert:

**"SECTION 3. LEGISLATIVE COUNCIL STUDY-LONG TERM CARE.** During the 2009-10 interim, the legislative council shall study the state's long-term care system including capacity, geographical boundaries for determining capacity, the need for home and community-based services, a methodology to identify areas of the state which are in need of additional skilled nursing facility beds, access, workforce, reimbursement, and payment incentives. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

ReNUMBER accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2060**

Page 1, line 2, replace the second comma with "and" and remove ", and 40-63-06"

Page 1, line 3, replace the second comma with "and"

Page 1, line 4, remove ", and the transferability of renaissance zone historic preservation"

Page 1, line 5, remove "and renovation tax credits"

Page 3, remove lines 19 through 31

Page 4, remove lines 1 through 30

Page 5, remove lines 1 through 2

ReNUMBER accordingly

**HOUSE AMENDMENTS TO SENATE BILL NO. 2069**

Page 1, line 10, remove the overstrike over "~~Any fees collected~~"

Page 1, line 11, remove the overstrike over "~~under this paragraph which exceed~~", after "four" insert "six", and remove the overstrike over "~~hundred thousand dollars in~~"

Page 1, remove the overstrike over lines 12 and 13

ReNUMBER accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment retains the cap for filing fees placed in the civil legal services fund but increases the biennial cap from \$400,000 to \$600,000.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2198**

Page 1, line 3, after the semicolon insert "and"

Page 1, line 5, remove "; and to provide an appropriation"

Page 4, remove lines 21 through 25

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment removes the \$864,000 general fund appropriation included in the bill.

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2270**

Page 1, line 2, after "districts" insert "; and to declare an emergency"

Page 1, line 12, replace "thirty" with "twenty"

Page 2, after line 9, insert:

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

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2305**

Page 1, line 12, replace "necessary easements" with "applicable licenses and authorizations"

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2308**

Page 1, line 1, after "to" insert "create and enact section 50-25.1-15.1 of the North Dakota Century Code, relating to abandonment of an infant at a fire station; and to"

Page 1, line 20, replace ". Death" with ", including a death" and remove the underscored comma

Page 1, line 21, replace "of" with "following" and replace ", is deemed to" with an underscored period

Page 1, remove line 22

Page 2, after line 8, insert:

"**SECTION 3.** Section 50-25.1-15.1 of the North Dakota Century Code is created and enacted as follows:

**50-25.1-15.1. Abandoned infant - Fire station procedure - Reporting immunity.**

1. As used in this section:
  - a. "Abandoned infant" means an abandoned infant as defined in section 27-20-02 and which has been left at a fire station in an unharmed condition.
  - b. "Fire station" means a fire station that is open and operating twenty-four hours a day seven days a week and which is continually staffed with full-time, paid firefighters who are licensed as emergency medical services professionals under chapter 23-27.
2. A parent of an infant may abandon the infant by leaving the infant with an appropriate individual at any fire station. An agent of the parent may leave an abandoned infant with an appropriate individual at a fire station with the parent's consent. Neither the parent nor the agent is subject to prosecution under sections 14-07-15 and 14-09-22 for leaving the abandoned infant at a fire station.
3. A fire station shall accept an infant abandoned or left under this section. The fire station may request information regarding the parents and shall provide the parent or the agent with a medical history form and an envelope with the fire station's return address. Neither the parent nor the agent is required to provide any information.
4. The fire station shall provide the parent or the agent with a numbered identification bracelet to link the parent or the agent to the abandoned

infant. Possession of an identification bracelet does not entitle the bracelet holder to take custody of the abandoned infant on demand. If an individual possesses a bracelet linking the individual to an abandoned infant left at a fire station under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter 27-20. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.

5. The fire station may provide the parent or the agent with any relevant information, including:
  - a. Information about the safe place for abandoned infant programs;
  - b. Information about adoption and counseling services; and
  - c. Information about whom to contact if reunification is sought.
6. Within twenty-four hours of receiving an abandoned infant under this section, the fire station shall report to the department that an abandoned infant has been left at the fire station. The report may not be made before the parent or the agent leaves the fire station.
7. The fire station and the fire station employees and agents are immune from any criminal or civil liability for accepting an abandoned infant under this section.
8. Upon receiving a report of an abandoned infant left at a fire station under this section, the department shall proceed as required under this chapter if it appears that the abandoned infant was not harmed, except the department may not attempt to identify or contact the parent or the agent. If it appears the abandoned infant was harmed, the department shall initiate an assessment of the matter as required by law.
9. If an individual claiming to be the parent or the agent contacts the department and requests to be reunited with the abandoned infant, the department may identify or contact the individual as required under this chapter and all other applicable laws. If an individual contacts the department seeking information only, the department may attempt to obtain information regarding the identity and medical history of the parents and may provide information regarding the procedures in an abandoned infant case. The individual is under no obligation to respond to the request for information, and the department may not attempt to compel response to investigate the identity or background of the individual."

Renumber accordingly

#### **HOUSE AMENDMENTS TO SENATE BILL NO. 2394**

Page 1, line 3, after "minors" insert "; and to provide for a legislative council study"

Page 1, line 8, replace "A minor may provide consent and contract for and receive" with "a. A physician or other health care provider may provide" and remove the underscored comma

Page 1, line 9, remove "prenatal care," and replace ", and the consent of no" with "to a minor without the consent of a parent or guardian."

- b. A physician or other health care provider may provide prenatal care to a pregnant minor in the first trimester of pregnancy or may provide a single prenatal care visit in the second or third trimester of pregnancy without the consent of a parent or guardian.
- c. A physician or other health care provider may provide prenatal care beyond the first trimester of pregnancy or in addition to the single prenatal care visit in the second or third trimester if, after a good-faith effort, the physician or other health care provider is unable to contact the minor's parent or guardian.
- d. The costs incurred by the physician or other health care provider for performing services under this section may not be submitted to a

third-party payer without the consent of the minor's parent or guardian"

Page 1, line 10, remove "other person is required" and after the underscored period insert:

"e."

Page 2, after line 3, insert:

**"SECTION 2. SERVICES FOR PREGNANT MINORS - LEGISLATIVE COUNCIL STUDY.** During the 2009-10 interim, the legislative council shall consider studying existing services for minors who are pregnant and whether additional education and social services would enhance the potential for a healthy child and a positive outcome for the minor. The study must consider the potential benefits of support services for parents of these minors and guardianship for the minor for cases in which parental abuse or neglect may be an issue. The study must also consider the benefits to the minor of subsidies for open adoptions and supportive housing and child care for single parents enrolled in secondary and postsecondary educational institutions. The study must also determine the most desirable evidence-based service delivery system and the amount and sources of adequate funding. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

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

**MR. PRESIDENT:** The House has failed to pass unchanged: SB 2154, SB 2242, SB 2255, SB 2260.

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

**MR. PRESIDENT:** The House has failed to pass unchanged: SB 2283.

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

**MR. PRESIDENT:** The House has amended and subsequently failed to pass: SB 2062.

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

**MR. PRESIDENT:** The House has concurred in the Senate amendments and passed: HB 1029, HB 1063, HB 1100, HB 1113, HB 1124, HB 1125, HB 1155, HB 1219, HB 1229, HB 1298, HB 1303, HB 1378, HB 1435, and HB 1463.

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

**MR. PRESIDENT:** The House does not concur in the Senate amendments to HB 1059, HB 1129, HB 1145, HB 1158, HB 1194, HB 1202, and HB 1329 and the Speaker has appointed as a conference committee to act with a like committee from the Senate on:

**HB 1059:** Reps. Grande; Froseth; Wolf

**HB 1129:** Reps. Koppelman; Pietsch; J. Kesh

**HB 1145:** Reps. Hofstad; Frantsovog; Kilichowski

**HB 1158:** Reps. Kingsbury; Boehning; Griffin

**HB 1194:** Reps. Kretschmar; Porter; Vig

**HB 1202:** Reps. Vigasaa; Keiser; Schneider

**HB 1329:** Reps. Weisz; Nathe; Conklin

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2072, SB 2133, SB 2231, SB 2295, SB 2412, SCR 4010.

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

**MR. SPEAKER:** Your signature is respectfully requested on: SB 2358, SCR 4014, SCR 4015.

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

**MR. PRESIDENT:** Your signature is respectfully requested on: HB 1209, HB 1288, HB 1371, HB 1416, HB 1445, HCR 3015.

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

**MR. SPEAKER:** The President has signed: SB 2026, SB 2037, SB 2045, SB 2053, SB 2061, SB 2086, SB 2088, SB 2095, SB 2103, SB 2105, SB 2107, SB 2108, SB 2109, SB 2115, SB 2118, SB 2132, SB 2135, SB 2140, SB 2149, SB 2150, SB 2156, SB 2166, SB 2169, SB 2174, SB 2181, SB 2182, SB 2184, SB 2200, SB 2203, SB 2206, SB 2215, SB 2220, SB 2235, SB 2240, SB 2241, SB 2245, SB 2254, SB 2268, SB 2307, SB 2367.

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

**MR. SPEAKER:** The President has signed: SB 2159, SB 2164, SB 2167, SB 2204, SB 2344, SB 2390, SB 2403, SB 2423.

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

**MR. SPEAKER:** The President has signed: HB 1063, HB 1100, HB 1124, HB 1125, HB 1155, HB 1161, HB 1219, HB 1298, HB 1303, HB 1378, HB 1464, HCR 3005, HCR 3006, HCR 3016, HCR 3022.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Tuesday, April 7, 2009, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2441: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2441 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "exemption of" with "treatment of nonprofit", replace "from" with "for", and after "assessment" insert "purposes"

Page 1, line 21, remove "assessment or"

Page 1, line 22, replace "chapter" with "title and the city in which such property is located shall provide for the payment of special assessments, installments, and interest against such property by the levy of taxes according to law"

Page 2, line 5, replace "confirm and continue the 1970 North Dakota supreme" with "provide for payment of special assessments against nonprofit cemetery property, including outstanding unpaid obligations, through levy of general property taxes within the city in recognition of the public benefit provided by operation of nonprofit cemeteries."

Page 2, remove lines 6 through 8

Page 2, line 9, remove "assessment or"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1013, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1013 was placed on the Sixth order on the calendar.

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	<u>20,000</u>
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.

#### REPORT OF STANDING COMMITTEE

**HB 1053, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1053, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 673 of the Senate Journal, Engrossed House Bill No. 1053 is amended as follows:

Page 4, line 7, overstrike "which" and insert immediately thereafter "that"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1074, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1074 was placed on the Sixth order on the calendar.

Page 7, line 8, remove "August 1, 2009," and replace "July 31, 2009" with "the effective date of this Act"

Page 7, line 9, replace "August 1, 2009" with "the effective date of this Act"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1112, as engrossed: Agriculture Committee (Sen. Flakoll, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1112 was placed on the Sixth order on the calendar.

Page 1, line 13, replace "who violates a provision of" with "willfully violating"



Page 1, line 14, replace "one thousand" with "two hundred fifty"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1230, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO NOT PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed HB 1230, as amended, was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1313, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1313 was placed on the Fourteenth order on the calendar.

#### REPORT OF STANDING COMMITTEE

**HB 1317, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1317, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 739 of the Senate Journal, Engrossed House Bill No. 1317 is amended as follows:

Page 1, line 12, overstrike "when" and insert immediately thereafter "at the time"

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HB 1324, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1324, as amended, 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 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:
  - 4- 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 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.
  - ~~e. 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 over <del>\$65,550</del> <u>\$82,250</u>	<del>\$668.05</del> <u>\$577.15</u> plus <del>3.92%</del> <u>3.40%</u> of amount over <del>\$27,050</del> <u>\$33,950</u>
Over <del>\$65,550</del> <u>\$82,250</u> but not over <del>\$136,750</del> <u>\$171,550</u>	<del>\$2,077.25</del> <u>\$2,219.35</u> plus <del>4.34%</del> <u>3.60%</u> of amount over <del>\$65,550</del> <u>\$82,250</u>
Over <del>\$136,750</del> <u>\$171,550</u> but not over <del>\$297,350</del> <u>\$372,950</u>	<del>\$5,167.33</del> <u>\$5,434.15</u> plus <del>5.04%</del> <u>4.25%</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 over <del>\$109,250</del> <u>\$137,050</u>	<del>\$949.20</del> <u>\$964.75</u> plus <del>3.92%</del> <u>3.40%</u> of amount over <del>\$45,200</del> <u>\$56,750</u>
Over <del>\$109,250</del> <u>\$137,050</u> but not over <del>\$166,500</del> <u>\$208,850</u>	<del>\$3,459.96</del> <u>\$3,694.95</u> plus <del>4.34%</del> <u>3.60%</u> of amount over <del>\$109,250</del> <u>\$137,050</u>
Over <del>\$166,500</del> <u>\$208,850</u> but not over <del>\$297,350</del> <u>\$372,950</u>	<del>\$6,944.64</del> <u>\$6,279.75</u> plus <del>5.04%</del> <u>4.25%</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 over <del>\$54,625</del> <u>\$68,525</u>	<del>\$474.60</del> <u>\$482.38</u> plus <del>3.92%</del> <u>3.40%</u> of amount over <del>\$22,600</del> <u>\$28,375</u>
Over <del>\$54,625</del> <u>\$68,525</u> but not over <del>\$83,250</del> <u>\$104,425</u>	<del>\$1,729.98</del> <u>\$1,847.48</u> plus <del>4.34%</del> <u>3.60%</u> of amount over <del>\$54,625</del> <u>\$68,525</u>

Over ~~\$83,250~~ \$104,425 but not  
over ~~\$148,675~~ \$186,475  
Over ~~\$148,675~~ \$186,475

~~\$2,972.34~~ \$3,139.88 plus ~~5.04%~~ 4.25%  
of amount over ~~\$83,250~~ \$104,425  
~~\$6,269.73~~ \$6,627.01 plus ~~5.54%~~ 5.00%  
of amount over ~~\$148,675~~ \$186,475

d. Head of household.

If North Dakota taxable income is:

Not over ~~\$36,250~~ \$45,500  
Over ~~\$36,250~~ \$45,500 but not  
over ~~\$93,650~~ \$117,450  
Over ~~\$93,650~~ \$117,450 but not  
over ~~\$151,650~~ \$190,200  
Over ~~\$151,650~~ \$190,200 but not  
over ~~\$297,350~~ \$372,950  
Over ~~\$297,350~~ \$372,950

The tax is equal to:

~~2.40%~~ 1.70%  
~~\$761.25~~ \$773.50 plus ~~3.92%~~ 3.40%  
of amount over ~~\$36,250~~ \$45,500  
~~\$3,041.33~~ \$3,219.80 plus ~~4.34%~~ 3.60%  
of amount over ~~\$93,650~~ \$117,450  
~~\$5,528.53~~ \$5,838.80 plus ~~5.04%~~ 4.25%  
of amount over ~~\$151,650~~ \$190,200  
~~\$12,871.84~~ \$13,605.68 plus ~~5.54%~~ 5.00%  
of amount over ~~\$297,350~~ \$372,950

e. Estates and trusts.

If North Dakota taxable income is:

Not over ~~\$1,800~~ \$2,300  
Over ~~\$1,800~~ \$2,300 but not  
over ~~\$4,250~~ \$5,350  
Over ~~\$4,250~~ \$5,350 but not  
over ~~\$6,500~~ \$8,200  
Over ~~\$6,500~~ \$8,200 but not  
over ~~\$8,900~~ \$11,150  
Over ~~\$8,900~~ \$11,150

The tax is equal to:

~~2.40%~~ 1.70%  
~~\$37.80~~ \$39.10 plus ~~3.92%~~ 3.40%  
of amount over ~~\$1,800~~ \$2,300  
~~\$133.84~~ \$142.80 plus ~~4.34%~~ 3.60%  
of amount over ~~\$4,250~~ \$5,350  
~~\$231.49~~ \$245.40 plus ~~5.04%~~ 4.25%  
of amount over ~~\$6,500~~ \$8,200  
~~\$352.45~~ \$370.78 plus ~~5.54%~~ 5.00%  
of amount over ~~\$8,900~~ \$11,150

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

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

**HB 1348, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO NOT PASS** (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1348 was placed on the Fourteenth order on the calendar.

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

**HB 1400, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1400, as amended, was placed on the Sixth order on the calendar.

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. 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)~~ 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

**REPORT OF STANDING COMMITTEE**

**HB 1418, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1418, as amended, was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1419, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1419 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1436: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1436 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 amend and reenact section 1-02-06.1, subsection 2 of section 1-02-09, sections 1-02-09.2, 4-05.1-19, 15-10-42, 15-10-43, and 15-11-39, subsection 5 of section 15-39.1-05.2, subsection 3 of section 15.1-02-13, section 15.1-02-15, subsection 3 of section 15.1-06-08, subsection 4 of section 15.1-06-08.1, sections 15.1-21-10 and 16.1-01-17, subsection 5 of section 18-11-15, section 24-02-46, subsection 3 of section 25-01.3-02, subsection 3 of section 25-02-01.1, sections 26.1-36.4-06, 28-32-03, 28-32-06, and 28-32-07, subsection 1 of section 28-32-10, sections 28-32-15, 28-32-17, 28-32-18, 28-32-19, and 28-32-20, subsection 3 of section 34-11.1-01, subsection 2 of section 40-63-03, sections 44-04-18.6, 48-08-04, and 48-10-01, subsection 4 of section 49-23-03, subsections 3 and 4 of section 50-09-29, sections 52-02-18, 54-03-02, 54-03-04, and 54-03-19.2, subsection 2 of section 54-03-20, sections 54-03-26, 54-03-27, 54-03.1-02, 54-03.2-02, and 54-05.1-02, subsections 3 and 4 of section 54-06-25, sections 54-06-31, 54-35-01, 54-35-02, 54-35-02.1, 54-35-02.2, 54-35-02.3, 54-35-02.4, 54-35-02.5, 54-35-02.6, 54-35-02.7, 54-35-02.8, 54-35-03, 54-35-04, 54-35-05, 54-35-06, 54-35-07, 54-35-08, 54-35-09, 54-35-10, 54-35-11, 54-35-12, 54-35-15, 54-35-15.1, 54-35-16, 54-35-17, 54-35-18, 54-35-22, 54-35-23, 54-35.2-01, 54-35.2-02, 54-35.2-04, and 54-35.2-05, subsection 3 of section 54-40-01, sections 54-44.1-12.1, 54-52.1-08.2, 54-55-01, 54-55-04, 54-58-03, 54-59-07, 54-59-11, 54-59-12, and 54-59-23, subsection 10 of section 54-60-03, and sections 54-60-11, 54-62-03, 57-40.6-12, 61-24-04, 61-24.5-04, 65-02-30, and 65-06.2-09 of the North Dakota Century Code, relating to differentiation between the legislative executive committee and the legislative council as an agency of the legislative branch; to repeal section 49-21-22.2 of the North Dakota Century Code, relating to the regulatory reform review commission; and to authorize replacement of obsolete terms.

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

**SECTION 1. AMENDMENT.** Section 1-02-06.1 of the North Dakota Century Code is amended and reenacted as follows:



**1-02-06.1. Journal entry rule - Presumption of validity of legislation.** A bill or resolution passed by the senate and the house of representatives of the legislative assembly as evidenced by the journals of the senate and house is presumed to be the bill or resolution that is signed by the presiding officers of the senate and house, presented to the governor, and filed with the secretary of state. If there is a difference between versions of a bill, the legislative council ~~staff~~ shall direct the publisher of the code to publish the law according to this section. The law as published must be presumed valid until determined otherwise by an appropriate court.

**SECTION 2. AMENDMENT.** Subsection 2 of section 1-02-09 of the North Dakota Century Code is amended and reenacted as follows:

2. Whenever two or more concurrent resolutions, adopted during the same session of the legislative assembly, propose to create or amend, or amend and repeal, the same section of the Constitution of North Dakota, the secretary of state, in consultation with the attorney general, shall determine if the proposals are irreconcilable, and if they are irreconcilable, the resolution last adopted by the legislative assembly, as determined by the legislative council ~~or its designee~~ must be placed on the ballot for the appropriate election for approval or disapproval by the electorate.

**SECTION 3. AMENDMENT.** Section 1-02-09.2 of the North Dakota Century Code is amended and reenacted as follows:

**1-02-09.2. Reconciliation of conflicting proposed amendments to the constitution.** If two or more concurrent resolutions propose to amend or create the same section of the Constitution of North Dakota, and the proposed sections are reconcilable, the legislative council, ~~or its designee~~, shall prepare a reconciled text and submit it to the secretary of state for inclusion in the appropriate ballot.

**SECTION 4. AMENDMENT.** Section 4-05.1-19 of the North Dakota Century Code is amended and reenacted as follows:

**4-05.1-19. State board of agricultural research and education - Duties.** Within the policies of the state board of higher education, the state board of agricultural research and education is responsible for budgeting and policymaking associated with the agricultural experiment station and the North Dakota state university extension service. The state board of agricultural research and education shall:

1. Determine the causes of any adverse economic impacts on crops and livestock produced in this state;
2. Develop ongoing strategies for the provision of research solutions and resources to negate adverse economic impacts on crops and livestock produced in this state;
3. Develop ongoing strategies for the dissemination of research information through the extension service;
4. Implement the strategies developed under subsections 2 and 3, subject to approval by the state board of higher education;
5. Develop, with the agricultural experiment station and the North Dakota state university extension service, an annual budget for the operations of these entities;
6. Develop a biennial budget request and submit that request to the president of North Dakota state university and the state board of higher education;
7. Maximize the use of existing financial resources, equipment, and facilities to generate the greatest economic benefit from research and extension efforts and to promote efficiency;
8. Annually evaluate the results of research and extension activities and expenditures and report the findings to the legislative ~~council~~ executive committee and the state board of higher education;
9. Advise the president of North Dakota state university regarding the recruitment, selection, and performance of the vice president of agricultural affairs, the extension service director, and the station director; and

10. Present a status report to the budget section of the legislative ~~council~~  
executive committee.

**SECTION 5. AMENDMENT.** Section 15-10-42 of the North Dakota Century Code is amended and reenacted as follows:

**15-10-42. Faculty - English pronunciation - Policy - Report.** The state board of higher education shall create a policy for all institutions under its control, relating to the assessment of faculty and teaching assistant communication skills, including the ability to speak English clearly and with good pronunciation, the notification to students of opportunities to file complaints, the process for responding to student complaints, and the resolution of reported communication problems. ~~Before July 1, 2006, the state board of higher education shall report to the legislative council regarding implementation of the policy.~~

**SECTION 6. AMENDMENT.** Section 15-10-43 of the North Dakota Century Code is amended and reenacted as follows:

**15-10-43. Veterinary medical education program - Kansas state university - Contract.**

1. In addition to any contracts under section 15-10-28.2, the state board of higher education may contract with Kansas state university to provide an opportunity for up to five eligible students to enroll in the veterinary medical education program at Kansas state university.
2. Eligible students must be residents of this state and must have been selected for enrollment by an admissions committee consisting of one faculty member from the department of veterinary and microbiological sciences at North Dakota state university, one veterinarian practicing in this state, one member of the legislative assembly, and one livestock producer, all of whom must be appointed by the legislative ~~council~~ executive committee, and the chairman of the admissions committee at the Kansas state university school of veterinary medicine. The legislative ~~council~~ executive committee and the chairman of the admissions committee at the Kansas state university school of veterinary medicine may select an alternative for each of the designated positions to serve as necessary.
3. The admissions committee shall determine the criteria to be used in the selection of eligible students, with eligible students interested in large animal veterinary medicine receiving a priority.

**SECTION 7. AMENDMENT.** Section 15-11-39 of the North Dakota Century Code is amended and reenacted as follows:

**15-11-39. Nursing education consortium - Continuing appropriation.**

1. The university of North Dakota college of nursing shall establish and administer a nursing education consortium for the purpose of addressing common concerns in nursing education which produce obstacles in meeting the state's current and future nursing needs, with a focus on the specific needs of rural communities.
2. The consortium membership must include representation of the university of North Dakota college of nursing, the university of North Dakota center for rural health, and the board of nursing. In addition, each nursing program in this state which is approved by the board of nursing and each nursing program with approval pending which is located in this state must be invited to have representation in the consortium. The consortium members may invite interested persons to join the consortium membership or to participate in consortium activities. Interested persons may include the North Dakota nurses association nursing practice council leadership team; North Dakota hospital association; workforce partners, including job service North Dakota, the department of commerce division of workforce development, rural leadership of North Dakota, and the North Dakota workforce development council; employer partners; and other interested public and private parties. The dean of the university of North Dakota college of nursing shall serve as chairman of the consortium from July 1, 2007, through December 31, 2009, during which the dean shall report to

the legislative ~~council~~ executive committee. After 2009, the chairman must be chosen by the members.

3. If the consortium secures nonstate funds to cover the capital costs of a mobile clinical nursing simulation laboratory program, the consortium may establish a mobile clinical nursing simulation laboratory program to travel the state and provide clinical education for nursing students of nursing education programs in the state and provide clinical education on current and emerging approaches to nursing excellence to medical facility staff.
4. If the consortium establishes a mobile clinical nursing simulation laboratory program, the consortium shall establish a strategic plan for the ongoing activities of the simulation laboratory program, including goals and benchmarks for the implementation of the simulation laboratory program.
5. The consortium may contract with a third party in conducting the duties of the consortium and may seek, receive, and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the consortium. Any money received by the consortium as gifts, grants, or donations is appropriated as a continuing appropriation for the purpose of funding the simulation laboratory program and the activities of the consortium.

**SECTION 8. AMENDMENT.** Subsection 5 of section 15-39.1-05.2 of the North Dakota Century Code is amended and reenacted as follows:

5. Shall submit to the legislative ~~council's~~ executive committee's employee benefits programs committee any necessary or desirable changes in statutes relating to the administration of the fund.

**SECTION 9. AMENDMENT.** Subsection 3 of section 15.1-02-13 of the North Dakota Century Code is amended and reenacted as follows:

3. The superintendent of public instruction shall:
  - a. Compile the information required by this section in a manner that allows for accurate comparisons; and
  - b. Forward a copy of the compiled information to the governor and the ~~chairman of the legislative council~~.

**SECTION 10. AMENDMENT.** Section 15.1-02-15 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-02-15. No Child Left Behind Act - Information required.** Whenever the superintendent of public instruction determines that any bill or amendment under consideration by an interim committee of the legislative ~~council~~ executive committee or by a standing committee or a conference committee of the legislative assembly contains a provision required by the No Child Left Behind Act of 2001 [Pub. L. 107-110; 115 Stat. 1425; 20 U.S.C. 6301, et seq.] or by federal regulations promulgated to implement that Act, the superintendent shall provide the members of the appropriate committee with the specific language of the No Child Left Behind Act which sets forth the requirement, together with the statutory citation for that language, or the specific language of the federal regulations which sets forth the requirement, together with the citation for the regulations.

**SECTION 11. AMENDMENT.** Subsection 3 of section 15.1-06-08 of the North Dakota Century Code is amended and reenacted as follows:

3. If the superintendent of public instruction, after receipt and consideration of an application for a waiver of a rule governing the accreditation of schools under this section approves the waiver, the superintendent shall file a report with ~~a committee designated by the legislative council~~. The report must cite the accreditation rule that was waived, provide a detailed account of the reasons for which the rule was waived, and state the time period for which the rule was waived. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the ~~committee designated by the legislative council~~. If requested by the ~~chairman of the committee~~, the superintendent

shall appear ~~before the committee~~ and respond to questions regarding the approval or denial of any application for a waiver.

**SECTION 12. AMENDMENT.** Subsection 4 of section 15.1-06-08.1 of the North Dakota Century Code is amended and reenacted as follows:

4. If the superintendent of public instruction, after receipt and consideration of an application for a waiver under this section, approves the waiver, the superintendent shall file a report with ~~a committee designated by the legislative council.~~ The report must provide a detailed account of the reasons for which the waiver was granted and the specific time period for the waiver. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the ~~committee designated by the legislative council.~~ If requested ~~by the chairman of the committee,~~ the superintendent shall appear ~~before the committee~~ and respond to questions regarding the approval or denial of any application for a waiver under this section.

**SECTION 13. AMENDMENT.** Section 15.1-21-10 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-21-10. Test scores - Publication.** Upon receiving notice that the compilation of test scores has been completed, the superintendent of public instruction shall inform the legislative council. The superintendent shall present the test scores publicly for the first time at a meeting of a legislative committee designated by the legislative ~~council~~ executive committee. At the meeting, the superintendent and representatives of the testing service that created the tests shall provide detailed testimony regarding the testing instrument, the methodology used to test and assess the students, the established cut scores, the methodology used to determine the cut scores, the validation of all test products, and the significance of the test scores.

**SECTION 14. AMENDMENT.** Section 16.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-01-17. Estimated fiscal impact of an initiated measure.** At least ninety days before a statewide election at which an initiated measure will be voted upon, the legislative council shall coordinate the determination of the estimated fiscal impact of the initiated measure. Upon notification from the secretary of state that signed petitions have been submitted for placement of an initiated measure on the ballot, the legislative ~~council~~ executive committee shall hold hearings, receive public testimony, and gather information on the estimated fiscal impact of the measure. Each agency, institution, or department shall provide information requested in the format and timeframe prescribed by the legislative council ~~or its designated committee~~ for identifying the estimated fiscal impact of an initiated measure. At least thirty days ~~prior to~~ before the public vote on the measure, the legislative council shall submit a statement of the estimated fiscal impact of the measure to the secretary of state. Upon receipt, the secretary of state shall include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal impact can be obtained. Within thirty days of the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative ~~council~~ executive committee under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated measure and a comparison to the estimates provided to the legislative ~~council~~ executive committee under this section and the legislative council shall issue a report of the actual fiscal impact of the initiated measure.

**SECTION 15. AMENDMENT.** Subsection 5 of section 18-11-15 of the North Dakota Century Code is amended and reenacted as follows:

5. With the consent of the governing body of the city involved, upon the advice of its actuary that the pension schedule can be implemented on an actuarially sound basis and notification to the legislative ~~council's~~ executive committee's employee benefits programs committee, and in substitution for the pension payment schedule provided in subsection 1, 3, or 4, a firefighters relief association shall pay a monthly service pension to members of the association with the following qualifications, the following amount:

Percent of first-class  
firefighter's monthly salary

Years of service	Years of age	on January first during year the pension is paid
10	50	20%
11	50	22%
12	50	24%
13	50	26%
14	50	28%
15	50	30%
16	50	32%
17	50	34%
18	50	36%
19	50	38%
20	50	40%
21	51	43%
22	52	46%
23	53	49%
24	54	52%
25	55	55%
26	56	58%
27	57	61%
28	58	64%
29	59	67%
30	60	70%

**SECTION 16. AMENDMENT.** Section 24-02-46 of the North Dakota Century Code is amended and reenacted as follows:

**24-02-46. Multistate highway transportation agreement.** The director may join the multistate highway transportation agreement to promote uniformity among participating jurisdictions in vehicle size and weight standards. The legislative council shall review the guidelines for eligible voting members of the cooperating committee formed by the agreement and the legislative executive committee shall appoint a member of the house standing transportation committee and a member of the senate standing transportation committee or their designees as the legislative members representing this state to the cooperating committee formed by the agreement.

**SECTION 17. AMENDMENT.** Subsection 3 of section 25-01.3-02 of the North Dakota Century Code is amended and reenacted as follows:

3. The appointments and terms of committee members are as follows:
  - a. The governor shall appoint two committee members for two-year terms, beginning on August first in each even-numbered year.
  - b. The legislative ~~council~~ executive committee shall appoint one member from each house of the legislative assembly for two-year terms, beginning on August first in each odd-numbered year.
  - c. The governing board of the arc of North Dakota shall appoint one committee member for a three-year term, beginning August first in each year that is evenly divisible by three.
  - d. The governing board of a North Dakota nonprofit advocacy group for people with disabilities shall appoint one committee member for a three-year term, beginning on August first in each year that is divisible by three with a remainder of one. Whenever an appointment to this position is to be made, the other members of the committee shall select a North Dakota nonprofit advocacy group for people with disabilities to make this appointment.
  - e. The governing board of the mental health association in North Dakota shall appoint one committee member for a three-year term, beginning on August first in each year that is divisible by three with a remainder of two.

**SECTION 18. AMENDMENT.** Subsection 3 of section 25-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The governing body must be composed of the executive director of the department of human services; the director of the division of mental health

services of the department, who shall serve as chairman of the governing body; the state hospital superintendent; the state hospital medical director; a representative of the fiscal management of the state hospital; a mental health services consumer selected by the mental health association; and a legislator selected by the legislative ~~council~~ executive committee. The governing body may include other persons as appointed by the governing body.

**SECTION 19. AMENDMENT.** Section 26.1-36.4-06 of the North Dakota Century Code is amended and reenacted as follows:

**26.1-36.4-06. Modified community rating.** Premium rates for individual policies are subject to the following:

1. For any class of individuals, the premium rates charged during a rating period to the individuals in that class for the same or similar coverage may not vary by a ratio of more than six to one after August 1, 1995, and by a ratio of more than five to one after August 1, 1996, when age, industry, gender, and duration of coverage of the individuals are considered. Gender and duration of coverage may not be used as a rating factor for policies issued after January 1, 1997.
2. An insurer, in addition to the factors set forth in subsection 1, may use geography, family composition, healthy lifestyles, and benefit variations to determine premium rates.
3. The commissioner shall design and adopt reporting forms to be used by an insurer to report information as to insurer's experience as to insurance provided under this chapter on a periodic basis to determine the impact of the reforms and implementation of modified community rating contained in this chapter and the commissioner shall report to the legislative assembly or ~~a committee designated by~~ the legislative council the findings of the commissioner.

**SECTION 20. AMENDMENT.** Section 28-32-03 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-03. Emergency rules.**

1. If the agency, with the approval of the governor, finds that emergency rulemaking is necessary, the agency may declare the proposed rule to be an interim final rule effective on a date no earlier than the date of filing with the legislative council of the notice required by section 28-32-10.
2. A proposed rule may be given effect on an emergency basis under this section if any of the following grounds exists regarding that rule:
  - a. Imminent peril threatens public health, safety, or welfare, which would be abated by emergency effectiveness;
  - b. A delay in the effective date of the rule is likely to cause a loss of funds appropriated to support a duty imposed by law upon the agency;
  - c. Emergency effectiveness is reasonably necessary to avoid a delay in implementing an appropriations measure; or
  - d. Emergency effectiveness is necessary to meet a mandate of federal law.
3. A final rule adopted after consideration of all written and oral submissions respecting the interim final rule, which is substantially similar to the interim final rule, is effective as of the declared effective date of the interim final rule.
4. The agency's finding, and a brief statement of the agency's reasons for the finding, must be filed with the ~~office of the~~ legislative council with the final adopted emergency rule.

5. The agency shall take appropriate measures to make interim final rules known to every person who may be affected by them.
6. An interim final rule is ineffective one hundred eighty days after its declared effective date unless first adopted as a final rule.

**SECTION 21. AMENDMENT.** Section 28-32-06 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-06. Force and effect of rules.** Upon becoming effective, rules have the force and effect of law until amended or repealed by the agency, declared invalid by a final court decision, suspended or found to be void by the administrative rules committee, or determined repealed by the ~~office of the~~ legislative council because the authority for adoption of the rules is repealed or transferred to another agency.

**SECTION 22. AMENDMENT.** Section 28-32-07 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-07. Deadline for rules to implement statutory change.** Any rule change, including a creation, amendment, or repeal, made to implement a statutory change must be adopted and filed with the ~~office of the~~ legislative council within nine months of the effective date of the statutory change. If an agency needs additional time for the rule change, a request for additional time must be made to the legislative council. The legislative council may extend the time within which the agency must adopt the rule change if the request by the agency is supported by evidence that the agency needs more time through no deliberate fault of its own.

**SECTION 23. AMENDMENT.** Subsection 1 of section 28-32-10 of the North Dakota Century Code is amended and reenacted as follows:

1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.
  - a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, a determination of whether the proposed rulemaking is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written comments concerning the proposed rule may be sent, provide the deadline for submission of written comments, provide a telephone number at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. The agency's full notice must be filed with the ~~office of the~~ legislative council, and the agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The notice filed with the ~~office of the~~ legislative council must be accompanied by a copy of the proposed rules.
  - b. The abbreviated newspaper publication of notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a depth of from three inches [7.62 centimeters] to four inches [10.16 centimeters] with a headline describing the general topic of the proposed rules. The notice must also include the telephone number or address to use to obtain a copy of the proposed rules, the address to use and the deadline to submit written comments, and the location, date, and time of the public hearing on the rules.

**SECTION 24. AMENDMENT.** Section 28-32-15 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-15. Filing of rules for publication - Effective date of rules.**

1. A copy of each rule adopted by an administrative agency, a copy of each written comment and a written summary of each oral comment on the rule, and the attorney general's opinion on the rule must be filed by the adopting

agency with the ~~office of the~~ legislative council for publication of the rule in the North Dakota Administrative Code.

2. a. Nonemergency rules approved by the attorney general as to legality, adopted by an administrative agency, and filed with the ~~office of the~~ legislative council and not voided or held for consideration by the administrative rules committee become effective according to the following schedule:
  - (1) Rules filed with the legislative council from August sixteenth through November fifteenth become effective on the immediately succeeding January first.
  - (2) Rules filed with the legislative council from November sixteenth through February fifteenth become effective on the immediately succeeding April first.
  - (3) Rules filed with the legislative council from February sixteenth through May fifteenth become effective on the immediately succeeding July first.
  - (4) Rules filed with the legislative council from May sixteenth through August fifteenth become effective on the immediately succeeding October first.
- b. If publication is delayed for any reason other than action of the administrative rules committee, nonemergency rules, unless otherwise provided, become effective when publication would have occurred but for the delay.
- c. A rule held for consideration by the administrative rules committee becomes effective on the first effective date of rules under the schedule in subdivision a following the meeting at which that rule is reconsidered by the committee.

**SECTION 25. AMENDMENT.** Section 28-32-17 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-17. Administrative rules committee objection.** If the legislative ~~council's executive committee's~~ administrative rules committee objects to all or any portion of a rule because the committee deems it to be unreasonable, arbitrary, capricious, or beyond the authority delegated to the adopting agency, the committee may file that objection in certified form ~~in the office of~~ with the legislative council. The filed objection must contain a concise statement of the committee's reasons for its action.

1. The ~~office of the~~ legislative council shall attach to each objection a certification of the time and date of its filing and, as soon as possible, shall transmit a copy of the objection and the certification to the agency adopting the rule in question. The ~~office of the~~ legislative council also shall ~~also~~ maintain a permanent register of all committee objections.
2. The ~~office of the~~ legislative council shall publish an objection filed pursuant to this section in the next issue of the code supplement. In case of a filed committee objection to a rule subject to the exceptions of the definition of rule in section 28-32-01, the agency shall indicate the existence of that objection adjacent to the rule in any compilation containing that rule.
3. Within fourteen days after the filing of a committee objection to a rule, the adopting agency shall respond in writing to the committee. After receipt of the response, the committee may withdraw or modify its objection.
4. After the filing of a committee objection, the burden of persuasion is upon the agency in any action for judicial review or for enforcement of the rule to establish that the whole or portion thereof objected to is within the procedural and substantive authority delegated to the agency. If the agency fails to meet its burden of persuasion, the court shall declare the whole or portion of the rule objected to invalid and judgment must be rendered against the agency for court costs. These court costs must



include a reasonable attorney's fee and must be payable from the appropriation of the agency which adopted the rule in question.

**SECTION 26. AMENDMENT.** Section 28-32-18 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-18. Administrative rules committee may void rule - Grounds - Amendment by agreement of agency and committee.**

1. The legislative ~~council's~~ executive committee's administrative rules committee may find that all or any portion of a rule is void if that rule is initially considered by the committee not later than the fifteenth day of the month before the date of the administrative code supplement in which the rule change is scheduled to appear. The administrative rules committee may find a rule or portion of a rule void if the committee makes the specific finding that, with regard to that rule or portion of a rule, there is:
  - a. An absence of statutory authority.
  - b. An emergency relating to public health, safety, or welfare.
  - c. A failure to comply with express legislative intent or to substantially meet the procedural requirements of this chapter for adoption of the rule.
  - d. A conflict with state law.
  - e. Arbitrariness and capriciousness.
  - f. A failure to make a written record of its consideration of written and oral submissions respecting the rule under section 28-32-11.
2. The administrative rules committee may find a rule void at the meeting at which the rule is initially considered by the committee or may hold consideration of that rule for one subsequent meeting. Within three business days after the administrative rules committee finds that a rule is void, the ~~office of the~~ legislative council shall provide written notice of that finding and the committee's specific finding under subdivisions a through f of subsection 1 to the adopting agency and to the chairman of the legislative ~~council~~ executive committee. Within fourteen days after receipt of the notice, the adopting agency may file a petition with the chairman of the legislative ~~council~~ executive committee for review by the legislative ~~council~~ executive committee of the decision of the administrative rules committee. If the adopting agency does not file a petition for review, the rule becomes void on the fifteenth day after the notice from the ~~office of the~~ legislative council to the adopting agency. If within sixty days after receipt of the petition from the adopting agency the legislative ~~council~~ executive committee has not disapproved by motion the finding of the administrative rules committee, the rule is void.
3. An agency may amend or repeal a rule or create a related rule if, after consideration of rules by the administrative rules committee, the agency and committee agree that the rule amendment, repeal, or creation is necessary to address any of the considerations under subsection 1. A rule amended, repealed, or created under this subsection is not subject to the other requirements of this chapter relating to adoption of administrative rules and may be published by the legislative council as amended, repealed, or created. If requested by the agency or any interested party, a rule amended, repealed, or created under this subsection must be reconsidered by the administrative rules committee at a subsequent meeting at which public comment on the agreed rule change must be allowed.

**SECTION 27. AMENDMENT.** Section 28-32-19 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-19. Publication of administrative code and code supplement.**

1. The ~~office of the~~ legislative council shall compile, index, and publish all rules filed pursuant to this chapter in a publication which must be known as

the North Dakota Administrative Code, in this chapter referred to as the code. The code ~~also~~ must ~~also~~ contain all objections filed with the ~~office of the~~ legislative council by the administrative rules committee pursuant to section 28-32-17. ~~The code must be printed or otherwise duplicated in looseleaf form.~~ The ~~office of the~~ legislative council shall revise all or part of the code as often as the legislative council ~~deems~~ determines necessary.

2. The ~~office of the~~ legislative council may prescribe a format, style, and arrangement for rules which are to be published in the code and may refuse to accept the filing of any rule that is not in substantial compliance therewith. In arranging rules for publication, the ~~office of the~~ legislative council may make such corrections in spelling, grammatical construction, format, and punctuation of the rules as ~~deemed~~ determined proper. The ~~office of the~~ legislative council shall keep and maintain a permanent code of all rules filed, including superseded and repealed rules, which must be open to public inspection during office hours.
3. The ~~office of the~~ legislative council shall compile and publish the North Dakota Administrative Code supplement according to the schedule of effective dates of rules in section 28-32-15.
  - a. The code supplement must contain all rules that have been filed with the ~~office of the~~ legislative council or which have become effective since the compilation and publication of the preceding issue of the code supplement.
  - b. The code supplement must contain all objections filed with the ~~office of the~~ legislative council by the administrative rules committee pursuant to section 28-32-17.
  - ~~c. The code supplement must be printed or duplicated in the same style as the code so as to permit changes to be inserted as pages in the code in lieu of the pages containing superseded material and to permit additions to the code.~~
4. The ~~office of the~~ legislative council, with the consent of the adopting agency, may omit from the code or code supplement any rule the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient, if the rule in printed or duplicated form is made available on application to the agency, and if the code or code supplement contains a notice stating the general subject matter of the omitted rule and stating how a copy may be obtained.
5. The code must be arranged, indexed, and printed or duplicated in a manner to permit separate publication of portions thereof relating to individual agencies. An agency may print as many copies of such separate portions of the code as it may require. If the ~~office of the~~ legislative council does not publish the code supplement due to technological problems or lack of funds, the agency whose rules would have been published in the code supplement shall provide a copy of the rules to any person upon request. The agency may charge a fee for a copy of the rules as allowed under section 44-04-18.

**SECTION 28. AMENDMENT.** Section 28-32-20 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-20. Printing, sales, and distribution of code and code supplement.**

1. The secretary of state shall distribute the code and code supplement and shall distribute copies of the code, revisions, and the code supplement without charge to the following:
  - a. Governor, one copy.
  - b. Attorney general, one copy.
  - c. Each supreme court judge, one copy.
  - d. Each district court judge, one copy.

- e. Each county auditor of this state, for the use of county officials and the public, one copy.
  - f. Supreme court library, one copy.
  - g. State library, one copy.
  - h. Law library of the university of North Dakota, one copy.
  - i. Each of the five depository libraries in this state, one copy, upon request.
  - j. Secretary of state, one copy.
  - k. Legislative council, four copies.
  - l. Each member of the legislative assembly, one copy, upon request.
2. ~~The office of the~~ legislative council, each county auditor in the state, and the librarians for the supreme court library, the state library, the university of North Dakota law library, and the five depository libraries as designated according to subsection 1 and section 54-24-09 shall maintain a complete, current set of the code, including revisions and the code supplement.
3. The secretary of state shall make copies of and subscriptions to the code and code supplement available to any person upon payment of the appropriate subscription fee.
4. ~~The office of the~~ legislative council shall determine the appropriate fee for subscribing to the code and code supplement.
5. All fees collected by the secretary of state must be deposited in the general fund of the state treasury.
6. ~~The~~ If applicable, the administrative code, revisions to the administrative code, and the code supplement must be considered sixth-class printing under sections 46-02-04 and 46-02-09.

**SECTION 29. AMENDMENT.** Subsection 3 of section 34-11.1-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Employee" means any person, whether employed, appointed, or under contract, providing services for the state, county, city, or other political subdivision, for which compensation is paid. "Employee" also includes a person subject to the civil service or merit system or civil service laws of the state government, governmental agency, or a political subdivision. "Employee" does not include:
- a. A person elected to public office in the state or in a political subdivision.
  - b. A member of the legislative council ~~staff~~.
  - c. A person holding an appointive statutory office.
  - d. One deputy or principal assistant for each elected official or appointive statutory official.
  - e. One secretary for each elected or appointive statutory official.
  - f. All members of the governor's staff.

**SECTION 30. AMENDMENT.** Subsection 2 of section 40-63-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The department of commerce division of community services shall:
- a. Review all applications for renaissance zone designation against the criteria established in this section and designate zones.

- b. Approve or reject the duration of renaissance zone status as submitted in an application.
- c. Approve or reject the geographic boundaries and total area of the renaissance zone as submitted in an application.
- d. Promote the renaissance zone program.
- e. Monitor the progress of the designated renaissance zones against submitted plans in an annual plan review.
- f. Report on renaissance zone progress to the governor and the legislative ~~council~~ executive committee on an annual basis until all designated zones expire.

**SECTION 31. AMENDMENT.** Section 44-04-18.6 of the North Dakota Century Code is amended and reenacted as follows:

**44-04-18.6. Access to legislative records and information.** The following records, regardless of form or characteristic, of or relating to the legislative council, the legislative executive committee, the legislative assembly, the house of representatives, the senate, or a member of the legislative assembly are not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota: a record of a purely personal or private nature, a record that is ~~attorney~~ legislative council work product or is ~~attorney-client~~ legislative council-client communication, a record that reveals the content of private communications between a member of the legislative assembly and any person, and, except with respect to a governmental entity determining the proper use of telephone service, a record of telephone usage which identifies the parties or lists the telephone numbers of the parties involved. This section does not apply to any record distributed at a meeting subject to section 44-04-19 and section 5 of article XI of the Constitution of North Dakota.

**SECTION 32. AMENDMENT.** Section 48-08-04 of the North Dakota Century Code is amended and reenacted as follows:

**48-08-04. Use of legislative assembly rooms and halls.** During the interim between legislative sessions, the committee rooms, halls, passageways, and other space in the capitol used by the legislative assembly may not be used without authorization of the legislative council ~~or its designee~~.

**SECTION 33. AMENDMENT.** Section 48-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**48-10-01. Capitol grounds planning commission.** The capitol grounds planning commission consists of the lieutenant governor as chairman and eight other members selected biennially as provided in this section. The governor shall appoint two citizens, one licensed architect, and one representative from the state historical society as members, the president of the senate shall appoint two senators as members, and the speaker of the house of representatives shall appoint two representatives as members. Appointment to the commission is for a term of two years. Legislative and citizen members of the planning commission are entitled to per diem payments and expenses in such amount and in the same manner as provided by law for members of the legislative ~~council~~ executive committee.

**SECTION 34. AMENDMENT.** Subsection 4 of section 49-23-03 of the North Dakota Century Code is amended and reenacted as follows:

- 4. A nonprofit corporation shall govern the notification center. The initial incorporators of the corporation may solicit bids for any services provided for the operation of the center. The corporation shall provide advance notice of the first organizational meeting by publication in qualified legal newspapers and in appropriate trade journals and by written notice to all appropriate trade associations.
  - a. The nonprofit corporation must be incorporated by seventeen initial incorporators, with one member representing the house of representatives and one member representing the senate appointed by the legislative ~~council~~ executive committee, one member representing telecommunications companies offering local exchange service to fewer than fifty thousand subscribers, one member

representing telecommunications companies offering local exchange service to fifty thousand or more subscribers, one member representing rural water systems, one member representing rural electric cooperatives, one member representing investor-owned electric utilities, one member representing investor-owned natural gas utilities, one member representing cable television systems, one member representing cities with a population of fewer than five thousand, one member representing cities with a population of at least five thousand, one member representing counties, one member representing underground interstate carriers of gas, one member representing interstate carriers of petroleum, one member representing interstate carriers of telecommunications services, one member representing contractors who perform excavation services, and one member representing the production sector of the American petroleum institute. The initial incorporators must represent and be designated by operators, excavators, and other persons eligible to participate in the center. The legislative members are entitled to the same compensation and expenses as provided for members of committees of the legislative council. The legislative council shall pay the compensation for the legislative members.

- b. The initial incorporators shall establish, before August 1, 1996, a board of directors of the nonprofit corporation which consists of eight members representing the participants in the center. The board shall establish a competitive bidding procedure to select a vendor to provide the notification service, establish a procedure by which members of the center share the costs of the center on a fair, reasonable, and nondiscriminatory basis, and do all other things necessary to implement the purpose of the center. Any agreement between the center and a vendor for the notification service may be modified from time to time by the board, and any agreement shall be reviewed by the board at least once every three years, with an opportunity to receive new bids, if desired, by the board. An operator may submit a bid and be selected to contract to provide the notification center service.
- c. Members of the board and any of its agents are immune from any liability of any kind based on any acts or omissions in the course of the performance of responsibilities in an official capacity except for bodily injury arising out of accidents caused by or contributed to by the negligence of the board member or agent.
- d. The board shall aid the state's attorneys of the various counties in the enforcement of this chapter and the prosecution of any violations. The board may institute a civil action for an injunction to enjoin violations of this chapter without proof that anyone suffered actual damages.
- e. The notification center must be in operation by March 1, 1998.

**SECTION 35. AMENDMENT.** Subsections 3 and 4 of section 50-09-29 of the North Dakota Century Code are amended and reenacted as follows:

- 3. If the department of human services determines, subject to the approval of the legislative ~~council~~ executive committee, that there is insufficient worker opportunity, due to increases in the unemployment rate, to participate in work activities, the department may administer the temporary assistance for needy families program in a manner different than provided in subsection 1.
- 4. If the department of human services determines, subject to the approval of the legislative ~~council~~ executive committee, that administration of the temporary assistance for needy families program, in the manner provided by subsection 1, causes otherwise eligible individuals to become a charge upon the counties under chapter 50-01, the department may administer the program in a manner that avoids that result.

**SECTION 36. AMENDMENT.** Section 52-02-18 of the North Dakota Century Code is amended and reenacted as follows:

**52-02-18. Independent performance audit.** The state auditor ~~shall~~, upon request of the legislative audit and fiscal review committee, shall cause a performance audit of job service North Dakota to be conducted within twelve months after receipt of the request. The state auditor may appoint an independent audit firm, with extensive expertise in job service practices and standards, to complete a performance audit or the state auditor may conduct the performance audit. If the state auditor completes the audit, the state auditor may contract with a consulting firm to aid in the state audit or to complete the audit and shall charge job service North Dakota for the audit, including the services of the consulting firm. The executive director of job service North Dakota and the auditor shall present the audit report and any action taken as a result of the audit to the ~~legislative council's~~ legislative audit and fiscal review committee and to the house and senate industry, business and labor standing committees during the next regular session of the legislative assembly following the audit.

**SECTION 37. AMENDMENT.** Section 54-03-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-03-02. When legislative assembly meets.**

1. The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes and shall thereafter recess until the time provided in subsection 2.
2. The legislative assembly shall reconvene at twelve noon on the first Tuesday after the third day in January of the year following the organizational session as provided in subsection 1 or at twelve noon on a date selected by the legislative ~~council~~ executive committee but not earlier than January second nor later than January eleventh of the year following the organizational session and, following the close of business of the regular session, shall adjourn subject to subsection 3.
3. Notwithstanding a motion to adjourn sine die, the legislative assembly shall reconvene as determined by the legislative ~~council~~ executive committee. The number of natural days used may not exceed the number of natural days available under the constitution which have not been previously used by that legislative assembly in regular session under subsection 2.

**SECTION 38. AMENDMENT.** Section 54-03-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-03-04. Organizational session - Calling to order - Officers - Term of office - Officers and chairmen to remain in office during special session.** The secretary and officers of the senate and chief clerk and officers of the house serving at the close of a regular session, unless otherwise removed, shall remain in office until the first day of the organizational session. On the first day of the organizational session, at a time scheduled by the legislative ~~council~~ executive committee pursuant to section 54-03.1-02, the president of the senate and the speaker of the house from the previous session, if reelected, or in the speaker's absence a member of the majority party of the house with seniority based upon terms of service in the house, shall call the members of their respective houses so enrolled to order. In the absence of the president of the senate, the president pro tempore shall call the members of the senate to order. In the absence of both the president of the senate and the president pro tempore, then some member or other person selected by the members present shall call the members of the senate to order. If the speaker of the house from the previous session is not reelected and if no party has a majority in the house, the member of the house with seniority based upon terms of service in the house shall call the house to order. If two or more members of the house are tied for seniority and seniority is a factor in determining who shall call the house to order, the persons so tied for seniority shall draw lots to determine who shall call the house to order. The members of the respective houses then may proceed to the election of the necessary officers. The secretary and officers of the senate and chief clerk and officers of the house of representatives, and the chairmen of all procedural and substantive standing legislative committees shall continue to serve in those positions during any special legislative session which may be called, except in case of the death, resignation, or removal of one of those persons, whereupon the position must be filled, upon the convening of the special session, in the manner provided by law or legislative rule. Members serving on procedural or substantive standing committees of the senate or house during a regular session shall continue to serve on those committees during any special legislative session which may be called following that regular session.

**SECTION 39. AMENDMENT.** Section 54-03-19.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-03-19.2. Meetings - Powers and duties - Expenses.** The commission shall meet at the call of the chairman as often as may be necessary, but at least once during each biennium. The commission shall determine levels of legislative compensation, expense allowance, and insurance benefits to be paid for service upon interim committees and during legislative sessions, which permit citizens to hold legislative office without undue financial sacrifice or disadvantage. In formulating recommendations, the commission may consult with the leadership of the legislative assembly, and review compensation, expense allowance, and insurance benefits for legislative service in other states and in other areas of state and federal service and private industry. The commission shall report its findings and recommendations regarding legislative compensation policy to the legislative assembly. The commission may file with the legislative council a bill incorporating its recommendations. Members of the legislative compensation commission must be compensated for time spent in attendance at meetings of the commission and for other travel as approved by the chairman of the legislative ~~council~~ executive committee at the rate of sixty-two dollars and fifty cents per day and must be reimbursed for their actual and necessary expenses incurred in the same manner as other state officials. The expense allowance must be paid from appropriations then in effect for the legislative assembly. The commission may solicit the assistance of the ~~staff of the~~ legislative council to provide information, aid, and assistance in carrying out its duties.

**SECTION 40. AMENDMENT.** Subsection 2 of section 54-03-20 of the North Dakota Century Code is amended and reenacted as follows:

2. a. Each member of the legislative assembly is entitled to receive reimbursement for lodging, which may not exceed a maximum of nine hundred dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session.
- b. Notwithstanding subdivision a:
  - (1) A member of the legislative assembly may elect to be reimbursed for less than the amount to which the legislator is entitled under this subsection by claiming the lesser amount on a voucher submitted with the receipt required by section 44-08-04.
  - (2) The legislative ~~council~~ executive committee may establish guidelines that may result in a reduced maximum reimbursement for a single dwelling in which two or more legislators share lodging and the total rent for that dwelling exceeds the amount to which a legislator is entitled under subdivision a.

**SECTION 41. AMENDMENT.** Section 54-03-26 of the North Dakota Century Code is amended and reenacted as follows:

**54-03-26. Personal computers and associated software used by legislators - Fee - Continuing appropriation.** Notwithstanding any other provision of law, a member of the legislative assembly who is assigned a computer may use that computer and its associated equipment and software for any use that is not in violation of section 16.1-10-02 upon payment of a computer usage fee established by the legislative ~~council~~ executive committee.

**SECTION 42. AMENDMENT.** Section 54-03-27 of the North Dakota Century Code is amended and reenacted as follows:

**54-03-27. Service in the legislative assembly - Leave of absence from employment.** The executive officer in charge of a state agency, department, or institution or the governing body of any political subdivision or any other employer in this state may grant a leave of absence from employment to a full-time employee of that governmental entity or of that employer who is a member of the legislative assembly for service during any regular or special session of the legislative assembly and for attendance at a meeting of the legislative ~~council~~ executive committee or any of its committees. The leave of absence may be without pay, and the employer may reduce

or eliminate the payment of any additional benefits normally due the employee while the employee is performing legislative service. If the leave of absence is granted, the employer may not terminate the employment of an employee solely due to the fact that the employee is absent from employment as the result of service in the legislative assembly.

**SECTION 43. AMENDMENT.** Section 54-03.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-03.1-02. Time and place of meeting - Who must attend.** In each even-numbered year on the first Monday in the month of December or on a date selected by the legislative ~~council~~ executive committee but not earlier than December first nor later than December fifteenth, all persons elected at the previous November general election as members of the succeeding legislative session, and members whose terms do not expire until the first day of December following the next November general election, shall meet in the state capitol in the city of Bismarck, or at such other place as may be designated, at a time designated by the legislative ~~council~~ executive committee for the purpose of conducting an organizational session. The legislative ~~council~~ executive committee shall call the organizational session and the legislative ~~council~~ shall make such arrangements as may be necessary for ~~its~~ operation of the session.

**SECTION 44. AMENDMENT.** Section 54-03.2-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-03.2-02. Definitions.** As used in this code:

1. "Hearing" means any meeting in the course of an investigatory proceeding, other than a preliminary conference or interview at which no testimony is taken under oath, conducted by an investigating committee for the purpose of taking testimony or receiving other evidence. A hearing may be open to the public or closed to the public.
2. "Investigating committee" means any of the following:
  - a. A standing or select committee of either house of the legislative assembly.
  - b. A joint committee of both houses.
  - c. An authorized subcommittee of a legislative committee.
  - d. The legislative ~~council~~ executive committee and any interim committee of the ~~council~~ legislative executive committee if specifically designated by the ~~council~~ legislative executive committee as an investigating committee with subpoena powers.
  - e. Any other body created by law, the members of which may include nonlegislators.

Investigating committees ~~shall~~ have the power to issue subpoenas and subpoenas duces tecum in the manner provided for in section 54-03.2-08. Nothing in this chapter may be construed as in derogation of any power to issue subpoenas which is inherent in the legislative assembly or any of its committees.

3. "Public hearing" means any hearing open to the public or the proceedings of which are made available to the public.

**SECTION 45. AMENDMENT.** Section 54-05.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-05.1-02. Applicability - Meaning of lobbyist.**

1. This chapter applies to any person who, in any manner whatsoever, directly or indirectly, performs any of the following activities:
  - a. Attempts to secure the passage, amendment, or defeat of any legislation by the legislative assembly or the approval or veto of any legislation by the governor of the state.



- b. Attempts to influence decisions made by the legislative ~~council~~ executive committee or by an interim committee of the legislative ~~council~~ executive committee.
- 2. This chapter does not apply to any person who is:
  - a. A legislator.
  - b. A private citizen appearing on the citizen's own behalf.
  - c. An employee, officer, board member, volunteer, or agent of the state or its political subdivisions whether elected or appointed and whether or not compensated, who is acting in that person's official capacity.
  - d. Invited by the chairman of the legislative ~~council~~ executive committee, an interim committee of the legislative ~~council~~ executive committee, or a standing committee of the legislative assembly to appear before the ~~council~~ legislative executive committee, interim committee, or standing committee for the purpose of providing information.
  - e. An individual who appears before a legislative committee for the sole purpose of presenting testimony on behalf of a trade or professional organization or a business or industry if the individual is introduced to the committee by the registered lobbyist for the trade or professional organization or the business or industry.
- 3. For the purposes of this chapter, persons required to register under this chapter because of the performance of the activities described in subsection 1 must be known as "lobbyists".

**SECTION 46. AMENDMENT.** Subsections 3 and 4 of section 54-06-25 of the North Dakota Century Code are amended and reenacted as follows:

- 3. The commission shall meet at the call of the chairman as often as may be necessary, but at least once during each year of the biennium. The commission shall consider proper levels of compensation and fringe benefits for state employees and make its recommendations on these issues to the governor in time for consideration in preparation of the executive budget to be submitted to the next legislative assembly. The commission shall also submit its recommendations to the legislative ~~council~~ executive committee at the biennial meeting at which the legislative ~~council~~ executive committee receives the reports of its interim committees.
- 4. The members of the legislative assembly who are commission members are entitled to receive compensation from the legislative council for each day in attendance at commission meetings in the same manner as provided for members of the legislative ~~council~~ executive committee and reimbursement from the legislative council for travel and other necessary expenses incurred in performing commission duties in the amounts provided for state employees under section 54-06-09. The state employee members of the commission are entitled to receive reimbursement for necessary expenses incurred in attending commission meetings at the rates provided for state employees under section 54-06-09 and may not be assessed any annual leave or loss of salary for attendance at meetings of the commission. The employing agency of state employee members shall pay their expenses.

**SECTION 47. AMENDMENT.** Section 54-06-31 of the North Dakota Century Code is amended and reenacted as follows:

**54-06-31. State employee recruitment and retention bonus programs - Criteria - Limitations.** State agencies may develop programs to provide bonuses to recruit or retain employees in hard-to-fill occupations.

- 1. State agencies may pay recruitment and retention bonuses under this section only if:
  - a. The agency has a written policy in place identifying eligible positions or occupations and provisions for providing and receiving bonuses;

- b. The agency has filed a copy of the written policy with the North Dakota human resource management services; and
  - c. The agency reports to the North Dakota human resource management services each bonus provided to an employee under the program.
2. State agencies must fund bonus programs from within the agency salaries and wages budget.
  3. The North Dakota human resource management services shall report periodically ~~report to a legislative committee designated by the legislative council~~ executive committee on the implementation, progress, and bonuses provided under agency recruitment and retention bonus programs.
  4. Bonuses paid under this section are not fiscal irregularities under section 54-14-03.1.

**SECTION 48. AMENDMENT.** Section 54-35-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-01. ~~Council~~ Legislative executive committee - Created - Members - Vacancy - Terms.** The North Dakota legislative ~~council~~, in this chapter referred to as ~~the legislative council or the council~~, executive committee consists of the majority and minority leaders of the house and of the senate plus six senators and seven representatives chosen biennially before the close of each regular legislative session. In the house of representatives the speaker of the house shall appoint to the ~~council~~ legislative executive committee four members recommended by the majority leader and three members recommended by the minority leader, except that the speaker must by virtue of office be one of the four members appointed from the speaker's faction. In the senate the lieutenant governor shall appoint to the ~~council~~ legislative executive committee four members recommended by the majority leader and two members recommended by the minority leader. Any vacancy occurring when the legislative assembly is not in session must be filled by the selection of another member of the legislative assembly belonging to the same faction as the member originally appointed, the selection to be made by the remaining senate or house members of the ~~council~~ legislative executive committee, depending upon which body has the vacancy. Each senator and each representative chosen to serve on the ~~council~~ legislative executive committee shall serve until a new ~~council~~ legislative executive committee has been selected at the next regular legislative session; provided, however, that no senator, not a holdover, who is not reelected to the senate, and no representative, who is not reelected to the house of representatives, may serve as a member of the ~~council~~ legislative executive committee beyond the closing day of the term to which elected. Any vacancy occurring because any member of the ~~council~~ legislative executive committee is not reelected must be filled for the period from the beginning of the session until a new ~~council~~ legislative executive committee is selected, in the same manner as the original ~~council~~ legislative executive committee is selected.

**SECTION 49. AMENDMENT.** Section 54-35-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02. Powers and duties.** In addition to the other applicable provisions of this chapter, the ~~council~~ legislative executive committee has the following powers and duties:

1. To study, consider, accumulate, compile, and assemble information on any subject upon which the legislative assembly may legislate, and upon such subjects as the legislative assembly may by concurrent or joint resolution authorize or direct, or any subject requested by a member of the legislative assembly; provided, that the ~~council~~ legislative executive committee may screen and prioritize studies assigned by concurrent or joint resolution to maintain its workload within the limitations of time and legislative appropriations.
2. To collect information concerning the government and general welfare of the state and of its political subdivisions.

3. To study and consider important issues of public policy and questions of general interest.
4. To study and promote uniformity of legislation in the United States upon subjects upon which uniformity is desirable and to ~~confer with the commissioners or similar groups appointed for the same purpose by any other state in drafting uniform laws to be submitted for the approval and adoption by the several states and through such member or members or council staff persons as the council may appoint to meet annually with the conference of commissioners on uniform state laws for the promotion of uniformity of legislation in the United States and join with it in such measures as may be deemed most expedient to advance the objects of such conference.~~ The council shall receive, review, and make recommendations on uniform and model laws recommended to it by the state commission on uniform state laws.
5. To prepare proposed bills and resolutions for consideration of the succeeding legislative assembly.
6. To call to its assistance other members of the legislative assembly, and it may create committees consisting of its own members, or one or more of its own members and one or more other members of the legislative assembly and delegate by written resolution to such committees such of its powers and rights as it may deem advisable. Committees of the ~~council~~ legislative executive committee may also include nonlegislator members. Any member of the legislative assembly has the right to attend any meeting of the ~~council~~ legislative executive committee and may present that member's views on any subject which the ~~council~~ legislative executive committee may at any particular time be considering.
7. To issue subpoenas or subpoenas duces tecum in the manner provided in sections 54-03.2-08 and 54-03.2-09. Committees of the ~~council~~ legislative executive committee may issue subpoenas and subpoenas duces tecum in the same manner if specifically authorized by the ~~council~~ legislative executive committee. Failure to obey a subpoena issued by the ~~council~~ legislative executive committee, or one of its committees, is contempt.
8. To control the use of the legislative chambers and permanent displays in memorial hallway. Guidelines may be established pursuant to this subsection and the legislative council, ~~or its designee~~, shall administer any guidelines ~~which~~ that are established.
9. To determine access to legislative information services and impose fees for providing legislative information services and copies of legislative documents. This authority may not be exercised in a manner that contravenes access to legislative documents as otherwise provided by law.

**SECTION 50. AMENDMENT.** Section 54-35-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.1. Legislative audit and fiscal review committee.** For the purposes of studying and reviewing the financial transactions of this state; to assure the collection and expenditure of its revenues and moneys in compliance with law and legislative intent and sound financial practices; and to provide the legislative assembly with formal, objective information on revenue collections and expenditures for a basis of legislative action to improve the fiscal structure and transactions of this state, the legislative ~~council~~ executive committee shall ~~create a division of the budget section of the legislative council entitled~~ appoint the legislative audit and fiscal review committee. The members of the committee must be appointed in the same manner as other members of ~~legislative council~~ interim committees of the legislative executive committee.

**SECTION 51. AMENDMENT.** Section 54-35-02.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.2. Powers and duties of the legislative audit and fiscal review committee.** ~~It is the duty of the~~ The legislative audit and fiscal review committee ~~to~~ shall study and review audit reports as selected by the committee from those submitted by the state auditor, confer with the auditor and deputy auditors in regard to such reports, and when necessary, ~~to~~ confer with representatives of the department, agency, or institution audited in order to obtain full and complete information in regard to any

and all fiscal transactions and governmental operations of any department, agency, or institution of the state. Each department, agency, or institution shall furnish to the committee such aid, information, and assistance in regard to fiscal transactions and governmental operations as it may from time to time request. Whenever the committee may determine or have reason to believe that there may have been a violation of law relating to the receipt, custody, or expenditure of public funds by any state officer or employee, the committee shall present such evidence or information as may be in its possession to the attorney general. The attorney general shall receive and accept such evidence or information and shall immediately commence such additional investigation as the attorney general ~~deems~~ determines necessary. Upon completion of the investigation, if the evidence supplied by the committee and through the investigation indicates the probability of a violation of law by any state official or employee, the attorney general ~~shall~~ immediately shall prosecute such official or employee as provided by law. The legislative ~~council~~ executive committee, through its committee on legislative audit and fiscal review, or such persons as may be directed or employed by ~~it~~ the legislative council, is authorized, within the limits of legislative appropriations, to make such audits, examinations, or studies of the fiscal transactions or governmental operations of departments, agencies, or institutions of the state as ~~it~~ the legislative executive committee may ~~determine~~ determine necessary.

**SECTION 52. AMENDMENT.** Section 54-35-02.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.3. Employee benefits programs committee - Appointment - Selection of chairman.** The legislative ~~council~~ executive committee, during each biennium, shall appoint an employee benefits programs committee in the same manner as the ~~council~~ legislative executive committee appoints other interim committees. The ~~council~~ legislative executive committee shall appoint five members of the house of representatives and four members of the senate to the committee. The ~~council~~ legislative executive committee shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative ~~council~~ executive committee interim committees.

**SECTION 53. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.4. Employee benefits programs committee - Powers and duties.**

1. The employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction, including an actuarial review. The committee shall take jurisdiction over any measure or proposal that authorizes an automatic increase or other change in benefits beyond the ensuing biennium which would not require legislative approval. The committee must include in the report of the committee a statement that the proposal would allow future changes without legislative involvement. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative ~~council~~ executive committee and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, may:
  - a. Enter ~~into~~ contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. Each retirement, insurance, or retiree insurance program shall pay, from its retirement, insurance, or retiree health benefits fund, as appropriate, and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that program.
  - b. Call on personnel from state agencies or political subdivisions to furnish such information and render such assistance as the committee may from time to time request.
  - c. Establish rules for its operation, including the submission and review of proposals and the establishing of standards for actuarial review.

3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to it by the legislative assembly or the legislative ~~council~~ executive committee.
4. A copy of the committee's report concerning any legislative measure shall, if that measure is introduced for consideration by a legislative assembly, be appended to the copy of that measure which is referred to a standing committee.
5. A legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be introduced in either house unless it is accompanied by a report from the committee. A majority of the members of the committee, acting through the chairman, has sole authority to determine whether any legislative measure affects a program.
6. Any amendment made during a legislative session to a legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program may not be considered by a standing committee unless it is accompanied by a report from the employee benefits programs committee.
7. Any legislation enacted in contravention of this section is invalid and of no force and effect, and any benefits provided under such legislation must be reduced to the level current prior to enactment.

**SECTION 54. AMENDMENT.** Section 54-35-02.5 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.5. Administrative rules committee.** The legislative ~~council~~ executive committee, during each biennium, shall appoint an administrative rules committee in the same manner as the ~~council~~ legislative executive committee appoints other interim committees. The legislative ~~council~~ executive committee shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative ~~council~~ executive committee interim committees. The membership of the administrative rules committee must include at least one of the members who served during the most recently completed regular session of the legislative assembly from each of the standing committees of either the house of representatives or the senate.

**SECTION 55. AMENDMENT.** Section 54-35-02.6 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.6. Rules reviewed by administrative rules committee - Committee responsibility.** The administrative rules committee shall review administrative rules adopted under chapter 28-32. The committee shall consider oral and written comments received concerning administrative rules. The committee shall study and review administrative rules and related statutes to determine whether:

1. Administrative agencies are properly implementing legislative purpose and intent.
2. There is dissatisfaction with administrative rules or with statutes relating to administrative rules.
3. There are unclear or ambiguous statutes relating to administrative rules.

The committee may make rule change recommendations to the adopting agency and may make recommendations to the legislative ~~council~~ executive committee for the amendment or repeal of statutes relating to administrative rules. The committee's failure to review proposed rules prior to publication in the North Dakota Administrative Code does not prevent rules from taking effect. Except for action pursuant to section 28-32-17 or 28-32-18, the recommendations or opinions of the committee do not affect the legality of any rule as determined by the attorney general.

**SECTION 56. AMENDMENT.** Section 54-35-02.7 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.7. Garrison diversion overview.** The legislative ~~council~~ executive committee is responsible for legislative overview of the Garrison diversion project and related matters and for any necessary discussions with adjacent states on water-related topics.

**SECTION 57. AMENDMENT.** Section 54-35-02.8 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-02.8. Legislative ethics committee.** The legislative ~~council~~ executive committee, during each biennium, shall appoint an ethics committee to consider or prepare a legislative code of ethics. The committee may recommend legislation relating to legislative ethics. The committee shall operate according to the laws and procedures governing the operation of other legislative ~~council~~ executive committee interim committees.

**SECTION 58. AMENDMENT.** Section 54-35-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-03. State departments, officers, and employees to cooperate.** Each department, board, commission, agency, officer, or employee in the state government shall furnish such information and render such assistance to the legislative council and to the legislative executive committee as the legislative council or the legislative executive committee or its committees; may from time to time request.

**SECTION 59. AMENDMENT.** Section 54-35-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-04. Meetings - When held - How called - Quorum.** The ~~council~~ legislative executive committee or committee appointed by it, may sit at such time and place as it may deem advisable, but the ~~council~~ legislative executive committee shall meet at least once in each year and shall meet at any time upon the call of the chairman or a call signed by seven members of the ~~council~~ legislative executive committee. At any meeting of the ~~council~~ legislative executive committee, seven members constitute a quorum and a majority of such quorum has the authority to act in any matter falling within the jurisdiction of the ~~council~~ legislative executive committee.

**SECTION 60. AMENDMENT.** Section 54-35-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-05. Governor sending messages to meetings.** The governor may send messages to such meetings of the ~~council~~ legislative executive committee as the governor ~~deems~~ determines advisable.

**SECTION 61. AMENDMENT.** Section 54-35-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-06. Officers - Accept funds - Expenditures.** The ~~council~~ legislative executive committee shall select a chairman and a vice chairman from its own members and may prescribe its own rules of procedure. ~~¶ The legislative executive committee may appoint a secretary who need not be a member, and shall appoint a director who must be in charge of the offices and staff of the legislative council and who must be paid such salary as the council legislative executive committee may determine. The council director may employ such other persons and obtain the assistance of such research agencies as it may deem determined necessary. The legislative executive committee and the legislative council is authorized to may accept and use any funds made available to it through the terms of any agreement that it may make made with any agency whatsoever for the accomplishment of the purpose of this chapter. Expenditures of funds made available to the council by legislative appropriation must be made in accordance with rules or motions duly approved by the council legislative executive committee.~~

**SECTION 62. AMENDMENT.** Section 54-35-07 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-07. Records - Reports.** The ~~council~~ legislative executive committee shall keep minutes of its meetings and a record of all its transactions and shall at the beginning of each biennial legislative session, and may at any other time, make a report of its activities and recommendations to the members of the legislative assembly and to the governor.

**SECTION 63. AMENDMENT.** Section 54-35-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-08. Recommended legislation may be required in advance.** The ~~council~~ legislative executive committee may require that any recommendation for legislation, which is to be presented by any department, board, commission, agency, officer, official, or employee of the state desiring the consideration of the ~~council~~ legislative executive committee, be presented to it at least sixty days in advance of any regular legislative session.

**SECTION 64. AMENDMENT.** Section 54-35-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-09. Recommendations - When made public - Distribution.** The recommendations of the ~~council~~ legislative executive committee must be completed and made public prior to any session of the legislative assembly at which such recommendations are to be submitted; and a copy of ~~said~~ the recommendations must be ~~mailed~~ distributed to each member-elect of the legislative assembly, to each elective state officer, and to the state law library.

**SECTION 65. AMENDMENT.** Section 54-35-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-10. (Effective through June 30, 2009) Compensation of members and leadership.**

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

**(Effective after June 30, 2009) Compensation of members and leadership.**

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

**SECTION 66. AMENDMENT.** Section 54-35-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-11. Preparation for and assistance to legislative assembly - Custody of equipment - Approval of delayed vouchers.** The legislative council ~~is hereby authorized~~, on behalf of the legislative assembly, ~~to may~~ make all necessary arrangements ~~prior to before~~ each legislative session; for the procurement of necessary supplies, equipment, services, ~~excluding other than~~ the employment of legislative

employees, building space, or any other preparations or arrangements ~~it deems~~ the legislative council determines necessary or desirable to be made ~~prior to~~ before the commencement of each legislative session in order to facilitate the proper convening and operation of the legislative assembly. The legislative council shall act as the custodial agency to ensure the proper storage and safekeeping of legislative supplies and equipment during the interim periods between legislative sessions, and ~~is authorized to~~ may approve vouchers on behalf of the legislative assembly, ~~or may authorize its director to do so,~~ for the payment from legislative appropriations of delayed billings or other billings for legislative expenses during periods when the legislative assembly is not in session. ~~# The legislative council shall, through its own actions or through its staff,~~ carry out such duties or projects and provide such service and assistance to the legislative assembly or its committees, ~~the legislative executive committee or its committees,~~ and members of the legislative assembly as may be requested by concurrent resolution of the legislative assembly or ~~deemed determined~~ necessary or desirable in assisting the legislative assembly or the legislative executive committee in meeting its responsibilities and carrying out its duties during the legislative session or the interim between sessions.

**SECTION 67. AMENDMENT.** Section 54-35-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-12. Legislative budget analyst and auditor.** The legislative ~~council~~ executive committee shall appoint a legislative budget analyst and auditor. A person is not eligible for the appointment unless the person holds a baccalaureate degree from a recognized institution of higher learning, is a certified public accountant, or has had five years' experience in government accounting. The appointment of the legislative auditor must be based upon qualifications of eligible persons without reference to partisan politics. The salary of the legislative budget analyst and auditor must be determined by the legislative council and it may employ additional persons as necessary to carry out sections 54-35-12 through 54-35-14.

**SECTION 68. AMENDMENT.** Section 54-35-15 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-15. Information technology program - Staff - Powers and duties.**

1. The legislative council, ~~or its designee,~~ shall provide information technology research and staff services to the legislative branch. The services must be provided in accordance with the existing statutory authority of the legislative council and within the framework of its other staff services.
2. The legislative council ~~staff office~~ shall provide information technology services, ~~and the council, or its designee,~~ may hire such additional staff as are necessary, and set compensation for any additional staff within the limits of legislative appropriations.
3. The legislative council, ~~or its designee,~~ shall structure the provision of information technology services and assistance to the legislative assembly and shall receive such cooperation and assistance from other state agencies as ~~it may~~ the council reasonably may request.

**SECTION 69. AMENDMENT.** Section 54-35-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-15.1. Information technology committee - Appointment.** The legislative ~~council~~ executive committee, during each biennium, shall appoint an information technology committee in the same manner as the ~~council~~ legislative executive committee appoints other interim committees. The ~~council~~ legislative executive committee shall appoint six members of the house of representatives and five members of the senate to the committee. The chief information officer of the state is an ex officio, nonvoting member of the committee. The ~~council~~ legislative executive committee shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative ~~council~~ executive committee interim committees.

**SECTION 70. AMENDMENT.** Section 54-35-16 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-16. Authority to determine if legislative assembly meets.** The ~~council~~ legislative executive committee may issue a call for the legislative assembly to convene



after it has adjourned under subsection 2 of section 54-03-02. The length of a legislative session called under this section may not exceed the number of natural days available under the constitution which have not been used by that legislative assembly. The ~~council~~ legislative executive committee may exercise this authority, and the legislative assembly shall meet, regardless of whether the motion to close the regular session of the legislative assembly was to recess to a time certain, adjourn to a time certain, or adjourn sine die.

**SECTION 71. AMENDMENT.** Section 54-35-17 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-17. Retention of legal counsel.** When the legislative assembly is in session, either house by resolution may authorize, or both houses by concurrent resolution may direct, the legislative council to appoint or retain legal counsel to appear in, commence, prosecute, defend, or intervene in any action, suit, matter, cause, or proceeding in any court or agency when ~~deemed~~ determined necessary or advisable to protect the official interests of the legislative branch. When the legislative assembly is not in session, the legislative ~~council~~ executive committee, by a majority vote, may authorize the legislative council to appoint or retain legal counsel to appear in, commence, prosecute, defend, or intervene in any action, suit, matter, cause, or proceeding in any court or agency when ~~deemed~~ determined necessary or advisable to protect the official interests of the legislative branch. Section 54-12-08 does not apply to a person appointed or retained under this section.

**SECTION 72. AMENDMENT.** Section 54-35-18 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-18. (Effective through August 1, 2011) Energy development and transmission committee.** The legislative ~~council~~ executive committee, during each biennium, shall appoint an energy development and transmission committee in the same manner as the ~~council~~ legislative executive committee appoints other interim committees. The ~~council~~ legislative executive committee shall appoint six members of the house of representatives, four of whom must be from the majority political party and two of whom must be from the minority political party, and six members of the senate, four of whom must be from the majority political party and two of whom must be from the minority political party. The chairman of the legislative ~~council~~ executive committee shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative ~~council~~ executive committee interim committees. The committee shall study the impact of a comprehensive energy policy for the state and the development of each facet of the energy industry, from the obtaining of the raw natural resource to the sale of the final product in this state, other states, and other countries. The study may include the review of and recommendations relating to policy affecting extraction, generation, processing, transmission, transportation, marketing, distribution, and use of energy, and the taxation of shallow gas to reduce energy costs for all North Dakota residents.

**SECTION 73. AMENDMENT.** Section 54-35-22 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-22. Workers' compensation review committee.**

1. During each interim, a legislative ~~council~~ executive committee's interim workers' compensation review committee must be appointed as follows: two members of the senate appointed by the majority leader of the senate of the legislative assembly; one member of the senate appointed by the minority leader of the senate of the legislative assembly; two members of the house of representatives appointed by the majority leader of the house of representatives; and one member of the house of representatives appointed by the minority leader of the house of representatives. The chairman of the legislative ~~council~~ executive committee shall designate the chairman of the committee. The committee shall operate according to the laws and procedures governing the operation of other legislative ~~council~~ executive committee interim committees. The committee may recommend legislation relating to workers' compensation. The committee shall meet once each calendar quarter or less often if the committee chairman determines a meeting that quarter is not necessary because there are no claims to review.
2. The committee shall review workers' compensation claims that are brought to the committee by injured workers for the purpose of determining whether

changes should be made to the laws relating to workers' compensation. A claim may not be reviewed by the committee unless workforce safety and insurance has issued a final determination and either the injured worker has exhausted the administrative and judicial appeals process or the period for appeal has expired. In order for the committee to review a claim, the injured worker must first sign a release of information for constituent authorization to allow the committee and legislative council ~~staff~~ to review the injured worker's workforce safety and insurance records and to allow the committee members and workforce safety and insurance representatives to discuss the records in an interim committee hearing. Notwithstanding any open meeting requirements, except as otherwise provided under this section, the workforce safety and insurance records of an injured worker whose case is reviewed by the committee are confidential. However, pursuant to the constituent's authorization, information contained in the records may be discussed by the committee members and workforce safety and insurance representatives in an interim committee hearing.

3. The committee shall accept testimony of an injured worker and of a representative designated by the injured worker. After the committee has received the testimony of the injured worker and the injured worker's representative, the committee shall request that workforce safety and insurance provide testimony.

**SECTION 74. AMENDMENT.** Section 54-35-23 of the North Dakota Century Code is amended and reenacted as follows:

**54-35-23. (Effective through July 31, 2009) Committee on tribal and state relations - Membership - Duties.**

1. The committee on tribal and state relations is composed of seven members as follows:
  - a. The chairman of the legislative ~~council~~ executive committee or the chairman's designee;
  - b. Three members of the house of representatives, two of whom must be selected by the leader representing the majority faction of the house of representatives and one of whom must be selected by the leader representing the minority faction of the house of representatives; and
  - c. Three members of the senate, two of whom must be selected by the leader representing the majority faction of the senate and one of whom must be selected by the leader representing the minority faction of the senate.
2. The chairman of the legislative ~~council~~ executive committee or the chairman's designee, shall serve as chairman of the committee.
3. The committee shall meet at such times and places as determined by the chairman. The legislative council shall provide staffing for the committee.
4. The committee shall conduct joint meetings with the native American tribal citizens' task force to study tribal-state issues, including government-to-government relations, the delivery of services, case management services, child support enforcement, and issues related to the promotion of economic development. After the joint meetings have concluded, the committee shall meet to prepare a report on its findings and recommendations, together with any legislation required to implement those recommendations, to the legislative ~~council~~ executive committee.
5. The members of the committee are entitled to compensation from the legislative council for attendance at committee meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.
6. a. The native American tribal citizens' task force is composed of six members as follows:

- (1) The executive director of the Indian affairs commission, or the executive director's designee;
  - (2) The chairman of the Standing Rock Sioux Tribe, or the chairman's designee;
  - (3) The chairman of the Spirit Lake Tribe, or the chairman's designee;
  - (4) The chairman of the Three Affiliated Tribes, or the chairman's designee;
  - (5) The chairman of the Turtle Mountain Band of Chippewa Indians, or the chairman's designee; and
  - (6) The chairman of the Sisseton-Wahpeton Sioux Tribe, or the chairman's designee.
- b. If the executive director of the Indian affairs commission or any of the tribal chairmen appoint a designee to serve on the task force, only one individual may serve as that designee during the biennium. A substitute designee may be appointed by the executive director of the Indian affairs commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee.

**SECTION 75. AMENDMENT.** Section 54-35.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-35.2-01. Advisory commission on intergovernmental relations - Membership - Terms - Meetings.**

1. The advisory commission on intergovernmental relations consists of twelve members:
  - a. The North Dakota league of cities executive committee shall appoint two members of the commission.
  - b. The North Dakota association of counties executive committee shall appoint two members of the commission.
  - c. The North Dakota township officers association executive board of directors shall appoint one member of the commission.
  - d. The North Dakota recreation and park association executive board shall appoint one member of the commission.
  - e. The North Dakota school boards association board of directors shall appoint one member of the commission.
  - f. The governor or the governor's designee is a member of the commission.
  - g. The legislative ~~council~~ executive committee shall appoint four members of the legislative assembly as members of the commission.
2. The legislative ~~council~~ executive committee shall designate the chairman and vice chairman of the commission.
3. All members of the commission shall serve for a term of two years, beginning July first of each odd-numbered year, and may be reappointed for additional terms.
4. If any member of the commission resigns or ceases to be a member of the class the member represents, that person's membership on the commission ceases immediately and the appropriate appointing authority may appoint a new member for the remainder of the term.
5. The commission shall meet at least semiannually.

**SECTION 76. AMENDMENT.** Section 54-35.2-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-35.2-02. Functions and duties.** The advisory commission on intergovernmental relations shall:

1. Serve as a forum for the discussion of resolution of intergovernmental problems.
2. Engage in activities and studies relating to the following subjects:
  - a. Local governmental structure.
  - b. Fiscal and other powers and functions of local governments.
  - c. Relationships between and among local governments and the state or any other government.
  - d. Allocation of state and local resources.
  - e. Interstate issues involving local governments, including cooperation with appropriate authorities of other states.
  - f. Statutory changes required to implement commission recommendations.
3. Present reports and recommended legislative bills to the legislative ~~council~~ executive committee for consideration in the same manner as ~~interim legislative council~~ interim legislative executive committee committees.
4. Prepare model ordinances or resolutions for consideration by officials of political subdivisions.

**SECTION 77. AMENDMENT.** Section 54-35.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-35.2-04. Finances.**

1. A member of the advisory commission on intergovernmental relations who is a member of the legislative assembly is entitled to receive, from funds available to the commission, compensation per day for each day spent in attendance at commission meetings in the same amount as provided for members of the legislative ~~council~~ executive committee and reimbursement for travel and other necessary expenses incurred in the performance of official duties in the amounts provided by law for other state officers. Members of the advisory commission on intergovernmental relations who are appointed by an organization representing political subdivisions may be reimbursed for attendance at commission meetings by the organization by which they were appointed.
2. The commission may apply for, contract for, receive, and expend for its purposes any appropriation or grant from any public or private source.
3. Political subdivisions of the state may appropriate funds to the commission to share in the cost of its operations.

**SECTION 78. AMENDMENT.** Section 54-35.2-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-35.2-05. Reports.** The advisory commission on intergovernmental relations shall report its findings and recommendations and any proposed legislation necessary to implement the recommendations to the legislative ~~council~~ executive committee at the time and in the manner reports are made by interim committees of the legislative ~~council~~ executive committee. The legislative ~~council~~ executive committee may accept, reject, or amend the report of the advisory commission on intergovernmental relations. The legislative ~~council~~ executive committee shall include the report, or any portion of it, as accepted, rejected, or amended, in the ~~council's~~ legislative executive committee's final report. Copies of the report of the advisory commission on intergovernmental relations, as accepted, rejected, or amended by the legislative ~~council~~ executive

committee, must be available to counties, cities, townships, appropriate state departments and agencies, and the public.

**SECTION 79. AMENDMENT.** Subsection 3 of section 54-40-01 of the North Dakota Century Code is amended and reenacted as follows:

3. An agency, department, or institution of this state may enter an agreement with the state of South Dakota to form a bistate authority to jointly exercise any function that the entity is authorized by law to perform. Any agreement entered under this subsection must be submitted to the legislative assembly or, if the legislative assembly is not in session, to the legislative ~~council or a executive committee designated by the legislative council~~ for approval or rejection and may not become effective until approved by the legislative assembly or the legislative ~~council~~ executive committee.

**SECTION 80. AMENDMENT.** Section 54-44.1-12.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-12.1. Implementation of legislative intent - Legislative objection to execution of budget - Effect of objection.**

1. The budget section of the legislative ~~council~~ executive committee may object to any allotment made under section 54-44.1-12, any expenditure of a budget unit, or any failure to make an allotment or expenditure if the budget section ~~deems~~ determines that the allotment or expenditure or the failure to make an allotment or expenditure is contrary to legislative intent as recorded in any reliable legislative records. The budget section shall file that objection in certified form ~~in the office of~~ with the legislative council. The filed objection must contain a concise statement of the budget section's reasons for the objection.
2. The ~~office of the~~ legislative council shall attach to each objection a certification of the time and date of the filing of the objection and, as soon as possible, shall transmit a copy of the objection and the certification to the director of the budget and the affected budget unit. The ~~office of the~~ legislative council shall maintain a permanent register of all objections under this section.
3. Within fourteen days after the filing of an objection, the affected budget unit shall respond in writing to the budget section. After receipt of that response, the budget section may withdraw or modify its objection.
4. After the filing of an objection, the burden of persuasion is upon the budget unit in any action for judicial review of whether the allotment or expenditure or the failure to make an allotment or expenditure is contrary to law. If the budget unit fails to meet its burden of persuasion, the court shall render judgment against the budget unit for court costs. These court costs must include reasonable attorney's fees and must be payable from the appropriation of the budget unit.

**SECTION 81. AMENDMENT.** Section 54-52.1-08.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.** If the board determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative ~~council's~~ executive committee's employee benefits programs committee. The board may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the board under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

**SECTION 82. AMENDMENT.** Section 54-55-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-55-01. Commission on uniform state laws - Membership.** The commission on uniform state laws consists of an individual engaged in the practice of

law in this state, the dean or a full-time member of the faculty of the law school of the university of North Dakota, a law-trained judge of a court of record in this state, a member of the house of representatives and a member of the senate of the legislative assembly, and a member of the legislative council ~~staff~~. The commission also consists of any residents of this state who, because of long service in the cause of uniformity of state legislation, have been elected life members of the national conference of commissioners on uniform state laws, and may also consist of any residents of this state who have been previously appointed to at least five years of service on the commission. Commissioners, except the members of the legislative assembly, the member of the legislative council ~~staff~~, and life members, must be appointed by the governor for terms of four years each, commencing on the first day of September following each presidential election, and shall serve until their respective successors are appointed. The members of the legislative assembly on the commission must be appointed by the legislative ~~council~~ executive committee for a term not to exceed four years as prescribed by the legislative ~~council~~ executive committee, and the member of the legislative council ~~staff~~ must be appointed by the chairman of the legislative ~~council~~ executive committee.

**SECTION 83. AMENDMENT.** Section 54-55-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-55-04. Duties of commissioners and commission.** Each commissioner shall attend the annual meeting of the national conference of commissioners on uniform state laws and shall promote uniformity in state laws on those subjects where uniformity may be deemed desirable and practicable. The commission shall also promote as far as practicable the uniform judicial application and construction of all uniform state laws. During the interim between legislative sessions, the commission may submit its recommendations for enactment of uniform and model laws to the legislative ~~council~~ executive committee for its review and recommendation. Commissioners shall provide such assistance to the legislative ~~council~~ executive committee as the legislative ~~council~~ executive committee requests with respect to its review of uniform and model laws. During each biennial legislative session, and at any other time as the commission may deem proper, the commission shall report to the legislative assembly an account of its transactions and its advice and recommendations for legislation. The report must include the recommendations of the legislative ~~council~~ executive committee with respect to uniform and model laws recommended by the commission.

**SECTION 84. AMENDMENT.** Section 54-58-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-58-03. Tribal-state gaming compact - Creation, renewals, and amendments.** The governor or the governor's designee may represent the state in any gaming negotiation in which the state is required to participate pursuant to 25 U.S.C. 2701 et seq. by any federally recognized Indian tribe and, on behalf of the state, may execute a gaming compact between the state and a federally recognized Indian tribe, subject to the following:

1. If the legislative assembly is not in session at the time gaming negotiations are being conducted, the chairman and vice chairman of the legislative ~~council~~ executive committee or the designee of the chairman or vice chairman may attend all negotiations and brief the legislative ~~council~~ executive committee on the status of the negotiations.
2. If the legislative assembly is in session at the time negotiations are being conducted, the majority and minority leaders of both houses, or their designees, may attend all negotiations and brief their respective houses on the status of the negotiations.
3. The compact may authorize an Indian tribe to conduct gaming that is permitted in the state for any purpose by any person, organization, or entity.
4. For the purposes of this chapter, the term "gaming that is permitted in the state for any purpose by any person, organization, or entity" includes any game of chance that any Indian tribe was permitted to conduct under a tribal-state gaming compact that was in effect on August 1, 1997.
5. The compact may not authorize gaming to be conducted by an Indian tribe at any off-reservation location not permitted under a tribal-state gaming compact in effect on August 1, 1997, except that in the case of the

tribal-state gaming compact between the Turtle Mountain Band of Chippewa and the state, gaming may be conducted on land within Rolette County held in trust for the Band by the United States government which was in trust as of the effective date of the Indian Gaming Regulatory Act of 1988 [Pub. L. 100-497; 102 Stat. 2467; 25 U.S.C. 2701 et seq.].

6. The compact may not obligate the state to appropriate state funds; provided, however, the state may perform services for reimbursement.
7. The negotiations between the tribe and the state must address the possibility of a mutual effort of the parties to address the issue of compulsive gambling.
8. If the legislative assembly is not in session when the negotiations are concluded, the governor shall forward a copy of the compact as finally negotiated to each member of the legislative ~~council~~ executive committee at least twenty-one days before the compact is signed.
9. If the legislative assembly is in session when the negotiations are concluded, the governor shall forward a copy of the compact as finally negotiated to each member of the legislative assembly at least twenty-one days before the compact is signed.
10. Before execution of any proposed tribal-state gaming compact or amendment thereto, the governor shall conduct one public hearing on the proposed compact or amendment.

**SECTION 85. AMENDMENT.** Section 54-59-07 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-07. State information technology advisory committee.** The state information technology advisory committee consists of the chief information officer; the commissioner of higher education or the commissioner's designee; the attorney general or the attorney general's designee; the secretary of state or the secretary of state's designee; the tax commissioner or the commissioner's designee; the chief justice of the supreme court or the chief justice's designee; two members of the legislative assembly appointed by the legislative ~~council~~ executive committee; a minimum of eight members representing state agencies, appointed by the governor; and two members with technology management expertise representing private industry, appointed by the governor. The appointees of the governor serve at the pleasure of the governor. The governor shall designate the chairman of the committee. Additional members may be asked to participate at the request of the chairman. The department shall provide staff services to the committee. The members of the committee representing private industry are entitled to be compensated for time spent in attendance at meetings of the committee and for other travel as approved by the chairman of the committee at the rate of sixty-two dollars and fifty cents per day and are entitled to reimbursement for actual and necessary expenses incurred in the same manner as other state officials. The compensation and expenses are to be paid from appropriations for the department. The committee shall advise the department regarding statewide information technology planning and budgeting, services of the information technology department, and statewide information technology initiatives and policy and shall review reports on major information technology projects as required by this chapter and policies, standards, and guidelines developed by the department. The chief information officer shall submit recommendations of the committee regarding information technology issues to the information technology committee for its consideration.

**SECTION 86. AMENDMENT.** Section 54-59-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-11. Information technology plans.** Each executive branch state agency or institution, excluding the institutions under the control of the board of higher education, shall prepare an information technology plan, subject to acceptance by the department. The plan must be submitted to the department by July fifteenth of each even-numbered year. The plan must be prepared based on guidelines developed by the department; must provide the information technology goals, objectives, and activities of the entity for the current biennium and the next two bienniums; and must include an asset management plan relating to the inventory of information technology assets owned, leased, or employed by the entity. Each entity required to file a plan shall provide interim updates to its plan if major information technology changes occur which affect its plan. The department shall review each entity's plan for compliance with

statewide information technology policies and standards and may require an entity to change its plan to comply with statewide policies or standards or to resolve conflicting directions among plans. Agencies of the judicial and legislative branches shall file their information technology plans with the department by July fifteenth of each even-numbered year. Each entity required to file a plan shall prepare its budget request for the next biennium based on its information technology plan. The agency's budget request and the governor's budget recommendation must include supporting information describing in detail how the information technology plan relates to the budget request and recommendation. Any budget adjustment by the budget office must include the corresponding change to the plan. Based on the plans, the department shall prepare a statewide information technology plan and distribute copies of that plan to members of the legislative assembly as requested by the legislative council ~~or its designee~~. The statewide information technology plan must be developed with emphasis on long-term strategic goals, objectives, and accomplishments. The statewide information technology plan must contain:

1. A list of major projects started, ongoing, and completed during the biennium, including related budgeted and actual costs and the estimated implementation date for each project as well as the actual implementation date for completed projects.
2. Information regarding evaluations of cost-benefit analyses for completed projects.
3. Information regarding the information technology plans, including the department's plan review process, the number of plans reviewed, and the number of plans accepted.
4. A description of the benefits to the state resulting from its investment in information technology.

**SECTION 87. AMENDMENT.** Section 54-59-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-12. Coordination of activities - Reports.** The department shall cooperate with each state entity providing access to any computer data base or electronically filed or stored information under subsection 4 of section 44-04-18 to assist in providing economical, efficient, and compatible access. The chief information officer shall conduct conferences and meetings with political subdivisions to review and coordinate information technology. The chief information officer and the commissioner of the board of higher education shall meet at least twice each year to plan and coordinate their information technology. The chief information officer and commissioner shall consider areas in which joint or coordinated information technology may result in more efficient and effective state government operations. Upon request, the chief information officer shall report to the legislative ~~council or its designated executive committee~~ regarding the coordination of services with political subdivisions, and the chief information officer and commissioner shall report to the legislative ~~council or its designated executive committee~~ regarding their findings and recommendations.

**SECTION 88. AMENDMENT.** Section 54-59-23 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-23. Information technology projects - Reports.**

1. An executive, legislative, or judicial branch agency, except for institutions under the control of the state board of higher education, shall report to the state information technology advisory committee according to guidelines developed by the department and reviewed by the state information technology advisory committee regarding the plan for and status of any information technology project that is estimated to cost more than two hundred fifty thousand dollars.
2. During the life of the project, the agency shall notify the state information technology advisory committee if:
  - a. At a project milestone, the amount expended on project costs exceeds the planned budget for that milestone by twenty percent or more; or
  - b. At a project milestone, the project schedule extends beyond the planned schedule to attain that milestone by twenty percent or more.



3. A report under subsection 2 must specify corrective measures being undertaken to address any cost or time of completion issue. If the agency has not taken adequate corrective measures within ninety days after the report, the agency shall submit a report to the legislative ~~council's~~ executive committee's information technology committee regarding the project.
4. Upon completion of the project, the agency shall notify the state information technology advisory committee if:
  - a. The budget for the project exceeded the original budget by twenty percent or more; or
  - b. The final project completion date extended beyond the original project scheduled completion date by twenty percent or more.

**SECTION 89. AMENDMENT.** Subsection 10 of section 54-60-03 of the North Dakota Century Code is amended and reenacted as follows:

10. Shall report between the first and tenth legislative days of each regular legislative session to a standing committee of each house of the legislative assembly as determined by the legislative ~~council~~ executive committee and shall report annually to the foundation:
  - a. On the department's goals and objectives since the last report;
  - b. On the department's goals and objectives for the period until the next report;
  - c. On the department's long-term goals and objectives;
  - d. On the department's activities and measurable results occurring since the last report; and
  - e. On commerce benchmarks, including the average annual wage in the state, the gross state product exclusive of agriculture, and the number of primary sector jobs in the state;

**SECTION 90. AMENDMENT.** Section 54-60-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-60-11. Target industries - Report to ~~legislative council~~.** The commissioner shall identify target industries on which the commissioner shall focus economic development efforts. The commissioner shall designate one of these target industries as a special focus target industry. In identifying and updating target industries, the commissioner shall solicit the advice of the foundation and the North Dakota university system. The commissioner may contract for the services of a third party in identifying target industries. The commissioner shall report biennially to the legislative ~~council~~ executive committee. This report must include information regarding the process used and factors considered in identifying and updating the target industries, the specific tactics the department has used to specifically address the needs of the target industries, the unique tactics and the specific incentives the department has used to support the growth of the special focus target industry, and any recommended legislative changes necessary to better focus economic development services on these industries.

**SECTION 91. AMENDMENT.** Section 54-62-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-62-03. Advisory commission.** The advisory commission on faith-based and community initiatives is composed of seven members to include the following: the executive director of the department of human services or the director's designee; the director of the department of corrections and rehabilitation or the director's designee; two members of the legislative assembly, one of whom must be selected by the members of the legislative ~~council~~ executive committee representing the majority faction and one of whom must be selected by the members of the legislative ~~council~~ executive committee representing the minority faction; and three public members appointed by the governor, one of whom must represent a minority population. The term of office for the public members is three years. Of the first public members

appointed, one must be appointed for a term of one year, one must be appointed for a term of two years, and one must be appointed for a term of three years. No public member may be appointed to more than two consecutive terms. A chairman of the commission must be chosen annually from the membership of the commission by a majority of its members at the first meeting of the advisory commission each year. The advisory commission shall advise the director of the office of faith-based and community initiatives in the establishment of policy regarding matters affecting the faith-based and community organizations, including making recommendations concerning the future of existing state programs and initiatives. The advisory commission on faith-based and community initiatives shall report periodically to the governor and provide the governor with information and recommendations for the governor's consideration. The members of the advisory commission are entitled to mileage and expenses as provided by law for state officers and employees.

**SECTION 92. AMENDMENT.** Section 57-40.6-12 of the North Dakota Century Code is amended and reenacted as follows:

**57-40.6-12. Emergency services communications coordinating committee - Membership - Duties.**

1. The governing body of a city or county, which adopted a fee on assessed communications services under this chapter, shall make an annual report of the income, expenditures, and status of its emergency services communication system. The annual report must be submitted to the emergency services communications coordinating committee. The committee is composed of three members, one appointed by the North Dakota 911 association, one appointed by the North Dakota association of counties, and one appointed by the adjutant general to represent the division of state radio.
2. The committee shall:
  - a. Recommend to the legislative ~~council~~ executive committee changes to the operating standards for emergency services communications, including training or certification standards for dispatchers;
  - b. Develop guidelines regarding the allowable uses of the fee revenue collected under this chapter;
  - c. Request, receive, and compile reports from each governing body on the use of the proceeds of the fee imposed under this chapter, analyze the reports with respect to the guidelines, file its report with the legislative council by November first of each even-numbered year regarding the use of the fee revenue, and recommend to the legislative assembly the appropriate maximum fee allowed by section 57-40.6-02; and
  - d. Periodically evaluate chapter 57-40.6 and recommend changes to the legislative ~~council~~ executive committee.
3. The committee may initiate and administer statewide agreements among the governing bodies of the local governmental units with jurisdiction over an emergency 911 telephone system to coordinate the procurement of equipment and services, fund the research, administration, and activities of the committee, and contract for the necessary staff support for committee activities.

**SECTION 93. AMENDMENT.** Section 61-24-04 of the North Dakota Century Code is amended and reenacted as follows:

**61-24-04. Compensation of directors.** Each member of the board of directors of the district is entitled to receive as compensation from the district an amount determined by the board of directors not to exceed the amount provided for members of the legislative ~~council~~ executive committee under section 54-35-10 per day and must be reimbursed for the member's expenses in the amounts provided in sections 44-08-04 and 54-06-09 while attending meetings of the board or otherwise engaged in the official business of the district.

**SECTION 94. AMENDMENT.** Section 61-24.5-04 of the North Dakota Century Code is amended and reenacted as follows:

**61-24.5-04. Board of directors - Officers - Meetings - Compensation.** The authority must be governed by a board of directors who must be chosen in accordance with this chapter. One director must be elected from each county within the authority, and two directors must be elected in the city of Dickinson. The director from Stark County may not be a resident of the city of Dickinson. The board shall elect from the directors a chairman, vice chairman, and secretary. A majority of the directors constitutes a quorum for the purpose of conducting the business of the board. The board shall meet at the time and place designated by the secretary. Board members are entitled to receive as compensation an amount determined by the board not to exceed the amount per day provided members of the legislative ~~council~~ executive committee under section 54-35-10 and must be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09.

**SECTION 95. AMENDMENT.** Section 65-02-30 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-30. Independent performance evaluation - Organization development of performance measurements - Continuing appropriation.** Biennially, the director shall request the state auditor to select a firm with extensive expertise in workforce safety and insurance practices and standards to complete a performance evaluation of the functions and operations of the organization during that biennium. This may not be construed to require the firm to be a certified public accounting firm. As determined necessary by the state auditor, but at least once every other biennium, the biennial independent performance evaluation must evaluate departments of the organization to determine whether the organization is providing quality service in an efficient and cost-effective manner; evaluate the effectiveness of safety and loss prevention programs under section 65-03-04; and evaluate the board to determine whether the board is operating within section 65-02-03.3 and within the board's bylaws. The firm's report must contain recommendations for departmental improvement or an explanation of why no recommendations are being made. The director, the chairman of the board, and a representative of the firm shall present the evaluation report and any action taken to the legislative ~~council's~~ executive committee's legislative audit and fiscal review committee and to the house and senate industry, business and labor standing committees during the next regular session of the legislative session following the performance evaluation. The director shall provide a copy of the performance evaluation report to the state auditor. The organization shall develop and maintain comprehensive, objective performance measurements. These measurements must be evaluated as part of the independent performance evaluation performed under this section. Money in the workforce safety and insurance fund is appropriated on a continuing basis for the payment of the expense of conducting the performance evaluation.

**SECTION 96. AMENDMENT.** Section 65-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

**65-06.2-09. Safety and performance audit.** The organization shall perform a safety audit of the roughrider industries work programs covered under this chapter and a performance audit of the program of modified workers' compensation coverage. The organization shall submit a report with recommendations based on the safety and performance audit to ~~an interim committee designated by~~ the legislative council no later than thirty days before the commencement of each regular session of the legislative assembly.

**SECTION 97.** The legislative council may replace "chairman of the legislative council" or "legislative council chairman" with "chairman of the legislative executive committee" in North Dakota Century Code sections 4-05.1-16, 4-35-30, 14-09-09.7, 15-10.2-02, 15-52-03, 15.1-27-41, 16.1-13-10, 20.1-16-02, 24-02-37.2, 27-05.2-09, 44-02-02, 53-12.1-04, 54-03-20, 54-06-25, 54-35-20, 54-35-24, 54-61-01, and 57-39.4-31 and in any other provisions of the code.

**SECTION 98.** The legislative council may replace "budget section of the legislative council" or "legislative council's budget section" with "budget section of the legislative executive committee" in North Dakota Century Code sections 15-03-04, 15-10-12.1, 15-10-12.3, 15-69-02, 15-69-05, 17-02-01, 20.1-02-05.1, 25-04-02.2, 40-23-22.1, 40-63-07, 47-30.1-24.1, 48-01.2-25, 50-06-05.1, 54-14-03.1, 54-16-04, 54-16-04.1, 54-16-04.2, 54-16-09, 54-23.3-09, 54-27-22, 54-27-23, 54-27.2-03, 54-44-04, 54-44-16, 54-44.1-13.1, 54-59-05, 57-38-01.29, 57-38-01.30, 65-04-03.1, and 65-08.1-02 and in any other provisions of the code.

**SECTION 99. REPEAL.** Section 49-21-22.2 of the North Dakota Century Code, is repealed."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1461, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1461 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "the" with "an"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1503, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO NOT PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1503 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1554, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1554 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 amend and reenact section 40-47-01.1 of the North Dakota Century Code, relating to extraterritorial zoning jurisdiction of cities; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Section 40-47-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**40-47-01.1. (Effective through July 31, 2009) Extraterritorial zoning - Mediation - Determination by administrative law judge.**

1. A city may, by ordinance, extend the application of a city's zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within the following distance of the corporate limits of the city:
  - a. One-half mile [.80 kilometer] if the city has a population of fewer than five thousand.
  - b. One mile [1.61 kilometers] if the city has a population of five thousand or more, but fewer than twenty-five thousand.
  - c. Two miles [3.22 kilometers] if the city has a population of twenty-five thousand or more.
2. Subject to subsections 5 and 6, a city, by ordinance, may extend the application of the city's zoning regulations to two times the distance allowed under subdivisions a, b, and c of subsection 1 if the extension is approved by at least five of six members of a committee established to review the proposed extension. The committee must consist of three members appointed by the governing body of the city and three members appointed, jointly, by the governing bodies of any political subdivision that is exercising zoning authority within the territory to be extraterritorially zoned.
3. If a quarter quarter section line divides a platted lot and the majority of that platted lot lies within the quarter quarter section, a city may apply its extraterritorial zoning authority to the remainder of that platted lot. If the majority of the platted lot lies outside the quarter quarter section, the city may not apply its extraterritorial zoning authority to any of that platted lot.

4. A city exercising its extraterritorial zoning authority shall hold a zoning transition meeting if the territory to be extraterritorially zoned is currently zoned. The city's zoning or planning commission shall provide at least fourteen days' notice of the meeting to the zoning board or boards of all political subdivisions losing their partial zoning authority. The purpose of the zoning transition meeting is to review existing zoning rules, regulations, and restrictions currently in place in the territory to be extraterritorially zoned and to plan for an orderly transition. The zoning transition meeting must take place before the city's adoption of an ordinance exercising extraterritorial zoning.
5. If two or more cities have boundaries at a distance where there is an overlap of extraterritorial zoning authority under this section, the governing bodies of the cities may enter into an agreement regarding the extraterritorial zoning authority of each city. The agreement must be for a specific term and is binding upon the cities unless the governing bodies of the cities agree to amend or rescind the agreement or unless determined otherwise by an administrative law judge in accordance with this chapter. If a dispute arises concerning the extraterritorial zoning authority of a city and the governing bodies of the cities involved fail to resolve the dispute, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor, one member of the governing body of each city, and one member of the planning commission of each city who resides outside the corporate city limits. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile.
6. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the office of administrative hearings to appoint an administrative law judge to determine the extraterritorial zoning authority of the cities in the disputed area. A hearing may not be held until after at least two weeks' written notice has been given to the governing bodies of the cities involved in the dispute. At the hearing, the governor's appointee who mediated the meetings under subsection 4 shall provide information to the administrative law judge on the dispute between the cities involved and any proposed resolutions or recommendations made by a majority of the committee members. Any resident of, or person owning property in, a city involved in the dispute or the unincorporated territory that is the subject of the proposed extraterritorial zoning, a representative of such a resident or property owner, and any representative of a city involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge is binding upon all the cities involved in the dispute and remains effective until the governing bodies of the cities agree to a change in the zoning authority of the cities. The governing body of a city may request a review of a decision of an administrative law judge due to changed circumstances at any time ten years after the decision has become final. An administrative law judge shall consider the following factors in making a decision under this subsection:
  - a. The proportional extraterritorial zoning authority of the cities involved in the dispute;
  - b. The proximity of the land in dispute to the corporate limits of each city involved;
  - c. The proximity of the land in dispute to developed property in the cities involved;
  - d. Whether any of the cities has exercised extraterritorial zoning authority over the disputed land;
  - e. Whether natural boundaries such as rivers, lakes, highways, or other physical characteristics affecting the land are present;
  - f. The growth pattern of the cities involved in the dispute; and

- g. Any other factor determined to be relevant by the administrative law judge.
- 7. For purposes of this section, the population of a city must be determined by the last official regular or special federal census. If a city has incorporated after a census, the population of the city must be determined by a census taken in accordance with chapter 40-22.
- 8. When a portion of the city is attached to the bulk of the city by a strip of land less than one hundred feet [30.48 meters] wide, that portion and strip of land must be disregarded when determining the extraterritorial zoning limits of the city. This subsection does not affect the ability of a city to zone land within its city limits.
- 9. For the purposes of this section, a quarter quarter section shall be determined in the manner provided by 2 Stat. 313 [43 U.S.C. 752]. When appropriate, the phrase "quarter quarter section" refers to the equivalent government lot.

**(Effective after July 31, 2009) Extraterritorial zoning - Mediation - Determination by administrative law judge.**

- 1. A city may, by ordinance, extend the application of a city's zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within the following distance of the corporate limits of the city:
  - a. One mile [1.61 kilometers] if the city has a population of ~~less~~ fewer than five thousand. A city that has exercised its authority under this subdivision has joint zoning and subdivision regulation jurisdiction beyond one-half mile [.80 kilometer] with the political subdivision that would otherwise have jurisdiction.
  - b. Two miles [3.22 kilometers] if the city has a population of five thousand or more, but ~~less~~ fewer than twenty-five thousand. A city that has exercised its authority under this subdivision has joint zoning and subdivision regulation jurisdiction beyond one mile [1.61 kilometers] with the political subdivision that would otherwise have jurisdiction.
  - c. Four miles [6.44 kilometers] if the city has a population of twenty-five thousand or more. A city that has exercised its authority under this subdivision has joint zoning and subdivision regulation jurisdiction beyond two miles [3.22 kilometers] with the political subdivision that would otherwise have jurisdiction.
- 2. The zoning and subdivision regulations of the city govern the entire extraterritorial area assumed by the city.
- 3. An application for a zoning change or subdivision plat or any change in zoning or subdivision regulation in an area of joint jurisdiction must be submitted to the governing body of the city. Upon receipt of the application, the governing body of the city shall notify the governing body that would otherwise have jurisdiction and provide that body with a copy of the application. After the governing body of the city takes action on the application, the governing body that would otherwise have jurisdiction has fifteen days to object to the city's decision or the decision becomes final. If the governing body that would otherwise have jurisdiction objects, the governing body of the city shall submit the issue to the board of county commissioners for a final decision. The board of county commissioners shall make a final decision and issue findings based on the record and the comprehensive plans on file from the city, township, and county.
- 4. If a quarter quarter section line divides a platted lot and the majority of that platted lot lies within the quarter quarter section, a city may apply its extraterritorial zoning authority to the remainder of that platted lot. If the majority of the platted lot lies outside the quarter quarter section, the city may not apply its extraterritorial zoning authority to any of that platted lot.

- 3- 5. A city exercising its extraterritorial zoning authority shall hold a zoning transition meeting if the territory to be extraterritorially zoned is currently zoned. The city's zoning or planning commission shall provide at least fourteen days' notice of the meeting to the zoning board or boards of all political subdivisions losing their partial zoning authority. The purpose of the zoning transition meeting is to review existing zoning rules, regulations, and restrictions currently in place in the territory to be extraterritorially zoned and to plan for an orderly transition. The zoning transition meeting must take place before the city's adoption of an ordinance exercising extraterritorial zoning.
- 4- 6. If two or more cities have boundaries at a distance where there is an overlap of extraterritorial zoning authority under this section, the governing bodies of the cities may enter into an agreement regarding the extraterritorial zoning authority of each city. The agreement must be for a specific term and is binding upon the cities unless the governing bodies of the cities agree to amend or rescind the agreement or unless determined otherwise by an administrative law judge in accordance with this chapter. If a dispute arises concerning the extraterritorial zoning authority of a city and the governing bodies of the cities involved fail to resolve the dispute, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor, one member of the governing body of each city, and one member of the planning commission of each city who resides outside the corporate city limits. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile.
- 5- 7. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies of all the cities involved, the governing body of any of the cities may petition the office of administrative hearings to appoint an administrative law judge to determine the extraterritorial zoning authority of the cities in the disputed area. A hearing may not be held until after at least two weeks' written notice has been given to the governing bodies of the cities involved in the dispute. At the hearing, the governor's appointee who mediated the meetings under subsection 4 6 shall provide information to the administrative law judge on the dispute between the cities involved and any proposed resolutions or recommendations made by a majority of the committee members. Any resident of, or person owning property in, a city involved in the dispute or the unincorporated territory that is the subject of the proposed extraterritorial zoning, a representative of such a resident or property owner, and any representative of a city involved, may appear at the hearing and present evidence on any matter to be determined by the administrative law judge. A decision by the administrative law judge is binding upon all the cities involved in the dispute and remains effective until the governing bodies of the cities agree to a change in the zoning authority of the cities. The governing body of a city may request a review of a decision of an administrative law judge due to changed circumstances at any time ten years after the decision has become final. An administrative law judge shall consider the following factors in making a decision under this subsection:
- a. The proportional extraterritorial zoning authority of the cities involved in the dispute;
  - b. The proximity of the land in dispute to the corporate limits of each city involved;
  - c. The proximity of the land in dispute to developed property in the cities involved;
  - d. Whether any of the cities has exercised extraterritorial zoning authority over the disputed land;
  - e. Whether natural boundaries such as rivers, lakes, highways, or other physical characteristics affecting the land are present;
  - f. The growth pattern of the cities involved in the dispute; and

- g. Any other factor determined to be relevant by the administrative law judge.
- 6- 8. For purposes of this section, the population of a city must be determined by the last official regular or special federal census. If a city has incorporated after a census, the population of the city must be determined by a census taken in accordance with chapter 40-22.
- 7- 9. When a portion of the city is attached to the bulk of the city by a strip of land less than one hundred feet [30.48 meters] wide, that portion and strip of land must be disregarded when determining the extraterritorial zoning limits of the city. This subsection does not affect the ability of a city to zone land within its city limits.
- 8- 10. For the purposes of this section, a quarter quarter section ~~shall be~~ is as determined in the manner provided by 2 Stat. 313 [43 U.S.C. 752]. When appropriate, the phrase "quarter quarter section" refers to the equivalent government lot.

**SECTION 2. EXPIRATION DATE.** This Act is effective through July 31, 2011, and after that date is ineffective."

Renumber accordingly

#### REPORT OF STANDING COMMITTEE

**HCR 3039, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3039 was placed on the Sixth order on the calendar.

Page 1, line 1, after "resolution" replace the remainder of the resolution with "urging the President and Congress to develop energy resources on the nation's Outer Continental Shelf, promote domestic energy production, and to not impose additional taxes on America's energy producers.

**WHEREAS**, the congressional moratorium on the Outer Continental Shelf ended on September 30, 2008; and

**WHEREAS**, Americans are suffering from highly volatile energy prices; and

**WHEREAS**, America needs a comprehensive energy policy that recognizes the roles that all forms of energy can play; and

**WHEREAS**, according to the United States Department of Interior, there are an estimated 86 billion barrels of oil and 420 trillion cubic feet of natural gas on the Outer Continental Shelves; and

**WHEREAS**, the nation's farming, ranching, and business sectors depend on a reliable and affordable supply of energy to run equipment, fertilize crops, and transport products to the market; and

**WHEREAS**, offshore oil drilling would create new jobs that often pay well above the national average; and

**WHEREAS**, production of oil and natural gas has brought billions of dollars in revenue to state and federal governments; and

**WHEREAS**, new drilling techniques and environmentally sound technologies have made drilling and production methods that practically eliminate spills from offshore platforms; and

**WHEREAS**, America's energy producers and North Dakota's oil and gas industry invest billions of dollars into research and development of new energy technologies to make exploration in the Outer Continental Shelf and the Bakken Shale Formation economical; and

**WHEREAS**, the administration's proposal of billions of dollars in new taxes on America's oil and gas industry will discourage investment in new energy technologies and exploration, resulting in a loss of jobs, and more price volatility in energy markets; and



**WHEREAS**, the imposition of a windfall profits tax, or the elimination of incentives to encourage energy production, on oil and natural gas companies will lead to decreased supply and increased prices; and

**WHEREAS**, safe and responsible development and production of domestic energy resources will provide economic benefits, enhance national security, reduce dependence on foreign sources of energy, and encourage research and development of new energy technologies;

**NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

That the Sixty-first Legislative Assembly strongly urges the President and Congress to explore and develop oil and natural gas resources in the Outer Continental Shelf, promote domestic energy production, and to not impose additional taxes on America's energy producers; and

**BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution to the President, the North Dakota Congressional Delegation, and the Majority and Minority Leaders of the United States House of Representatives and the United States Senate."

Renumber accordingly

The Senate stood adjourned pursuant to Senator Christmann's motion.

**Fran A. Gronberg, Secretary**

