

## JOURNAL OF THE SENATE

## Sixty-first Legislative Assembly

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Bismarck, April 7, 2009

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

The prayer was offered by Pastor Thomas R. Marcis, Jr., Zion Lutheran Church, Bismarck.

The roll was called and all members were present except Senator Marcellais.

A quorum was declared by the President.

## POINT OF PERSONAL PRIVILEGE

**SEN. O'CONNELL:** Mr. President: I rise on a point of personal privilege.

## REMARKS OF SENATOR O'CONNELL

**MR. PRESIDENT:** I stand today to congratulate the Minot State University-Bottineau ice hockey team. The Lumberjacks recently won the Men's National Junior College Athletic Association Ice Hockey Tournament in Saranac Lake, NY. This marks the team's third consecutive tournament win and their seventh in the college's history.

The Lumberjacks skated to a 4-1 victory over Buffalo, New York's Erie Community College in the finals, after previously winning 4-3 against Rochester, New York's Monroe Community College. Both of these upstate New York schools have enrollments in the tens of thousands, while MSU-Bottineau has an enrollment of just 655.

Lumberjack head coach Travis Rybchinski and his team deserve our congratulations for representing North Dakota and taking home the ultimate prize. Mr. President, on that hockey team, there are four different countries represented on that win, and eight of the team's players are from North Dakota. Travis was elected the tournament coach, Isaac Friesen was elected Most Valuable Player, and Colby Rehak, Danny Urban, and Joe Caruso made the All-Tournament team. Mr. President, we're extremely proud of them.

**The 2008-2009 MSU-Bottineau Lumberjacks:** Joe Caruso, Colby Rehak, Shawn Schindler, Collin McIntee, Chris Anderson, Mark Henke, Matt Klockman, Kenny Lybeck, Shawn Saylor, Jared McIntosh, Pierre Sorenson, Daylan Laramée, Jacob Oster, Nick Porchelta, Justin Heth, Jared Shumaier, Michael Dufek, Jed Johnson, Derek DuBois, Danny Urban, Delaney Nicol-Samuel, Isaac Friesen. **Head Coach and Coach of the Tournament:** Travis Rybchinski. **Assistant Coaches:** Ron Gullet, Jeremy Tweed. **Most Valuable Player of the Tournament:** Isaac Friesen. **All-Tournament Team:** Colby Rehak, Danny Urban, Joe Caruso.

## REQUEST

**SEN. O'CONNELL REQUESTED** that his remarks be printed in the Journal, which request was granted.

## MOTION

**SEN. CHRISTMANN MOVED** that HB 1053 be placed after HB 1436 on the calendar, which motion prevailed.

## CONSIDERATION OF AMENDMENTS

**SB 2441: SEN. TRIPLETT (Finance and Taxation Committee) MOVED** that the amendments on SJ page 1033 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

## SECOND READING OF SENATE BILL

**SB 2441:** A BILL for an Act to amend and reenact section 40-23-07 of the North Dakota Century Code, relating to treatment of nonprofit cemetery property for special assessment purposes; to provide a statement of legislative intent; to provide an effective date; and to declare an emergency.

## ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 45 YEAS, 0 NAYS, 0 EXCUSED, 2 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; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Marcellais; Mathern

SB 2441, as amended, passed and the title was agreed to.

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#### REQUEST

**SEN. MATHERN REQUESTED** that the record show that he intended to vote "YEA" on SB 2441, which request was granted.

#### CONSIDERATION OF AMENDMENTS

**HB 1010, as engrossed: SEN. WARDNER (Appropriations Committee) MOVED** that the amendments on SJ pages 1003-1005 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion failed.

#### MOTION

**SEN. WARDNER MOVED** that Engrossed HB 1010 be placed on the Fourteenth order for immediate second reading, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1010:** A BILL for an Act to provide an appropriation for defraying the expenses of the insurance commissioner; to provide for fund transfers; to provide for making payments of insurance premiums tax collections to fire departments; to create and enact a new subsection to section 26.1-36-23 of the North Dakota Century Code, relating to the continuation of insurance; to amend and reenact section 26.1-01-09 of the North Dakota Century Code, relating to the commissioner's salary; and to declare an emergency.

#### MOTION

**SEN. WARDNER MOVED** that Engrossed HB 1010 be amended as follows, which motion prevailed on a voice vote.

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

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

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

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

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

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

Page 1, after line 17, insert:

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

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

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

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

Page 1, line 22, remove "Funding"

Page 1, remove line 23

Page 2, remove lines 19 through 24

Page 2, after line 30, insert:

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

- a. Notwithstanding any other provision of this section, an employee or member who does not have an election of continuation coverage as described in this section in effect on the effective date of the American Recovery and Reinvestment Act of 2009 [Pub. L. 111-5], but who would be an assistance-eligible individual under title III of division B of the Act if the election were in effect, may elect continuation coverage. The employer or the group policyholder shall provide employees or members with additional written notice of the right to elect coverage under this subsection within sixty days of the date of enactment of the American Recovery and Reinvestment Act of 2009 or within fourteen days of the effective date of this Act, whichever is later. The employee or member may make the election in writing no later than sixty days after the date the employer or the group policyholder provides the notice to the employee or member.
- b. Continuation coverage elected under this subsection commences with the first period of coverage beginning after February 16, 2009, and may not extend beyond the period of continuation coverage that would have been required if the coverage had instead been elected under subsection 4.
- c. The period beginning on the date that the employee or member was involuntarily terminated and ending when the continuation coverage starts must be disregarded for the purpose of determining whether a preexisting condition exclusion period applies.
- d. An employee or member electing continuation under this subsection shall pay to the group policyholder or the employer, on a monthly basis in advance, the amount of contribution required by the policyholder or employer, but not more than the group rate for the insurance being continued under the group policy on the due date of each payment. The employee's or member's written election of continuation, together with the contribution required to establish contributions on a monthly basis in advance, must be given to the policyholder or employer within thirty-one days of the date the employee's or member's election of continuation coverage.
- e. Continuation of insurance under this subsection terminates at the earlier of the date when the person fails to satisfy subsection 2 or when the person fails to satisfy any requirement of subsection 6.
- f. The notification described in subsection 7 is not required for continuation coverage elected under this subsection.
- g. Except as otherwise provided in this subsection, the provisions of this section apply to an employee or member electing continuation coverage.

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

Renumber accordingly

**HB 1010:** A BILL for an Act to provide an appropriation for defraying the expenses of the insurance commissioner; to provide for fund transfers; to provide for making payments of insurance premiums tax collections to fire departments; to create and enact a new subsection to section 26.1-36-23 of the North Dakota Century Code, relating to the continuation of insurance; to amend and reenact section 26.1-01-09 of the North Dakota Century Code, relating to the commissioner's salary; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 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; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Marcellais

Engrossed HB 1010, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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#### CONSIDERATION OF AMENDMENTS

**HB 1509, as engrossed: SEN. HOGUE (Natural Resources Committee) MOVED** that the amendments on SJ pages 1014-1015 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1509:** A BILL for an Act to create and enact a new section to chapter 17-04 of the North Dakota Century Code, relating to requirements for wind easement and wind energy leases; to provide a contingent effective date; and to declare an emergency.

#### REQUEST

**SEN. OLAFSON REQUESTED** that the Senate divide Engrossed HB 1509, which request was granted.

**DIVISION A:** Subdivision c of subsection 1 of section 1

**DIVISION B:** The remainder of HB 1509

The question being on the final adoption of Division A of Engrossed HB 1509, the motion passed on a verification vote.

Division A of Engrossed HB 1509 passed.

The question being on the final adoption of Division B of Engrossed HB 1509, the motion passed on a verification vote.

Division B of Engrossed HB 1509 passed.

#### 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 32 YEAS, 14 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Andrist; Bakke; Bowman; Christmann; Cook; Dever; Dotzenrod; Fischer; Flakoll; Freborg; Grindberg; Heckaman; Hogue; Horne; Kilzer; Krauter; Krebsbach; Lee, G.; Lyson; Mathern; Nething; Nodland; O'Connell; Pomeroy; Potter; Robinson; Schneider; Stenehjerm; Taylor; Wardner; Warner

**NAYS:** Behm; Erbele; Fiebiger; Holmberg; Klein; Lee, J.; Lindaas; Miller; Nelson; Oehlke; Olafson; Seymour; Triplett; Wanzek

**ABSENT AND NOT VOTING:** Marcellais

Engrossed HB 1509, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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#### CONSIDERATION OF AMENDMENTS

**HB 1324, as reengrossed and amended: SEN. HOGUE (Appropriations Committee) MOVED** that the amendments on SJ pages 1037-1059 be adopted and then be placed on the Fourteenth order with **DO PASS**.

#### MOTION

**SEN. KRAUTER MOVED** that Reengrossed HB 1324 be amended as follows:

In lieu of the amendments to Reengrossed House Bill No. 1324 as printed on pages 810-832 of the Senate Journal, Reengrossed House Bill No. 1324 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-38-01.29 and 57-38-01.30 of the North Dakota Century Code, relating to a homestead income tax credit and a commercial property income tax credit; to provide for a transfer; and to provide an effective date.

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

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

**57-38-01.29. Homestead income tax credit - Rules.**

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~~ 2009 and ~~2008~~ 2010 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.
2. For purposes of this section, "homestead" means the dwelling occupied by the individual as the individual's primary residence and, if that residence is in this state, any residential or agricultural property owned by that individual in this state.
3.
  - a. 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 individuals filing separate returns.
  - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
4. The amount of the credit under subsection 3 in excess of the taxpayer's tax liability may be carried forward for up to five years or the taxpayer may request that the tax commissioner issue the taxpayer a certificate in the amount of the excess which may be used by the taxpayer against property or mobile home tax liability of the taxpayer during the ensuing taxable year by delivering the certificate to the county treasurer in which the taxable property or mobile home is subject to taxes. The county treasurer shall forward certificates redeemed in payment of a tax obligation under this section to the tax commissioner, who shall issue payment to the county in the amount of the certificates.
5. Persons owning property together are entitled to only one credit for a parcel of property between or among them under this section. Persons owning property together are each entitled to a percentage of the credit for a single individual under this section equal to their ownership interests in the property.
6. This section is not subject to subsection 1 or 2 of section 57-38-45.
7. The tax commissioner shall adopt rules to provide for filing and verification of claims of credits under this section and for issuance and redemption of tax certificates under subsection 4.
8.
  - a. ~~If, on November 15, 2008, the total amount of tax credits claimed under this section exceeds forty-seven million dollars, the tax commissioner shall reduce the rate of the credit under subsection 1. The adjusted credit rate must be calculated by the tax commissioner as follows:~~

- ~~(1) The tax commissioner shall determine the percentage by which the credits claimed under this section exceeds forty seven million dollars.~~
- ~~(2) The difference between the number one and the amount calculated under paragraph 1 multiplied by ten percent is the adjusted credit rate for the 2008 taxable year.~~

~~b. The tax commissioner shall report any adjustment under this subsection to the budget section of the legislative council for review.~~

A partnership, subchapter S corporation, limited partnership, or limited liability company, or any other entity treated as a passthrough entity for federal income tax purposes must be considered to be the taxpayer for purposes of this section. The amount of the 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 2. AMENDMENT.** Section 57-38-01.30 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-01.30. Commercial property income tax credit - Rules.**

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~~ 2009 and ~~2008~~ 2010 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.
2. The amount of the credit under subdivisions a and c of subsection 1 in excess of the taxpayer's tax liability may be carried forward for up to five years.
3. Persons owning property together are entitled to only one credit for property between or among them under this section. Persons owning property together are each entitled to a percentage of the credit equal to their ownership interests in the property. Married individuals owning property together are each entitled to a percentage of the credit for a single individual under this section equal to their ownership interests in the property.
4. This section is not subject to subsection 1 or 2 of section 57-38-45.
5. A passthrough entity entitled to the credit under this section shall allocate the amount of the credit allowed with respect to the entity's property 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.
6. The tax commissioner shall adopt rules to provide for filing and verification of claims under this section.
- ~~7. a. If, on November 15, 2008, the total amount of credits claimed under this section exceeds seven million dollars, the tax commissioner shall reduce the cap that applies to the credit under subsection 1. The~~

~~adjusted credit cap must be calculated by the tax commissioner as follows:~~

- ~~(1) The tax commissioner shall determine the percentage by which the credits claimed under this section exceeds seven million dollars.~~
  - ~~(2) The difference between the number one and the amount calculated under paragraph 1 multiplied by the amount of the cap is the adjusted credit cap for the 2008 taxable year.~~
- ~~b. The tax commissioner shall report any proposed adjustment under this subsection to the budget section of the legislative council for approval.~~

**SECTION 3. TRANSFER.** During the biennium beginning July 1, 2009, and ending June 30, 2011, the state treasurer shall transfer \$115,000,000 from the permanent oil tax trust fund to the general fund.

**SECTION 4. EFFECTIVE DATE.** Sections 1 and 2 of this Act are effective for taxable years beginning after December 31, 2008."

Renumber accordingly

#### REQUEST

**SEN. KRAUTER REQUESTED** a verification vote on the adoption of the proposed floor amendments to Reengrossed HB 1324, which request was granted.

The proposed floor amendments to HB 1324 failed on a verification vote.

Therefore, the question being the adoption of the amendments to HB 1324 as printed on SJ pages 1037-1059, the proposed amendments to HB 1324 were adopted on a voice vote.

Reengrossed HB 1324, as amended, was placed on the Fourteenth order for immediate second reading.

#### SECOND READING OF HOUSE BILL

**HB 1324:** A BILL 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.

#### 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 33 YEAS, 13 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Andrist; Behm; Bowman; Christmann; Cook; Dever; Erbele; Fiebigler; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Horne; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lyson; Miller; Nelson; Nothing; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Stenehjelm; Wanzek; Wardner

**NAYS:** Anderson; Bakke; Dotzenrod; Heckaman; Krauter; Lindaas; Mathern; Robinson; Schneider; Seymour; Taylor; Triplett; Warner

**ABSENT AND NOT VOTING:** Marcellais

Reengrossed HB 1324, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1481: SEN. GRINDBERG (Appropriations Committee) MOVED** that the amendments on SJ page 1013 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1481:** A BILL for an Act providing an appropriation to the state historical society; and to provide legislative intent.

**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 43 YEAS, 3 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

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

**NAYS:** Bowman; Christmann; Klein

**ABSENT AND NOT VOTING:** Marcellais

HB 1481, as amended, passed and the title was agreed to.

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**CONSIDERATION OF AMENDMENTS**

**HB 1400, as engrossed and amended: SEN. HOLMBERG (Appropriations Committee) MOVED** that the amendments on SJ pages 1059-1084 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

**SECOND READING OF HOUSE BILL**

**HB 1400:** A BILL 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.

**MOTION**

**SEN. BAKKE MOVED** that Engrossed HB 1400 be amended as follows:

In lieu of the amendments adopted by the Senate as printed on pages 1059-1084 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, three new sections to chapter 15.1-37, and sections 15.1-37-02, 15.1-37-03, 15.1-37-04, 15.1-37-05, and 15.1-37-06 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 early childhood education; 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, 15.1-32-18, and 15.1-37-01 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, special education, and early childhood 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;
  - ~~e-~~ (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
  - ~~e-~~ (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.~~ 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.~~ 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. AMENDMENT.** Section 15.1-37-01 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-37-01. Early childhood education program - Approval.** Any person or school district operating an early childhood education program may request approval of the program from the superintendent of public instruction. The superintendent shall approve an early childhood education program if the program:

1. Is taught by individuals who are licensed to teach in early childhood education by the education standards and practices board;
2. Follows a developmentally appropriate curriculum; and
3. Is in compliance with all municipal and state health, fire, and safety requirements.

~~Per student funding will not be provided to individuals or school districts offering a prekindergarten program.~~

**SECTION 39.** Section 15.1-37-02 of the North Dakota Century Code is created and enacted as follows:

**15.1-37-02. Early childhood education program - Authority to operate.**

1. The board of a school district may operate an approved early childhood education program, provided the program is limited to students who are:
  - a. At least four years old by midnight, August thirty-first of the year of enrollment; and
  - b. Not enrolled in a public school kindergarten program.

2. The enrollment of a student in an early childhood education program is voluntary.

**SECTION 40.** Section 15.1-37-03 of the North Dakota Century Code is created and enacted as follows:

**15.1-37-03. Early childhood education program - Facilities.** A school district may operate an early childhood education program in a public school building if space is available or in any other setting that meets all local and state health, fire, and safety laws.

**SECTION 41.** Section 15.1-37-04 of the North Dakota Century Code is created and enacted as follows:

**15.1-37-04. Early childhood education program - Financial support.** The board of a school district may receive and expend any state or federal funds specifically appropriated for the support of an early childhood education program and any gifts, grants, and donations for that purpose. The board may not use any state funds appropriated for students in kindergarten, in grades one through twelve, or in early childhood special education programs to support an early childhood education program.

**SECTION 42.** Section 15.1-37-05 of the North Dakota Century Code is created and enacted as follows:

**15.1-37-05. Early childhood education program - Requirements.** To receive a grant for an early childhood education program operated under this chapter, a district shall:

1. Establish an early childhood education advisory council, in accordance with section 15.1-37-06;
2. Utilize an application process for the admission of students to the program;
3. Give admission priority to students who come from families with income levels that meet the eligibility requirements for free or reduced lunch programs;
4. Limit the size of each early childhood education class to twenty students;
5. Ensure that the adult-to-student ratio in each class does not exceed one to ten;
6. Provide a half-day or full-day program with a duration at least equal to ninety full days of instruction;
7. Admit only those students whose parents permit the collection and dissemination of data regarding the cognitive, physical, and social development of the student; and
8. Meet the criteria for program approval established in section 15.1-37-01.

**SECTION 43.** Section 15.1-37-06 of the North Dakota Century Code is created and enacted as follows:

**15.1-37-06. School district early childhood education advisory council - Establishment.**

1. The superintendent of each school district operating an early childhood education program shall establish an early childhood education advisory council consisting of at least:
  - a. The director of a head start program serving the school district, or the director's designee;
  - b. An individual who is a licensed child care or preschool provider located within the school district;
  - c. An individual who owns or operates a business located within the school district;

- d. The mayor of the city in which the school district is headquartered, or the mayor's designee; and
  - e. The parent of a child enrolled in the district's early childhood education program.
- 2. The superintendent, or the superintendent's designee, shall serve as the chairman.
- 3. The advisory council shall meet at the call of the chairman and shall provide advice and recommendations to the school district regarding matters such as coordination and cooperation with private sector early childhood education providers and head start programs, the admission of eligible children, opportunities to jointly address staff training needs, issues encountered by working families, communication and outreach services, facility usage, transportation, and any other matters that impact the provision of early childhood education services within the district.

**SECTION 44. APPROPRIATION - EARLY CHILDHOOD EDUCATION PROGRAM GRANTS.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$750,000, or so much of the sum as may be necessary, to the superintendent of public instruction for the purpose of providing grants to two school districts offering early childhood education programs, for the biennium beginning July 1, 2009, and ending June 30, 2011. The superintendent of public instruction shall distribute the grants during the second year of the biennium, according to the number of students each school district has in approved early childhood education programs. The grant payment per student may not exceed fifty percent of the per student payment rate established in section 15.1-27-04. The superintendent of public instruction may use up to \$25,000 of the amount appropriated by this section to cover administrative costs and monitoring expenses incurred as a result of the program.

**SECTION 45. 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 46. 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 47. 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 48. 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 49. 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 50. 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 51. 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 52. 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 53. 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 54. 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 55. 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 56. REPEAL.** Section 15.1-27-41 of the North Dakota Century Code is repealed.

**SECTION 57. EFFECTIVE DATE.**

1. Sections 13 and 14 of this Act become effective on July 1, 2010.
2. Section 56 of this Act becomes effective on December 31, 2010.
3. Section 24 of this Act becomes effective on July 1, 2011.

**SECTION 58. EXPIRATION DATE.** Section 32 of this Act is effective through June 30, 2010, and after that date is ineffective.

**SECTION 59. EMERGENCY.** Sections 32 and 52 of this Act are declared to be an emergency measure."

Renumber accordingly

**REQUEST**

**SEN. FLAKOLL REQUESTED** a recorded roll call vote on the motion to adopt the proposed amendments to Engrossed HB 1400, which request was granted.

**ROLL CALL**

The question being on the motion to adopt the proposed amendments to Engrossed HB 1400, the roll was called and there were 21 YEAS, 25 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Bakke; Behm; Dotzenrod; Fiebiger; Heckaman; Horne; Krauter; Lindaas; Mathern; Nelson; Nothing; O'Connell; Pomeroy; Potter; Robinson; Schneider; Seymour; Taylor; Triplett; Warner

**NAYS:** Andrist; Bowman; Christmann; Cook; Dever; Erbele; Fischer; Flakoll; Freborg; Grindberg; Hogue; Holmberg; Kilzer; Klein; Krebsbach; Lee, G.; Lee, J.; Lyson; Miller; Nodland; Oehlke; Olafson; Stenehjerm; Wanzek; Wardner

**ABSENT AND NOT VOTING:** Marcellais

The proposed amendments to Engrossed HB 1400 failed.

**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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 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; Mathern; Miller; Nelson; Nothing; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjerm; Taylor; Triplett; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Marcellais

Engrossed HB 1400, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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#### CONSIDERATION OF AMENDMENTS

**HB 1013, as engrossed: SEN. HOLMBERG (Appropriations Committee) MOVED** that the amendments on SJ pages 1033-1036 be adopted and then be placed on the Fourteenth order with **DO PASS**, which motion prevailed.

#### SECOND READING OF HOUSE BILL

**HB 1013:** A BILL for an Act to provide an appropriation for defraying the expenses of the department of public instruction, the school for the deaf, North Dakota vision services - school for the blind, and the state library; to provide an appropriation; to provide for the distribution of funding for gifted and talented programs and other grants; to provide a contingent appropriation; to provide for the development and implementation of a future services plan for the school for the deaf; to amend and reenact section 15.1-02-02 and subsection 6 of section 15.1-29-14 of the North Dakota Century Code, relating to the salary of the superintendent of public instruction and special education cost reimbursements; 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 46 YEAS, 0 NAYS, 0 EXCUSED, 1 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; Mathern; Miller; Nelson; Nething; Nodland; O'Connell; Oehlke; Olafson; Pomeroy; Potter; Robinson; Schneider; Seymour; Stenehjem; Taylor; Triplett; Wanzek; Wardner; Warner

**ABSENT AND NOT VOTING:** Marcellais

Engrossed HB 1013, as amended, passed, the title was agreed to, and the emergency clause was declared carried.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1370.

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

**MR. SPEAKER:** The Senate has amended and subsequently passed: HB 1324, HB 1481.

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

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

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

**MR. SPEAKER:** The Senate has amended and subsequently failed to pass: HB 1180.

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

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

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

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

#### HOUSE AMENDMENTS TO SENATE BILL NO. 2028

Page 1, line 2, remove "repeal of"

Page 1, line 6, remove the overstrike over "~~Community service~~"

Page 1, line 7, remove the overstrike over "~~supervision fee-~~"

Page 1, line 23, remove the overstrike over "~~In addition to any court administration fees that may be imposed under~~"

Page 1, remove the overstrike over line 24

Page 2, remove the overstrike over line 1

Page 2, line 2, after "fifty" insert "twenty-five" and remove the overstrike over "dollars. The community service supervision fee must be deposited in the"

Page 2, remove the overstrike over lines 3 through 5

Page 2, line 6, remove the overstrike over "4." and remove the overstrike over "or community service supervision fee"

Page 2, line 14, remove the overstrike over "or community service supervision fee"

Page 2, line 15, remove the overstrike over "or a community service supervision fee"

Renumber accordingly

#### **HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2042**

In lieu of the amendments adopted by the House as printed on page 806 of the House Journal, Reengrossed Senate Bill No. 2042 is amended as follows:

Page 17, after line 30, insert:

**"SECTION 13. LEGISLATIVE INTENT - FUNDING.** It is the intent of the sixty-first legislative assembly that the parenting coordinator program provided for in section 11 of this Act be self-sustaining and not receive any funding from the general fund after the 2009-11 biennium."

Page 18, line 2, replace "2011" with "2013"

Renumber accordingly

#### **STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment provides legislative intent that the parenting coordinator program be self-sufficient after the 2009-11 biennium and changes the expiration date of the Act to June 30, 2013.

#### **HOUSE AMENDMENTS TO SENATE BILL NO. 2121**

Page 1, line 2, replace "three" with "two" and after the semicolon insert "and"

Page 1, line 4, replace "; to provide an" with a period

Page 1, remove line 5

Page 1, replace lines 14 through 24 with:

#### **"27-05-01. Judicial districts - Number of judges.**

- 4- The judicial districts in this state and the number of judges in each of the judicial districts are as designated by rule of the supreme court. The number of judges in each of the judicial districts is as follows:
  - a- ~~The northwest judicial district shall have five judges.~~
  - b- ~~The northeast judicial district shall have three judges.~~
  - e- ~~The northeast central judicial district shall have four judges.~~
  - d- ~~The east central judicial district shall have four judges.~~
  - e- ~~The southeast judicial district shall have three judges.~~
  - f- ~~The south central judicial district shall have five judges.~~
  - g- ~~The southwest judicial district shall have three judges."~~

Page 2, remove lines 5 through 21

Page 5, remove lines 1 through 9

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment reduces the new judgeships from three to two and amends North Dakota Century Code Section 27-05-01 to provide that the number of judges in each judicial district shall be determined by rule of the Supreme Court.

**HOUSE AMENDMENTS TO SENATE BILL NO. 2178**

Page 1, line 1, replace "department of corrections and rehabilitation" with "office of management and budget"

Page 1, line 6, replace "\$500,000" with "\$250,000"

Page 1, line 7, replace "department of corrections and rehabilitation" with "office of management and budget"

Page 1, line 9, replace "department of corrections and rehabilitation" with "office of management and budget"

Page 1, line 10, after "basis" insert "on August first of each year of the 2009-11 biennium"

Page 1, line 11, replace "12,263" with "6,132"

Page 1, line 12, replace "28,203" with "14,101"

Page 1, line 13, replace "17,956" with "8,978"

Page 1, line 14, replace "14,620" with "7,310"

Page 1, line 15, replace "17,373" with "8,687"

Page 1, line 16, replace "33,665" with "16,832"

Page 1, line 17, replace "27,505" with "13,752"

Page 1, line 18, replace "19,080" with "9,540"

Page 1, line 19, replace "21,938" with "10,969"

Page 1, line 20, replace "13,459" with "6,730"

Page 1, line 21, replace "15,913" with "7,956"

Page 1, line 22, replace "10,981" with "5,491"

Page 1, line 23, replace "17,044" with "8,522"

Page 1, line 24, replace "250,000" with "125,000"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

This amendment reduces the appropriation for community service supervision grants from \$250,000 to \$125,000 and provides the appropriation to the Office of Management and Budget rather than the Department of Corrections and Rehabilitation.

**HOUSE AMENDMENTS TO SENATE BILL NO. 2201**

In addition to the amendments adopted by the House as printed on page 922 of the House Journal, Senate Bill No. 2201 is further amended as follows:

Page 1, line 4, after the second semicolon insert "to provide for a reduction of appropriation authority;"

Page 5, after line 16, insert:

**"SECTION 5. APPROPRIATION AUTHORITY REDUCTION.** The total amount of expenditures from appropriations provided by the sixty-first legislative assembly for the biennium beginning July 1, 2009, and ending June 30, 2011, may not exceed \$300,000,000 for funding state reimbursement of property tax relief or property tax reduction or credit funding for programs initiated by 2009 legislation. To the extent appropriations for such programs authorized by the sixty-first legislative assembly exceed \$300,000,000, proportionate reductions must be made in all such appropriations to the end that total expenditures do not exceed \$300,000,000.

The legislative council shall develop and maintain a compilation of all legislative bills and appropriations that could be subject to the reduction of appropriation authority under this section."

Renumber accordingly

**HOUSE AMENDMENTS TO SENATE BILL NO. 2201**

Page 1, line 3, after "57-02-08" insert "and subdivision c of subsection 1 of section 57-55-10"

Page 1, line 4, replace "exemption" with "and mobile home tax exemptions"

Page 1, line 16, after "veteran's" insert "disability compensation rating for"

Page 1, line 17, replace "disability" with "disabilities as"

Page 5, after line 11, insert:

**"SECTION 3. AMENDMENT.** Subdivision c of subsection 1 of section 57-55-10 of the North Dakota Century Code is amended and reenacted as follows:

- c. If it is owned and used as living quarters by a disabled veteran or unremarried surviving spouse who meets the requirements of subsection 20 of section 57-02-08 or section 1 of this Act."

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2212**

Page 1, line 2, replace "an appropriation" with "for grant applications"

Page 1, line 20, replace "**APPROPRIATION.** There is appropriated out of any moneys in the" with "**REGIONAL EDUCATION ASSOCIATION GRANTS.**"

Page 1, remove lines 21 through 23

Page 1, line 24, remove "beginning July 1, 2009, and ending June 30, 2011."

Page 2, line 4, after "learners" insert ", for the biennium beginning July 1, 2009, and ending June 30, 2011"

Renumber accordingly

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2230**

In lieu of the amendments adopted by the House as printed on page 965 of the House Journal, Engrossed Senate Bill No. 2230 is amended as follows:

Page 1, line 2, after "organizations" insert "; and to provide a contingent appropriation"

Page 1, line 4, after "**APPROPRIATION**" insert "- **FEDERAL FISCAL STIMULUS FUNDS**" and replace "out of any moneys in the" with "from federal fiscal stimulus funds made available to the state under the federal American Recovery and Reinvestment Act of 2009"

Page 1, line 5, remove "general fund in the state treasury" and replace "\$2,000,000" with "\$1,000,000"

Page 1, line 11, remove "The state department of health is authorized one related"

Page 1, replace line 12 with "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 2. CONTINGENT APPROPRIATION.** If federal funds appropriated under section 1 of this Act are not available to provide the sum of \$1,000,000, there is appropriated out of moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000, or so much of the sum as may be necessary, to the state department of health for providing grants and related administrative costs to domestic violence sexual assault organizations, for the biennium beginning July 1, 2009, and ending June 30, 2011. The state department of health may only spend the general fund moneys to the extent that federal funds are not available to provide the \$1,000,000 appropriated under section 1 of this Act."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 90362.0302 FN 1**

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

**HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2350**

Page 1, line 2, replace "section" with "sections" and after "4-24-09" insert "and 4-24-10"

Page 1, line 3, after "funds" insert "and a report to the legislative assembly"

Page 4, after line 22, insert:

**"SECTION 15. AMENDMENT.** Section 4-24-10 of the North Dakota Century Code is amended and reenacted as follows:

**4-24-10. Agricultural commodity promotion groups to report to legislative assembly - Report contents.** Between the first and tenth legislative day of each regular legislative session, the North Dakota ethanol council, the North Dakota potato council, the North Dakota oilseed council, the North Dakota dry bean council, the North Dakota dry pea and lentil council, the North Dakota barley council, the North Dakota soybean council, the North Dakota corn utilization council, the North Dakota beekeepers association, the North Dakota turkey federation, the North Dakota milk marketing board, the North Dakota dairy promotion commission, the North Dakota state wheat commission, and the North Dakota beef commission must file a uniform report at a public hearing before the standing agriculture committee of each house of the legislative assembly. The presiding officer of each house of the legislative assembly may direct that the reports be filed with some other standing committee of that house. Each report must contain a summary of the activities of the commodity group during the current biennium, a single-page uniform statement of revenues and expenditures for the next biennium. Each report, except the reports of the North Dakota beekeepers association and the North Dakota turkey federation, must also include a state auditor's report on the commodity group's single-page uniform statement of revenues and expenditures for the previous two fiscal years."

Renumber accordingly

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

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

**HOUSE AMENDMENTS TO SENATE BILL NO. 2216**

In lieu of the amendments adopted by the House as printed on page 962 of the House Journal, Senate Bill No. 2216 is amended as follows:

Page 1, line 2, after "precede" insert "child forensic medical examinations and"

Page 1, line 3, after "examinations" insert "; to provide an appropriation; and to declare an emergency"

Page 1, line 17, after "2." insert "A child forensic medical examination is an examination performed on an alleged child victim of criminal sexual conduct for the purpose of gathering evidence of an alleged crime. When a child forensic medical examination is performed, the costs incurred by a health care facility or health care professional for performing the child forensic medical examination or any preliminary medical screening examination may not be charged, either directly or through a third-party payer, to the alleged child victim or the child's parent, guardian, or custodian.



Page 1, line 21, overstrike "3." and insert immediately thereafter "4."

Page 1, after line 23, insert:

**"SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the insurance regulatory trust fund in the state treasury, not otherwise appropriated, the sum of \$410,000, or so much of the sum as may be necessary, to the attorney general for the purpose of reimbursing health care facilities and health care professionals for the costs of performing preliminary medical screening examinations, child forensic medical examinations, and acute medical examinations on alleged victims of criminal sexual conduct, for the biennium beginning July 1, 2009, and ending June 30, 2011.

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

Renumber accordingly

#### **HOUSE AMENDMENTS TO REENGROSSED SENATE BILL NO. 2229**

In lieu of the amendments adopted by the House as printed on pages 962-965 of the House Journal, Reengrossed Senate Bill No. 2229 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-51-15 and 57-62-06 of the North Dakota Century Code, relating to allocation of oil and gas gross production taxes; to provide an appropriation; to provide an effective date; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

**57-51-15. Apportionment and use of proceeds of tax.** The gross production tax provided for in this chapter must be apportioned as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall ~~credit~~:
  - a. ~~Credit thirty-three and one-third percent of the revenues to the oil and gas impact grant fund, but not in an amount exceeding six eight million dollars per biennium, including any amounts otherwise appropriated for oil and gas impact grants for the biennium by the legislative assembly, and who shall credit;~~
  - b. Allocate five hundred thousand dollars per fiscal year to each city in an oil-producing county which has a population of seven thousand five hundred or more and more than two percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota. The allocation under this subdivision must be doubled if the city has more than seven and one-half percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota; and
  - c. Credit the remaining revenues to the state general fund.
2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
  - a. ~~The first one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county must be allocated to that the county.~~
  - b. ~~The second next one million dollars of annual revenue after the deduction for the amount provided for in subsection 1 from oil and gas~~

~~produced in any county~~ must be allocated seventy-five percent to ~~that~~ the county and twenty-five percent to the state general fund.

- c. ~~The third next one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county~~ must be allocated fifty percent to ~~that~~ the county and fifty percent to the state general fund.
  - d. ~~All annual revenue after the deduction of the amount provided for in subsection 1 above three million dollars from oil or gas produced in any county~~ remaining after the allocation in subdivision c must be allocated twenty-five percent to ~~that~~ the county and seventy-five percent to the state general fund. ~~However, the~~
3. ~~The amount to which each county is entitled pursuant to this under subsection 2 must be limited based upon the population of allocated within the county according to the last official decennial federal census as follows:~~
- a. ~~Counties having a population of three thousand or less shall receive no more than three million nine hundred thousand dollars for allocation under subsection 4 for each fiscal year; however, a county may receive up to four million nine hundred thousand dollars under this subdivision. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 4 but must be credited by the county treasurer to the county general infrastructure fund.~~
  - b. ~~Counties having a population of over three thousand but less than six thousand shall receive no more than four million one hundred thousand dollars for allocation under subsection 4 for each fiscal year; however, a county may receive up to five million one hundred thousand dollars under this subdivision. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 4 but must be credited by the county treasurer to the county general infrastructure fund.~~
  - c. ~~Counties having a population of six thousand or more shall receive no more than four million six hundred thousand dollars for allocation under subsection 4 for each fiscal year; however, a county may receive up to five million six hundred thousand dollars under this subdivision. A county may receive the full amount to which it is entitled under subsection 2 for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes. Any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 4 but must be credited by the county treasurer to the county general infrastructure fund.~~

Any allocations for any county pursuant to this subsection which exceed the applicable limitation for that county as provided in subdivisions a through c must be deposited instead in the state's general fund.

- 3. 4. a. ~~Forty-five percent of all revenues as may by the legislative assembly be allocated to any county hereunder for allocation under this subsection~~ must be credited by the county treasurer to the county general fund.
- b. ~~Thirty-five percent of all revenues allocated to any county for allocation under this subsection~~ must be apportioned by the county treasurer no less than quarterly to school districts within the county on

the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

- c. Twenty percent of all revenues allocated to any county hereunder for allocation under this subsection must be paid apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in In determining the population of any city that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent. In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of determining the per capita limitation in this section subdivision must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:

- a- (1) Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- b- (2) Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.
- e- (3) The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:
  - (4) (a) The total number of visitors to that tourist attraction the prior year divided by three hundred sixty-five; or
  - (2) (b) Four hundred twenty.

5. a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsection 3 must be credited by the county treasurer to the county general fund.
- b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsection 3 must be allocated by the board of county commissioners to or for the benefit of townships or school

districts in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or applications by school districts for repair or replacement of school district vehicles necessitated by damage or deterioration attributable to travel on oil and gas development-impacted roads. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads in those townships. Allocations to organized townships or to school districts under this subdivision may be made only for reimbursement of qualifying expenditures previously made by the applicant township or school district. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.

- c. Twenty percent of all revenues allocated to any county infrastructure fund under subsection 3 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. In determining the population of any city that receives a direct allocation under subsection 1, that city's population for purposes of this subdivision must be reduced by forty percent.

**SECTION 2. AMENDMENT.** Section 57-62-06 of the North Dakota Century Code is amended and reenacted as follows:

**57-62-06. Legislative intent and guidelines on impact grants.** The legislative assembly intends that the moneys appropriated to, and distributed by, the energy development impact office for grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development and oil and gas development impact. However, the energy development impact office shall give priority to projects funded from the proceeds of the oil and gas gross production tax to transportation infrastructure projects. As used in this section, "basic governmental services" do not include activities relating to marriage or guidance counseling, services or programs to alleviate other sociological impacts, or services or facilities to meet secondary impacts. All grant applications and presentations to the energy development impact office must be made by an appointed or elected government official.

**SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the permanent oil tax trust fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, to the energy development impact office for the purpose of allocation of oil and gas impact grants among political subdivisions in addition to the amounts to be allocated as provided by law, for the period beginning with the effective date of this Act and ending June 30, 2011. The funds provided in this section must be allocated to provide additional grant funds of \$5,000,000 in the grant round awarded in 2009.

**SECTION 4. EFFECTIVE DATE.** Section 1 of this Act is effective for taxable events occurring after June 30, 2009.

**SECTION 5. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bill was delivered to the Governor for approval on April 7, 2009: SB 2444.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 7, 2009: SB 2034, SB 2036, SB 2050, SB 2067, SB 2126, SB 2127, SB 2137, SB 2142, SB 2143, SB 2146, SB 2147, SB 2148.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 7, 2009: SB 2052, SB 2085, SB 2124, SB 2139, SB 2160.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 7, 2009: SB 2159, SB 2164, SB 2167, SB 2204, SB 2344, SB 2390, SB 2403, SB 2423.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 7, 2009: SB 2091, SB 2153, SB 2209, SB 2210, SB 2211, SB 2214, SB 2217, SB 2233, SB 2236, SB 2253, SB 2259, SB 2265, SB 2269, SB 2274, SB 2281, SB 2282, SB 2289, SB 2297, SB 2298, SB 2300, SB 2309, SB 2313, SB 2321, SB 2322, SB 2328, SB 2349, SB 2354, SB 2357, SB 2368, SB 2370, SB 2378, SB 2380, SB 2388, SB 2389, SB 2416, SB 2422.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following bills were delivered to the Governor for approval on April 7, 2009: 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.

**DELIVERY OF ENROLLED BILLS AND RESOLUTIONS**

The following resolutions were delivered to the Secretary of State for filing on April 7, 2009: SCR 4009, SCR 4019, SCR 4022, SCR 4026, SCR 4028.

**MOTION**

**SEN. CHRISTMANN MOVED** that the absent member be excused, which motion prevailed.

**MOTION**

**SEN. CHRISTMANN MOVED** that the Senate be on the Fourth, Fifth, Seventh, and Thirteenth orders of business and at the conclusion of those orders, the Senate stand adjourned until 12:30 p.m., Wednesday, April 8, 2009, which motion prevailed.

**REPORT OF STANDING COMMITTEE**

**SB 2442: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2442 was placed on the Eleventh order on the calendar.

**REPORT OF STANDING COMMITTEE**

**SB 2443: Judiciary Committee (Sen. Nething, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2443 was placed on the Sixth order on the calendar.

Page 1, line 3, after "2009" insert "; and to provide an expiration date"

Page 1, line 12, after "subdivision" insert ", to the extent possible from funds provided by the Act."

Page 1, after line 13, insert:

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

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1016, 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 1016 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "and" and after "exemption" insert "; and to declare an emergency"

Page 1, line 14, replace "(\$76,773)" with "\$830,769" and replace "4,139,636" with "5,047,178"

Page 1, line 15, replace "(197,937)" with "(171,937)" and replace "3,650,891" with "3,676,891"

Page 1, line 16, replace "10,003" with "460,003" and replace "223,670" with "673,670"

Page 1, after line 17, insert:

"Deferred maintenance	0	500,000	500,000"
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Page 1, line 21, replace "(6,668,176)" with "(6,365,827)" and replace "59,755,750" with "60,058,099"

Page 1, line 22, replace "553,319" with "1,082,191" and replace "848,537" with "1,377,409"

Page 1, line 24, replace "(\$5,604,884)" with "(\$2,890,121)" and replace "82,239,018" with "84,953,781"

Page 2, line 1, replace "(7,243,780)" with "(6,361,526)" and replace "67,542,825" with "68,425,079"

Page 2, line 2, replace "1,638,896" with "3,471,405" and replace "14,696,193" with "16,528,702"

Page 2, line 7, replace "1,321,957" with "1,595,403" and replace "9,110,159" with "9,383,605"

Page 2, line 8, replace "287,657" with "734,157" and replace "4,117,057" with "4,563,557"

Page 2, line 11, replace "3,745,000" with "4,030,000" and replace "3,745,000" with "4,030,000"

Page 2, line 12, replace "10,539,216" with "11,544,162" and replace "63,391,830" with "64,396,776"

Page 2, line 13, replace "4,575,027" with "4,711,801" and replace "51,464,095" with "51,600,869"

Page 2, line 14, replace "5,964,189" with "6,832,361" and replace "11,927,735" with "12,795,907"

Page 2, line 19, replace "7,603,085" with "10,303,766" and replace "26,623,928" with "29,324,609"

Page 2, line 20, replace "(2,668,753)" with "872,545" and replace "119,006,920" with "122,548,218"

Page 2, line 21, replace "4,934,332" with "11,176,311" and replace "145,630,848" with "151,872,827"

Page 2, line 22, replace "(2.00)" with "0.00" and replace "230.00" with "232.00"

Page 2, after line 23, insert:

**"SECTION 2. APPROPRIATION - FEDERAL FISCAL STIMULUS FUNDS - ADDITIONAL FUNDING APPROVAL.** The funds provided in this section, or so much of the fund 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 adjutant general, for the period beginning with the effective date of this Act and ending June 30, 2011, as follows:

Military energy-related maintenance and repairs	\$2,522,270
-------------------------------------------------	-------------

The adjutant general 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."

Page 3, line 1, replace "0" with "500,000"

Page 3, after line 2, insert:

"East operations center construction project	0	476,000"
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Page 3, line 4, replace "160,000" with "471,500"

Page 3, line 5, replace "5,785,347" with "7,072,847"

Page 3, line 30, replace "\$848,537" with "\$1,377,409"

Page 4, after line 9, insert:

**"SECTION 9. DEFERRED MAINTENANCE - TRANSFERS.** The adjutant general may transfer from the deferred maintenance line item to the capital assets line item, contained in subdivision 1 of section 1 of this Act, amounts necessary to address extraordinary repair needs. Any amounts transferred must be reported to the director of the office of management and budget.

**SECTION 10. EMERGENCY.** The funding of \$450,000 appropriated in subdivision 1 of section 1 of this Act for the construction of an operations center facility and section 2 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98016.0202 FN 2**

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

**REPORT OF STANDING COMMITTEE**

**HB 1304, as reengrossed and amended: Finance and Taxation Committee (Sen. Cook, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1304, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 810 of the Senate Journal, Reengrossed House Bill No. 1304 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 57-51-15 of the North Dakota Century Code, relating to allocation of oil and gas gross production taxes; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-51-15 of the North Dakota Century Code is amended and reenacted as follows:

**57-51-15. Apportionment and use of proceeds of tax.** The gross production tax provided for in this chapter must be apportioned as follows:

1. First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the state treasurer who shall ~~credit~~:
  - a. Credit thirty-three and one-third percent of the revenues to the oil and gas impact grant fund, but not in an amount exceeding six million dollars per biennium; ~~including any amounts otherwise appropriated for oil and gas impact grants for the biennium by the legislative assembly, and who shall credit;~~
  - b. Allocate five hundred thousand dollars per fiscal year to each city in an oil-producing county which has a population of seven thousand five hundred or more and more than two percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota. The allocation under this subdivision must be doubled if the city has more than seven and one-half percent of its private covered employment engaged in the mining industry, according to data compiled by job service North Dakota; and
  - c. Credit the remaining revenues to the state general fund.
2. After deduction of the amount provided in subsection 1, annual revenue collected under this chapter from oil and gas produced in each county must be allocated as follows:
  - a. ~~The first one two million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county must be allocated to that the county.~~
  - b. ~~The second next one million dollars of annual revenue after the deduction for the amount provided for in subsection 1 from oil and gas produced in any county must be allocated seventy-five percent to that the county and twenty-five percent to the state general fund.~~



- c. ~~The third next one million dollars of annual revenue after the deduction of the amount provided for in subsection 1 from oil or gas produced in any county must be allocated fifty percent to that the county and fifty percent to the state general fund. All annual revenue after the deduction of the amount provided for in subsection 1 above three million dollars from oil or gas produced in any county~~
- d. ~~The next fourteen million dollars must be allocated twenty-five percent to that the county and seventy-five percent to the state general fund. However, the~~
- e. ~~All annual revenue remaining after the allocation in subdivision d must be allocated ten percent to the county and ninety percent to the state general fund.~~
3. ~~The amount to which each county is entitled pursuant to this under subsection 2 must be limited based upon the population of allocated within the county according to the last official decennial federal census as follows:~~
- a. ~~Counties having a population of three thousand or less shall receive no more than three million nine hundred thousand dollars for each fiscal year; however, a county may receive up to four million nine hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm to market and federal aid road, and county road purposes. Any amount received by a county exceeding three million nine hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer to the county general fund.~~
- b. ~~Counties having a population of over three thousand but less than six thousand shall receive no more than four million one hundred thousand dollars for each fiscal year; however, a county may receive up to five million one hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of at least ten mills for combined levies for county road and bridge, farm to market and federal aid road, and county road purposes. Any amount received by a county exceeding four million one hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer to the county general fund.~~
- e. ~~Counties having a population of six thousand or more shall receive no more than so the first four million six hundred thousand dollars is allocated under subsection 4 for each fiscal year; however, a county may receive up to five million six hundred thousand dollars under this subdivision for each fiscal year if during that fiscal year the county levies a total of ten mills or more for combined levies for county road and bridge, farm to market and federal aid road, and county road purposes. Any and any amount received by a county exceeding four million six hundred thousand dollars under this subdivision is not subject to allocation under subsection 3 but must be credited by the county treasurer to the county general infrastructure fund and allocated under subsection 5.~~

~~Any allocations for any county pursuant to this subsection which exceed the applicable limitation for that county as provided in subdivisions a through c must be deposited instead in the state's general fund.~~

- ~~3- 4.~~ a. Forty-five percent of all revenues as may be allocated to any county hereunder must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal-aid road, and county road purposes.
- b. Thirty-five percent of all revenues allocated to any county for allocation under this subsection must be apportioned by the county

treasurer no less than quarterly to school districts within the county on the average daily attendance distribution basis, as certified to the county treasurer by the county superintendent of schools. However, no school district may receive in any single academic year an amount under this subsection greater than the county average per student cost multiplied by seventy percent, then multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Provided, however, that in any county in which the average daily attendance or the school census, whichever is greater, is fewer than four hundred, the county is entitled to one hundred twenty percent of the county average per student cost multiplied by the number of students in average daily attendance or the number of children of school age in the school census for the county, whichever is greater. Once this level has been reached through distributions under this subsection, all excess funds to which the school district would be entitled as part of its thirty-five percent share must be deposited instead in the county general fund. The county superintendent of schools of each oil-producing county shall certify to the county treasurer by July first of each year the amount to which each school district is limited pursuant to this subsection. As used in this subsection, "average daily attendance" means the average daily attendance for the school year immediately preceding the certification by the county superintendent of schools required by this subsection.

- c. ~~Twenty percent of all revenues allocated to any county hereunder for allocation under this subsection must be paid apportioned no less than quarterly by the state treasurer to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. A city may not receive an allocation for a fiscal year under this subsection and subsection 5 which totals more than seven hundred fifty dollars per capita. Once this level has been reached through distributions under this subsection, all excess funds to which any city would be entitled except for this limitation must be deposited instead in that county's general fund. Provided, however, that in~~ In determining the population of any city in which total employment increases by more than two hundred percent seasonally due to tourism, the population of that city for purposes of determining the per capita limitation in this section subdivision must be increased by adding to the population of the city as determined by the last official decennial federal census a number to be determined as follows:
  - a. ~~Seasonal employees of state and federal tourist facilities within five miles [8.05 kilometers] of the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.~~
  - b. ~~Seasonal employees of all private tourist facilities within the city and seasonal employees employed by the city must be included by adding the months all such employees were employed during the prior year and dividing by twelve.~~
  - e. ~~The number of visitors to the tourist attraction within the city or within five miles [8.05 kilometers] of the city which draws the largest number of visitors annually must be included by taking the smaller of either of the following:~~
    - (1) ~~The total number of visitors to that tourist attraction the prior year divided by three hundred sixty five; or~~
    - (2) Four hundred twenty eight hundred percent. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.

5.
  - a. Forty-five percent of all revenues allocated to a county infrastructure fund under subsection 3 must be credited by the county treasurer to the county general fund. However, the allocation to a county under this subdivision must be credited to the state general fund if during that fiscal year the county does not levy a total of at least ten mills for combined levies for county road and bridge, farm-to-market and federal aid road, and county road purposes.
  - b. Thirty-five percent of all revenues allocated to the county infrastructure fund under subsection 3 must be allocated by the board of county commissioners to or for the benefit of townships in the county on the basis of applications by townships for funding to offset oil and gas development impact to township roads or other infrastructure needs. An organized township is not eligible for an allocation of funds under this subdivision unless during that fiscal year that township levies at least ten mills for township purposes. For unorganized townships within the county, the board of county commissioners may expend an appropriate portion of revenues under this subdivision to offset oil and gas development impact to township roads or other infrastructure needs in those townships. The amount deposited during each calendar year in the county infrastructure fund which is designated for allocation under this subdivision and which is unexpended and unobligated at the end of the calendar year must be transferred by the county treasurer to the county road and bridge fund for use on county road and bridge projects.
  - c. Twenty percent of all revenues allocated to any county infrastructure fund under subsection 3 must be allocated by the county treasurer no less than quarterly to the incorporated cities of the county. Apportionment among cities under this subsection must be based upon the population of each incorporated city according to the last official decennial federal census. A city may not receive an allocation for a fiscal year under this subsection and subsection 4 which totals more than seven hundred fifty dollars per capita. Once this per capita limitation has been reached, all excess funds to which a city would otherwise be entitled must be deposited instead in that county's general fund. If a city receives a direct allocation under subsection 1, the allocation to that city under this subsection is limited to sixty percent of the amount otherwise determined for that city under this subsection and the amount exceeding this limitation must be reallocated among the other cities in the county.
6. Within ninety days after the end of each fiscal year, the board of county commissioners of each county that has received an allocation under this section shall file a report for the fiscal year with the energy development impact office, in a format prescribed by the energy development impact office, showing:
  - a. The amount received by the county in its own behalf, the amount of those funds expended for each purpose to which funds were devoted, and the share of county property tax revenue expended for each of those purposes, and the amount of those funds unexpended at the end of the fiscal year; and
  - b. The amount available in the county infrastructure fund for allocation to or for the benefit of townships, the amount allocated to each organized township and the amount expended from each such allocation by that township, the amount expended by the board of county commissioners on behalf of each unorganized township for which an expenditure was made, and the amount available for allocation to or for the benefit of townships which remained unexpended at the end of the fiscal year.

By the end of the calendar year when reports under this subsection were received, the energy development impact office shall provide a report to the legislative council compiling the information from reports received under this subsection and information on oil and gas impact grants awarded during the fiscal year for which the reports were received.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events occurring after June 30, 2009."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1305, as engrossed: 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 1305 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "water commission" with "department of health"

Page 1, line 4, after "**APPROPRIATION**" insert "- **FEDERAL FISCAL STIMULUS FUNDS**" and replace "moneys in the" with "federal funds made available to the state under the federal American Recovery and Reinvestment Act of 2009 for the drinking water revolving loan fund"

Page 1, line 5, remove "permanent oil tax trust fund in the state treasury"

Page 1, line 6, replace "\$2,200,000" with "\$2,792,000" and replace "water commission" with "department of health"

Page 1, line 7, replace "\$1,750,000" with "\$864,000"

Page 1, line 8, replace "\$100,000" with "\$985,000"

Page 1, line 9, replace "Renwick Dam" with "Burke, Divide, and Williams water district water supply project, providing a grant of up to \$593,000 to assist in the local cost-share of the Wildrose water supply"

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 90671.0303 FN 2**

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

**REPORT OF STANDING COMMITTEE**

**HB 1350, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1350 was placed on the Fourteenth order on the calendar.

**REPORT OF STANDING COMMITTEE**

**HB 1487: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1487 was placed on the Sixth order on the calendar.

Page 1, replace lines 4 through 9 with:

**"SECTION 1. FEDERAL FISCAL STIMULUS FUNDING - LEGISLATIVE ACTION - EMERGENCY COMMISSION AND BUDGET SECTION APPROVAL.** Any federal funds made available to this state under the federal American Recovery and Reinvestment Act of 2009 may be accepted but may be spent only pursuant to appropriation authority provided by the legislative assembly or the approval of the emergency commission and budget section under provisions of chapter 54-16, for the period beginning with the effective date of this Act and ending June 30, 2011. The emergency commission and budget section may approve only the expenditure of federal American Recovery and Reinvestment Act of 2009 competitive grant awards and other funds that the legislative assembly has not indicated an intent to reject."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1534, as engrossed: Transportation Committee (Sen. G. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1534 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection 2 of section 39-08-01 and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Subsection 2 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~A person~~ Unless as otherwise provided in section 39-08-01.2, an individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a five-year period, of a class A misdemeanor for a third offense in a five-year period, of a class A misdemeanor for the fourth offense in a seven-year period, and of a class C felony for a fifth or subsequent offense in a seven-year period. The minimum penalty for violating this section is as provided in subsection 4. The court shall take judicial notice of the fact that an offense would be a subsequent offense if indicated by the records of the director or may make a subsequent offense finding based on other evidence."

Page 1, line 12, replace "under chapter 12.1-16" with "imposed" and replace "be" with "include"

Page 1, line 14, after "section" insert "39-08-01, or section"

Page 1, line 16, after "drugs" insert an underscored comma and remove the overstrike over "~~serious~~"

Page 1, line 20, after "and" insert "the sentence" and replace "be" with "include"

Page 1, line 21, remove "sentenced to"

Renumber accordingly

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

**HCR 3037: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HCR 3037 was placed on the Fourteenth order on the calendar.

#### **FIRST READING OF HOUSE BILL**

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

Was read the first time and referred to the **Industry, Business and Labor Committee**.

#### **FIRST READING OF HOUSE CONCURRENT RESOLUTION**

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

Was read the first time and referred to the **Finance and Taxation Committee**.

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

**Fran A. Gronberg, Secretary**

