

# STATE GOVERNMENT

## CHAPTER 461

### SENATE BILL NO. 2229

(Senators Cleary, Lee, Meyer)  
(Representatives Dockter, Rohr)

AN ACT to create and enact a new section to chapter 54-02 of the North Dakota Century Code, relating to designating curling as the official state sport.

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

**SECTION 1.** A new section to chapter 54-02 of the North Dakota Century Code is created and enacted as follows:

**State sport.**

Curling is the official sport of the state of North Dakota.

Approved March 23, 2023

Filed March 23, 2023

## CHAPTER 462

### HOUSE BILL NO. 1227

(Representatives Kempenich, Bosch, Cory, Mock, Swiontek, Thomas, Vigesaa)  
(Senators Klein, Meyer, Patten)

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to a cost-benefit analysis for a measure or policy affecting the legacy fund.

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

**SECTION 1.** A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

**Legacy fund - Cost-benefit analysis - Legacy and budget stabilization fund advisory board - State retirement and investment office - Legislative management procedures.**

1. The legacy and budget stabilization fund advisory board shall review any legislative, initiated, or referred measure for asset allocation and investment policy affecting the legacy fund. If the advisory board determines the measure or policy affects the legacy fund, the advisory board shall request the state retirement and investment office to arrange for the preparation and submission of a cost-benefit analysis.
2. The cost-benefit analysis must:
  - a. Include the estimated fiscal impact of the measure or policy for the next biennium and for the next ten bienniums.
  - b. Be prepared by an independent consultant paid by the state retirement and investment office.
3. If the legislative management determines a legislative measure affects the legacy fund, the measure may not be referred to a committee of the legislative assembly unless a cost-benefit analysis is appended to that measure.
  - a. If a committee of the legislative assembly determines a measure affecting the legacy fund was referred to committee without a cost-benefit analysis, the committee shall request a cost-benefit analysis. The committee may not act on the measure unless the measure is accompanied by the cost-benefit analysis.
  - b. If a committee of the legislative assembly determines a proposed amendment to a measure affects the legacy fund, the committee may not act on the proposed amendment unless the amendment is accompanied by a cost-benefit analysis or amended cost-benefit analysis.
4. The legislative management shall adopt a procedure for identifying measures and proposed measures affecting the legacy fund. The procedure must include solicitation of draft measures and proposals during the interim

between legislative sessions from legislators and agencies with bill introduction privileges and must include deadlines for identification of the measures or proposals. If the legacy and budget stabilization fund advisory board has not requested a cost-benefit analysis for a measure or proposed measure, the legislative management shall request the state retirement and investment office to arrange for the preparation and submission of a cost-benefit analysis.

Approved March 15, 2023

Filed March 16, 2023

## CHAPTER 463

### HOUSE BILL NO. 1172

(Representatives Steiner, Cory, Fisher, Hauck, Hoverson, Longmuir, Tveit)  
(Senators Clemens, Dwyer, Luick, Vedaa)

AN ACT to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to the pledge of allegiance.

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

**SECTION 1.** A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

#### **Pledge of allegiance.**

Notwithstanding any other provision of law, the governor or an executive branch officer or employee may not alter the language of the pledge of allegiance. The voluntary pledge is "I pledge allegiance to the flag, of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all."

Approved April 11, 2023

Filed April 12, 2023

## CHAPTER 464

### HOUSE BILL NO. 1368

(Representatives K. Anderson, Bellew, M. Ruby, Strinden, Timmons, Tveit)  
(Senators Clemens, Kannianen, Myrdal)

AN ACT to create and enact a new section to chapter 54-06 and a new section to chapter 54-44.4 of the North Dakota Century Code, relating to contracts with companies that boycott Israel and a prohibition on investments.

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

**SECTION 1.** A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

##### **Investments - Prohibition - Israel boycott.**

1. As used in this section "boycott Israel" means engaging in refusals to deal, terminating business activities, or other similar commercial actions intended to limit commercial relations with persons doing business in Israel or in Israeli-controlled territories when the actions are taken:
  - a. In compliance or adherence to calls for a boycott of Israel, other than those boycotts under Public Law No. 96-72 [50 U.S.C. 2407(c)]; or
  - b. In a manner that discriminates on the basis of nationality, national origin, or religion.
2. Notwithstanding any other provision of law, the state may not adopt any investment policy that would have the effect of requiring or inducing any person to boycott Israel.
3. If the state receives evidence that a company boycotts Israel, the state shall determine whether the company boycotts Israel. If accompanied by the conduct described under subsection 1, a company statement that indicates the company is participating in a boycott of Israel or has taken boycott action at the request, in compliance with, or in furtherance of calls for a boycott of Israel, may be considered as one type of evidence that the company is participating in a boycott of Israel. An expressive activity, alone, directed at a specific person or a governmental action may not be considered evidence of a boycott of Israel.

**SECTION 2.** A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

##### **Purchasing contracts - Prohibition - Israel boycott.**

1. As used in this section:
  - a. "Boycott Israel" means engaging in refusals to deal, terminating business activities, or other similar commercial actions intended to limit commercial

relations with persons doing business in Israel or in Israeli-controlled territories when the actions are taken:

- (1) In compliance or adherence to calls for a boycott of Israel, other than those boycotts under Public Law No. 96-72 [50 U.S.C. 2407(c)]; or
  - (2) In a manner that discriminates on the basis of nationality, national origin, or religion.
- b. "Company" means any organization, association, corporation, partnership, joint venture, limited partnership, limited liability company, or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate.
2. A state entity that enters a contract that includes a provision prohibiting discrimination shall require the contract to include a provision prohibiting a party to the contract from boycotting Israel for the duration of the contract. The office of management and budget or purchasing agency may waive the requirement in this subsection if the waiver is in the best interest of the state. A waiver under this subsection may not affect the enforceability of a contract.
  3. If the state receives evidence that a company boycotts Israel, the state shall determine whether the company boycotts Israel. If accompanied by the conduct described under subsection 1, a company statement that indicates the company is participating in a boycott of Israel or has taken boycott action at the request, in compliance with, or in furtherance of calls for a boycott of Israel, may be considered as one type of evidence that the company is participating in a boycott of Israel. An expressive activity, alone, directed at a specific person or a governmental action may not be considered evidence of a boycott of Israel.
  4. This section does not apply to:
    - a. A contract with a value of less than one hundred thousand dollars; or
    - b. A contract with a company that has fewer than ten full-time employees.

Approved April 6, 2023

Filed April 10, 2023

## CHAPTER 465

### SENATE BILL NO. 2116

(Workforce Development Committee)  
(At the request of Workforce Safety and Insurance)

AN ACT to amend and reenact subsection 1 of section 54-06-04, subsection 4 of section 65-01-15.1 as amended in section 2 of House Bill No. 1279, as approved by the sixty-eighth legislative assembly, subsection 5 of section 65-01-15.2, as created in section 3 of House Bill No. 1279, as approved by the sixty-eighth legislative assembly, and sections 65-02-09, 65-03-01, 65-04-30, and 65-05.1-08 of the North Dakota Century Code, relating to reports submitted to the governor and secretary of state, presumption of compensability for firefighters and law enforcement officers, information provided by workforce safety and insurance to the public, enforcement of safety regulations, submission of financial statements to the office of management and budget, and the organization's educational revolving loan fund; and to repeal sections 65-01-13, 65-02-28, 65-03-02, and 65-04-17.1 of the North Dakota Century Code, relating to an information fund and continuing appropriation to pay publication and statistical processing expenses, organization claim file destruction, penalty for violation of a safety rule or regulation, and the retrospective rating program.

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

<sup>254</sup> **SECTION 1. AMENDMENT.** Subsection 1 of section 54-06-04 of the North Dakota Century Code is amended and reenacted as follows:

1. The following executive and administrative officers and departments shall submit to the governor and the secretary of state reports covering their operations for the two preceding fiscal years, except as otherwise provided by law, not later than the first day of December each year after the regular session of the legislative assembly:
  - a. Secretary of state.
  - b. State auditor.
  - c. Insurance commissioner.
  - d. Attorney general.
  - e. Agriculture commissioner.
  - f. Superintendent of public instruction.
  - g. State tax commissioner.
  - h. Public service commission.

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<sup>254</sup> Section 54-06-04 was also amended by section 1 of House Bill No. 1085, chapter 466.

- i. Department of corrections and rehabilitation.
- j. Department of transportation.
- k. Department of health and human services.
- l. ~~Workforce safety and insurance.~~
- m-l. Office of management and budget.
- n-m. State treasurer.
- o-n. Labor commissioner.
- p-o. Department of financial institutions.
- q-p. Game and fish department.
- r-q. Industrial commission.
- s-r. Job service North Dakota.
- t-s. Board of university and school lands.
- u-t. Department of environmental quality.

<sup>255</sup> **SECTION 2. AMENDMENT.** Subsection 4 of section 65-01-15.1 of the North Dakota Century Code, as amended in section 2 of House Bill No. 1279, as approved by the sixty-eighth legislative assembly, is amended and reenacted as follows:

4. For purposes of this section, "law enforcement officer" means an individual who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, the Bismarck state college police department, a county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.

<sup>256</sup> **SECTION 3. AMENDMENT.** Subsection 5 of section 65-01-15.2 of the North Dakota Century Code, as created in section 3 of House Bill No. 1279, as approved by the sixty-eighth legislative assembly, is amended and reenacted as follows:

5. For purposes of this section, "law enforcement officer" means an individual who is licensed to perform peace officer law enforcement duties under chapter 12-63 and is employed full time by the bureau of criminal investigation, the game and fish department, the state highway patrol, the parole and probation division, the North Dakota state university police department, the North Dakota state college of science police department, the university of North Dakota police department, the Bismarck state college police department, a

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<sup>255</sup> Section 65-01-15.1 was also amended by section 2 of House Bill No. 1279, chapter 582.

<sup>256</sup> Section 65-01-15.2 was created by section 3 of House Bill No. 1279, chapter 582.



county sheriff's department, a city police department, or the parks and recreation department pursuant to section 55-08-04.

**SECTION 4. AMENDMENT.** Section 65-02-09 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-09. General information to public – Biennial report.**

~~The organization, from time to time, may publish and distribute among employers and employees general information as to the business transacted by the organization as in its judgment may be useful. The director shall submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. The report must include organization shall make the following information from no less than the two previous fiscal years available to the public:~~

1. A statement of the number of awards made by it.
2. A general statement of the causes of accidents leading to the injuries for which the awards were made.
3. A detailed statement of the disbursements from the fund.
4. A statement of the conditions of the various funds carried by the organization.
5. A breakdown of those allocated loss adjustment expenses that reflect the attorney's fees and costs paid to attorneys who represent injured workers, the attorney's fees and costs paid to attorneys with whom the organization contracts to represent the organization, the amount paid for administrative law judges for hearings, and the amount paid for the court reporter and any other legal expenses.
6. ~~Any other matters which the organization wishes to call to the attention of the governor, including any recommendation for legislation or otherwise which it may have to make.~~

**SECTION 5. AMENDMENT.** Section 65-03-01 of the North Dakota Century Code is amended and reenacted as follows:

**65-03-01. Jurisdiction of organization - Safety regulations - Enforcement.**

~~The organization shall have full power and jurisdiction over, and the supervision of, every employment and place of employment subject to the provisions of this title, and whenever, Whenever necessary adequately to enforce and administer this title, shall the organization may issue and enforce all necessary and proper rules and safety regulations. The organization may designate some suitable person an individual to make inspections to and determine if safety rules and regulations are being followed or complied with.~~

**SECTION 6. AMENDMENT.** Section 65-04-30 of the North Dakota Century Code is amended and reenacted as follows:

**65-04-30. State treasurer is custodian of fund - Deposit - Disbursement on vouchers.**

The state treasurer is the custodian of the fund and all payments of awards of the organization for disbursements other than travel and administrative expenses must be paid by the state treasurer upon warrant-checks authorized and prepared by the

organization. Warrants drawn upon the fund and paid by the state treasurer must be returned to the organization and must be kept in the files of the organization. The organization shall submit to the office of management and budget once each month a monthly financial statement showing the receipts, disbursements, investments, and status of the fund. The treasurer may deposit any portion of the fund not needed for immediate use in the manner and subject to the requirements prescribed by law for the deposit by the treasurer of state funds. Any interest earned by any portion of the fund which is deposited by the state treasurer under this section must be collected by the state treasurer and placed to the credit of the fund.

**SECTION 7. AMENDMENT.** Section 65-05.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**65-05.1-08. Workforce safety and insurance educational revolving loan fund –~~Vocational~~vocational rehabilitation grants - Continuing appropriation.**

1. ~~The organization may establish a revolving loan fund to provide a low-interest loan to an injured employee or to a surviving spouse or child of an injured employee whose death resulted from a compensable injury under section 65-05-16; or to the spouse or child of an injured employee deemed to be catastrophically injured as defined in subdivision c of subsection 2 of section 65-05.1-06.1; or to the spouse or child of an injured employee deemed to be eligible for permanent total disability benefits as defined in section 65-01-02.~~
2. ~~The loan must be used to pursue an education at an accredited institution of higher education or an institution of technical education. In order to be eligible for a loan under this section, an individual must have obtained a high school diploma or its equivalent and either must be ineligible for retraining under this chapter or must have exhausted training and education benefits. A child of an injured employee must meet the definition of child at the time of the initial loan application in order to be eligible for a loan. The Bank of North Dakota and the organization shall establish loan eligibility requirements and make application determinations based on the established criteria. The loan application must require an applicant to demonstrate a viable education plan that will enable the individual to achieve gainful employment.~~
3. ~~The total amount loaned annually under this section may not exceed two million five hundred thousand dollars. The maximum amount payable on behalf of a loan applicant may not exceed fifty thousand dollars and must be payable within five years. A loan must be repaid within a period not to exceed twenty years. A loan must be repaid at an interest rate established by the organization which may not exceed the rate of one percent below the Bank of North Dakota's prime interest rate. The organization shall pay the Bank of North Dakota a negotiated fee for administering and servicing loans under this section. At the organization's discretion, moneys to establish and maintain the revolving loan fund must be appropriated from the organization's workforce safety and insurance fund. The revolving loan fund is a special fund and must be invested pursuant to section 21-10-06. Investment income and collections of interest and principal on loans made from the revolving loan fund are appropriated on a continuing basis to maintain the fund and provide loans in accordance with this section. As determined necessary, the organization may transfer uncommitted moneys of the revolving loan fund to the workforce safety and insurance fund.~~
4. The organization may implement a grant program to promote and provide necessary educational opportunities for injured employees within the

vocational rehabilitation process. The organization may award a grant to promote necessary skills upgrading and to provide for the completion of remedial educational requirements which allow for optimal transition into the labor force. The total annual amount the organization may grant under this ~~subsection~~section may not exceed one hundred thousand dollars. The organization shall establish grant eligibility requirements and make grant determinations based on the established criteria. Moneys are appropriated on a continuing basis ~~from uncommitted moneys in the educational revolving loan fund~~ for the purpose of funding the grants under this ~~subsection~~section and for payment of educational revolving loan fund obligations after July 31, 2023.

**SECTION 8. REPEAL.** Sections 65-01-13, 65-02-28, 65-03-02, and 65-04-17.1 of the North Dakota Century Code are repealed.

Approved March 29, 2023

Filed March 30, 2023

## CHAPTER 466

### HOUSE BILL NO. 1085

(Government and Veterans Affairs Committee)  
(At the request of the Office of Management and Budget)

AN ACT to create and enact subsection 7 of section 54-06-04 of the North Dakota Century Code, relating to information required in biennial reports to be maintained on agency websites as alternative to printed reports.

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

<sup>257</sup> **SECTION 1.** Subsection 7 of section 54-06-04 of the North Dakota Century Code is created and enacted as follows:

7. In lieu of printed biennial reports, an agency identified in subsection 1, may post the materials and contents determined under subsection 2 on the agency website not later than the date specified under subsection 1 and retain the materials on its website until the subsequent biennial report is posted to the agency website or biennial reports are printed and delivered under this section. An agency that elects to post the biennial report information on the agency's website shall transmit in electronic form the contents to the state archivist in the manner and format determined by the director of the state historical society.

Approved March 14, 2023

Filed March 15, 2023

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<sup>257</sup> Section 54-06-04 was also amended by section 1 of Senate Bill No. 2116, chapter 465.

## CHAPTER 467

### HOUSE BILL NO. 1508

(Representatives O'Brien, Lefor, Nathe, Sanford, Schreiber-Beck)  
(Senators Kreun, Meyer)

AN ACT to amend and reenact section 54-10-01 of the North Dakota Century Code, relating to duties of the state auditor.

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

<sup>258</sup> **SECTION 1. AMENDMENT.** Section 54-10-01 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The state auditor shall:
  - a. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
  - b. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state in accordance with government auditing standards.
  - c. Perform or provide for audits of state agencies in accordance with government auditing standards and legislative audit and fiscal review committee guidelines developed under section 54-35-02.10. Except for the annual audit of the North Dakota lottery required by section 53-12.1-03, the state auditor shall audit each state agency once every two years. Audits may be conducted at more frequent intervals if requested by the governor or the legislative audit and fiscal review committee. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for an agency that receives and expends both general fund and nongeneral fund moneys. State agencies shall use nongeneral fund moneys to pay for the cost of the audit. If nongeneral fund moneys are not available, the agency may, upon approval of the legislative assembly, or the budget section if the legislative assembly is not in session, use general fund moneys to pay for the audit. Any budget section action under this subdivision must comply with section 54-35-02.9.
  - d. Perform or provide for performance audits of state agencies, or the agencies' blended component units or discreetly presented component

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<sup>258</sup> Section 54-10-01 was also amended by section 4 of Senate Bill No. 2004, chapter 36, section 1 of Senate Bill No. 2180, chapter 468, and section 2 of Senate Bill No. 2259, chapter 469.

units, as determined necessary by the legislative assembly, or the legislative audit and fiscal review committee if the legislative assembly is not in session. When determining the necessity of a performance audit, the legislative audit and fiscal review committee shall consider:

- (1) The potential cost-savings or efficiencies that may be gained as a result of the performance audit;
  - (2) The staff resources of the state auditor's office and of the state agency being audited which will be required to conduct the audit;
  - (3) The potential for discovery of noncompliance with state law or legislative intent regarding the program or agency; and
  - (4) The potential for the performance audit to identify opportunities for program improvements.
- e. Report quarterly to the legislative audit and fiscal review committee regarding:
- (1) Communication processes with audited entities and any changes to the processes;
  - (2) Billing practices and procedures, including the use of cost estimates for audits, an itemized invoicing methodology, and a defined change order process for audits that exceed the original estimate;
  - (3) Information on audits completed, including:
    - (a) Name of the audited organization;
    - (b) Organization type;
    - (c) Audit type;
    - (d) Audit period;
    - (e) Estimated and actual hours and costs; and
    - (f) Total audit cost and the total cost as a percentage of the audited organization's operating budget; and
  - (4) Audit schedules, including audits performed by private firms and audits performed by the state auditor's office.
- f. Report on the functions of the state auditor's office to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
- f.g. Perform work on mineral royalties for the federal government in accordance with section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].
- g-h. Perform all other duties as prescribed by law.

2. The state auditor may:

- a. Conduct any work required by the federal government.
- b. Within the resources available to the state auditor, perform or provide for performance audits of state agencies as determined necessary by the state auditor.
- c. Audit the International Peace Garden at the request of the board of directors of the International Peace Garden.
- d. Contract with a private certified public accountant or other qualified professional to conduct or assist with an audit, review, or other work the state auditor is authorized to perform or provide for under this section. Before entering any contract, the state auditor shall present information to the legislative audit and fiscal review committee on the need for the contract and its estimated cost and duration. Except for performance audits conducted under subdivision d of subsection 1 or subdivision b of this subsection and except for audits of occupational or professional boards, the state auditor shall execute the contract and any executive branch agency, including higher education institutions, shall pay the fees of the contractor. For performance audits conducted under subdivision d of subsection 1 or subdivision b of this subsection, the state auditor may charge a state agency for the cost of a contract relating to an audit, subject to approval by the legislative assembly or the legislative audit and fiscal review committee if the legislative assembly is not in session. When considering a request, the legislative audit and fiscal review committee shall consider the effect of the audit cost on the agency being audited, the necessity of the contract, and the potential benefit to the state resulting from the contract. The state auditor shall notify the affected agency of the potential cost before requesting approval from the legislative assembly or the legislative audit and fiscal review committee.

Approved April 29, 2023

Filed May 1, 2023

## CHAPTER 468

### SENATE BILL NO. 2180

(Senators Klein, Magrum, Myrdal)  
(Representatives Monson, Vigesaa, Weisz)

AN ACT to amend and reenact subsection 1 of section 54-10-01, sections 54-10-14, 54-10-15, and 54-10-27 of the North Dakota Century Code, relating to the annual comprehensive financial report, audits of state agencies, reports, financial audits, and petitions; and to provide for retroactive application.

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

<sup>259</sup> **SECTION 1. AMENDMENT.** Subsection 1 of section 54-10-01 of the North Dakota Century Code is amended and reenacted as follows:

1. The state auditor shall:
  - a. Be vested with the duties, powers, and responsibilities involved in performing the postaudit of all financial transactions of state government, detecting and reporting any defaults, and determining that expenditures have been made in accordance with law and appropriation acts.
  - b. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the ~~comprehensive~~ annual comprehensive financial report of the state in accordance with government auditing standards.
  - c. Perform or provide for audits of state agencies in accordance with government auditing standards and legislative audit and fiscal review committee guidelines developed under section 54-35-02.10. Except for the annual audit of the North Dakota lottery required by section 53-12.1-03, the state auditor shall audit each state agency once every two to four years. Audits may be conducted at more frequent intervals if requested by the governor or the legislative audit and fiscal review committee. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for an agency that receives and expends both general fund and nongeneral fund moneys. State agencies shall use nongeneral fund moneys to pay for the cost of the audit. If nongeneral fund moneys are not available, the agency may, upon approval of the legislative assembly, or the budget section if the legislative assembly is not in session, use general fund moneys to pay for the audit. Any budget section action under this subdivision must comply with section 54-35-02.9.
  - d. Perform or provide for performance audits of state agencies, or the agencies' blended component units or discreetly presented component

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<sup>259</sup> Section 54-10-01 was also amended by section 1 of House Bill No. 1508, chapter 467, section 4 of Senate Bill No. 2004, chapter 36, and section 2 of Senate Bill No. 2259, chapter 469.



units, as determined necessary by the legislative assembly, or the legislative audit and fiscal review committee if the legislative assembly is not in session. When determining the necessity of a performance audit, the legislative audit and fiscal review committee shall consider:

- (1) The potential cost-savings or efficiencies that may be gained as a result of the performance audit;
  - (2) The staff resources of the state auditor's office and of the state agency being audited which will be required to conduct the audit;
  - (3) The potential for discovery of noncompliance with state law or legislative intent regarding the program or agency; and
  - (4) The potential for the performance audit to identify opportunities for program improvements.
- e. Report on the functions of the state auditor's office to the governor and the secretary of state in accordance with section 54-06-04 or more often as circumstances may require.
- f. Perform work on mineral royalties for the federal government in accordance with section 1735(a) of the Mineral Lands and Mining Act [30 U.S.C. 1735 et seq.].
- g. Perform all other duties as prescribed by law.

**SECTION 2. AMENDMENT.** Section 54-10-14 of the North Dakota Century Code is amended and reenacted as follows:

**54-10-14. Political subdivisions - Audits - Fees - Alternative audits and reports.**

1. The state auditor shall audit the following political subdivisions once every two years, except as provided in this section or otherwise by law:
  - a. Counties.
  - b. Cities, and when a city is audited, to include any political subdivision that was created by the city and has bonding authority.
  - c. Park districts.
  - d. School districts.
  - e. Firefighters relief associations.
  - f. Airport authorities.
  - g. Public libraries.
  - h. Water resource districts.
  - i. Garrison Diversion Conservancy District.
  - j. Rural fire protection districts.

- k. Special education districts.
  - l. Area career and technology centers.
  - m. Correction centers.
  - n. Recreation service districts.
  - o. Weed boards.
  - p. Irrigation districts.
  - q. Rural ambulance service districts.
  - r. Southwest water authority.
  - s. Regional planning councils.
  - t. Soil conservation districts.
  - u. Western area water supply authority industrial water sales on an annual basis.
2. The state auditor shall charge the political subdivision an amount equal to the fair value of the audit and any other services rendered. The fees must be deposited in the state auditor operating account. The state treasurer shall credit the state auditor operating account with the amount of interest earnings attributable to the deposits in that account. Expenses relating to political subdivision audits must be paid from the state auditor operating account, within the limits of legislative appropriation.
  3. In lieu of conducting an audit every two years, the state auditor may require annual reports from political subdivisions subject to this section, or otherwise provided by law, for any report delinquent as of June 30, 2023, or from political subdivisions with less than seven hundred fifty thousand two million dollars of annual receipts, excluding any federal funds passed through the political subdivision to another entity. If any federal agency performs or requires an audit of a political subdivision that receives federal funds to pass through to another entity, the political subdivision shall provide a copy to the state auditor upon request by the state auditor. The reports must contain the financial information required by the state auditor. The state auditor ~~also may make:~~
    - a. Make any additional examination or audit determined necessary in addition to the annual report. ~~When a report is not filed, the state auditor may charge~~
    - b. Charge the political subdivision an amount equal to the fair value of the additional examination or audit and any other services rendered. ~~The state auditor may charge~~
    - c. Charge a political subdivision a fee not to exceed ~~eighty-six ninety~~ eighty-six ninety dollars an hour for the costs of reviewing the annual report.
  4. A political subdivision, at the option of its governing body, may be audited by a certified public accountant or licensed public accountant rather than by the

state auditor. The public accountant annually shall register with the state auditor and comply with generally accepted government auditing standards for audits of political subdivisions. The report must be in the form and content required by the state auditor. The number of copies of the audit report requested by the state auditor must be filed with the state auditor when the public accountant delivers the audit report to the political subdivision. The state auditor shall review the audit report to determine if the report is in the required form and has the required content, and if the audit meets generally accepted government auditing standards. The state auditor also may periodically review the public accountant's workpapers to determine if the audit meets generally accepted government auditing standards. If the report is in the required form and has the required content, and the report and workpapers comply with generally accepted government auditing standards, the state auditor shall accept the audit report. The state auditor may charge the political subdivision a fee of up to ~~eighty-six~~<sup>ninety</sup> dollars an hour, but not to exceed seven hundred fifty dollars per review, for the related costs of reviewing the audit report and workpapers.

5. A political subdivision may not pay a public accountant for an audit until the state auditor has accepted the audit. However, a political subdivision may make progress payments to the public accountant. A political subdivision shall retain twenty percent of any progress payment until the audit report is accepted by the state auditor.
6. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing board, officers, or employees of the political subdivision disclosed by the audit report or workpapers, and failure to make the corrections must result in audits being resumed by the state auditor until the irregularities, objectionable accounting procedures, or illegal actions are corrected.

**SECTION 3. AMENDMENT.** Section 54-10-15 of the North Dakota Century Code is amended and reenacted as follows:

**54-10-15. Audits of political subdivisions by order/request of governor or order of the legislative audit and fiscal review committee, upon petition, or upon request of the state court administrator.**

1. The state auditor, by duly appointed deputy auditors or other authorized agents, shall audit or review the books, records, and financial accounts of any political subdivision when ordered by ~~the governor or the legislative audit and fiscal review committee.~~ The state auditor, by duly appointed auditors or other authorized agents, may audit or review the books, records, and financial accounts of any political subdivisions when requested by the governor, requested by the governing board, or upon petition of at least thirty-five percent of the qualified electors of any political subdivision enumerated in section 54-10-14 voting for the office of governor at the preceding general election or, in the case of school districts, upon petition of at least thirty-five percent of the qualified electors voting at the preceding school board election, or upon the request of the state court administrator with respect to clerk of district court services provided by a county in accordance with chapter 27-05.2. Fees for the audits must be paid in accordance with the provisions of section 54-10-14.
2. If an audit is ordered due to financial irregularities or allegations of embezzlement, the governor may suspend an elected or appointed school

board member from the individual's duties if the governor determines suspension is in the best interest of the state pending the results of the audit. If the governor suspends an elected or appointed school board member, the governor immediately shall provide notice to the school board with which the suspended member serves. Within five days of receiving notice, the school board shall appoint an individual to replace the suspended member to serve during the pendency of the audit. The governor shall consult with the superintendent of public instruction in determining whether suspension of a member of a school board is in the best interest of the state.

**SECTION 4. AMENDMENT.** Section 54-10-27 of the North Dakota Century Code is amended and reenacted as follows:

**54-10-27. Occupational and professional boards - Audits and reports.**

The governing board of any occupational or professional board shall provide for an audit once every two years by a certified public accountant or licensed public accountant. The accountant conducting the audit shall submit the audit report to the state auditor's office. If the report is in the form and style prescribed by the state auditor, the state auditor may not audit that board. An occupational or professional board may request the state auditor to conduct its audit, and if the state auditor agrees to conduct the audit, the state auditor shall deposit the fees charged to the occupational or professional board into the state auditor operating account. Instead of providing for an audit every two years, an occupational or professional board that has less than two hundred thousand dollars of annual receipts may submit an annual report to the state auditor. The report must contain the information required by the state auditor. The state auditor also may make any additional examination or audit determined necessary in addition to the annual report. When a report is not filed, the state auditor may charge the occupational or professional board an amount equal to the fair value of the additional examination or audit and any other services rendered. The state auditor may charge an occupational or professional board a fee not to exceed ~~eighty-six~~ninety dollars an hour for the costs of reviewing the annual report.

**SECTION 5. RETROACTIVE APPLICATION.** This Act applies retroactively to cases arising after January 1, 2022.

Approved March 22, 2023

Filed March 23, 2023

## CHAPTER 469

### SENATE BILL NO. 2259

(Senators Klein, Luick, Myrdal)  
(Representatives D. Johnson, Schreiber-Beck, Thomas)

AN ACT to amend and reenact subsection 2 of section 4.1-44-04 and subdivision c of subsection 1 of section 54-10-01 of the North Dakota Century Code, relating to audit fees charged by the state auditor.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 4.1-44-04 of the North Dakota Century Code is amended and reenacted as follows:

2. The presiding officer of each house of the legislative assembly may direct 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, and 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, also must include a statean auditor's report on the commodity group's single-page uniform statement of revenues and expenditures for the previous two fiscal years or an annual financial statement audit as required by the respective group's national association.

<sup>260</sup> **SECTION 2. AMENDMENT.** Subdivision c of subsection 1 of section 54-10-01 of the North Dakota Century Code is amended and reenacted as follows:

- c. Perform or provide for audits of state agencies in accordance with government auditing standards and legislative audit and fiscal review committee guidelines developed under section 54-35-02.10. Except for the annual audit of the North Dakota lottery required by section 53-12.1-03, the state auditor shall audit each state agency once every two years. Audits may be conducted at more frequent intervals if requested by the governor or the legislative audit and fiscal review committee. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for an agency that receives and expends both general fund and nongeneral fund moneys. The charge for an audit of an agricultural commodity group listed in section 4.1-44-04 must be six thousand dollars for an annual financial statement audit or four thousand dollars for a two-year single-page financial statement audit performed during the biennium ending June 30, 2025, and may be increased by five percent on July first of each odd-numbered year thereafter. State agencies shall use nongeneral fund moneys to pay for the cost of the audit. If nongeneral fund moneys are not available, the agency may, upon approval of the

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<sup>260</sup> Section 54-10-01 was also amended by section 1 of House Bill No. 1508, chapter 467, section 4 of Senate Bill No. 2004, chapter 36, and section 1 of Senate Bill No. 2180, chapter 468.

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legislative assembly, or the budget section if the legislative assembly is not in session, use general fund moneys to pay for the audit. Any budget section action under this subdivision must comply with section 54-35-02.9.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 470

### HOUSE BILL NO. 1528

(Representatives Mock, Bosch, Ista, Kempenich, Louser, Roers Jones, Toman,  
Weisz)  
(Senators Davison, Paulson, K. Roers, Wanzek)

AN ACT to amend and reenact sections 15-10-44, 54-46-02, 54-46-04, 54-46-05, and 54-46-08 of the North Dakota Century Code, relating to the retention of electronic mail for institutions under the control of the state board of higher education, final disposition of records, mandatory records retention policies for state agencies, and the administration of employee accounts upon employee departure from an agency; to provide for a legislative management study; to provide an effective date; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 15-10-44 of the North Dakota Century Code is amended and reenacted as follows:

##### **15-10-44. Higher education information technology - Board duties - Reports.**

1. The state board of higher education shall manage and regulate information technology planning and services for institutions under its control, including:
  - a. Development of information technology policies, standards, and guidelines in coordination with the information technology department.
  - b. Implementation of a process for project management oversight and reporting.
  - c. Integration of higher education information technology planning and reporting with the board's strategic planning process and annual performance and accountability report required by section 15-10-14.2.
  - d. Participation in internet2 or other advanced higher education or research-related networking projects as provided in section 54-59-08.
  - e. Development of an annual report concerning higher education information technology planning and services.
  - f. Requiring utilization by each institution under the control and supervision of the board of systemwide electronic mail services provided by the board for all public business electronic correspondence.
  - g. Development and implementation of an electronic mail retention policy for the board and institutions under the supervision and control of the board which requires retention of nonstudent employee electronic mail messages for at least ~~two years~~ one year after the creation or receipt of the message unless the electronic mail message includes malware or regulated information as defined under section 54-59.1-01.

2. The state board of higher education shall collaborate with the information technology department to coordinate higher education information technology planning with statewide information technology planning.
3. The state board of higher education shall provide advice to the information technology department regarding the development of policies, standards, and guidelines relating to access to or use of wide area network services as provided by section 54-59-09.
4. The state board of higher education shall present information regarding higher education information technology planning, services, and major projects to the information technology committee on request of the committee.

**SECTION 2. AMENDMENT.** Section 54-46-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-46-02. Definitions.**

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Agency" means any department, office, commission, board, or other unit, however designated, of the executive branch of state government, including the state board of higher education and the entities under the control of the state board of higher education.
  2. "Data" does not include malware or regulated information as defined under section 54-59.1-01.
  3. "Departmental agency" means an agency, not including a board or commission as defined by titles 4.1 and 4.3.
  4. "Record" means document, book, paper, photograph, electronic mail or communication, sound recording or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business activities, policies, or decisions that provide administrative, operational, fiscal, historical, audit, or business value. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, nonbusiness-related or draft electronic messages and stocks of publications and of processed documents are not included within the definition of records as used in this chapter.
- ~~3.5.~~ "State record" means:
- a. A record of a department, office, commission, board, or other agency, however designated, of the state government.
  - b. A record of the state legislative assembly held by an agency.
  - c. A record of any court of record, whether of statewide or local jurisdiction.
  - d. Any other record designated or treated as a state record under state law.

**SECTION 3. AMENDMENT.** Section 54-46-04 of the North Dakota Century Code is amended and reenacted as follows:



**54-46-04. Duties of administrator.**

The administrator shall, with due regard for the functions of the agencies concerned:

1. Establish standards, procedures, and techniques for effective management of records.
2. Make continuing surveys of paperwork operations and recommend improvements in current records management practices including the use of space, equipment, and supplies employed in creating, maintaining, storing, and servicing records.
3. Establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the final disposition of state records no longer possessing administrative, legal, or fiscal value.
4. Ensure that each departmental agency maintains, for at least one year, data contained in electronic mail accounts for agency heads, state officers appointed by the governor under chapter 44-02, and elected executive branch officials.
5. Develop a training program for agencies regarding the management of state records.
6. Obtain reports from agencies as are required for the administration of the program.
7. Receive reports of noncompliance with the records management program. Upon review of the report, the administrator shall:
  - a. Recommend training for the noncompliant agency;
  - b. Submit the report to human resource management services for consultation to determine whether disciplinary action is appropriate;
  - c. Submit the report to the office of the state auditor to include noncompliance findings in the agency's audit and to determine whether reporting findings of noncompliance to the legislative audit and fiscal review committee is appropriate; or
  - d. Submit the report to the office of the attorney general to determine appropriate action, including prosecution or referral to human resource management services or the agency's human resources department for disciplinary action.

**SECTION 4. AMENDMENT.** Section 54-46-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-46-05. Duties of agency heads.**

The head of each agency shall:

1. Establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.

2. Make and maintain records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities.
3. Submit to the administrator, in accordance with the standards adopted by the administrator, schedules proposing the length of time each state record series warrants retention for administrative, legal, or fiscal purposes after it has been received by the agency.
4. Submit to the administrator lists of state records in the custody of the agency which are not needed in the transaction of current business and which do not have administrative, legal, or fiscal value.
5. Cooperate with the administrator in the conduct of surveys made by the administrator pursuant to this chapter, including resolving findings of noncompliance with the records management program as may be indicated in the final survey report. Failure to cooperate with the administrator may result in reported noncompliance as authorized under subsection 6 of section 54-46-04.
6. Comply with the rules, standards, and procedures adopted by the administrator.

<sup>261</sup> **SECTION 5. AMENDMENT.** Section 54-46-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-46-08. Determination necessary for final disposition of records - Review of state data.**

1. Prior to the final disposition of any type or class of record, the administrator, after consultation with the official or department head ~~concerned~~owning the record, the attorney general, the state auditor, and the state archivist, shall determine that the type or class of record has no further administrative, legal, or fiscal value and is subject to final disposition under section 54-46-08.1 or section 54-46-09.
2. Each departmental agency shall maintain, for at least one year, data contained in electronic mail accounts and personal file storage, for agency heads, state officers appointed by the governor under chapter 44-02, and elected executive branch officials.
3. a. Each agency shall develop policies related to the assumption of employee account ownership upon employee departure. For an employee who holds a supervisory position or above, the agency shall place on hold an employee account to preserve the employee account if one of the following occurs:
  - (1) The employee is involuntarily terminated;
  - (2) The employee is placed on administrative leave;

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<sup>261</sup> Section 54-46-08 was also amended by section 8 of House Bill No. 1021, chapter 21.

- (3) The employee resigns or departs without notice;
  - (4) The employee dies; or
  - (5) An event the agency deems sufficient to place the account on hold.
- b. An agency shall ensure the employee account remains on hold until the account has been reviewed by the appropriate individual. The head of an agency, a records manager, or an employee designated by the head of an agency, shall review the employee account for all supervisory employees, except as required under subdivision c.
- c. If the employee was the head of an agency, a state officer appointed by the governor under chapter 44-02, or an elected executive branch official, the employee account must be reviewed by the employee's successor and, if the administrator deems it necessary, the state archivist.
- d. For purposes of this subsection:
- (1) "Employee account" means physical files and electronic files, communications, attachments, and other information stored in an employee electronic mail account or electronic file storage account;
  - (2) "Employee's successor" does not include an individual acting in the successor's role or position temporarily before a successor is appointed under section 44-02-03; and
  - (3) "On hold" means in a state of preservation in which nothing may be altered and for which access is immediately restricted to review by the appropriate individual as required under this subsection.
4. If a statute requiring retention of a record does not either provide a specific retention period or specifically provide that the record be permanently retained, the administrator, after completing the consultation required by this section, shall establish a specific retention period for the record. The administrator shall annually survey the state agencies and shall order final disposition under section 54-46-08.1 or section 54-46-09 of any records which have been determined to have no further administrative, legal, or fiscal value pursuant to this section.

## **SECTION 6. LEGISLATIVE MANAGEMENT STUDY - EXECUTIVE BRANCH BOARD AND COMMISSION POLICIES.**

1. During the 2023-24 interim, the legislative management shall consider studying the records management policies of state agencies, including boards and commissions. The study must include:
- a. A review of policy uniformity and training resources;
  - b. An analysis of technological capabilities and limitations;
  - c. Evaluation of the feasibility of providing electronic mail and file service solutions for statewide public entities, including boards and commissions; and

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- d. An analysis of the development, implementation, enforcement, and auditing of records management policies and practices.
  2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

**SECTION 7. EFFECTIVE DATE.** This Act becomes effective on July 1, 2023.

**SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 21, 2023

Filed April 24, 2023

## CHAPTER 471

### SENATE BILL NO. 2208

(Senators Magrum, Cleary)  
(Representatives Christensen, S. Olson)

AN ACT to amend and reenact section 54-12-01 of the North Dakota Century Code, relating to mandating the attorney general to issue opinions requested by individual members of the legislative assembly.

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

**SECTION 1. AMENDMENT.** Section 54-12-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-12-01. Attorney general - Duties.**

The attorney general shall:

1. Appear for and represent the state before the supreme court in all cases in which the state is interested as a party.
2. Institute and prosecute all actions and proceedings in favor or for the use of the state which may be necessary in the execution of the duties of any state officer.
3. Appear and defend all actions and proceedings against any state officer in the attorney general's official capacity in any of the courts of this state or of the United States. If both parties to an action are state officers, the attorney general may determine which officer the attorney general will represent and the other officer may employ counsel to represent that other officer.
4. Consult with and advise the several state's attorneys in matters relating to the duties of their office.
5. Attend the trial of any party accused of crime and assist in the prosecution when in the attorney general's judgment the interests of the state require it.
6. Consult with and advise the governor and all other state officers and when requested give written opinions on all legal or constitutional questions relating to the duties of such officers respectively.
7. Prepare, when necessary, proper drafts for contracts and other writings relating to subjects in which the state is interested.
8. a. Give written opinions, when requested by either branch a member of the legislative assembly, upon legal questions unless the request:
  - (1) Requires the attorney general to make a factual determination;
  - (2) Involves the constitutionality of a statute;

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- (3) Concerns the internal operation or management of the judicial branch of government;
- (4) Is likely to be or presently is pending before a court or a court has ruled on the issue;
- (5) Provides private legal advice; or
- (6) Involves matters regarding whether a criminal offense has occurred.
- b. If the attorney general declines to issue an opinion for a reason in subdivision a, the attorney general shall inform the individual who requested the opinion in a written response within sixty days of the request.
9. Enforce the proper application of funds appropriated to the public institutions of the state and prosecute breaches of trust in the administration of such funds.
  10. Prosecute corporations and limited liability companies, when necessary, for failure or refusal to make the reports required by law.
  11. Keep in proper books a register of all cases prosecuted or defended by the attorney general or the attorney general's assistants, in behalf of this state or its officers, and of all proceedings had in relation thereto, including a record of all actions wherein the state is a party, or is interested, prosecuted by the state's attorneys of the several counties and reported to the attorney general as provided by law, and deliver the same to the attorney general's successor in office.
  12. Keep in the attorney general's office a book in which the attorney general shall record all the official opinions given by the attorney general during the attorney general's term of office, such book to be delivered by the attorney general to the attorney general's successor in office.
  13. Pay into the state treasury all moneys received by the attorney general for the use of the state.
  14. Serve as superintendent of the bureau of criminal investigation and perform all duties incident to the proper and efficient conduct of that office.
  15. Attend to and perform any other duties which from time to time may be required by law.
  16. Appoint the state fire marshal and supervise the operation of the state fire marshal department.
  17. Give written opinions, when requested by the governing body or city attorney of a city in the state of North Dakota.
  18. Repealed by S.L. 1991, ch. 637, § 9.
  19. Give written opinions to public entities as defined in subdivision a or b of subsection 13 of section 44-04-17.1, when requested by an interested person under section 44-04-21.1.

Approved April 12, 2023

Filed April 13, 2023

## CHAPTER 472

### SENATE BILL NO. 2029

(Legislative Management)  
(Government Finance Committee)

AN ACT to amend and reenact sections 54-16-04.1 and 54-16-04.2 of the North Dakota Century Code, relating to emergency commission and budget section approval to accept and disburse federal funds and state special funds; and to declare an emergency.

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

<sup>262</sup> **SECTION 1. AMENDMENT.** Section 54-16-04.1 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-16-04.1. May authorize acceptance and disbursement of federal funds.**

1. The emergency commission, upon the advice and counsel of the office of management and budget, may authorize the state treasurer to receive any moneys not appropriated by the legislative assembly which are made available by any federal agency and which the legislative assembly has not indicated an intent to reject.
2. The emergency commission may authorize passthrough federal funds from one state agency to another state agency. A request to expend federal funds received by a state agency and passed through to any other state agency may be approved only under this section.
3. The emergency commission, with approval of the budget section of the legislative management if the amount under consideration exceeds fifty thousand dollars but does not exceed three million dollars, may authorize any state officer to receive and expend federal moneys from the date such moneys become available until June thirtieth following the next regular legislative session.
4. The emergency commission, with approval of the budget section of the legislative management if the amount under consideration exceeds three million dollars, may authorize any state officer to receive and expend federal moneys from the date such moneys become available until June thirtieth following the next regular legislative session. The budget section may approve a request under this subsection in the form received from the emergency commission or may amend and approve a request. A request amended and approved by the budget section is deemed to be approved by the emergency commission. Any request considered by the budget section must comply with section 54-35-02.9.
5. Any federal funds made available to this state which are not for a specific purpose or program and which are not required to be spent prior to the next

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<sup>262</sup> Section 54-16-04.1 was also amended by section 2 of House Bill No. 1070, chapter 331.



regular legislative session, upon the approval for acceptance by the emergency commission and the budget section of the legislative management, must be deposited into a specialseparate fund until the legislative assembly appropriates the funds.

6. a. Approval by the budget section of the legislative management is not required for the acceptance of federal funds if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state.
- b. Budget section approval is required under this section before the expenditure of any funds accepted under these conditions.
7. The expenditures must be consistent with state law and with the terms of the grant and the program may not commit the legislative assembly for matching funds in the future unless the program has first been approved by the legislative assembly.
8. A state officer may not expend funds received from the federal government which have not been specifically appropriated by the legislative assembly except as provided in this chapter.
9. A state officer shall submit an expenditure plan with a request for approval under this section of expenditure of federal funds combined with or as part of a block grant for a new or existing program.
10. The aggregatecumulative amount of requests to expend funds that may be approved each biennium under this section may not exceed fifty million dollars. Any request received under this section which, if approved, would result in more than fifty million dollars of funds being approved for expenditure under this section during the biennium may be approved only by the legislative assembly during a regular legislative session or during a special legislative session called by the governor. The director of the office of management and budget shall notify the members of the legislative assembly of any requests submitted which, if approved, would exceed the limit under this subsection.
11. Any request received under this section to expend funds received through a federal act that makes available to the state more than fifty million dollars ~~to the state~~ may be approved only by the legislative assembly during a regular legislative session or a special legislative session called by the governor.
12. Subsections 10 and 11 do not apply to federal highway administration emergency relief funding received by the state or to disaster or emergency recovery funding received by the state pursuant to section 37-17.1-23.

**SECTION 2. AMENDMENT.** Section 54-16-04.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-04.2. Commission may authorize acceptance and expenditure of moneysstate special funds and other sources.**

1. Upon a finding that an emergency exists, the emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative management if the amount under consideration exceeds fifty thousand dollars but does not exceed three million dollars, may authorize a state officer to receive and expend moneys from gifts,

grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program.

2. Upon a finding that an emergency exists, the emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative management if the amount under consideration exceeds three million dollars, may authorize a state officer to receive and expend moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program. The budget section may approve a request under this subsection in the form received from the emergency commission or may amend and approve a request. A request amended and approved by the budget section is deemed to be approved by the emergency commission. Any request considered by the budget section must comply with section 54-35-02.9.
3. A state officer receiving authorization to expend money under this section may expend the money from the date the money becomes available until June thirtieth following the next regular legislative session. Approval by the budget section of the legislative management is not required for the acceptance of moneys under this section if the acceptance is necessary to avoid an imminent threat to the safety of people or property due to a natural disaster or war crisis or an imminent financial loss to the state. Budget section approval is required before the expenditure of any funds accepted under these conditions.
4. The ~~aggregate~~cumulative amount of requests to expend funds which may be approved each biennium under this section may not exceed ~~five~~twenty million dollars. Any request received under this section which, if approved, would result in more than ~~five~~twenty million dollars being approved for expenditures under this section during the biennium may be approved only by the legislative assembly during a regular legislative session or during a special legislative session called by the governor. The director of the office of management and budget shall notify the members of the legislative assembly of any requests submitted which, if approved, would exceed the limit under this subsection.

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

Approved April 26, 2023

Filed April 26, 2023

## CHAPTER 473

### HOUSE BILL NO. 1062

(Energy and Natural Resources Committee)  
(At the request of the Industrial Commission)

AN ACT to amend and reenact section 54-17-03, subsection 8 of section 54-17-07.3, section 54-17-07.9, and subsection 2 of section 54-63-03 of the North Dakota Century Code, relating to updating position titles, clarification for mortgage insurance requirements, execution of instruments, and industrial commission powers.

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

**SECTION 1. AMENDMENT.** Section 54-17-03 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-17-03. Chairman and attorney - Secretary - Employees - Compensation - Bonds.**

The governor is the chairman of the industrial commission, and its attorney is the attorney general. The commission shall appoint a ~~secretary~~ executive director and may employ other subordinate officers, employees, and agents, on such terms as the commission determines proper. The commission may require suitable bonds of its ~~secretary~~ executive director or other subordinate officers, employees, or agents. The commission shall fix the amount of the compensation of the commission's ~~secretary~~ executive director, officers, employees, and agents and ~~the secretary's salary may exceed the maximum salary in the grade established for the classification assigned under chapter 54-44-3.~~ The compensation, together with other expenditures for operation and maintenance of the general business of the commission, must remain within the appropriation available in each year for such purpose. The commission may set the compensation, within the limits of legislative appropriation, for members of a board, committee, or council that advises the commission. Notwithstanding any other provision of law, the compensation for any board, committee, or council member may include reimbursement for expenses, a salary, a per diem, or a combination of the three, as set by the commission.

**SECTION 2. AMENDMENT.** Subsection 8 of section 54-17-07.3 of the North Dakota Century Code is amended and reenacted as follows:

8. The housing finance agency may purchase, service, and sell residential real estate loans secured by a first mortgage lien on real property originated by financial institutions. The loans may be held in the agency's portfolio or sold on the secondary market with servicing retained. ~~All loans with a loan-to-value ratio exceeding eighty percent and not guaranteed by a federal agency must be insured by an approved mortgage insurance company.~~

**SECTION 3. AMENDMENT.** Section 54-17-07.9 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-17-07.9. Execution of instruments.**

In the absence of any provision regulating the execution and acknowledgment of conveyances, transfers, assignments, releases, satisfactions, or other instruments affecting liens on, title to, or interest in real estate, the executive director or ~~the director of financial programs~~ other staff as designated by the executive director, may execute and acknowledge such instruments on behalf of the industrial commission acting as the North Dakota housing finance agency.

**SECTION 4. AMENDMENT.** Subsection 2 of section 54-63-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The industrial commission ~~shall~~may contract with the department of commerce to provide technical assistance to the renewable energy council and the industrial commission to carry out and effectuate the purposes of this chapter, including pursuit of aid, grants, or contributions of money or other things of value from any source for any purpose consistent with this chapter. The department may contract with a public or private third party to provide any or all of the technical assistance necessary to implement the purposes of this chapter.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 474

### SENATE BILL NO. 2089

(Finance and Taxation Committee)  
(At the request of the Department of Mineral Resources)

AN ACT to create and enact section 54-17.6-06.1 of the North Dakota Century Code, relating to clean natural gas capture and emissions reduction; and to designate funding from the oil and gas research fund.

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

**SECTION 1.** Section 54-17.6-06.1 of the North Dakota Century Code is created and enacted as follows:

#### **54-17.6-06.1. Clean natural gas capture and emissions reduction program.**

1. The clean natural gas capture and emissions reduction program shall provide an incentive for natural gas capture and utilization systems on an oil or gas well site or gathering pipeline facility which collect or utilizes over fifty percent of propane and heavier hydrocarbons from an oil and gas well site for beneficial use by:
  - a. Compressing or liquefying gas for artificial lift, uses as fuel, or for nonpipeline transport to a processing facility;
  - b. Conversion to liquid fuels;
  - c. Conversion to electricity for onsite use or supply to the electrical grid;
  - d. Conversion to computational power;
  - e. Collection of tank vapors for beneficial use or transport to a processing facility;
  - f. Temporary gas injection into producing wells in lieu of flaring or shutting in wells; or
  - g. Other value-added processes as approved by the industrial commission.
2. The commission is granted all the powers necessary and appropriate to effectuate the provisions of this section.
3. The commission:
  - a. May make grants or loans or provide other forms of financial assistance as necessary or appropriate to qualified entities for activities under subsection 1;
  - b. Shall keep accurate records of all financial transactions performed under this section;

- c. May accept donations, grants, federal funds, contributions, and gifts from any public or private source and deposit such in the oil and gas research fund;
- d. May make and explore orders, rules, and policies necessary to effectuate the purpose of this section; and
- e. Shall consult with the council in matters of policy affecting the administration of the clean natural gas capture and emissions reduction program.

**SECTION 2. OIL AND GAS RESEARCH FUND - CLEAN NATURAL GAS CAPTURE AND EMISSIONS REDUCTION PROGRAM - ONE-TIME FUNDING.**

Pursuant to the continuing appropriation under section 57-51.1-07.3, the industrial commission shall use up to \$3,000,000 from the oil and gas research fund for the clean natural gas capture and emissions reduction program under section 54-17.6-06.1 for the biennium beginning July 1, 2023, and ending June 30, 2025. The designation under this section is considered a one-time funding item.

Approved April 29, 2023

Filed May 1, 2023

## CHAPTER 475

### SENATE BILL NO. 2054

(Transportation Committee)  
(At the request of the Highway Patrol)

AN ACT to amend and reenact sections 39-03-09 and 54-21-17.1 of the North Dakota Century Code, relating to powers of the highway patrol.

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

**SECTION 1. AMENDMENT.** Section 39-03-09 of the North Dakota Century Code is amended and reenacted as follows:

##### **39-03-09. Powers of highway patrol.**

The superintendent and each member of the highway patrol shall have the power:

1. Of a peace officer for the purpose of enforcing the provisions of this title relating to operators' licenses, the provisions of title 24 relating to highways, and of any other law regulating the operation of vehicles or the use of the highways, and in addition the highway patrol shall enforce all laws relating to the use or presence of alcoholic beverages in motor vehicles.
2. To make arrests upon view and without warrant for any violation committed in the person's presence of any of the provisions of this title relating to operators' licenses, or of title 24 relating to highways or to other laws regulating the operation of vehicles or the use of the highways.
3. To direct traffic in conformance with law, or, in case of fire or emergency and to expedite traffic, or, to ensure safety by directing traffic as conditions may require notwithstanding the provisions of law.
4. To facilitate compliance with the provisions of this title, to require the driver of a vehicle to stop and exhibit the driver's operator's license and the registration cards issued for the vehicle, if any are required, and to submit to an inspection and test of the equipment of such vehicle.
5. For the purpose of locating stolen vehicles and to investigate the title and registration thereof, to inspect any vehicle of a type required to be registered under the provisions of this title, in any public garage or repair shop, or in any place where such vehicles are held for sale or wrecking.
6. To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways.
7. To investigate traffic accidents and secure testimony of witnesses or of persons involved.
8. To investigate reported thefts of motor vehicles, trailers, or semitrailers.
9. To take applications for operators' licenses without making a charge therefor.

10. To enforce all laws, rules, or regulations of the state of North Dakota pertaining to the closing hours of all businesses or establishments selling alcoholic beverages outside the limits of incorporated cities of this state.
11. ~~To exercise general police powers~~Of a peace officer over all violations of law committed on state owned or leased property.
12. ~~To exercise general police powers~~Of a peace officer over all violations of law committed in their presence or when in pursuit of any actual or suspected law violator.
13. To require a motor carrier owner, or a motor carrier's agent, affected by rules adopted under chapter 39-21 to produce logs or other documents to determine compliance with rules adopted under chapter 39-21.
14. ~~To provide~~Of a peace officer when providing security and protection for the governor, the governor's immediate family, and other officers next in order of succession to the office of governor ~~to the extent and in a manner the governor and the superintendent deemas deemed~~ adequate and appropriate by the superintendent.
15. ~~To provide~~Of a peace officer when providing security and protection for ~~both~~ members of the legislative assembly ~~while in session as in the opinion of the speaker of the house, the president of the senate, and the superintendent areas~~ deemed adequate and appropriate by the superintendent.
16. Of a peace officer when responding to a call for emergency assistance requiring an immediate response. Following a call for emergency assistance which occurs outside state-owned or state-leased property, a highway, or the highway right of way, notification must be provided to the local law enforcement agency having primary jurisdiction.
17. To promote public trust and an understanding of law enforcement through education, community outreach, and job shadowing programs.
18. ~~To exercise general police powers~~Of a peace officer over any violation of law committed on public or private property when requested by another law enforcement agency.
19. Of a peace officer when providing security and protection for visiting dignitaries at the request of another law enforcement agency or the governor. The highway patrol may request the assistance of other law enforcement agencies with security and protection, and the other law enforcement agencies may provide the assistance as requested under this section.

**SECTION 2. AMENDMENT.** Section 54-21-17.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-21-17.1. Superintendent to secure interior of capitol building, capitol grounds, and executive mansion - Issuance and return of keys and electronic card access.**

1. The superintendent of the highway patrol shall see to the security of the state capitol building, capitol grounds, and executive mansion. The superintendent shall have control over the issuance and return of keys and electronic card



~~access allowing entry to the building proper, or any door located therein. Keys to doors in the legislative wing must be issued and controlled by the legislative council when so requested by the highway patrol exterior doors of the state capitol building. The superintendent shall have control over electronic card access for the interior doors of the state capitol building. Keys to interior doors of the state capitol building must be controlled by individual agency heads and requested through the office of management and budget. The highway patrol shall determine the manner in which keys to the exterior doors of the state capitol building are to be issued and returned, including the procedure for receiving and recording the payment of fees in lieu of return of keys provided in section 54-06-15 and the manner in which electronic card access for interior and exterior doors is granted or removed.~~

- ~~2. The legislative council may issue keys and grant electronic card access for interior doors in areas controlled by the legislative branch.~~
- ~~3. The superintendent may adopt rules and procedures for the immediate lock-down and closure of the capitol building and executive mansion to promote safety during times of emergency.~~

Approved April 18, 2023

Filed April 19, 2023

**CHAPTER 476****HOUSE BILL NO. 1066**

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to create and enact a new section to chapter 54-23.3 of the North Dakota Century Code, relating to job shadowing with the department of corrections and rehabilitation.

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

**SECTION 1.** A new section to chapter 54-23.3 of the North Dakota Century Code is created and enacted as follows:

**Job shadowing.**

For purposes of education and community outreach and to promote public trust, the director of the department of corrections and rehabilitation may permit a nonmember of the department of corrections and rehabilitation to participate in job shadowing activities, including:

1. Participating in a ride-along program with a member of the department of corrections and rehabilitation while on duty;
2. Discharging a firearm owned and used by the department of corrections and rehabilitation while at a training facility and under the supervision of a member of the department of corrections and rehabilitation; and
3. Shadowing any member of the department of corrections and rehabilitation while on duty.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 477

### SENATE BILL NO. 2050

(State and Local Government Committee)  
(At the request of the State Library)

AN ACT to create and enact a new section to chapter 54-24.2 of the North Dakota Century Code, relating to the ability of the state librarian to recalculate grant payments to public libraries; to amend and reenact sections 40-38-09, 54-24-09, 54-24.2-03, and 54-24.4-05 of the North Dakota Century Code, relating to the public annual report, distribution of state publications to libraries, the computation of mill levies, and the duties of the library coordinating council; to repeal sections 40-38-10 and 54-24.2-02.2 of the North Dakota Century Code, relating to a political subdivision's ability to establish a library without an election and local maintenance efforts of public libraries; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 40-38-09 of the North Dakota Century Code is amended and reenacted as follows:

##### **40-38-09. Annual report of board of directors - Contents - To whom made.**

The board of directors shall make a report ~~on~~by July first of each year to the governing body of the city or board of county commissioners, as the case may be, stating:

1. The condition of the library and property.
2. The various sums of money received from all sources.
3. How much money has been expended and for what purpose.
4. The number of ~~books and periodicals~~library materials on hand.
5. The number of ~~books and periodicals~~library materials added ~~by purchase or gift during the year and the number thereof, withdrawn or lost or, and number of materials~~ loaned out.
6. The ~~character and kind of books~~type of library materials contained in the library.
7. Such other statistics, information, and suggestions as the board may deem of general interest or as may be required by the state library.

Copies of the report shall be filed with the governing body of the political subdivision and with the state library.

**SECTION 2. AMENDMENT.** Section 54-24-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-24-09. Distribution of certain state publications for certain libraries required.**

The office of management and budget shall arrange to deposit with the state library eight copies of all publications issued by all executive, legislative, and judicial agencies of state government intended for general public distribution. These publications must be provided to the state library without charge. If expense and limited supply of state publications, particularly audiovisual items, make compliance with the depository requirement impossible, the state library shall accept as many copies as an agency can afford to provide. However, each agency shall provide no less than two copies to the state library. State publications refer to any informational materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. In circumstances not directly involving the office of management and budget, a state agency shall comply with the depository requirement by arranging with the necessary parties for the printing and deposit of eight copies of any state publication issued. State publications are specifically defined as public documents appearing as reports, directories, statistical compendiums, bibliographies, laws or bills, rules, regulations, newsletters, bulletins, state plans, brochures, periodicals, committee minutes, transcripts of public hearings, other printed matter, audiotapes, videotapes, films, filmstrips, or slides, but not those administrative or training materials used only within the issuing agency. As the document acquisition and distribution agency, the state library shall retain for its document collection two copies of every state document received and transmit the remaining copies to the depository libraries. These are the libraries of the state historical society, the university of North Dakota, North Dakota state university, library of Congress, and two others to be designated by the state library. ~~All nondepository North Dakota libraries may receive state documents under an optional selection program developed by the state library. The state library shall catalog state publications and arrange for their conversion to microfilm or to optical disk storage a digital format as prescribed by the state records administrator and shall make available for distribution of the same upon request to the designated depository libraries.~~

**SECTION 3.** A new section to chapter 54-24.2 of the North Dakota Century Code is created and enacted as follows:

**Calculation of payment - Expenditures.**

The state librarian may recalculate and adjust each eligible public library grant formula based on a successful appeal by a public library determined to be ineligible. Within thirty days after notification from the state librarian of a public library's ineligibility to receive grant funds, the ineligible public library shall submit the appeal. The state librarian shall apply the difference between the initial calculated grant formula and the recalculated grant formula to the next available grant formula payment.

**SECTION 4. AMENDMENT.** Section 54-24.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-24.2-03. Incentive for local funding.**

To provide for increased local funding, public libraries eligible to receive funds under section 54-24.2-02 shall have the funds allocated to them modified in accordance with the following formula:

Cities levying

8.00 or more mills	150 percent of allocation
6.00 - 7.99 mills	125 percent of allocation
4.00 - 5.99 mills	100 percent of allocation
3.00 - 3.99 mills	75 percent of allocation
2.00 - 2.99 mills	50 percent of allocation
1.00 - 1.99 mills	33 percent of allocation
0.01 - 0.99 mills	25 percent of allocation
0.00 - mills	0 percent of allocation

Counties levying

4.00 or more mills	150 percent of allocation
3.00 - 3.99 mills	125 percent of allocation
2.00 - 2.99 mills	100 percent of allocation
1.50 - 1.99 mills	75 percent of allocation
1.00 - 1.49 mills	50 percent of allocation
0.50 - 0.99 mills	33 percent of allocation
0.01 - 0.49 mills	25 percent of allocation
0.00 - mills	0 percent of allocation

~~The computation of mills must be based upon the levy on the taxable valuation and the mill levy equivalent of other public funds received and deposited in the library fund for the operation of the library by the governing body during the preceding fiscal year as certified by the auditor of the city or county operating the library;~~

1. The levy on the taxable valuation as certified by the county auditor to the tax commissioner. By May fifteenth of each year the tax commissioner shall provide the state library the certified taxable valuations;
2. The other public funds received and deposited in the library fund for the operation of the library by the governing body during the preceding fiscal year; and
3. Computation of the mill levy equivalent of other public funds as computed by the state library.

**SECTION 5. AMENDMENT.** Section 54-24.4-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-24.4-05. North Dakota library coordinating council - Duties.**

The North Dakota library coordinating council shall:

1. Assist in planning, coordinating, and evaluating the services and programs of libraries in the state.
2. ~~Serve as the state advisory council on libraries as required by Public Law No. 101-254.~~
3. Approve the distribution of grants to libraries, except for grants distributed under chapter 54-24.2.
- 4-3. Facilitate the development of a comprehensive statewide online library catalog, promote statewide resource sharing, and encourage electronic networking among all types of libraries.
- 5-4. Strengthen the state library in its role of coordinating and enriching library service in the state.
- 6-5. Support and strengthen library cooperative ventures, including consortia, regional associations, and partnerships, in their role of extending and improving library services in the state.
- 7-6. Promote equitable access to information resources and library services to persons throughout the state.
- 8-7. Promote the services of libraries and librarians.
- 9-8. Take action necessary to carry out chapter 54-24.3 and this chapter.

**SECTION 6. REPEAL.** Section 40-38-10 of the North Dakota Century Code is repealed.

**SECTION 7. REPEAL.** Section 54-24.2-02.2 of the North Dakota Century Code is repealed.

**SECTION 8. EFFECTIVE DATE.** Sections 3, 4, and 7 of this Act become effective on May 15, 2023.

Approved March 27, 2023

Filed March 28, 2023

## **CHAPTER 478**

### **HOUSE BILL NO. 1214**

(Representative Nathe)

AN ACT to repeal section 54-34.3-13 of the North Dakota Century Code, relating to department of commerce rural growth incentive program.

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

**SECTION 1. REPEAL.** Section 54-34.3-13 of the North Dakota Century Code is repealed.

Approved March 15, 2023

Filed March 16, 2023

## CHAPTER 479

### HOUSE BILL NO. 1539

(Representatives Weisz, Lefor, M. Ruby, Vigesaa)  
(Approved by the Delayed Bills Committee)

AN ACT to amend and reenact section 54-35-02.4 of the North Dakota Century Code, relating to duties of the employee benefits programs committee.

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

**SECTION 1. AMENDMENT.** Section 54-35-02.4 of the North Dakota Century Code is amended and reenacted as follows:

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

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



3. The committee may solicit draft measures and proposals from interested persons during the interim between legislative sessions, and ~~may also~~ may study measures and proposals referred to ~~it~~ the committee by the legislative assembly or the legislative management.
4. A copy of the committee's report concerning ~~any~~ legislative measure ~~shall~~, if that measure is introduced for consideration by a legislative assembly, must be appended to the copy of that measure ~~which is referred to a standing committee.~~
5. ~~If a~~ legislative measure affecting a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program ~~may not be~~ introduced in either house ~~unless it is accompanied by~~ without a report from the committee, ~~the chairman and vice chairman of the employee benefits programs committee shall request an actuarial report from the program affected and shall provide the report to the standing committee to which the measure is referred. A majority of the members of the committee, acting through the~~ During the legislative session, the employee benefits programs committee chairman, has and vice chairman, working together, have sole authority to determine whether any legislative measure or amendment affects a program under this subsection and subsection 6.
6. ~~Any~~ During a legislative session, if an amendment is made ~~during a legislative session~~ to a legislative measure ~~affecting~~ which fiscally impacts a public employees retirement program, public employees health insurance program, or public employee retiree health insurance program ~~may not be considered by a standing committee unless it is accompanied by a report from~~ the employee benefits programs committee chairman and vice chairman shall request from the affected program an actuarial report on the amendment and shall provide the report to the standing committee to which the bill is referred.
7. ~~Any~~ Legislation enacted in contravention of this section is invalid ~~and of no force and effect, and any benefits provided under such~~ the legislation ~~must be reduced to the level current prior to~~ before enactment of the legislation.

Approved May 8, 2023

Filed May 9, 2023

## CHAPTER 480

### HOUSE BILL NO. 1313

(Representatives Kasper, Bellew, Bosch, Lefor, Monson, D. Ruby, Vigesaa)  
(Senators Bekkedahl, Hogue, Klein, Kreun, Meyer)

AN ACT to amend and reenact section 54-35-06 of the North Dakota Century Code, relating to the chairman and vice chairman of the legislative management; to provide for application; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 54-35-06 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The legislative management shall select a chairman must be the majority leader of one house of the legislative assembly, or the majority leader's designee, and at the vice chairman from its own members and must be the majority leader of the opposite house of the legislative assembly, or the majority leader's designee. The legislative management may prescribe its own rules of procedure.
2. The legislative management chairman shall serve a two-year term beginning at the adjournment of each regular legislative session. The chairman may not be a member of the same house of the legislative assembly for consecutive terms. The vice chairman may not be a member of the same house of the legislative assembly as the chairman.
3. The legislative management may appoint a secretary who need not be a member, and shall appoint a director who must to be in charge of the legislative council and who must be paid such. The director is entitled to a salary asset by the legislative management may determine. The director may employ such persons and obtain the assistance of such research agencies as determined necessary. The director may use available funds for salary adjustments to assist with staff recruitment, retention, and recognition of exceptional performance. The legislative management and the legislative council may accept and use any funds made available through the terms of any an agreement made with any agency whatsoever for the accomplishment of the purpose of this chapter. Expenditures of funds made available by legislative appropriation must be made in accordance with rules or motions duly approved by the legislative management.

**SECTION 2. APPLICATION.** The chairman of the legislative management beginning at the adjournment of the 2023 legislative session must be the majority leader of the house of representatives.

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

Approved May 8, 2023

Filed May 9, 2023

## CHAPTER 481

### HOUSE BILL NO. 1159

(Representatives Bosch, Kempenich, Mock, Toman, Weisz)  
(Senators Conley, Davison)

AN ACT to amend and reenact subsection 13 of section 54-35-15.2 and sections 54-59-09 and 54-59-23 of the North Dakota Century Code, relating to the duties of the information technology committee and the state information technology advisory committee; and to repeal sections 54-59-02.1 and 54-59-07 of the North Dakota Century Code, relating to the state information technology advisory committee.

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

**SECTION 1. AMENDMENT.** Subsection 13 of section 54-35-15.2 of the North Dakota Century Code is amended and reenacted as follows:

13. Receive a report from the chief information officer before October first of each even-numbered year regarding ~~the recommendations of the state information technology advisory committee relating to the prioritization of proposed major information technology projects and other information technology issues for~~ the next biennium.

**SECTION 2. AMENDMENT.** Section 54-59-09 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-59-09. Information technology standards.**

Based on information from state agencies and institutions, the department and the office of management and budget shall develop statewide information technology policies, standards, and guidelines. The policies, standards, and guidelines must recognize the uniqueness of certain agencies and state which agencies are included or exempted from the policies, standards, and guidelines. ~~The policies, standards, and guidelines must be reviewed by the state information technology advisory committee.~~ Each executive branch state agency and institution, excluding the institutions under the control of the board of higher education, shall comply with the policies and standards developed by the department and the office of management and budget unless the chief information officer exempts an agency from the policies, standards, and guidelines to address situations unique to that agency. Unless an exemption is granted by the chief information officer, each entity receiving wide area network services provided by the department shall comply with the policies and standards developed by the department with respect to access to or use of wide area network services.

**SECTION 3. AMENDMENT.** Section 54-59-23 of the North Dakota Century Code is amended and reenacted as follows:

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

1. An executive, legislative, or judicial branch agency, except for institutions under the control of the state board of higher education, shall report to the

~~state information technology advisory committee according to guidelines developed by the department and reviewed by the state information technology advisory committee~~department before September first of each even-numbered year regarding the plan for and status of any information technology project that is estimated to cost more than five hundred thousand dollars.

2. During the life of the project, the agency shall notify the ~~state information technology advisory committee~~department if:
  - a. At a project milestone, the amount expended on project costs exceeds the planned budget for that milestone by twenty percent or more; or
  - b. At a project milestone, the project schedule extends beyond the planned schedule to attain that milestone by twenty percent or more.
3. A report under subsection 2 must specify corrective measures being undertaken to address any cost or time of completion issue. If the agency has not taken adequate corrective measures within ninety days after the report, the agency shall submit a report to the legislative management's information technology committee regarding the project.
4. Upon completion of the project, the agency shall notify the ~~state information technology advisory committee~~department if:
  - a. The budget for the project exceeded the original budget by twenty percent or more; or
  - b. The final project completion date extended beyond the original project scheduled completion date by twenty percent or more.

**SECTION 4. REPEAL.** Sections 54-59-02.1 and 54-59-07 of the North Dakota Century Code are repealed.

Approved March 22, 2023

Filed March 23, 2023

## CHAPTER 482

### SENATE BILL NO. 2289

(Senators Patten, Bekkedahl, Kannianen, Kessel)  
(Representatives Bosch, Porter)

AN ACT to amend and reenact section 54-35-18 of the North Dakota Century Code, relating to the energy development and transmission committee.

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

**SECTION 1. AMENDMENT.** Section 54-35-18 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-35-18. Energy development and transmission committee.**

1. The legislative management, during each biennium, shall appoint an energy development and transmission committee in the same manner as the legislative management appoints other interim committees.
2. The legislative management shall appoint six members of the house of representatives, four of whom must be from the majority political party and two of whom must be from the minority political party, and six members of the senate, four of whom must be from the majority political party and two of whom must be from the minority political party. The chairman of the legislative management shall designate the chairman of the committee.
3. The committee shall operate according to the statutes and procedure governing the operation of other legislative management interim committees.
4. The committee shall study the impact of a comprehensive energy policy for the state and the development of each facet of the energy industry, from the obtaining of the raw natural resource to the sale of the final product in this state, other states, and other countries.
5. The committee shall develop a comprehensive statewide energy policy that supports the long-term development of the energy opportunities available in the state and seeks solutions for the challenges realized through the successful development of energy opportunities. The committee shall engage industry stakeholders to develop a regulatory environment that allows for responsible growth while resolving conflicts and developing synergy between energy and agriculture programs.
6. The study may include the review of and recommendations relating to policy affecting extraction, generation, processing, transmission, transportation, marketing, distribution, and use of energy.

Approved April 4, 2023

Filed April 5, 2023

## CHAPTER 483

### HOUSE BILL NO. 1081

(Transportation Committee)

(At the request of the Department of Transportation)

AN ACT to provide for a department of transportation electronic vehicle charging tax study; and to provide for a legislative management report.

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

**SECTION 1. DEPARTMENT OF TRANSPORTATION ELECTRONIC VEHICLE CHARGING TAX STUDY - REPORT TO LEGISLATIVE MANAGEMENT.**

1. During the 2023-24 interim, the department of transportation in consultation with the tax department, and the public service commission, shall study the feasibility and impact of an electronic vehicle charging tax to offset lost revenue from gas tax sales, that would otherwise be appropriated to the department of transportation, by out-of-state drivers when using roads within the state of North Dakota. The study must include:
  - a. An assessment of lost revenue due to out-of-state drivers using the roads but not paying a gas tax due to the vehicles being electronically charged;
  - b. An evaluation of the economic impact of lost revenue as well as implementation of an electronic charging tax that would be equivalent to the lost gas tax revenue; and
  - c. An assessment of the costs and implementation of such a tax.
2. Before August 1, 2024, the department of transportation shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 484

### HOUSE BILL NO. 1026

(Legislative Management)  
(Acute Psychiatric Treatment Committee)

AN ACT to provide for a legislative management study regarding the implementation of behavioral health and acute psychiatric treatment recommendations.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - IMPLEMENTATION OF BEHAVIORAL HEALTH AND ACUTE PSYCHIATRIC TREATMENT RECOMMENDATIONS.** During the 2023-24 interim, the legislative management shall consider studying the implementation of the recommendations of the 2018 North Dakota behavioral health system study conducted by the human services research institute and the 2022 acute psychiatric and residential care needs study conducted by Renee Schulte consulting, llc. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 485

### HOUSE BILL NO. 1149

(Representatives Thomas, Dockter, Heinert, Kasper, Porter, D. Ruby, Vetter)  
(Senators Patten, Paulson)

AN ACT to provide for a legislative management study regarding the impact of the North Dakota high school activities association on students.

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

#### **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - IMPACT OF NORTH DAKOTA HIGH SCHOOL ACTIVITIES ASSOCIATION.**

1. During the 2023-24 interim, the legislative management shall consider studying the impact of the North Dakota high school activities association on students.
2. The study may include a review of the:
  - a. Makeup of the board of the association.
  - b. Association's bylaws and policies, including eligibility and transfer rules.
  - c. Role of the state as it relates to the association's performance of a quasi-governmental function.
3. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 30, 2023

Filed April 3, 2023



**CHAPTER 486****HOUSE BILL NO. 1195**

(Representatives Klemin, Hanson, Roers Jones)  
(Senators Braunberger, Larson)

AN ACT to provide for a legislative management study regarding a juvenile delinquency offense code.

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

**SECTION 1. JUVENILE JUSTICE STUDY - JUVENILE DELINQUENCY OFFENSE CODE - REPORT.** During the 2023-24 interim, the legislative management, in collaboration with the commission on juvenile justice, shall study the criminal code to ensure equitable application to youths charged with juvenile delinquencies. The study must include consideration of the desirability and feasibility of a separate juvenile delinquency offense code, whether a separate and unique classification of criminal offenses for juveniles should be created, and which criminal offenses should receive a distinct classification for juvenile offenders, if any. In conducting the study, the legislative management and the commission on juvenile justice may seek technical assistance, as appropriate, from the council of state governments' justice center. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 30, 2023

Filed April 3, 2023

## CHAPTER 487

### HOUSE BILL NO. 1247

(Representatives Grueneich, Brandenburg, Dockter, Heinert, Kempenich, Mitskog,  
Monson, J. Olson, Satrom, Weisz)  
(Senators Erbele, Myrdal)

AN ACT to provide for a legislative management study regarding the impact of a property tax exemption for agricultural products storage.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX EXEMPTION FOR AGRICULTURAL PRODUCTS STORAGE.** During the 2023-24 interim, the legislative management shall study the provision of a property tax exemption for elevators, warehouses, and other farm structures classified as commercial property, which are privately owned and used to store agricultural products produced by the owner or an individual related to the owner as defined in section 10-06.1-12. The study must include consideration of the potential shift in property tax burden if the exemption were to be enacted, the definitions of agricultural property and farm plant as used in subsection 15 of section 57-02-08, and the impact of abandoned elevators, potato warehouses, and other farm structures classified as commercial property on the political subdivisions in which they are located, including the cost of refurbishment or removal. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 20, 2023

Filed March 21, 2023

## CHAPTER 488

### HOUSE BILL NO. 1341

(Representatives Koppelman, Meier, M. Ruby, Steiner, VanWinkle)  
(Senators Clemens, Meyer, Myrdal, Paulson, K. Roers)

AN ACT to provide for a legislative management study relating to statutory provisions that restrict the location and manner in which firearms and dangerous weapons may be carried.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - FIREARM AND DANGEROUS WEAPONS RESTRICTIONS.** During the 2023-24 interim, the legislative management shall study those provisions of the North Dakota Century Code that place restrictions on carrying firearms and dangerous weapons. The study must include an examination of the state's current firearm and weapon possession prohibitions as compared to the nation's historical regulations and restrictions on the time, place, and manner in which firearms and dangerous weapons may be restricted. The study must include an assessment of recent federal court cases relating to firearm restrictions, including public carry, and an examination of the definition of a dangerous weapon and whether the current definition of a dangerous weapon should be maintained, narrowed, or expanded. The study must include input from the attorney general, the superintendent of public instruction, a representative of the university system, and representatives of the supreme court, the association of counties, the league of cities, the state's attorney association, the commission on legal counsel for indigents, the peace officers association, and an association or organization with an interest in firearm legislation. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved April 29, 2023

Filed May 1, 2023

**CHAPTER 489****HOUSE BILL NO. 1375**

(Representatives Fisher, Christensen, Karls, McLeod, O'Brien, S. Olson, Prichard,  
Sanford, Schreiber-Beck)  
(Senators Burckhard, Myrdal, Wanzek)

AN ACT to provide an appropriation to the department of health and human services to reimburse child-placing agencies for the costs of home study reports.

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

**SECTION 1. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - CHILD-PLACING AGENCIES.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$262,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of reimbursing nonprofit child-placing agencies for the costs of completing home study reports under chapter 50-12, for the biennium beginning July 1, 2023, and ending June 30, 2025.

Approved April 6, 2023

Filed April 10, 2023

**CHAPTER 490****HOUSE BILL NO. 1413**

(Representatives Karls, Kiefert, Rohr, Satrom, Steiner)  
(Senator Dever)

AN ACT to provide for a legislative management study relating to accumulator adjustment programs.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ACCUMULATOR ADJUSTMENT PROGRAM BANS.** During the 2023-24 interim, the legislative management shall consider studying the impact of third-party payments and accumulator adjustment programs on North Dakota patients' out-of-pocket costs, medications adherence, and health care systems costs and impacts. The study shall assess health benefit participants' usage and prevalence of third-party payments in North Dakota. The study shall also review data from states with accumulator adjustment program bans since 2019 and shall seek input from all relevant stakeholders in the health care industry. The legislative management shall report its findings and recommendations, together with any proposed legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved May 4, 2023

Filed May 5, 2023

## CHAPTER 491

### HOUSE BILL NO. 1476

(Representatives Mitskog, Kreidt)

AN ACT to provide for a legislative management study of contract nursing agencies.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - CONTRACT NURSING AGENCIES.** During the 2023-24 interim, the legislative management shall consider studying the impact of entities that receive Medicaid and Medicaid expansion funding utilizing contract nursing agencies. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 30, 2023

Filed April 3, 2023

## CHAPTER 492

### HOUSE BILL NO. 1512

(Representatives Novak, Fisher, Heinert, Koppelman, Strinden)  
(Senators Beard, Boehm, Kessel, Magrum, Patten)

AN ACT to provide for a legislative management study relating to statutory provisions governing certification of site compatibility for electric energy conversion facilities.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ELECTRIC ENERGY CONVERSION FACILITIES - SITE COMPATIBILITY.** During the 2023-24 interim, the legislative management shall consider studying statutory provisions governing certification of site compatibility for electric energy conversion facilities. The study must include a review of the provisions of the North Dakota Century Code that allow the North Dakota public service commission to issue a certificate of site compatibility for electric energy conversion facilities, the certification process for site compatibility for electric energy conversion facilities, and the impact of certifying site compatibility of electric energy conversion facilities in conjunction with subsurface minerals rights for mineral owners or mineral lessees. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved April 6, 2023

Filed April 10, 2023

## CHAPTER 493

### HOUSE BILL NO. 1529

(Representatives Prichard, Bahl, Hoverson, J. Johnson, Koppelman, McLeod, Vetter)  
(Senators Barta, Braunberger, Estenson, Magrum)

AN ACT to provide for a legislative management study relating to campaign finance.

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

##### **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - STATE ELECTIONS LAW.**

During the 2023-24 interim, the legislative management shall consider studying the provisions of chapter 16.1-08.1 related to campaign contribution statements for purposes of eliminating duplicative provisions, clarifying inconsistent or unclear provisions, pursuing uniformity for required contribution and expenditure reports, and rearranging provisions in a logical order. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved April 12, 2023

Filed April 13, 2023



**CHAPTER 494****SENATE BILL NO. 2101**

(Energy and Natural Resources Committee)  
(At the request of the Department of Environmental Quality)

AN ACT to provide for a legislative management study of petroleum products and antifreeze regulations.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - PETROLEUM PRODUCTS AND ANTIFREEZE REGULATIONS.** During the 2023-24 interim, the legislative management shall consider studying the state's regulation of petroleum products and antifreeze and the relevance of these regulations. The study must include North Dakota Century Code chapters 23.1-13 on petroleum products and 23.1-14 on antifreeze regulation, the legislative history of these chapters, any other current regulations on petroleum products and antifreeze related to these chapters, and input from interested agencies and industries, including the department of environmental quality. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 14, 2023

Filed March 15, 2023

**CHAPTER 495****SENATE BILL NO. 2122**

(Senator Beard)

AN ACT to provide for a legislative management study relating to the workforce training center funding distribution model.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - WORKFORCE TRAINING CENTER FUNDING DISTRIBUTION MODEL.** During the 2023-24 interim, the legislative management shall study the workforce training center funding distribution model. The study must include the funding distribution model, statewide integration and alignment across workforce training centers, and awarding college credit for workforce training center offered training. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 496

### SENATE BILL NO. 2158

(Senators Lee, Dever, Hogan)  
(Representatives Dobervich, Rohr, Weisz)

AN ACT to provide for a legislative management study of the comprehensive health association of North Dakota.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - COMPREHENSIVE HEALTH ASSOCIATION OF NORTH DAKOTA.** During the 2023-24 interim, the legislative management, in consultation with the insurance commissioner, department of health and human services, board of the comprehensive health association of North Dakota, and public employees retirement system, shall conduct a study to determine the steps necessary for the dissolution of the comprehensive health association of North Dakota under chapter 26.1-08. The study must include analysis of the enrollees, transitioning of the current enrollees' plans to potential Affordable Care Act plans, Medicaid programs, and public employees retirement system plans, and any other options determined by the study. The study also must include a process to discontinue any new enrollment into the comprehensive health association of North Dakota immediately and transition all major medical plans in effect as soon as plan year 2024. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 27, 2023

Filed March 28, 2023

**CHAPTER 497****SENATE BILL NO. 2192**

(Senators Hogue, Cleary)  
(Representatives Lefor, Vigesaa)

AN ACT to provide for a legislative management study relating to the impact of term limits on the legislative assembly.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - IMPACT OF TERM LIMITS ON THE LEGISLATIVE ASSEMBLY.** During the 2023-24 interim, the legislative management shall study the impact of term limits on the manner in which the legislative assembly conducts business. The study must include an assessment of the desirability of providing increased educational opportunities for legislative members due to shortened tenures in the legislative assembly, increasing the number of legislative council policy staff available to assist new members, and holding legislative sessions on an annual basis. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 22, 2023

Filed March 23, 2023

## CHAPTER 498

### SENATE BILL NO. 2202

(Senators Cleary, Larson, Lee, Myrdal, Sickler)  
(Representative Hanson)

AN ACT to provide an appropriation to the attorney general for a domestic violence forensic medical examination grant program.

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

**SECTION 1. APPROPRIATION - ATTORNEY GENERAL - DOMESTIC VIOLENCE FORENSIC MEDICAL EXAMINATION GRANT PROGRAM - REPORTS - ONE-TIME FUNDING.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$250,000, or so much of the sum as may be necessary, to the attorney general for the purpose of providing domestic violence forensic medical examination program grants for community-based or hospital-based domestic violence examiner programs and related administrative costs, for the biennium beginning July 1, 2023, and ending June 30, 2025. Any organization that receives a grant under this section shall report to the attorney general and the appropriations committees of the sixty-ninth legislative assembly on the use of the funds received and the outcomes of its programs. The attorney general shall report to the appropriations committees of the sixty-ninth legislative assembly on the number of nurses trained, the number and location of nurses providing services related to domestic violence forensic medical examination programs, and documentation of collaborative efforts to assist victims, which includes nurses, the hospital or clinic, law enforcement, and state's attorneys. This funding is considered a one-time funding item.

Approved March 27, 2023

Filed March 28, 2023

## CHAPTER 499

### SENATE BILL NO. 2238

(Senators Hogan, Braunberger, Kreun, Weber)  
(Representative Mitskog)

AN ACT to provide for a legislative management study relating to criminal history record checks; and to provide an appropriation.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - CRIMINAL HISTORY RECORD CHECK PROCESS.** During the 2023-24 interim, the legislative management shall consider studying the statewide criminal history record check process. The study may include a comparison between the statewide and nationwide criminal history record check standards, a review of the average processing time of a requested criminal history record check, and an evaluation of methods to improve efficiency and processing times of the statewide criminal history record check process. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

**SECTION 2. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - CRIMINAL HISTORY RECORD CHECKS.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$300,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of salary and wages for personnel to process fingerprints and complete required criminal history record checks and for the purchase of two fingerprint scanners, for the biennium beginning July 1, 2023, and ending June 30, 2025. The department is authorized two full-time equivalent positions to process fingerprints for criminal history record checks.

Approved May 6, 2023

Filed May 9, 2023

## CHAPTER 500

### SENATE BILL NO. 2257

(Senators Clemens, Myrdal)  
(Representatives Satrom, Schneider, Strinden)

AN ACT to amend and reenact section 1 of chapter 398 of the 2019 Session Laws, relating to a task force on prevention of sexual abuse of children; and to provide for a legislative management report and a report to the governor.

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

**SECTION 1. AMENDMENT.** Section 1 of chapter 398 of the 2019 Session Laws is amended and reenacted as follows:

#### **SECTION 1. TASK FORCE ON PREVENTION OF SEXUAL ABUSE OF CHILDREN - REPORT TO THE LEGISLATIVE MANAGEMENT AND THE GOVERNOR.**

1. Beginning with the effective date of this Act and ending ~~September 30, 2024~~June 30, 2025, the task force on the prevention of sexual abuse of children is established to develop and implement a comprehensive statewide approach to the prevention of child sexual abuse. The statewide approach must ensure appropriate policies, funding, staffing, resources, and programming are available. The task force shall build upon the efforts of the ~~2017-18~~2021-22 North Dakota task force on the prevention of sexual abuse of children.
2. The task force consists of the following members:
  - a. One member of the senate appointed by the majority leader of the senate, one member of the house of representatives appointed by the majority leader of the house of representatives, and one member of the minority party appointed by the minority leaders of the senate and the house of representatives;
  - b. The executive director of the department of health and human services, or the executive director's designee;
  - c. A representative of a children's advocacy center or similar organization that assists in the investigation, prosecution, and treatment of child sexual and physical abuse cases, appointed by the executive director of the department of health and human services;
  - d. A representative of a domestic violence rape crisis center involved in the prevention of child abuse or the treatment of child abuse victims, or both, appointed by the executive director of the department of health and human services;
  - e. The superintendent of public instruction, or the superintendent's designee;

- f. A representative of law enforcement, appointed by the attorney general;
    - g. The executive director of the Indian affairs commission, or the executive director's designee;
    - h. One school social worker from a public school district in the state, appointed by the superintendent of public instruction;
    - i. Two school principals, one from an urban school district and one from a rural school district in the state, appointed by the superintendent of public instruction from a list provided by the North Dakota council of educational leaders;
    - j. One member from the faith-based community, appointed by the attorney general;
    - k. Two school counselors, one from an urban school district and one from a rural school district in the state, appointed by the superintendent of public instruction from a list provided by the North Dakota school counselors association; and
    - l. Any other organization or individual the task force deems appropriate.
3. The executive director of the department of health and human services, or the executive director's designee, shall convene the task force. The task force shall elect a presiding officer by a majority vote of the membership of the task force. The task force shall meet at the call of the presiding officer.
4. The task force shall focus on:
  - a. Increasing child sexual abuse prevention education for tribal and nontribal children and adults;
  - b. Increasing interagency data collection, sharing, and collective analysis;
  - c. Supporting resource development for investigations and prosecutions of child sexual abuse, including the sentencing, supervision, and treatment of sex offenders;
  - d. Increasing trauma-informed services for children, adult survivors, and families; and
  - e. Implementing the remaining recommendations of the ~~November 2018~~most recent final report of the North Dakota task force on the prevention of child sexual abuse.
5. The recommendations of the task force may include proposals for specific statutory changes, actions the task force deems necessary and appropriate to initiate awareness education of adults and children, and methods to foster cooperation among state agencies and between the state and local governments in adopting and implementing a policy addressing sexual abuse of children which may include:



- a. Developmentally appropriate resources for students in prekindergarten through grade twelve;
  - b. Training for school personnel on child sexual abuse;
  - c. Educational information to parents or guardians provided in school handbooks regarding the warning signs of a child being abused, along with any needed assistance, referral, or resource information;
  - d. Available counseling and resources for students affected by sexual abuse;
  - e. Emotional and educational support for a child of abuse to continue to be successful in school; and
  - f. Any other action deemed appropriate.
6. Before July first of each even-numbered year, the task force shall submit a report, together with any findings and recommendations, to the legislative management and the governor. Before July 1, ~~2024~~2025, the task force shall submit a final report, together with any findings and recommendations, to the legislative management and the governor.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 501

### SENATE BILL NO. 2278

(Senators Myrdal, Larson)  
(Representatives Christensen, Karls, Klemin)

AN ACT to provide for a legislative management study regarding municipal courts and judges.

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

##### SECTION 1. LEGISLATIVE MANAGEMENT STUDY - MUNICIPAL COURTS.

1. During the 2023-24 interim, the legislative management shall consider studying the laws and procedures relating to courts established under chapter 40-18. The study must include an examination of the:
  - a. Number and geographic location of existing municipal courts;
  - b. Access to municipal court ordinances;
  - c. Jurisdiction of the municipal courts;
  - d. Municipal court judge qualifications and training;
  - e. Transfer of cases to district court;
  - f. Appeal of cases to district court;
  - g. Supreme court general oversight of municipal courts;
  - h. Applicability of judicial administrative rules to municipal courts;
  - i. Requirements for recording proceedings in municipal court; and
  - j. Requirements to report information to the supreme court on the establishment or abolition of a court, the election, appointment and removal of municipal court judges and clerks, and annual caseload data and annual financial information on the imposition, collection, and disposition of fines and fees.
2. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 14, 2023

Filed March 15, 2023

**CHAPTER 502****SENATE BILL NO. 2291**

(Senators Hogan, Braunberger, Dever)  
(Representatives Mitskog, Strinden)

AN ACT to provide for a legislative management study of the utilization of federal temporary assistance for needy families block grant funding received by the state.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT FUNDING.** During the 2023-24 interim, the legislative management shall consider studying the utilization of federal temporary assistance for needy families block grant funding received by the state. The study must include a review of the recent history of the use of the funds and an assessment and determination of the appropriate use of the funds for administrative costs, direct and indirect client financial and other support, and other purposes. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved April 4, 2023

Filed April 5, 2023

## CHAPTER 503

### SENATE BILL NO. 2321

(Senator Hogan)  
(Representatives Dobervich, O'Brien, Schreiber-Beck)

AN ACT to provide for a legislative management study regarding open adoption policies.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - OPEN ADOPTION POLICIES REVIEW.** During the 2023-24 interim, the legislative management shall consider studying the state's policies and relevant case law regarding open adoptions to determine the feasibility and desirability for legislation relating to clarifying communication and the rights of biological parents.

1. The study must include:
  - a. Existing state policies regarding open adoptions;
  - b. The current practices of collection and storage of personal, contact, and medical information of biological parents;
  - c. Benefits and consequences of adopting legislation that would extend legal enforceability to open adoption agreements;
  - d. Best practices for keeping birth children and their adoptive parents aware of health complications in biological family members over time;
  - e. Any information relevant to open adoption or open adoption agreements that the legislative management deems important in understanding the totality of the issue;
  - f. The potential financial costs to adoptive families, adoption agencies, and the court system; and
  - g. Any barriers to extending legal enforceability to open adoption agreements in the state of North Dakota.
2. The legislative management may seek the assistance of the department of health and human services and adoption agencies that partner with the state of North Dakota.
3. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 27, 2023

Filed March 28, 2023

## CHAPTER 504

### SENATE BILL NO. 2327

(Senators Clemens, Dever)  
(Representatives Dyk, Hoverson)

AN ACT to provide for a legislative management study regarding parentage and adoption policies.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - REVIEW OF PARENTAGE AND ADOPTION POLICY.** During the 2023-24 interim, the legislative management shall consider studying, with the assistance of the department of health and human services and the North Dakota commission on uniform state laws, the parentage and adoption practices currently in statute.

1. The study must include:
  - a. Current policies on determining and notifying a biological parent of parentage or a hearing on a petition for adoption;
  - b. The current practices of collection and storage of personal information of parents;
  - c. Best practices for protecting the privacy of individuals involved in the adoption process, including those regarding the adequate storage of personal data, methods of notifying a parent of parentage or of a hearing on a petition for adoption, and collecting and keeping correct contact and personal information from involved individuals;
  - d. The feasibility and desirability of adopting certain language from the 2017 Uniform Parentage Act, particularly those relating to more modern practices with the handling of personal data and the means of notification;
  - e. Any information relevant to the adoption process and its modernization which the department of health and human services may deem important;
  - f. The financial costs associated with the establishment and maintenance of a parentage registry within the state; and
  - g. Any barriers to establishment or maintenance of a parentage registry.
2. The legislative management may seek the assistance of the North Dakota commission on uniform state laws in the development of recommended policies and procedures.
3. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 505

### SENATE BILL NO. 2328

(Senators Wanzek, Erbele, Klein)  
(Representatives Headland, Vigesaa, Weisz)

AN ACT to create a school funding task force; and to provide for a legislative management report.

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

#### SECTION 1. SCHOOL FUNDING TASK FORCE - REPORT TO LEGISLATIVE MANAGEMENT.

1. During the 2023-24 interim, the legislative management shall establish and provide staffing and administrative services to a school funding task force facilitated by a nonpartisan leadership organization. The chair of legislative management may add additional, temporary nonvoting members to the task force, as deemed necessary by the task force chair, to serve without compensation. The task force may include public school administrators or business managers, public school teachers, five members of the legislative assembly appointed by the legislative management, parents of public school students, representatives from the department of public instruction, a representative from the governor's office, and a representative from a regional education association.
2. During the 2023-24 interim, the school funding task force shall:
  - a. Review litigation the state was a party to relating to school funding and the resulting implications for school funding models;
  - b. Analyze higher education funding sources to determine whether the sources may be used in whole or in part for the kindergarten through grade twelve system;
  - c. Review school payment formulas to determine whether education costs can be equalized across the state;
  - d. Study the size, student population, and economics of school districts and the number of facilities within the district per square mile compared with student population;
  - e. Develop and study sliding-scale models within school districts based on size, student populations, and economics;
  - f. Assess the negative impacts of the current funding formula;
  - g. Study school funding formulas used by other states;
  - h. Determine the benefits of and incentives to promote school district consolidation;

- i. Review school transportation costs considering location, size, and student enrollment;
  - j. Study high-cost student and special education student costs as those costs relate to the formula weighting factors; and
  - k. Analyze the cost of distance education, comparing the costs of different methods of instruction delivery, including synchronous as compared to asynchronous instruction.
3. The task force may:
    - a. Study the funding of school building maintenance and repairs considering location and whether buildings are located in a rural or urban area; and
    - b. Review ending fund balances and analyze how the current funding formula impacts ending fund balances.
  4. The task force shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved April 28, 2023

Filed April 29, 2023

## CHAPTER 506

### SENATE BILL NO. 2341

(Senators K. Roers, Myrdal, Rummel)  
(Representatives McLeod, Steiner, Strinden)

AN ACT to provide for a study of youth services for children impacted or potentially impacted by human trafficking; and to provide for a legislative management report.

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

#### **SECTION 1. DEPARTMENT OF HEALTH AND HUMAN SERVICES - STANDARD FRAMEWORK OF SERVICES FOR CHILD VICTIMS OF HUMAN TRAFFICKING - REPORT TO LEGISLATIVE MANAGEMENT.**

1. During the 2023-24 interim, the department of health and human services shall study and implement, in collaboration with other stakeholders, a standard framework for youth services for children impacted or potentially impacted by human trafficking, which includes residential treatment.
2. The department of health and human services shall collaborate with other stakeholders, including the child and family services section of the department of health and human services, the office of the attorney general, and the human trafficking task force.
3. Before July 1, 2024, the department of health and human services shall report its findings and recommendations to the legislative management.

Approved April 26, 2023

Filed April 26, 2023



**CHAPTER 507****SENATE BILL NO. 2359**

(Senators Clemens, Lee)  
(Representatives Jonas, Koppelman, Marschall)

AN ACT to provide for a legislative management study, relating to the impact of political subdivisions levying special assessments against other political subdivisions and the overall impact on taxpayers.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - SPECIAL ASSESSMENTS LEVIED AGAINST POLITICAL SUBDIVISIONS.** During the 2023-24 interim, the legislative management shall consider studying the impact of political subdivisions levying special assessments against other political subdivisions and the overall impact on taxpayers. The study must include analysis of the impact on taxpayers not governed by the political subdivision levying special assessments and explore forms of taxation policy that minimize the levying of special assessments in the form of taxes through political subdivisions. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 508

### SENATE BILL NO. 2365

(Senator Klein)

AN ACT to provide for a legislative management study regarding township participation in the national flood insurance program.

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

#### SECTION 1. LEGISLATIVE MANAGEMENT STUDY - TOWNSHIP PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM.

1. During the 2023-24 interim, the legislative management shall study the roles of the insurance commissioner, department of emergency services, and department of water resources in relation to the tracking and updating of the relevant primary land use authority on lands outside a municipality's jurisdiction. The study must:
  - a. Include a method of tracking all organized townships within the state and maintaining updated contact information, certified annually by December thirty-first.
  - b. Consider a formal process for organized townships to request, establish, and track the yielding of land use authority to an adjacent jurisdiction.
  - c. Consider how insurance producers access the necessary information, including updated contact information of the authority, to appropriately associate potential insurance policy holders with the relevant land use authority for the purposes of the federal emergency management agency's national flood insurance program.
  - d. Consider how a member of the public may access the relevant land use authority associated with a specific parcel of land.
2. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 509

### SENATE BILL NO. 2366

(Senators Kannianen, Boehm, Klein)  
(Representatives Fegley, Nelson)

AN ACT to provide for a legislative management study of accessibility of natural gas in small communities.

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

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - NATURAL GAS - SMALL COMMUNITIES.** During the 2023-24 interim, the legislative management shall consider studying the accessibility of natural gas in small communities. The study must include a review of existing programs to assist small communities with gaining access to natural gas and accessibility assistance programs that may need to be extended. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 22, 2023

Filed March 23, 2023

## CHAPTER 510

### SENATE BILL NO. 2376

(Senator Sickler)

AN ACT to provide for a legislative management study regarding the recording of custodial interrogations.

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

#### SECTION 1. LEGISLATIVE MANAGEMENT STUDY - RECORDING OF CUSTODIAL INTERROGATIONS.

1. During the 2023-24 interim, the legislative management shall study, with the assistance of the North Dakota commission on uniform state laws, the recording practices of local and state law enforcement during custodial interrogations to determine the feasibility and desirability for uniform implementation of recording practices. The study must include the number of law enforcement agencies currently recording custodial interrogations and the following information:
  - a. Any policies regarding how the recording of interrogations is conducted;
  - b. The storage and retention practices associated with recording interrogations;
  - c. The types of equipment used to record interrogations;
  - d. The types of locations at which interrogations are recorded;
  - e. The types of criminal investigations in which interrogations are recorded and the frequency those interrogations are recorded;
  - f. The current disclosure of recorded interrogations in criminal discovery;
  - g. Best practices and current requirements for the recording of interrogations, including adoption of the Uniform Electronic Recordation of Custodial Interrogations Act;
  - h. The financial costs associated with the recording of custodial interrogations and implementation of uniform practices; and
  - i. Any barriers to uniform implementation of the recording of custodial interrogations.
2. The legislative management may seek the assistance of the North Dakota commission on uniform state laws in the development of recommended policies and procedures.
3. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

Approved March 29, 2023

Filed March 30, 2023

## CHAPTER 511

### SENATE BILL NO. 2389

(Senators Vedaa, J. Roers)  
(Representative Nelson)

AN ACT to provide for a legislative management study of the prior authorization process for health insurance.

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

#### **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE PRIOR AUTHORIZATION.**

1. During the 2023-24 interim, the legislative management shall consider studying prior authorization in health benefit plans. The study must include consideration of:
  - a. The extent to which prior authorization is used by health insurance companies in this state, including the types of services and procedures for which prior authorization is required.
  - b. The impact of prior authorization on patient care, including the effects on patient health outcomes, patient satisfaction, health care costs, and patient access to care.
  - c. The impact of prior authorization on health care providers and insurers, including the administrative burden, time, and cost associated with obtaining prior authorization, and the appropriate utilization of health care services.
  - d. State and federal laws and regulations that may impact prior authorization.
  - e. Input from stakeholders, including patients, providers, and commercial insurance plans.
2. The study may include consideration of issues related to response times, retroactive denial, data reporting, clinical criteria and medical necessity, transparency, fraud and abuse, reviewer qualifications, exceptions, and an appeal process.
3. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved April 4, 2023

Filed April 5, 2023

## CHAPTER 512

### SENATE BILL NO. 2042

(State and Local Government Committee)  
(At the request of the Office of Management and Budget)

AN ACT to create and enact sections 54-44.4-05.1 and 54-44.4-09.1 of the North Dakota Century Code, relating to resolution of identical bids or proposals in procurement and secretary of state registration; and to amend and reenact sections 44-08-01, 44-08-02, 54-44.4-02, 54-44.4-05, 54-44.4-09, and 54-44.4-13 of the North Dakota Century Code, relating to reciprocal preference requirements in procurement, resident North Dakota bidder, seller, vendor, offeror, or contractor, exemptions from procurement, procurement solicitation methods, bidder registration requirements, approved vendors, and public notices.

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

**SECTION 1. AMENDMENT.** Section 44-08-01 of the North Dakota Century Code is amended and reenacted as follows:

**44-08-01. ~~Preference to North Dakota bidders, sellers, and contractors~~ Competitive purchasing required.**

- ~~1. The office of management and budget, any other state entity, and the governing body of any political subdivision of the state in purchasing any goods, merchandise, supplies, or equipment of any kind, or contracting to build or repair any building, structure, road, or other real property, shall give preference to bidders, sellers, or contractors resident in North Dakota. The preference must be equal to the preference given or required by the state of the nonresident bidder, seller, or contractor.~~
- ~~2. A state entity authorized to accept bids shall give preference to a resident North Dakota bidder when accepting bids for the provision of professional services, including research and consulting services. The preference must be equal to the preference given or required by the state of the nonresident bidder.~~
- ~~3. The office of management and budget, any other state entity, and the governing body of any political subdivision of the state in specifying or purchasing any goods, merchandise, supplies, or equipment, may not specify any trademarked or copyrighted brand or name, nor the product of any one manufacturer, nor any patented product, apparatus, device, or equipment, when the same will prevent proper competition, unless bidders also are asked for bids or offers upon other articles of like nature, utility, and merit. When it is advantageous that the purchase be of a particular brand of product or products of a particular manufacturer to the exclusion of competitive brands or manufacturers, the purchasing board or entity must document those circumstances and provide written justification for the proprietary specification or purchase. The purchasing board or entity shall procure the proprietary product through a competitive process unless the needed product is available exclusively from one source of supply or other circumstances exist under which competition can be waived.~~

**SECTION 2. AMENDMENT.** Section 44-08-02 of the North Dakota Century Code is amended and reenacted as follows:

**44-08-02. Resident North Dakota bidder, seller, vendor, offeror, and contractor defined.**

The term "a resident North Dakota bidder, seller, vendor, offeror, or contractor" when used in section 44-08-01, unless the context thereof clearly provides otherwise, means a bidder, seller, vendor, offeror, or contractor who has maintained a bona fide place of business within this state for at least one year prior to the date on which a contract was awarded.

<sup>263</sup> **SECTION 3. AMENDMENT.** Section 54-44.4-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.4-02. Office of management and budget purchasing services.**

The office of management and budget shall purchase or lease or otherwise arrange for the procurement, for all state agencies and institutions in the executive branch of state government, all materials, furniture, fixtures, printing, insurance, services, and other commodities. The International Peace Garden may participate in the procurement authorized by this section. The following commodities and services, however, are not subject to the procurement requirements of this chapter:

1. Land, buildings, space, or the rental thereof.
2. Telephone and telegraph service and electrical light and power services.
3. Public books, maps, periodicals, resource materials, and technical pamphlets.
4. Department of transportation materials, equipment, and supplies in accordance with section 24-02-16.
5. Procurements by the industrial commission for energy-related programs under chapters 17-05, 54-17.5, 54-17.6, 54-17.7, 54-63, and 54-63.1 and under those statutes in title 38 authorizing the industrial commission to perform well and hole pluggings, reclamation work, equipment removal, leak prevention, and similar work.
6. Services for the maintenance or servicing of equipment by the manufacturer or authorized servicing agent of that equipment when the maintenance or servicing can best be performed by the manufacturer or authorized service agent, or when such a contract would otherwise be advantageous to the state.
7. Emergency purchases the office of management and budget or a purchasing agency cannot make within the required time and which involve public health or public safety, or when immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services.
  - a. Emergency purchases made under this subsection must treat all bidders fairly and promote competition as is practicable under the circumstances;

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<sup>263</sup> Section 54-44.4-02 was also amended by section 4 of House Bill No. 1429, chapter 280.



- b. The procurement file must contain a written determination of:
    - (1) The basis for the emergency; and
    - (2) The basis for the selection of the particular contractor.
  - c. If the emergency circumstances warrant a noncompetitive purchase, the office of management and budget or the purchasing agency shall document within the procurement file a written determination of the basis for the noncompetitive purchase, including the circumstances that justified the noncompetitive purchase.
  - d. If the emergency purchase is subject to federal funding reimbursement, the office of management and budget or the purchasing agency shall ensure the procurement procedures and documentation are adequate to satisfy requirements for federal reimbursement.
  - e. If time allows, emergency purchases for commodities under this subsection may require a sample for use in determining whether an offered product meets specifications.
8. Commodities and services costing less than a specified amount as determined by written directive by the director of the office of management and budget.
  9. Specified commodities and services as determined by written directive by the director of the office of management and budget.
  10. Employee benefit services, trust-related services, and investment management services obtained by an agency with a fiduciary responsibility regarding those services.
  11. Services to extract, tow, store, and dispose of abandoned or submerged vehicles as defined in chapter 23.1-15.
  12. Contracts by the agriculture commissioner for agricultural market news services under cooperative agreements with the United States department of agriculture, ombudsmen for pipeline restoration under section 4.1-01-17, environmental impact mitigation services under section 4.1-01-21.1, ombudsmen for wind property issues under section 4.1-01-23, weed control inspection agents under section 4.1-14-02, and hemp testing under section 4.1-18.1-04.2.
  13. Contracts by the state auditor for audits of computer systems under section 54-10-29.
  14. Contracts by the attorney general with experts under section 10-33-145.
  15. Contracts by the department of health and human services for online virtual mental health and suicide prevention simulation-based training programs under subsection 28 of section 50-06-05.1 and brain injury informal supports under section 50-06.4-07.

All purchases made by the office of management and budget or a state agency or institution to which authority to purchase has been delegated by the office of

management and budget must be made in accordance with this chapter, rules adopted under this chapter, and written policies of the office of management and budget.

**SECTION 4. AMENDMENT.** Section 54-44.4-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.4-05. Competitive, limited competitive, noncompetitive, and negotiated purchases - Exempt records.**

1. Except as otherwise provided in ~~section~~sections 12-48-03.1 and 44-08-01, chapter 25-16.2, and this chapter, purchasing contracts must be awarded through a competitive bidding process to the lowest responsible bidder considering conformity with specifications, terms of delivery, and quality and serviceability, unless it is determined to be advantageous to the state to select a contractor through a competitive proposal process pursuant to section 54-44.4-10 using other or additional criteria. Notwithstanding this section, the director of the office of management and budget or the director's designee may determine a different procurement process is in the best interest of the state and shall document the circumstances, procurement process, and basis for contract award in the procurement file.
2. The procurement officer may reject any or all bids or proposals or negotiate for a lower price with a successful bidder or offeror. Each bid or proposal received, with the name of the bidder or offeror, must be recorded. The office of management and budget may enter into term contracts for the acquisition of commodities or services and may make multiple awards for term commodity or service contracts when it deems a multiple award to be in the best interests of the state.
3. All bids received under this chapter pursuant to a competitive sealed bid are exempt records under subsection 5 of section 44-04-17.1 until the date and time the bids are opened.
- ~~2-4.~~ The office of management and budget shall adopt rules specifying the circumstances under which competition may be waived or limited, when negotiation may be used, and specifying the required justifications and procedures for using those methods of purchasing. The office of management and budget shall adopt rules related to sending notice of intent to make limited competitive, noncompetitive, and negotiated purchases in accordance with this chapter. The notice must describe the needed commodity or service and the intended procurement method and must state that vendorspersons are permitted to submit bids or proposals for contracts to be awarded under this section. The circumstances that may permit limited competitive, noncompetitive, or negotiated purchases include:
  - a. The commodity or service is available from only one source.
  - b. The commodity or service is to be purchased for experimentation or trial.
  - c. No acceptable bid or proposal was received pursuant to a competitive bidding or competitive proposal process.
  - d. Commodities are being purchased for over-the-counter resale.

- e. Acceptable commodities or services are produced or provided by correctional institutions or other government agencies or a work activity center as defined in section 25-16.2-01.
- f. The anticipated cost of purchasing specified commodities or services is less than an amount determined by the office of management and budget which would justify the expense of a competitive bidding or competitive proposal process.
- g. A used commodity is advantageous to the state and the commodity is available only on short notice.
- h. The commodity is a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer.
- i. Compatibility with equipment currently owned by the state is essential to the proper functioning of that equipment.
- j. The agency provides documentation indicating that the services or the circumstances are of such a nature that deviation from the procurement procedure is appropriate.
- k. Recurring support costs associated with implemented information technology solutions, including licensing, service agreements, maintenance, and subscriptions for software as a service, platform as a service, and infrastructure as a service.
- l. Contracts for specialized equipment, machinery, and materials required for manufacturing, production, and distribution by the North Dakota mill and elevator association under section 54-18-02.
- m. Purchases of copyrighted printed and electronic books, periodicals, subscriptions to publications, subscriptions to information services, prerecorded audio and video materials, state library materials, and state library online resources.

**SECTION 5.** Section 54-44.4-05.1 of the North Dakota Century Code is created and enacted as follows:

**54-44.4-05.1. Resolution of tie bids or proposals.**

In the event that two or more bids or proposals contain identical pricing or receive identical evaluation scores, preference must be given to a resident North Dakota bidder, seller, vendor, offeror, or contractor as defined in section 44-08-02.

**SECTION 6. AMENDMENT.** Section 54-44.4-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.4-09. Approved vendors~~Bidders~~ list.**

1. The office of management and budget shall establish and maintain ~~current lists~~ a bidders list of persons that desire to ~~provide commodities or services to the state. Every person that desires to bid or submit a proposal on contracts for commodities or services awarded under this chapter must be an approved vendor in order to be placed on the bidders list~~ be informed of government

procurement opportunities. The office of management and budget or the purchasing agency shall notify those on the list when issuing invitation for bids or request for proposals over the amount established for small purchases, except as otherwise provided in this section. The office of management and budget or the purchasing agency shall notify those on the list when sending notice of intent to make cooperative, limited competitive, noncompetitive, and negotiated purchases.

2. ~~To become an approved vendor be placed on the bidders list~~ a person shall file an application with the office of management and budget. The application must contain information requested by the office of management and budget, including business and persons' names, telephone numbers, addresses, federal tax identification numbers, type of business organization, the types of commodities or services for which the applicant is interested in receiving solicitations, and other business information the office of management and budget determines relevant. ~~The application must also contain a statement appointing the secretary of state as the applicant's agent for service of process pursuant to subsection 3. The application must be signed and certified by an owner, partner, or company officer authorized by company bylaws or other organizational document to bind the company. The signature requirement may include the use of an electronic signature as defined in section 9-16-01 when authorized under section 9-16-17. The office of management and budget may require proof of the signing person's authority by certified copy of appropriate company documents.~~
3. ~~At the time of filing the application to become an approved vendor, the applicant, if organized as a corporation, limited liability company, limited liability partnership, or limited partnership, must be properly and currently registered with the secretary of state according to its type of business organization as a corporation under chapter 10-19.1, a limited liability company under chapter 10-32.1, a limited liability partnership under chapter 45-22, or a limited partnership under chapter 45-10.2. Any exemptions to registration under the above chapters that would otherwise apply to those entities organized as such do not apply to this section and registration must be made for the applicant to become an approved vendor. Applicants for approved vendor status using a trade name or a fictitious partnership name must be in full compliance with chapter 47-25 or 45-11 at the time of making the application. Whenever any registration required by this section is canceled, revoked, or not renewed, the vendor ceases to be an approved vendor.~~

~~By signing and filing the application, the vendor applicant appoints the secretary of state as its true and lawful agent for service of process in this state upon whom may be served all lawful process in any action or proceeding against the vendor if the vendor or its registered agent cannot be found for service of process in this state. The signed application is written evidence of the applicant's consent that any process served against the applicant that is so served upon the secretary of state is of the same legal force and effect as if served upon the applicant personally within this state. Within ten days after service of the summons upon the secretary of state pursuant to this subsection, notice of the service with the summons and complaint in the action must be sent to the defendant vendor at the vendor's last known address by certified mail with return receipt requested and proof of mailing must be attached to the summons. The secretary of state shall keep a record of all process served upon the secretary of state under this section showing~~

~~the day and hour of service. When service of process is made as provided in this subsection, the court, before entering a default judgment, or at any stage of the proceeding, may order a continuance as may be necessary to afford the defendant vendor reasonable opportunity to defend any action pending against the vendor.~~

- ~~4. The procurement officer may authorize receipt of a bid or proposal from a vendor that is not on the list of approved vendors if the procurement officer makes a written determination that it is in the best interest of the state to receive the bid or proposal. The successful bidder or offeror must become approved before the award and the existence of this approval requirement must be stated in the solicitation. If an unapproved vendor is selected for award, the vendor's bid or proposal may be rejected if that vendor fails to become approved within sixty days or within a shorter period as specified in writing by the procurement officer. Before issuing a solicitation, the procurement officer may waive the approval requirement if the procurement officer determines, in consultation with the secretary of state, that registration with the secretary of state and appointment of an agent for service of process in this state are not required. The waiver of the approval requirement must be stated in the solicitation. In the event that two or more bids contain identical pricing or receive identical evaluation scores, preference must be given pursuant to section 44-08-01.1. If the application of section 44-08-01.1 does not result in the award of a contract, preference must be given to bids submitted by vendors approved under this section. The office of management and budget or purchasing agency may additionally send notice of procurement opportunities to persons that are not on the bidders list.~~

**SECTION 7.** Section 54-44.4-09.1 of the North Dakota Century Code is created and enacted as follows:

**54-44.4-09.1. Secretary of state registration.**

A person that has a registration requirement with the secretary of state must be registered before the contract award and the registration must remain active for the duration of the contract period.

**SECTION 8. AMENDMENT.** Section 54-44.4-13 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.4-13. Cooperative purchasing.**

1. The office of management and budget shall purchase commodities or services as requested by agencies and institutions under the jurisdiction of the state board of higher education and the legislative and judicial branches of state government.
2. The office of management and budget and the agencies and institutions under the jurisdiction of the state board of higher education shall make joint purchases of like commodities or services of high common usage when the office of management and budget and the state board of higher education determine it is in the best interest of the state.
3. The director of the office of management and budget or the director's designee may agree to purchase commodities or services under contracts entered into by the United States general services administration or contracts of other government entities if it is determined to be in the best interest of the

state after consideration of price, contractual terms and conditions, and the availability of competition ~~from approved vendors under section 54-44.4-09.~~

4. The director of the office of management and budget or the director's designee may participate in, sponsor, or administer a cooperative purchasing agreement with one or more government entities or a nonprofit organization established on behalf of public entities for the procurement of commodities or services in accordance with an agreement entered into between the participants.
5. The director of the office of management and budget or the director's designee may coordinate with the director of the department of transportation or the director's designee to establish or participate in contracts which may be made available to entities that have been determined by the department of transportation to be transportation providers under chapter 39-04.2 eligible to receive state funds or federal funds for public transportation.
6. Cooperative purchasing may include open-ended contracts that are available to other government entities, nonprofit organizations established on behalf of public entities, tribal agencies, or transportation providers determined to be eligible under this section.
7. Before entering into a cooperative purchasing agreement under this section, the office of management and budget must determine that the contracts were awarded through full and open competition or source selection methods specified in section 54-44.4-05 and shall send notice to ~~approved vendors~~ the bidders list of the office's intent to make a cooperative purchase in accordance with this chapter.

Approved March 23, 2023

Filed March 23, 2023

## CHAPTER 513

### HOUSE BILL NO. 1183

(Representatives Porter, Dockter, Heinert, Karls, Kasper, Louser, Motschenbacher, Ostlie, D. Ruby, Schauer)  
(Senators Axtman, Larson)

AN ACT to amend and reenact subsection 12 of section 54-52-01, section 54-52-06.4, subsection 3 of section 54-52-17, and subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to a public employees retirement system retirement plan for peace officers; and to provide for a legislative management study.

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

<sup>264</sup> **SECTION 1. AMENDMENT.** Subsection 12 of section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

12. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the ~~bureau of criminal investigation~~state, except by the highway patrol for members of the retirement plan created under chapter 39-03.1, or is employed by a political subdivision and, notwithstanding subsection 13, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. A peace officer who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after August 1, 2005, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.

<sup>265</sup> **SECTION 2. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.4. Contribution by peace officers employed by the ~~bureau of criminal investigation~~state or security officers employed by the national guard - Employer contribution.**

1. a. Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, and

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<sup>264</sup> Section 54-52-01 was also amended by section 2 of House Bill No. 1040, chapter 514.

<sup>265</sup> Section 54-52-06.4 was also amended by section 1 of House Bill No. 1309, chapter 515, and section 42 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

with an additional increase of one percent, beginning with the reporting period of January 2013.

- b. Each peace officer employed by the state, other than a peace officer employed by the bureau of criminal investigation, who is a member of the public employees retirement system is assessed and shall pay six percent of the employee's monthly salary.
  - c. Effective August 1, 2015, each national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016.
  - d. The assessment must be deducted and retained out of the employee's salary in equal monthly installments.
2. The peace officer's or security officer's employer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other funds available for such purposes. If the peace officer's or security officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or security officer's assessment.

<sup>266</sup> **SECTION 3. AMENDMENT.** Subsection 3 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

3. Retirement dates are defined as follows:
- a. Normal retirement date, except for a national guard security officer or firefighter, a firefighter employed by a political subdivision, ~~or a peace officer employed by the state, or a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, is:~~
    - (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
    - (2) When the member has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
  - b. Normal retirement date for members first enrolled after December 31, 2015, except for a national guard security officer or firefighter, a firefighter employed by a political subdivision, a peace officer ~~or employed by the~~

<sup>266</sup> Section 54-52-17 was also amended by section 4 of House Bill No. 1183, chapter 513, section 2 of House Bill No. 1309, chapter 515, section 3 of House Bill No. 1309, chapter 515, section 4 of House Bill No. 1309, chapter 515, and section 43 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.



~~state, a peace officer or~~ correctional officer employed by ~~the bureau of criminal investigation or~~ by a political subdivision, or a supreme court or district court judge, is:

- (1) The first day of the month next following the month in which the member attains the age of sixty-five years; or
  - (2) When the member has a combined total of years of service credit and years of age equal to ninety and the member attains a minimum age of sixty and has not received a retirement benefit under this chapter.
- c. Normal retirement date for a national guard security officer or firefighter is:
- (1) The first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2) When the national guard security officer or firefighter has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- d. Normal retirement date for a peace officer, firefighter, or correctional officer employed by a political subdivision is:
- (1) The first day of the month next following the month in which the peace officer, firefighter, or correctional officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2) When the peace officer, firefighter, or correctional officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- e. (1) Normal retirement date for a peace officer employed by the bureau of criminal investigation is:
- (1)(a) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or
  - (2)(b) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- (2) Normal retirement date for a peace officer employed by the state, other than a peace officer employed by the bureau of criminal investigation, is:
- (a) The first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; or

- (b) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.
- f. Postponed retirement date is the first day of the month next following the month in which the member, on or after July 1, 1977, actually severs or has severed the member's employment after reaching the normal retirement date.
- g. (1) Early retirement date, except for a national guard security officer or firefighter, a firefighter employed by a political subdivision, or a peace officer, or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a peace officer employed by the state, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment.
- (2) For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment.
- (3) For a peace officer employed by the state, other than a peace officer employed by the bureau of criminal investigation, or a firefighter employed by a political subdivision or a peace officer, or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer, firefighter, or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.
- (4) For a peace officer employed by the bureau of criminal investigation, early retirement date is the first day of the month next following the month in which the peace officer attains the age of fifty years and has completed at least three years of eligible employment.
- h. Disability retirement date is the first day of the month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules of the board, and has completed at least one hundred eighty days of eligible employment. For supreme and district court judges, permanent and total disability is based solely on a judge's inability to perform judicial duties arising out of physical or mental impairment, as determined pursuant to rules adopted by the board or as provided by subdivision a of subsection 3 of section 27-23-03.
- (1) A member is eligible to receive disability retirement benefits only if the member became disabled during the period of eligible employment and applies for disability retirement benefits within twelve months of the date the member terminates employment.
- (2) A member is eligible to continue to receive disability benefits as long as the permanent and total disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. If the board

determines a member no longer meets the eligibility definition, the board may discontinue the disability retirement benefit. The board may pay the cost of any medical testing or rehabilitation services the board deems necessary and these payments are appropriated from the retirement fund for those purposes. A member's receipt of disability benefits under this section is limited to receipt from the fund to which the member was actively contributing at the time the member became disabled.

<sup>267</sup> **SECTION 4. AMENDMENT.** Subsection 4 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

4. The board shall calculate retirement benefits as follows:
  - a. Normal retirement benefits for all retirees, except supreme and district court judges, peace officers employed by the bureau of criminal investigation, and other peace officers employed by the state, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:
    - (1) For members first enrolled:
      - (a) Before January 1, 2020, service benefit equals two percent of final average salary multiplied by the number of years of service employment.
      - (b) After December 31, 2019, service benefit equals one and seventy-five hundredths percent of final average salary multiplied by the number of years of service employment.
    - (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
  - b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:
    - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.

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<sup>267</sup> Section 54-52-17 was also amended by section 3 of House Bill No. 1183, chapter 513, section 2 of House Bill No. 1309, chapter 515, section 3 of House Bill No. 1309, chapter 515, section 4 of House Bill No. 1309, chapter 515, and section 43 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

- (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Normal retirement benefits for a peace officer employed by the bureau of criminal investigation reaching the normal retirement date equals an annual amount, payable monthly, comprised of a service benefit and a prior service benefit determined as follows:
- (1) For members first enrolled:
- (a) Before January 1, 2020, service benefit equals two percent of final average salary multiplied by the number of years of service employment.
- (b) After December 31, 2019, service benefit equals one and seventy-five hundredths percent of final average salary multiplied by the number of years of service employment.
- (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
- d. Normal retirement benefits for a peace officer employed by the state, other than by the bureau of criminal investigation, reaching the normal retirement date equals an annual amount, payable monthly, comprised of a service benefit and a prior service benefit determined as follows:
- (1) For members first enrolled:
- (a) Before January 1, 2020, service benefit equals two percent of final average salary multiplied by the number of years of service employment.
- (b) After December 31, 2019, service benefit equals one and seventy-five hundredths percent of final average salary multiplied by the number of years of service employment.
- (2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.
- e. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
- d.f. Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning before the normal retirement date, as determined under subsection 3. Except for a national guard security officer or firefighter, ~~a firefighter employed by a political subdivision,~~ a peace officer, or correctional officer employed by the ~~bureau of criminal investigation or by a political subdivision,~~ a peace officer employed by the state, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date.

A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.

- e.g. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

**SECTION 5. LEGISLATIVE MANAGEMENT STUDY - PEACE OFFICER AND PUBLIC SAFETY PERSONNEL RETIREMENT PLANS.** During the 2023-24 interim, the legislative management shall consider studying the retirement system for peace officers and public safety personnel in the state. The study must include consideration of the public employees retirement system retirement plans offered to peace officers and safety personnel; how political subdivisions provide retirement benefits to peace officers and safety personnel; how other states provide retirement benefits to peace officers and safety personnel; the level of benefits and contributions in the state, political subdivision, and other state plans; how peace officers and public safety personnel transition between these retirement plans; and factors unique to retirement plans in the public safety sector. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

Approved April 18, 2023

Filed April 18, 2023

## CHAPTER 514

### HOUSE BILL NO. 1040

(Legislative Management)  
(Retirement Committee)

AN ACT to create and enact sections 54-52-02.15, 54-52.2-09, 54-52.6-02.1, 54-52.6-02.2, 54-52.6-05.1, 54-52.6-09.5, 54-52.6-09.6, 54-52.6-22, and 54-52.6-23 of the North Dakota Century Code, relating to the closure of the public employees retirement system main plan, the deferred compensation program, and expansion of the defined contribution retirement plan; to amend and reenact paragraph 1 of subdivision a of subsection 1 of section 15-39.1-10.3, sections 54-52-01, 54-52-02.5, 54-52-02.9, 54-52-02.11, and 54-52-02.12, subsection 2 of section 54-52-05, sections 54-52-06 and 54-52-14.3, subdivision b of subsection 1 of section 54-52-17.2, and sections 54-52.6-01, 54-52.6-02, 54-52.6-03, 54-52.6-05, 54-52.6-08, 54-52.6-09, 54-52.6-10, 54-52.6-13, 54-52.6-15, 54-52.6-19, and 57-51.1-07.5 of the North Dakota Century Code, relating to the public employees retirement system defined benefit and defined contribution retirement plans and the state share of oil and gas taxes; to repeal sections 54-52-06.5 and 54-52.6-03 of the North Dakota Century Code, relating to public employees retirement system retirement plan contribution rates upon reaching full funding and balance transfer when opting to participate in the defined contribution plan; to provide for a legislative management study; to provide for a transfer; to provide for application; and to provide an effective date.

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

<sup>268</sup> **SECTION 1. AMENDMENT.** Paragraph 1 of subdivision a of subsection 1 of section 15-39.1-10.3 of the North Dakota Century Code is amended and reenacted as follows:

- (1) The public employees retirement system, except an "eligible employee" as that term is defined under section 54-52-02.15.

<sup>269</sup> **SECTION 2. AMENDMENT.** Section 54-52-01 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-52-01. Definition of terms.**

As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, vested employer contributions under section 54-52-11.1, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.

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<sup>268</sup> Section 15-39.1-10.3 was also amended by section 4 of Senate Bill No. 2053, chapter 70.

<sup>269</sup> Section 54-52-01 was also amended by section 1 of House Bill No. 1183, chapter 513.

2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "Correctional officer" means a participating member who is employed as a correctional officer by a political subdivision.
4. "Deferred member" means a participating member who is not actively participating in the main plan under this chapter and who has an account intact in the main plan under this chapter.
5. "Eligible employee", except as otherwise provided under section 54-52-02.15, means ~~alla permanent employees~~employee who ~~meet~~meets all of the eligibility requirements set by this chapter and who ~~are~~is eighteen years or more of age, ~~and. The term~~ includes appointive and elective officials under sections 54-52-02.5, 54-52-02.11, and 54-52-02.12, and nonteaching employees of the superintendent of public instruction, including the superintendent of public instruction, who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.13, and employees of the state board for career and technical education who elect to transfer from the teachers' fund for retirement to the public employees retirement system under section 54-52-02.14. ~~Eligible employee~~The term does not include nonclassified state employees who ~~elect~~elect under section 54-52.6-02 to become members of the retirement plan established under chapter 54-52.6 ~~but. The term~~ does include employees of the judicial branch and employees of the board of higher education and state institutions under the jurisdiction of the board of higher education.
- 5-6. "Employee" means any individual employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; licensed employees of a school district means those employees eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.
- 6-7. "Employer" means a governmental unit.
- 7-8. "Firefighter" means a participating member who is employed as a firefighter by a political subdivision and, notwithstanding subsection 13, for an individual employed after July 31, 2017, is employed at least thirty-two hours per week and at least twenty weeks each year of employment. A firefighter who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after July 31, 2017, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system. The term does not include a firefighter employee of the North Dakota national guard.
- 8-9. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
- 9-10. "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision ~~thereof~~ of the state.

- 40-11. "National guard security officer or firefighter" means a participating member who is:
- a. A security police employee of the North Dakota national guard; or
  - b. A firefighter employee of the North Dakota national guard.
- 41-12. "Participating member" means an eligible employee who through payment into the plan has established a claim against the plan.
- 42-13. "Peace officer" means a participating member who is a peace officer as defined in section 12-63-01 and is employed as a peace officer by the bureau of criminal investigation or by a political subdivision and, notwithstanding subsection 13, for persons employed after August 1, 2005, is employed thirty-two hours or more per week and at least twenty weeks each year of employment. A peace officer who is a participating member of the law enforcement retirement plan created by this chapter who begins employment after August 1, 2005, is ineligible to participate concurrently in any other retirement plan administered by the public employees retirement system.
- 43-14. "Permanent employee" means a ~~governmental unit~~an employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least twenty weeks each year of employment.
- 44-15. "Prior service" means service or employment before July 1, 1966.
- 45-16. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
- 46-17. "Public employees retirement system" means the retirement plan and program established by this chapter.
- 47-18. "Retirement" means the acceptance of a retirement allowance under this chapter upon either termination of employment or termination of participation in the retirement plan.
- 48-19. "Retirement board" or "board" means the governing authority created under section 54-52-03.
- 49-20. "Seasonal employee" means a participating member who does not work twelve months a year.
- 20-21. "Service" means employment on or after July 1, 1966.
- 21-22. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.
- 22-23. "Temporary employee" means a ~~governmental unit~~an employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.



**23-24.** "Wages" and "salaries" means the member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

<sup>270</sup> **SECTION 3. AMENDMENT.** Section 54-52-02.5 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.5. Newly elected and appointed state officials.**

1. After December 31, 1999, ~~a person~~ but before January 1, 2025, an individual elected or appointed to a state office for the first time must, from and after the date that ~~person~~ individual qualifies and takes office, be a participating member of the public employees retirement system unless that person makes an election at any time during the first six months after the date the person takes office to participate in the defined contribution retirement plan established under chapter 54-52.6.
2. After December 31, 2024, an individual elected or appointed to a state office for the first time, from and after the date that individual qualifies and takes office, must be a participating member of the defined contribution retirement plan established under chapter 54-52.6, unless at the time of election or appointment the individual is a participating or deferred member under this chapter, in which case the official remains a participating member under this chapter.
3. As used in this section, the phrase "for the first time" means ~~a person~~ an individual appointed, who, after December 31, 1999, does not hold office as an appointed official at the time of that ~~person's~~ individual's appointment.

<sup>271</sup> **SECTION 4. AMENDMENT.** Section 54-52-02.9 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.9. Participation by temporary employees.**

1. ~~Within~~ Before January 1, 2025, within one hundred eighty days of beginning employment, a temporary employee may elect to participate in the public employees retirement system under this chapter and receive credit for service

<sup>270</sup> Section 54-52-02.5 was also amended by section 36 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

<sup>271</sup> Section 54-52-02.9 was also amended by section 37 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

after enrollment. Monthly, the temporary employee shall pay to the fund an amount equal to ~~eightfourteen~~ and twelve hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by ~~twoone~~ percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional two percent increase, beginning with the reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 20142025.

2. If the temporary employee first enrolled:
  - a. Before January 1, 2020, in addition the temporary employee shall pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2.
  - b. After December 31, 2019, the temporary employee shall pay to the fund an additional amount equal to one and fourteen hundredths percent times the temporary employee's present monthly salary.
3. A temporary employee who is a participating member under this chapter due to employment before January 1, 2025, who becomes a permanent employee after December 31, 2024, qualifies to participate in the defined benefit retirement plan under this chapter and receive credit for service after enrollment.
4. After December 31, 2024, and within one hundred eighty days of beginning employment, a temporary employee may elect to participate in the defined contribution retirement plan under chapter 54-52.6.
5. An employer may not pay the temporary employee's contributions. A temporary employee may continue to participate as a temporary employee in the public employees retirement system until termination of employment or reclassification of the temporary employee as a permanent employee. A temporary employee may not purchase any additional credit, including additional credit under section 54-52-17.4 or past service under section 54-52-02.6.

<sup>272</sup> **SECTION 5. AMENDMENT.** Section 54-52-02.11 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.11. Participation requirements for nonstate elected officials.**

Elected

1. Before January 1, 2025, eligible elected officials of participating counties, at their individual option, may enroll in the defined benefit plan within the first six months of their term.

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<sup>272</sup> Section 54-52-02.11 was also amended by section 38 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

2. After December 31, 2024, eligible elected officials of participating counties, at their individual option, may enroll in the defined contribution retirement plan under chapter 54-52.6 within the first six months of their term.

<sup>273</sup> **SECTION 6. AMENDMENT.** Section 54-52-02.12 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.12. Participation requirements for nonstate appointed officials.**

1. Nonstate appointed officials of participating employers appointed on or after August 1, 1999, but before January 1, 2025, who meet the participation requirements of this chapter must be enrolled in the defined benefit plan effective within the first month of taking office.
2. After December 31, 2024, nonstate appointed officials of participating employers who meet the participation requirements must be enrolled in the defined contribution retirement plan under chapter 54-52.6 effective within the first month of taking office.

<sup>274</sup> **SECTION 7.** Section 54-52-02.15 of the North Dakota Century Code is created and enacted as follows:

**54-52-02.15. Public employees retirement system main plan - Closure to new hires - Multiple plan membership.**

1. Under this section "eligible employee" means a permanent employee who:
  - a. Meets all the eligibility requirements set by this chapter;
  - b. Is at least eighteen years of age;
  - c. Becomes a participating member after December 31, 2024; and
  - d. Is not eligible to participate in the law enforcement plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under section 15-10-17 for university system employees.
2. Effective January 1, 2025, the public employees retirement system defined benefit main plan maintained for employees is closed to new eligible employees. However, an employee who becomes a participating or deferred member under this chapter before January 1, 2025, remains in the defined benefit retirement plan under this chapter, regardless of being rehired after December 31, 2024.
3. Except as otherwise provided under this section, effective January 1, 2025, an eligible employee who begins employment with an employer shall participate

<sup>273</sup> Section 54-52-02.12 was also amended by section 39 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

<sup>274</sup> Section 54-52-02.15 was amended by section 40 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

in the defined contribution retirement plan under chapter 54-52.6 as provided under section 54-52.6-02.1.

4. This section does not impact an employee to the extent the employee is a participating member in one or more of the following enumerated plans: law enforcement plan, judges' plan, highway patrol plan, teachers' fund for retirement plan, or alternative retirement program established under section 15-10-17 for university system employees.
  - a. A participating or deferred member in the defined contribution retirement plan under chapter 54-52.6 who becomes eligible to participate in a plan enumerated under this subsection is eligible to participate in the retirement plan enumerated under this subsection.
  - b. A participating member of a retirement plan enumerated under this subsection who becomes an eligible employee is not eligible to participate in the defined benefit retirement plan under this chapter but instead participates in the defined contribution retirement plan under chapter 54-52.6. However, this subdivision does not apply to an individual who before January 1, 2025, is a participating or a deferred member under this chapter, as that individual continues to participate in the defined benefit retirement plan under this chapter.
5. The board shall adopt rules to implement this section.

**SECTION 8. AMENDMENT.** Subsection 2 of section 54-52-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Each member must be assessed and required to pay monthly ~~four~~seven percent of the monthly salary or wage paid to the member, and such assessment must be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment. ~~Member contributions increase by one percent of the monthly salary or wage paid to the member beginning with the monthly reporting period of January 2012, and with an additional increase of one percent, beginning with the monthly reporting period of January 2013, and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.~~

<sup>275</sup> **SECTION 9. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06. Employer's contribution to retirement plan - Report to the legislative assembly employee benefits programs committee.**

1. Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the reporting period of January 2013; ~~and with an additional increase of one percent, beginning with the monthly reporting period of January 2014; and with an additional increase of one percent, beginning with the monthly reporting period of January 2024.~~ For a participating member who

<sup>275</sup> Section 54-52-06 was also amended by section 10 of House Bill No. 1040, chapter 514.

first enrolls after December 31, 2019, the governmental unit shall contribute an additional amount equal to one and fourteen-hundredths percent of the monthly salary or wage of the participating member.

2. For those members who elect to exercise their rights under section 54-52-17.14, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, into the retirement fund from the governmental unit's funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to section 54-52-17.14 a lump sum, or failing to otherwise comply with the board's established wage reporting or payroll reporting process requirements, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction of a month after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date the contributions became due, penalty and interest to be paid on delinquent contributions may be waived.
3. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05.
4. ~~The~~Annually, the board shall report to each session of the legislative assembly ~~the employee benefits programs committee~~ the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

<sup>276</sup> **SECTION 10. AMENDMENT.** Section 54-52-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06. Employer's contribution to retirement plan - Report to the employee benefits programs committee.**

1. Each

1. a. ~~As determined by actuarial valuations, each state governmental unit shall contribute to the defined benefit plan an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. Governmental unit contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the reporting period of January 2013; with an~~

<sup>276</sup> Section 54-52-06 was also amended by section 9 of House Bill No. 1040, chapter 514.



**SECTION 11. AMENDMENT.** Section 54-52-14.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-14.3. Public employee retirement funds - Use and investment.**

Any provision of law relating to the use and investment of public employee retirement funds must be deemed a part of the employment contracts of the employees participating in any public employee retirement system. All moneys from any source paid into any public employee retirement system fund created by the laws of this state must be used and invested only for the exclusive benefit of the members, retirees, and beneficiaries of ~~that~~the retirement system, including the payment of system administrative costs.

<sup>277</sup> **SECTION 12. AMENDMENT.** Subdivision b of subsection 1 of section 54-52-17.2 of the North Dakota Century Code is amended and reenacted as follows:

b. Pursuant~~Subject to section 54-52-02.15 and pursuant to rules adopted by the board, an employee who has service credit in the system and in any of the plans described in paragraphs 1 and 2 of subdivision a is entitled to benefits under this chapter. The benefits of a temporary employee employed after July 31, 2015, must be calculated using the benefit formula in section 54-52-17. A permanent employee or a temporary employee employed before August 1, 2015, may elect to have benefits calculated using the benefit formula in section 54-52-17 under either of the following methods:~~

- (1) The final average salary as calculated in section 54-52-17. If the participating member has worked for less than thirty-six months at retirement, the final average salary is the average salary for the total months of employment.
- (2) The final average salary as calculated in section 54-52-17 for employment with any of the three eligible employers under this subdivision, with service credit not to exceed one month in any month when combined with the service credit earned in the alternate retirement system.

<sup>278</sup> **SECTION 13.** Section 54-52.2-09 of the North Dakota Century Code is created and enacted as follows:

**54-52.2-09. Employer match for members of defined contribution retirement plan.**

An employee who first participated in the defined contribution retirement plan under chapter 54-52.6 after December 31, 2024, who elects to contribute less than the optional three percent of wages or salary under subdivision b of subsection 1 of section 54-52.6-09, who participates in the deferred compensation program under this chapter, qualifies for employer matching of contributions made under this section. The employee may elect to contribute an amount of wages or salary which does not

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<sup>277</sup> Section 54-52-17.2 was also amended by section 22 of Senate Bill No. 2053, chapter 70.

<sup>278</sup> Section 54-52.2-09 was amended by section 44 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

exceed any remaining balance of the optional three percent contribution and the employer shall match this contribution. This section does not limit the ability of an employee to contribute unmatched wages or salary under this chapter, subject to federal contribution limitations.

<sup>279</sup> **SECTION 14. AMENDMENT.** Section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-01. Definition of terms.**

As used in this chapter, unless the context otherwise requires:

1. "Board" means the public employees retirement system board.
2. "Deferred member" means ~~a person who elected to receive deferred vested retirement benefits~~ an individual who is not actively participating in the main plan under chapter 54-52 who has an account intact in the main plan under chapter 54-52.
3. "Eligible employee" means ~~a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by North Dakota human resource management services. If a participating member loses permanent employee status and becomes a temporary employee, the member may still participate in the defined contribution retirement plan, for employees who become participating members after December 31, 2024, has the same meaning as provided under section 54-52-02.15. For employees who elected to join the defined contribution retirement plan under this chapter before January 1, 2025, the term includes a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board of higher education, who is at least eighteen years of age and who is in a position not classified by the North Dakota human resource management services.~~
4. "Employee" means ~~any person~~ an individual employed by the ~~state~~ statea governmental unit, whose compensation is paid out of ~~statethe governmental unit's~~ the governmental unit's funds, or funds controlled or administered by the ~~statea governmental unit~~ or paid by the federal government through any of its executive or administrative officials.
5. "Employer" means ~~the state of North Dakota~~ a governmental unit.
6. "Governmental unit" means ~~the state of North Dakota or a participating political subdivision of the state.~~
7. "Normal retirement date" is determined based on subsection 3 of section 54-52-17.

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<sup>279</sup> Section 54-52.6-01 was also amended by section 45 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.



8. "Participating member" means an eligible employee who elects to ~~participate~~participates in the defined contribution retirement plan established under this chapter.
- 7-9. "Permanent employee" means a ~~state~~an employee whose services are not limited in duration and who is filling an approved and regularly funded position and is employed twenty hours or more per week and at least five months each year.
- 8-10. "Temporary employee" means a governmental unit employee who is not an eligible employee due to not meeting the qualification of being a permanent employee, and who is not actively contributing to another employer-sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
11. "Wages" and "salaries" means earnings in eligible employment under this chapter reported as salary on a federal income tax withholding statement plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement, incentive pay, severance pay, medical insurance, workforce safety and insurance benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between an employee and a participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

<sup>280</sup> **SECTION 15. AMENDMENT.** Section 54-52.6-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-02. Election through December 31, 2024.**

1. The board shall provide an opportunity for each eligible employee who is a member of the public employees retirement system on September 30, 2001, and who has not made a written election under this section to transfer to the defined contribution retirement plan before October 1, 2001, to elect in writing to terminate membership in the public employees retirement system and elect to become a participating member under this chapter. Except as provided in section 54-52.6-03, an election made by an eligible employee under this section is irrevocable. The board shall accept written elections under this section from eligible employees during the period beginning on July 1, 1999, and ending 12:01 a.m. December 14, 2001. An eligible employee who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. An eligible employee who makes and files a written election under this section ceases to be a member of the public employees retirement system effective twelve midnight December 31, 2001; becomes a participating member in the defined contribution retirement plan under this chapter effective 12:01 a.m. January 1, 2002; and waives all of that person's rights to a pension, annuity, retirement allowance, insurance benefit, or any

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<sup>280</sup> Section 54-52.6-02 was also amended by section 46 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

other benefit under the public employees retirement system effective December 31, 2001. This section does not affect a person's an individual's right to health benefits or retiree health benefits under chapter 54-52.1. An eligible employee who is first employed and entered upon the payroll of that person's employer after September 30, 2001, and before January 1, 2025, may make an election to participate in the defined contribution retirement plan established under this chapter at any time during the first six months after the date of employment. If the board, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the board may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window.

2. If an individual who is a deferred member of the public employees retirement system on September 30, 2001, is re-employed before January 1, 2025, and by virtue of that employment is again eligible for membership in the public employees retirement system under chapter 54-52, the individual may elect in writing to remain a member of the public employees retirement system or if eligible to participate in the defined contribution retirement plan established under this chapter to terminate membership in the public employees retirement system and become a participating member in the defined contribution retirement plan established under this chapter. An election made by a deferred member under this section is irrevocable. The board shall accept written elections under this section from a deferred member during the period beginning on the date of the individual's re-employment and ending upon the expiration of six months after the date of that re-employment. If the board, in its sole discretion, determines that the employee was not adequately notified of the employee's option to participate in the defined contribution retirement plan, the board may provide the employee a reasonable time within which to make that election, which may extend beyond the original six-month decision window. A deferred member who makes and files a written election to remain a member of the public employees retirement system retains all rights and is subject to all conditions as a member of that retirement system. A deferred member who does not make a written election or who does not file the election during the period specified in this section continues to be a member of the public employees retirement system. A deferred member who makes and files a written election to terminate membership in the public employees retirement system ceases to be a member of the public employees retirement system effective on the last day of the payroll period that includes the date of the election; becomes a participating member in the defined contribution retirement plan under this chapter effective the first day of the payroll immediately following the date of the election; and waives all of that person's rights to a pension, an annuity, a retirement allowance, insurance benefit, or any other benefit under the public employees retirement system effective the last day of the payroll that includes the date of the election. This section does not affect any right to health benefits or retiree health benefits to which the deferred member may otherwise be entitled.
3. An eligible employee who elects under this section to participate in the retirement plan established under this chapter must remain a participant even if that employee returns to the classified service or becomes employed by a political subdivision that participates in the public employees retirement system. The contribution amount must be as provided in this chapter, regardless of the position in which the employee is employed. Notwithstanding the irrevocability provisions of this chapter, if a member who elects to

participate in the retirement plan established under this chapter becomes a supreme or district court judge, becomes a member of the highway patrol, becomes employed in a position subject to teachers' fund for retirement membership, or becomes an employee of the board of higher education or state institution under the jurisdiction of the board of higher education who is eligible to participate in an alternative retirement program established under subsection 6 of section 15-10-17, the member's status as a member of the defined contribution retirement plan is suspended, and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution retirement plan, the member's suspension must be terminated, the member again becomes a member of the defined contribution retirement plan, and the member's account resumes accepting contributions. At the member's option, and pursuant to rules adopted by the board, the member may transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account under this chapter.

4. After consultation with its actuary, the board shall determine the method by which a participating member or deferred member may make a written election under this section. If the participating member or deferred member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the board may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.
5. If the board receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, then the portion that will cause the disqualification does not apply.
6. A participating member under this section who becomes a temporary employee may still participate in the defined contribution retirement plan upon filing an election with the board within one hundred eighty days of transferring to temporary employee status. The participating member may not become a member of the defined benefit plan as a temporary employee.
  - a. ~~The temporary employee electing to participate in the defined contribution retirement plan shall pay monthly to the fund an amount equal to eight and twelve hundredths percent times the temporary employee's present monthly salary. The amount required to be paid by a temporary employee increases by two percent times the temporary employee's present monthly salary beginning with the monthly reporting period of January 2012, and with an additional increase of two percent, beginning with the monthly reporting period of January 2013, and with an additional increase of two percent, beginning with the monthly reporting period of January 2014. The temporary employee shall also pay the required monthly contribution to the retiree health benefit fund established under section 54-52.1-03.2. This~~

~~contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2 into the plan as provided under section 54-52.6-09.6.~~

- b. An employer may not pay the temporary employee's contributions.
- c. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.

7. A former participating member under this section who has accepted a retirement distribution pursuant to section 54-52.6-13 and who subsequently becomes employed by an entity different from the employer with which the member was employed at the time the member retired but which does participate in any state-sponsored retirement plan may, before re-enrolling in the defined contribution retirement plan, elect to permanently waive future participation in the defined contribution retirement plan, whatever plan in which the new employing entity participates, and the retiree health program and maintain that member's retirement status. Neither the member nor the employer are required to make any future retirement contributions on behalf of that employee.

8. After December 31, 2024, an eligible employee is no longer allowed to elect participation under this section.

<sup>281</sup> **SECTION 16.** Section 54-52.6-02.1 of the North Dakota Century Code is created and enacted as follows:

**54-52.6-02.1. Participation in defined contribution retirement plan.**

1. Except as otherwise provided under section 54-52-02.5 or 54-52-02.15 or this chapter, effective January 1, 2025, an eligible employee who is first enrolled shall participate in the defined contribution retirement plan under this chapter.
2. A temporary employee may elect to participate in the defined contribution retirement plan as provided under section 54-52.6-09.6.
3. A county elected official may elect to participate in the defined contribution retirement plan as provided under section 54-52-02.11.
4. A nonstate appointed official shall participate in the defined contribution retirement plan as provided under section 54-52-02.12.

<sup>282</sup> **SECTION 17.** Section 54-52.6-02.2 of the North Dakota Century Code is created and enacted as follows:

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<sup>281</sup> Section 54-52.6-02.1 was amended by section 47 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

<sup>282</sup> Section 54-52.6-02.2 was amended by section 48 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

**54-52.6-02.2. Election after December 31, 2024 - Additional employer contribution.**

1. As used in this section, "eligible employee" means a permanent state employee who on December 31, 2024, is a participating member of the public employees retirement system main system plan under chapter 54-42, who has been a participating member under chapter 54-52 for no more than five years, and who is at least eighteen years of age.
2. The board shall provide a three-month election period, from January 1, 2025, through March 31, 2025, for an eligible employee to transfer to the defined contribution plan under this chapter pursuant to the rules and policies adopted by the board.
  - a. An election under this section made by a member of the public employees retirement system under chapter 54-52 to transfer to the defined contribution retirement plan under this chapter is irrevocable.
  - b. For an eligible employee who elects to transfer from the public employees retirement system under chapter 54-52 to the defined contribution retirement plan under this chapter, the board shall transfer a lump sum amount from the public employees retirement system fund to the member's account in the defined contribution retirement plan under this chapter. However, if the eligible employee terminates employment before receiving the lump sum transfer under this section, the election made is ineffective and the eligible employee remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and privileges under that chapter.
  - c. The board shall calculate the lump sum amount to be transferred based on the actuarial present value of the eligible employee's accumulated benefit obligation under the public employees retirement system based on the assumption the eligible employee will retire under the earlier applicable normal retirement age, plus interest from January 1, 2025, to the date of transfer, at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election.
  - d. This section does not affect an eligible individual's right to health benefits under chapter 54-52.1.
3. The state employer of an eligible employee who elects under this section to participate in the defined contribution retirement plan under this chapter shall pay an additional annual contribution of three thousand three hundred and thirty-three dollars for up to three years. Under this subsection, the employer shall pay the additional contribution each year the eligible employee continues permanent employment with the state, beginning January 2026, and extending no further than January 2028.
4. If the board receives notification from the internal revenue service that this section or any portion of this section will cause the public employees retirement system or the retirement plan established under this chapter to be disqualified for tax purposes under the Internal Revenue Code, that portion that will cause the disqualification does not apply.

<sup>283</sup> **SECTION 18. AMENDMENT.** Section 54-52.6-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-03. Transfer of accumulated fund balances.**

1. For an individual who elects under section 54-52.6-02 to terminate membership in the public employees retirement system under chapter 54-52, the board shall transfer a lump sum amount from the retirement fund to the participating member's account in the defined contribution retirement plan under this chapter. However, if the individual terminates employment ~~prior to~~before receiving the lump sum transfer under this section, the election made under section 54-52.6-02 is ineffective and the individual remains a member of the public employees retirement system under chapter 54-52 and retains all the rights and benefits provided under that chapter. The board shall calculate the amount to be transferred for persons employed before October 1, 2001, using the two following formulas, and shall transfer the greater of the two amounts obtained:
  - 1-a. The actuarial present value of the individual's accumulated benefit obligation under the public employees retirement system based on the assumption that the individual will retire under the earliest applicable normal retirement age, plus interest from January 1, 2001, to the date of transfer, at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election; or
  - 2-b. The actual employer contribution made, less vested employer contributions made pursuant to section 54-52-11.1, plus compound interest at the rate of one-half of one percent less than the actuarial interest assumption at the time of the election plus the employee account balance.
2. The board shall calculate the amount to be transferred for persons employed after September 30, 2001, and before January 1, 2025, using only the formula contained in subdivision b of subsection 21.

**SECTION 19. AMENDMENT.** Section 54-52.6-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-05. Direction of investments.**

1. Each participating member shall direct the investment of the individual's accumulated employer and employee contributions and earnings to one or more investment choices within available categories of investment provided by the board.
2. The board shall provide an investment menu of investment options. In establishing the investment options, the board shall:
  - a. Include predetermined investment portfolio options constructed to reflect different risk profiles that automatically reallocate and rebalance contributions as a participating member ages.

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<sup>283</sup> Section 54-52.6-03 was also amended by section 49 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

- b. Allow a participating member to construct an investment portfolio using some or all of the investment options.
3. The board shall provide a diversified menu of mutual funds and in-plan lifetime annuity options, either fixed, variable, or a combination of both. In selecting an annuity provider the board shall comply with section 54-52.6-05.1.

**SECTION 20.** Section 54-52.6-05.1 of the North Dakota Century Code is created and enacted as follows:

**54-52.6-05.1. Annuity provider - Qualifications.**

1. The board shall select one or more annuity providers to provide the annuity options under this chapter.
2. In selecting an annuity provider under this section, the board shall:
  - a. Determine whether the annuity provider and the provider's subsidiaries and affiliates have appropriate financial strength and stability at the time of selection and during the term of contract with the board.
    - (1) The board may require the provider to provide the board with written representation:
      - (a) The provider is in compliance with title 26.1.
      - (b) The provider at the time of selection is and for each of the preceding seven years was in compliance and good standing with the insurance commissioner of the provider's domiciliary state and the provider is not operating under an order of rehabilitation or liquidation.
      - (c) The provider maintains and has maintained reserves that satisfy the statutory requirements of each state in which the provider does business.
    - (2) The board may require a provider selected by the board to provide annuities under this chapter to notify the board of a change of circumstances resulting in the provider failing to meet any of the requirements under paragraph 1.
    - (3) The board must have determined the provider has a claims paying ability rating that meets standards adopted by the board.
  - b. Determine whether the annuity provider is able to provide contracted rights and benefits to a participating member.
  - c. Determine whether the costs, including fees and commissions, of the annuity options in relation to the benefits and product features of the annuity options are reasonable.
  - d. Determine whether the administrative services to be provided under the annuity option are appropriate. At a minimum the administrative services must include periodic reports to the board.

- e. Determine whether the annuity provider is experienced in paying lifetime retirement income through annuities offered to public employee defined contribution retirement plans.
- f. Determine whether the annuity provider offers a menu of annuity options that meet the following conditions:
  - (1) The annuity options are suitable for participating members and beneficiaries.
  - (2) The contract terms and income benefits are clearly stated, based on reasonable assumptions.
  - (3) The menu of annuity options offers a range of lifetime income options.
  - (4) If an annuity is a variable annuity, the annuity offers a fixed account option along with a variable option.
- g. Determine whether the annuity provider offers objective and participant-specific education and tools to help a participating member understand the appropriate use of annuities as a long-term retirement savings vehicle.

**SECTION 21. AMENDMENT.** Section 54-52.6-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-08. Credit of transfers.**

The board ~~shall~~ promptly shall credit the plan account of a participating member who makes an election under ~~this—chapter~~section 54-52.6-02 to terminate membership in the public employees retirement system under chapter 54-52 with any amount transferred from the public employees retirement system.

<sup>284</sup> **SECTION 22. AMENDMENT.** Section 54-52.6-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-09. Contributions - Penalty.**

1. Each

- a. A participating member who first joined the defined contribution retirement plan before January 1, 2025, and an employee who elects to participate in the defined contribution plan under section 54-52.6-02.2, shall contribute monthly seven percent of the monthly salary or wage paid to the participant.
- b. A participating member who first joined the defined contribution retirement plan after December 31, 2024, except for an employee who elects to participate in the defined contribution plan under section 54-52.6-02.2, shall contribute monthly four percent of the monthly salary or wage paid to the participant; and this. In addition, the participating member may elect to

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<sup>284</sup> Section 54-52.6-09 was also amended by section 50 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.



contribute monthly up to an additional three percent of the monthly salary or wage paid to the participant.

- c. This assessment must be deducted from the participant's salary in equal monthly installments commencing with the first month of participation in the defined contribution retirement plan established under this chapter. Participating member contributions increase by one percent of the monthly salary or wage paid to the participant beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the reporting period of January 2013; and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.

2. The

- a. For a participating member who first joined the defined contribution retirement plan before January 1, 2025, and for an employee who elects to participate in the defined contribution plan under section 54-52.6-02.2, the employer shall contribute an amount equal to seven and twelve-hundredths percent of the monthly salary or wage of the participating member.
- b. For a participating member who first joined the defined contribution retirement plan after December 31, 2024, except for an employee who elects to participate in the defined contribution plan under section 54-52.6-02.2, the employer shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member, plus up to an additional three percent as an employer matching contribution calculated based on the participating member's election under subdivision b of subsection 1. Employer contributions increase by one percent of the monthly salary or wage of a participating member beginning with the monthly reporting period of January 2012; with an additional increase of one percent, beginning with the monthly reporting period of January 2013; and with an additional increase of one percent, beginning with the monthly reporting period of January 2014.
- c. For members a participating member first enrolled after December 31, 2019, the employer contribution includes an additional increase of one and fourteen-hundredths percent.
- d. If the employee's contribution is paid by the employer under subsection 3, the employer shall contribute, in addition, an amount equal to the required employee's contribution. Monthly, the employer shall pay such contribution into the participating member's account from the employer's funds appropriated for payroll and salary or any other funds available for such purposes.
- e. If the employer fails to pay the contributions monthly, or fails to otherwise comply with the board's established wage reporting or payroll reporting process requirements, the employer is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction of a month after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date the

contributions became due, penalty and interest to be paid on delinquent contributions may be waived.

3. Each employer, at its option, may pay the employee contributions required by this section for all compensation earned after December 31, 1999. The amount paid must be paid by the employer in lieu of contributions by the employee. If the employer decides not to pay the contributions, the amount that would have been paid will continue to be deducted from the employee's compensation. If contributions are paid by the employer, they must be treated as employer contributions in determining tax treatment under this code and the federal Internal Revenue Code. Contributions paid by the employer may not be included as gross income of the employee in determining tax treatment under this code and the federal Internal Revenue Code until they are distributed or made available. The employer shall pay these employee contributions from the same source of funds used in paying compensation to the employee. The employer shall pay these contributions by effecting an equal cash reduction in the gross salary of the employee or by an offset against future salary increases or by a combination of a reduction in gross salary and offset against future salary increases. Employee contributions paid by the employer must be treated for the purposes of this chapter in the same manner and to the same extent as employee contributions made before the date on which employee contributions were assumed by the employer. An employer shall exercise its option under this subsection by reporting its choice to the board in writing.

**SECTION 23.** Section 54-52.6-09.5 of the North Dakota Century Code is created and enacted as follows:

**54-52.6-09.5. Employer contribution for defined benefit plan.**

In addition to the employer contribution under section 54-52.6-09, a state employer shall contribute to the defined benefit retirement plan under chapter 54-52, an amount equal to the contribution rate calculated under section 54-52-06 less the amount of the required employer contribution under sections 54-52.2-09 and 54-52.6-09. If a state employer uses federal funds to pay any or all of an employee's wages, the employer shall use state funds to pay this additional contribution.

**SECTION 24.** Section 54-52.6-09.6 of the North Dakota Century Code is created and enacted as follows:

**54-52.6-09.6. Participation by temporary employees.**

A temporary employee may elect, within one hundred eighty days of beginning employment, to participate in the defined contribution retirement plan under this chapter. Monthly, the temporary employee shall contribute an amount equal to nine and twenty-six hundredths percent times the temporary employee's present monthly salary, and may elect to contribute up to an additional six percent. An employer may not pay the temporary employee's contribution. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee.

**SECTION 25. AMENDMENT.** Section 54-52.6-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-10. Vesting.**

1. A participating member is immediately one hundred percent vested in that member's contributions made to that member's account under this chapter. A participating member vests in the employer contributions made on that member's behalf to an account under this chapter according to the following schedule:
  - 1-a. Upon completion of two years of service, fifty percent.
  - 2-b. Upon completion of three years of service, seventy-five percent.
  - 3-c. Upon completion of four years of service, one hundred percent.
2. A participating member also becomes one hundred percent vested in the employer contributions upon reaching age sixty-five. A participating member who was a member or deferred member of the public employees retirement system under chapter 54-52 who makes an election to participate in the defined contribution retirement plan pursuant to this chapter under section 54-52.6-02 or 54-52.6-02.2 must be credited with the years of service accrued under the public employees retirement system on the effective date of participation in the defined contribution retirement plan for the purpose of meeting vesting requirements for benefits under this section. Any forfeiture as a result of the failure of a participating member to vest in the employer contribution must be deposited in the administrative expenses account.

**SECTION 26. AMENDMENT.** Section 54-52.6-13 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-13. Distributions.**

1. A participating member is eligible to receive distribution of that person's individual's accumulated balance in the plan upon becoming a former participating member.
2. Upon the death of a participating member or former participating member, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's refund beneficiary, if any, as provided in this subsection. If the deceased participant designated an alternate refund beneficiary with the surviving spouse's written consent, the board shall distribute the accumulated balance to the named beneficiary. If the deceased participant named more than one primary beneficiary with the surviving spouse's written consent, the board shall pay the accumulated account balance to the named primary beneficiaries in the percentages designated by the deceased participant or, if the deceased participant had not designated a percentage for the beneficiaries, in equal percentages. If one or more of the primary beneficiaries has predeceased the deceased participant, the board shall pay the predeceased beneficiary's share to the remaining primary beneficiaries. If any beneficiary survives the deceased participant, yet dies before distribution of the beneficiary's share, the beneficiary must be treated as if the beneficiary predeceased the deceased participant. If there is no remaining primary beneficiary, the board shall pay the accumulated account balance of that deceased participant to the contingent beneficiaries in the

same manner. If there is no remaining designated beneficiary, the board shall pay the accumulated account balance of that deceased participant to the deceased participant's estate. If the deceased participant had not designated an alternate refund beneficiary or the surviving spouse is the refund beneficiary, the surviving spouse of the deceased participant may select a form of payment as provided in subdivision d of subsection 3.

3. a. A former participating member may elect one or a combination of several of the following methods of distribution of the accumulated balance:
  - a- (1) A lump sum distribution to the recipient.
  - b- (2) A lump sum direct rollover to another qualified plan, to the extent allowed by federal law.
  - e- (3) Periodic distributions, including annuities, as authorized by the board.
  - d- (4) No current distribution, in which case the accumulated balance must remain in the plan until the former participating member or refund beneficiary elects a method or methods of distribution under this section, to the extent allowed by federal law.
- b. A surviving spouse beneficiary may elect one or a combination of several of the methods of distribution provided in subdivisions a, b, or e paragraph 1, 2, or 3 of subdivision a if the surviving spouse is the sole refund beneficiary. If the surviving spouse is not the sole refund beneficiary, the refund beneficiary may only choose a lump sum distribution of the accumulated balance.
4. If the former participating member's vested account balance is less than one thousand dollars, the board shall automatically shall refund the member's vested account balance upon termination of employment. The member may waive the refund if the member submits a written statement to the board, within one hundred twenty days after termination, requesting that the member's vested account balance remain in the plan.

**SECTION 27. AMENDMENT.** Section 54-52.6-15 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-15. Board to provide information.**

1. The board shall provide information to employees who are eligible under section 54-52.6-02 or 54-52.6-02.2 to elect to become participating members under this chapter. The information must include at a minimum the employee's current account balance, the assumption of investment risk under a defined contribution retirement plan, administrative and investment costs, coordination of benefits information, and a comparison of projected retirement benefits under the public employees retirement system under chapter 54-52 and the retirement plan established under this chapter.
2. The board, or the board's vendor, shall provide to participating members:
  - a. Enrollment information that includes benefits of the defined contribution retirement plan, investment options available, the assumption of risk, and administrative and investment costs.

- b. Ongoing investment and retirement income planning, including education on how to set, measure, and adjust income and saving goals based on desired retirement income and financial objectives, actual behavior, and changing circumstances.
  - c. Retirement income education, including distribution options available and in-plan annuitization options.
  - d. Advice and guidance information, tools, and services primarily focused on long-term planning and investing and life events that potentially influence and impact retirement savings.
3. Notwithstanding any other provision of law, the board is not liable for any election or investment decision made by an employee based upon information provided to an employee under this chapter.

**SECTION 28. AMENDMENT.** Section 54-52.6-19 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.6-19. Overpayments.**

The board has the right of setoff to recover overpayments made under this chapter and to satisfy any claims arising from embezzlement or fraud committed by a participating member, deferred member under this chapter, refund beneficiary, or other person ~~who~~that has a claim to a distribution or any other benefit from a plan governed by this chapter.

**SECTION 29.** Section 54-52.6-22 of the North Dakota Century Code is created and enacted as follows:

**54-52.6-22. Report to employee benefits programs committee.**

Annually, the board shall provide a report to the employee benefits programs committee on the status of the defined contribution retirement plan under this chapter.

**SECTION 30.** Section 54-52.6-23 of the North Dakota Century Code is created and enacted as follows:

**54-52.6-23. Savings clause - Plan modification.**

If the board determines any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section as will comply with those federal statutes or rules, subject to the approval of the employee benefits programs committee. Any plan modifications made by the board pursuant to this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

<sup>285</sup> **SECTION 31. AMENDMENT.** Section 57-51.1-07.5 of the North Dakota Century Code is amended and reenacted as follows:

**57-51.1-07.5. State share of oil and gas taxes - Deposits.**

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<sup>285</sup> Section 57-51.1-07.5 was also amended by section 1 of Senate Bill No. 2367, chapter 559.

From the revenues designated for deposit in the state general fund under chapters 57-51 and 57-51.1, the state treasurer shall deposit the revenues received each biennium in the following order:

1. The first two hundred million dollars into the state general fund;
2. The next two hundred million dollars into the tax relief fund;
3. The next seventy-five million dollars into the budget stabilization fund, but not in an amount that would bring the balance in the fund to more than the limit in section 54-27.2-01;
4. The next two hundred million dollars into the state general fund;
5. The next ten million dollars into the lignite research fund;
6. The next twenty million dollars into the state disaster relief fund, but not in an amount that would bring the unobligated balance in the fund to more than twenty million dollars;
7. The next four hundred million dollars into the strategic investment and improvements fund;
8. The next sixty-five million dollars to the public employees retirement fund for the main system plan;
9. The next fifty-nine million seven hundred fifty thousand dollars, or the amount necessary to provide for twice the amount of the distributions under subsection 2 of section 57-51.1-07.7, into the funds designated for infrastructure development in non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty percent deposited into the municipal infrastructure fund and fifty percent deposited into the county and township infrastructure fund;
- 9-10. The next one hundred seventy million two hundred fifty thousand dollars or the amount necessary to provide a total of two hundred thirty million dollars into the funds designated for infrastructure development in non-oil-producing counties under sections 57-51.1-07.7 and 57-51.1-07.8 with fifty percent deposited into the municipal infrastructure fund and fifty percent deposited into the county and township infrastructure fund;
- 40-11. The next twenty million dollars into the airport infrastructure fund; and
- 44-12. Any additional revenues into the strategic investment and improvements fund.

**SECTION 32. REPEAL.** Sections 54-52-06.5 and 54-52.6-03 of the North Dakota Century Code are repealed.

**SECTION 33. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES RETIREMENT SYSTEM RETIREMENT PLAN.** During the 2023-24 interim, the legislative management shall study the public employees retirement system main system plan, including funding options and contributions by political subdivisions. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

**SECTION 34. LEGISLATIVE MANAGEMENT STUDY - PUBLIC EMPLOYEES RETIREMENT SYSTEM MAIN RETIREMENT PLAN.** During the 2023-24 interim, the legislative management shall study best practices for public employee retirement plans, including defined benefit plans, defined contribution plans, and hybrid plans such as side-by-side hybrid plans, cash benefit plans, and stacked hybrid plans. The study must include development of legislation to implement the retirement plan best suited to meet the needs of the state, political subdivisions, and public employees. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

**SECTION 35. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO PUBLIC EMPLOYEES RETIREMENT SYSTEM FUND.** The office of management and budget shall transfer \$135,000,000 from the strategic investment and improvements fund to the public employees retirement system fund, for the purpose of reducing the unfunded liability of the public employees retirement system main system plan, during the biennium beginning July 1, 2023, and ending June 30, 2025.

**SECTION 36. APPLICATION.** Subdivision a of subsection 1 of section 54-52-06, as amended under section 10 of this Act, applies to employer contributions beginning January 2026, using a contribution rate based on the July 1, 2024, actuarial analysis.

**SECTION 37. EFFECTIVE DATE.** Sections 9, 31, 33, 34, and 35 of this Act become effective August 1, 2023; sections 1 through 8, sections 11 through 22, sections 24 through 30, and section 32 of this Act become effective January 1, 2025; and sections 10, 23, and 36 of this Act become effective January 1, 2026.

Approved April 29, 2023

Filed May 1, 2023

## CHAPTER 515

### HOUSE BILL NO. 1309

(Representatives Boschee, Heinert, Martinson, Nathe, M. Ruby, Schneider)  
(Senators Braunberger, Cleary, Dever, K. Roers)

AN ACT to amend and reenact section 54-52-06.4, subdivisions e and g of subsection 3 of section 54-52-17, and subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to retirement benefits for peace officers employed by the bureau of criminal investigation.

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

<sup>286</sup> **SECTION 1. AMENDMENT.** Section 54-52-06.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-06.4. Contribution by peace officers employed by the bureau of criminal investigation or security officers employed by the national guard - Employer contribution.**

1. a. Each peace officer employed by the bureau of criminal investigation who is a member of the public employees retirement system is assessed and shall pay monthly four percent of the employee's monthly salary. Peace officer contributions increase by one percent of the member's monthly salary beginning with the monthly reporting period of January 2012, ~~and~~ with an additional increase of one percent, beginning with the reporting period of January 2013; with an additional increase of one percent, beginning with the reporting period of January 2024; and with an additional increase of one percent, beginning with the reporting period of January 2025.
- b. Effective August 1, 2015, each national guard security officer who is a member of the public employee's retirement system is assessed and monthly shall pay six percent of the employee's monthly salary. National guard security officer contributions decrease by one-half of one percent of the member's monthly salary beginning with the monthly reporting period of January 2016.
- c. The assessment under this subsection must be deducted and retained out of the employee's salary in equal monthly installments.
2. The employer of a peace officer/officer employed by the bureau of criminal investigation or national guard security officer's—employer/officer shall contribute an amount determined by the board to be actuarially required to support the level of benefits specified in section 54-52-17. The employer's contribution must be paid from funds appropriated for salary or from any other

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<sup>286</sup> Section 54-52-06.4 was also amended by section 2 of House Bill No. 1183, chapter 513, and section 42 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.



funds available for such purposes. If the peace officer's or security officer's assessment is paid by the employer under subsection 3 of section 54-52-05, the employer shall contribute, in addition, an amount equal to the required peace officer's or security officer's assessment.

<sup>287</sup> **SECTION 2. AMENDMENT.** Subdivision e of subsection 3 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

e. Normal retirement date for a peace officer employed by the bureau of criminal investigation is:

(4) The

(1) (a) ~~For a member employed before August 1, 2023, the first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least three eligible years of employment; and~~

(b) For a member employed after July 31, 2023, the first day of the month next following the month in which the peace officer attains the age of fifty-five years and has completed at least ten eligible years of employment; or

(2) When the peace officer has a combined total of years of service credit and years of age equal to eighty-five and has not received a retirement benefit under this chapter.

<sup>288</sup> **SECTION 3. AMENDMENT.** Subdivision g of subsection 3 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

g. (1) ~~Early retirement date, except for a national guard security officer or firefighter, a firefighter employed by a political subdivision, or a peace officer, or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a peace officer employed by the bureau of criminal investigation, is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed three years of eligible employment.~~

(2) For a national guard security officer or firefighter, early retirement date is the first day of the month next following the month in which the

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<sup>287</sup> Section 54-52-17 was also amended by section 3 of House Bill No. 1183, chapter 513, section 4 of House Bill No. 1183, chapter 513, section 3 of House Bill No. 1309, chapter 515, section 4 of House Bill No. 1309, chapter 515, and section 43 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

<sup>288</sup> Section 54-52-17 was also amended by section 3 of House Bill No. 1183, chapter 513, section 4 of House Bill No. 1183, chapter 513, section 2 of House Bill No. 1309, chapter 515, section 4 of House Bill No. 1309, chapter 515, and section 43 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

national guard security officer or firefighter attains the age of fifty years and has completed at least three years of eligible employment.

(3) ~~For a firefighter employed by a political subdivision or a peace officer, or correctional officer employed by the bureau of criminal investigation or by a political subdivision, early retirement date is the first day of the month next following the month in which the peace officer, firefighter, or correctional officer attains the age of fifty years and has completed at least three years of eligible employment.~~

(4) For a peace officer employed by the bureau of criminal investigation:

(a) Before August 1, 2023, early retirement date is the first day of the month next following the month in which the peace officer attains the age of fifty years and has completed at least three years of eligible employment.

(b) After July 31, 2023, early retirement date is the first day of the month next following the month in which the peace officer attains the age of fifty years and has completed at least ten years of eligible employment.

<sup>289</sup> **SECTION 4. AMENDMENT.** Subsection 4 of section 54-52-17 of the North Dakota Century Code is amended and reenacted as follows:

4. The board shall calculate retirement benefits as follows:

a. Normal retirement benefits for all retirees, except supreme and district court judges and peace officers employed by the bureau of criminal investigation, reaching normal retirement date equal an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which is determined as follows:

(1) For members first enrolled:

(a) Before January 1, 2020, service benefit equals two percent of final average salary multiplied by the number of years of service employment.

(b) After December 31, 2019, service benefit equals one and seventy-five hundredths percent of final average salary multiplied by the number of years of service employment.

(2) Prior service benefit equals two percent of final average salary multiplied by the number of years of prior service employment.

b. Normal retirement benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date

<sup>289</sup> Section 54-52-17 was also amended by section 3 of House Bill No. 1183, chapter 513, section 4 of House Bill No. 1183, chapter 513, section 2 of House Bill No. 1309, chapter 515, section 3 of House Bill No. 1309, chapter 515, and section 43 of Senate Bill No. 2015, chapter 47. The North Dakota Supreme Court declared Senate Bill No. 2015 void in *Board of Trustees of The North Dakota Public Employees' Retirement System v. North Dakota Legislative Assembly*, by judgment filed October 12, 2023.

equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, determined as follows:

- (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
  - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
- c. Normal retirement benefits for a peace officer employed by the bureau of criminal investigation reaching the normal retirement date equals an annual amount, payable monthly, comprised of a service benefit and a prior service benefit determined as follows:
- (1) The first twenty years of credited service multiplied by three percent of final average salary.
  - (2) For years in excess of twenty years of credited service multiplied by one and seventy-five hundredths percent of final average salary.
- d. Postponed retirement benefits are calculated as for single life benefits for those members who retired on or after July 1, 1977.
- ~~d-e.~~ Early retirement benefits are calculated as for single life benefits accrued to the date of termination of employment, but must be actuarially reduced to account for benefit payments beginning before the normal retirement date, as determined under subsection 3. Except for a national guard security officer or firefighter, a firefighter employed by a political subdivision, a peace officer or correctional officer employed by the bureau of criminal investigation or by a political subdivision, or a supreme court or district court judge, early retirement benefits for members first enrolled after December 31, 2015, are calculated for single life benefits accrued to the date of termination of employment, but must be reduced by fixed rate of eight percent per year to account for benefit payments beginning before the normal retirement date. A retiree, other than a supreme or district court judge, is eligible for early retirement benefits only after having completed three years of eligible employment. A supreme or district court judge retiree is eligible for early retirement benefits only after having completed five years of eligible employment.
- e-f. Except for supreme and district court judges, disability retirement benefits are twenty-five percent of the member's final average salary. Disability retirement benefits for supreme and district court judges are seventy percent of final average salary reduced by the member's primary social security benefits and by any workforce safety and insurance benefits paid. The minimum monthly disability retirement benefit under this section is one hundred dollars.

Approved April 12, 2023

Filed April 13, 2023

## CHAPTER 516

### SENATE BILL NO. 2140

(Senators Mathern, Dever)  
(Representatives Hanson, McLeod, Pyle, Schauer)

AN ACT to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to public employee insulin drug and supplies benefits; to amend and reenact subsection 2 of section 26.1-36.6-03 of the North Dakota Century Code, relating to self-insurance health plans; to provide for a report; to provide for application; and to provide an expiration date.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 26.1-36.6-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The following health benefit provisions applicable to a group accident and health insurance policy under chapter 26.1-36 apply to a self-insurance health plan and are subject to the jurisdiction of the commissioner: sections 26.1-36-06, 26.1-36-06.1, 26.1-36-07, 26.1-36-08, 26.1-36-08.1, 26.1-36-09, 26.1-36-09.1, 26.1-36-09.2, 26.1-36-09.3, 26.1-36-09.5, 26.1-36-09.6, 26.1-36-09.7, 26.1-36-09.8, 26.1-36-09.9, 26.1-36-09.10, 26.1-36-09.11, 26.1-36-09.12, 26.1-36-09.13, 26.1-36-09.14, 26.1-36-09.15, 26.1-36-11, 26.1-36-12.2, 26.1-36-20, 26.1-36-21, 26.1-36-22, 26.1-36-23.1, and 26.1-36-43. Section 2 of this Act applies to a self-insurance health plan and is subject to the jurisdiction of the commissioner.

<sup>290</sup> **SECTION 2.** A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

#### **Health insurance benefits coverage - Insulin drug and supply out-of-pocket limitations.**

1. As used in this section:
  - a. "Insulin drug" means a prescription drug that contains insulin and is used to treat a form of diabetes mellitus. The term does not include an insulin pump, an electronic insulin-administering smart pen, or a continuous glucose monitor, or supplies needed specifically for the use of such electronic devices. The term includes insulin in the following categories:
    - (1) Rapid-acting insulin;
    - (2) Short-acting insulin;
    - (3) Intermediate-acting insulin;
    - (4) Long-acting insulin;

<sup>290</sup> Section 54-52.1-04.18 was amended by section 38 of Senate Bill No. 2012, chapter 44.

- (5) Premixed insulin product;
    - (6) Premixed insulin/GLP-1 RA product; and
    - (7) Concentrated human regular insulin.
  - b. "Medical supplies for insulin dosing and administration" means supplies needed for proper insulin dosing, as well as supplies needed to detect or address medical emergencies in an individual using insulin to manage diabetes mellitus. The term does not include an insulin pump, an electronic insulin-administering smart pen, or a continuous glucose monitor, or supplies needed specifically for the use of such electronic devices. The term includes:
    - (1) Blood glucose meters;
    - (2) Blood glucose test strips;
    - (3) Lancing devices and lancets;
    - (4) Ketone testing supplies, such as urine strips, blood ketone meters, and blood ketone strips;
    - (5) Glucagon, in injectable and nasal forms;
    - (6) Insulin pen needles; and
    - (7) Insulin syringes.
  - c. "Pharmacy or distributor" means a pharmacy or medical supply company, or other medication or medical supply distributor filling a covered individual's prescriptions.
2. The board shall provide health insurance benefits coverage that provides for insulin drug and medical supplies for insulin dosing and administration which complies with this section.
  3. The coverage must limit out-of-pocket costs for a thirty-day supply of:
    - a. Covered insulin drugs which may not exceed twenty-five dollars per pharmacy or distributor, regardless of the quantity or type of insulin drug used to fill the covered individual's prescription needs.
    - b. Covered medical supplies for insulin dosing and administration, the total of which may not exceed twenty-five dollars per pharmacy or distributor, regardless of the quantity or manufacturer of supplies used to fill the covered individual's prescription needs.
  4. The coverage may not allow a pharmacy benefits manager or the pharmacy or distributor to charge, require the pharmacy or distributor to collect, or require a covered individual to make a payment for a covered insulin drug or medical supplies for insulin dosing and administration in an amount that exceeds the out-of-pocket limits set forth under subsection 3.
  5. The coverage may not impose a deductible, copayment, coinsurance, or other cost-sharing requirement that causes out-of-pocket costs for prescribed insulin

or medical supplies for insulin dosing and administration to exceed the amount set forth under subsection 3.

6. Subsection 3 does not require the coverage to implement a particular cost-sharing structure and does not prevent the limitation of out-of-pocket costs to less than the amount specified under subsection 3. Subsection 3 does not limit out-of-pocket costs on an insulin pump, an electronic insulin-administering smart pen, or a continuous glucose monitor. This section does not limit whether coverage classifies an insulin pump, an electronic insulin-administering smart pen, or a continuous glucose monitor as a drug or as a medical device or supply.

**SECTION 3. APPLICATION.** This Act applies to public employees retirement system health benefits coverage that begins after June 30, 2023, and which does not extend past June 30, 2025.

**SECTION 4. PUBLIC EMPLOYEES RETIREMENT SYSTEM - INSULIN DRUG AND SUPPLIES BENEFITS - REPORT.** Pursuant to section 54-03-28, the public employees retirement system shall prepare and submit for introduction a bill to the sixty-ninth legislative assembly to repeal the expiration date for this Act and to extend the coverage of insulin drug and supplies benefits to all group and individual health insurance policies. The public employees retirement system shall append a report to the bill regarding the effect of the insulin drug and supplies benefits requirement on the system's health insurance programs, information on the utilization and costs relating to the coverage, and a recommendation regarding whether the coverage should be continued.

**SECTION 5. EXPIRATION DATE.** This Act is effective through July 31, 2025, and after that date is ineffective.

Approved April 14, 2023

Filed April 18, 2023

## CHAPTER 517

### HOUSE BILL NO. 1411

(Representatives D. Johnson, M. Ruby, Weisz)  
(Senators Cleary, Lee)

AN ACT to create and enact section 54-52.1-04.18 of the North Dakota Century Code, relating to public employees retirement system health benefits coverage of prosthetic devices; to provide a statement of legislative intent; to provide for application; and to declare an emergency.

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

**SECTION 1.** Section 54-52.1-04.18 of the North Dakota Century Code is created and enacted as follows:

##### **54-52.1-04.18. Uniform group insurance program - Prosthetic devices.**

The board shall provide health insurance benefits coverage under a contract for insurance pursuant to section 54-52.1-04 or under a self-insurance plan pursuant to section 54-52.1-04.2 for prosthetic appliances and limbs. This coverage must include repair or replacement of a prosthetic limb or socket if medically appropriate.

**SECTION 2. LEGISLATIVE INTENT.** It is the intent of the sixty-eighth legislative assembly that any increase in premiums under the public employees retirement system contract or plan for health benefits resulting from this Act be paid from the health insurance reserve fund.

**SECTION 3. APPLICATION.** This Act applies to a public employees retirement system contract or plan for health benefits which goes into effect after June 30, 2023.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 15, 2023

Filed March 16, 2023

## CHAPTER 518

### SENATE BILL NO. 2198

(Senators Dever, K. Roers)

AN ACT to amend and reenact sections 54-52.4-02, 54-52.4-04, and 54-52.4-05 of the North Dakota Century Code, relating to state employee family medical leave.

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

**SECTION 1. AMENDMENT.** Section 54-52.4-02 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-52.4-02. Family leave.**

1. An employer shall grant an employee's request for a family leave of absence for any of the following reasons:
  - a. To care for the employee's child by birth, if the leave concludes within twelve months of the child's birth.
  - b. To care for a child placed with the employee, by a child-placing agency licensed under chapter 50-12, for adoption or as a precondition to adoption under section 14-15-12, but not both, or for foster care, if the leave concludes within twelve months of the child's placement.
  - c. To care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition.
  - d. Because of the employee's serious health condition that makes the employee unable to perform the functions of the employee's job.
  - e. Because of the death of the employee's child, if the leave concludes within six months of the child's death.
  - f. To care for the employee's child, regardless of age, spouse, or parent who is a covered service member or veteran with a serious injury or illness under the definition of serious injury or illness for a military service member or veteran as adopted by the United States department of labor.
2. Except as otherwise provided under this section, for any combination of reasons specified in subsection 1, an employee may take family leave in any twelve-month period for not more than twelve workweeks. The twelve weeks of family leave may be taken intermittently for leave under subdivision a or b of subsection 1 if approved by the employer. The twelve weeks of family leave may be taken intermittently for leave under subdivision c or d of subsection 1 if the leave is medically necessary. The twelve weeks of family leave taken under subdivision e of subsection 1 may be taken intermittently if approved by the employer. If an employee normally works a part-time schedule or variable hours, the amount of leave to which an employee is entitled must be determined on a pro rata or proportional basis by comparing the new schedule with the employee's normal schedule.



3. Notwithstanding the twelve-workweek limitation under subsections 2 and 4, leave under subdivision f of subsection 1 is limited to a combined twenty-six workweeks of leave in any twelve-month period and is limited to once per service member or veteran per serious injury or illness.
4. In any case in which a husband and wife entitled to family leave under this chapter are employed by the same employer, the aggregate period of family leave to which both are entitled may be limited by the employer to twelve workweeks during any twelve-month period.
- ~~4-5.~~ An employee reasonably shall consider the needs of the employer in scheduling family leave under this section or in using leave under section 54-52.4-03.
- ~~5-6.~~ The family leave required by this chapter is not required to be granted with pay unless otherwise specified by agreement between the employer and employee, by collective bargaining agreement, or by employer policy.
- ~~6-7.~~ The family leave required by this chapter supplements any leave otherwise available to an employee.

**SECTION 2. AMENDMENT.** Section 54-52.4-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.4-04. Notice to employer.**

1. If an employee intends to take family leave for the reasons specified in subdivision a or b of subsection 1 of section 54-52.4-02, the employee, in a reasonable and practicable manner, shall give the employer advance notice of the expected birth or placement.
2. If an employee intends to take family leave for the reasons specified in subdivision c ~~or~~ d, or f of subsection 1 of section 54-52.4-02, the employee shall:
  - a. Make a reasonable effort to schedule the planned care or treatment so the leave does not unduly disrupt the employer's operations, subject to the approval of the health care provider to the child, spouse, parent, or employee; and
  - b. Give the employer advance notice of the planned care or treatment in a reasonable and practicable manner.
3. If an employee intends to take family leave for the reason specified in subdivision e of subsection 1 of section 54-52.4-02, the employee shall make a reasonable effort to schedule the leave so the leave does not unduly disrupt the employer's operations and, as appropriate, give the employer advance notice of the leave in a reasonable and practicable manner.

**SECTION 3. AMENDMENT.** Section 54-52.4-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.4-05. Certification for leave to care for child, spouse, parent, or employee's serious health condition.**

1. If an employee requests family leave for the reasons described in subdivision c or d, or f of subsection 1 of section 54-52.4-02 or leave under section 54-52.4-03, the employer may require the employee to provide certification, as described in subsection 2, from the provider of health care to the child, spouse, parent, or employee.
2. An employer may not require certification of more than:
  - a. That the child, spouse, parent, or employee has a serious health condition.
  - b. The date the serious health condition commenced and its probable duration.
  - c. Within the knowledge of the health care provider, the medical facts regarding the serious health condition.

Approved April 28, 2023

Filed April 29, 2023

## CHAPTER 519

### SENATE BILL NO. 2338

(Senators Krebsbach, Burckhard, Piepkorn, Vedaa)  
(Representatives Nelson, Roers Jones)

AN ACT to create and enact a new section to chapter 54-54 of the North Dakota Century Code, relating to the state poet laureate.

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

**SECTION 1.** A new section to chapter 54-54 of the North Dakota Century Code is created and enacted as follows:

##### **Poet laureate - Nominating board - Appointment - Term.**

1. By April first of each odd-numbered year, the nominating board shall recommend three individuals as finalists.
2. The nominating board consists of:
  - a. One member of the house of representatives appointed by the majority leader of the house of representatives;
  - b. One member of the senate appointed by the majority leader of the senate;
  - c. One member of the governor's staff appointed by the governor;
  - d. One member of the North Dakota council on the arts, appointed by the chairman of the North Dakota council on the arts; and
  - e. One representative from the department of commerce appointed by the director of the department of commerce.
3. By May first of each odd-numbered year, each finalist shall submit an application to the nominating board. The application must include:
  - a. A resume;
  - b. Five writing samples, one of which must be a recorded presentation;
  - c. Three letters of recommendation; and
  - d. Proof of North Dakota residency.
4. By June first of each odd-numbered year, the nominating board shall select one individual to serve as the poet laureate for a two-year term beginning July first.
5. The poet laureate shall participate in at least four public events around the state each year. The North Dakota council on the arts shall provide up to five thousand dollars in reimbursement to the poet laureate each year for events

completed. Reimbursement may not exceed one thousand two hundred fifty dollars for each event up to the yearly maximum.

6. The North Dakota council on the arts shall process payments through the council's online grants system. To receive payment, the poet laureate shall register in the council's online grants system and send an electronic mail to the council requesting payment. The electronic mail must include:
  - a. The date and time of the presentation;
  - b. The location of the presentation;
  - c. The number of adults and numbers of youth attending the presentation; and
  - d. If available, a copy of the event program.
7. The poet laureate may not name an individual to serve as an associate poet laureate or as a substitute poet laureate.
8. If a poet laureate is unable to fulfill the two-year term, the nominating committee shall select an individual to serve the remainder of the term.

Approved April 11, 2023

Filed April 12, 2023

## CHAPTER 520

### SENATE BILL NO. 2073

(State and Local Government Committee)  
(At the request of the Information Technology Department)

AN ACT to amend and reenact section 54-59-05 of the North Dakota Century Code, relating to information technology standards and services.

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

<sup>291</sup> **SECTION 1. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-59-05. Powers and duties of department. (Effective through July 31, 2023)**

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the state board of higher education and the veterans' home.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. With the exception of agreements entered related to the statewide interoperable radio network, an agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. With the exception of financing for the

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<sup>291</sup> Section 54-59-05 was also amended by section 1 of House Bill No. 1327, chapter 521.

statewide interoperable radio network, the department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.

5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency. The department shall present the information to the information technology committee on request of the committee.
8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and five hundred thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.
9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
12. Shall perform all other duties necessary to carry out this chapter.
13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private,

charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003.

14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.
16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general on cybersecurity strategy.
17. Shall advise and consult with the legislative and judicial branches regarding cybersecurity strategy.
18. Notwithstanding chapter 54-40.2, may enter a memorandum of understanding with other state, local, tribal, or territorial governments of the United States for purposes of ensuring the confidentiality, availability, and integrity of state, local, and tribal information systems and data, including consulting, developing cybersecurity strategy, prevention of cybersecurity incidents, and response strategies to cybersecurity incidents. The department may charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund.
19. Notwithstanding chapter 54-40.2, may enter a mutual aid agreement with other state, local, tribal, or territorial governments of the United States agreeing to the reciprocal exchange of resources and services for mutual benefit of the parties related to cybersecurity efforts for the purposes of responding to or mitigating active cybersecurity incidents. The department may receive in-kind benefits that reduce cybersecurity risks to information technology or shall charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund.

### **Powers and duties of department. (Effective after July 31, 2023)**

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the state board of higher education and the veterans' home.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia

into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.

3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.
5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency. The department shall present the information to the information technology committee on request of the committee.
8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and five hundred thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.



9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
12. Shall perform all other duties necessary to carry out this chapter.
13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003.
14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.
16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general on cybersecurity strategy.
17. Shall advise and consult with the legislative and judicial branches regarding cybersecurity strategy.
18. Notwithstanding chapter 54-40.2, may enter a memorandum of understanding with other state, local, tribal, or territorial governments of the United States for purposes of ensuring the confidentiality, availability, and integrity of state, local, and tribal information systems and data, including consulting, developing cybersecurity strategy, prevention of cybersecurity incidents, and response strategies to cybersecurity incidents. The department may charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund.
19. Notwithstanding chapter 54-40.2, may enter a mutual aid agreement with other state, local, tribal, or territorial governments of the United States agreeing to the reciprocal exchange of resources and services for mutual benefit of the parties related to cybersecurity efforts for the purposes of responding to or mitigating active cybersecurity incidents. The department may receive in-kind benefits that reduce cybersecurity risks to information technology or shall charge an amount equal to the cost of the services

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rendered by the department to all agencies that receive and expend moneys from other than the general fund.

20. May provide information technology and cybersecurity services to any administrative, elementary education, secondary education, and higher education institution under the control of a tribal government of this state. The services provided and the cost of services must be equal to those provided to state agencies. An agreement for services entered under this section is not subject to the provisions of chapter 54-40.2.

Approved March 14, 2023

Filed March 15, 2023

## CHAPTER 521

### HOUSE BILL NO. 1327

(Representatives Mock, Bosch, Christensen, Kiefert, Kreidt, Nelson)  
(Senators Davison, K. Roers, Wobbema)

AN ACT to amend and reenact sections 54-59-05 and 54-59-22 of the North Dakota Century Code, relating to powers and duties of the information technology department and information technology requirements of the veterans' home.

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

<sup>292</sup> **SECTION 1. AMENDMENT.** Section 54-59-05 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-59-05. Powers and duties of department. (Effective through July 31, 2023)**

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the state board of higher education ~~and the veterans' home.~~
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.
3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. With the exception of agreements entered related to the statewide interoperable radio network, an agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with

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<sup>292</sup> Section 54-59-05 was also amended by section 1 of Senate Bill No. 2073, chapter 520.

the proposed financing arrangement. With the exception of financing for the statewide interoperable radio network, the department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.

5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency. The department shall present the information to the information technology committee on request of the committee.
8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and five hundred thousand dollars as determined necessary by the department. The department shall present the information to the information technology committee on request of the committee.
9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
12. Shall perform all other duties necessary to carry out this chapter.
13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology

department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003.

14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.
16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general on cybersecurity strategy.
17. Shall advise and consult with the legislative and judicial branches regarding cybersecurity strategy.
18. Notwithstanding chapter 54-40.2, may enter a memorandum of understanding with other state, local, tribal, or territorial governments of the United States for purposes of ensuring the confidentiality, availability, and integrity of state, local, and tribal information systems and data, including consulting, developing cybersecurity strategy, prevention of cybersecurity incidents, and response strategies to cybersecurity incidents. The department may charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund.
19. Notwithstanding chapter 54-40.2, may enter a mutual aid agreement with other state, local, tribal, or territorial governments of the United States agreeing to the reciprocal exchange of resources and services for mutual benefit of the parties related to cybersecurity efforts for the purposes of responding to or mitigating active cybersecurity incidents. The department may receive in-kind benefits that reduce cybersecurity risks to information technology or shall charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund.

### **Powers and duties of department. (Effective after July 31, 2023)**

The department:

1. Shall provide, supervise, and regulate information technology of all executive branch state entities, excluding the institutions under the control of the state board of higher education and the veterans' home.
2. Shall provide network services in a way that ensures the network requirements of a single entity do not adversely affect the functionality of the whole network, facilitates open communications with the citizens of the state, minimizes the state's investment in human resources, accommodates an ever-increasing amount of traffic, supports rapid detection and resolution of problems, protects the network infrastructure from damage and security

breaches, provides for the aggregation of data, voice, video, and multimedia into a statewide transport mechanism or backbone, and provides for the network support for the entity to carry out its mission.

3. May review and approve additional network services that are not provided by the department.
4. May purchase, finance the purchase, or lease equipment, software, or implementation services or replace, including by trade or resale, equipment or software as may be necessary to carry out this chapter. An agreement to finance the purchase of software, equipment, or implementation services may not exceed a period of five years. The department shall submit any intended financing proposal for the purchase of software, equipment, or implementation services under this subsection, which is in excess of one million dollars, to the legislative assembly or the budget section if the legislative assembly is not in session before executing a financing agreement. Any request considered by the budget section must comply with section 54-35-02.9. If the legislative assembly or the budget section does not approve the execution of a financing agreement, the department may not proceed with the proposed financing arrangement. The department may finance the purchase of software, equipment, or implementation services only to the extent the purchase amount does not exceed seven and one-half percent of the amount appropriated to the department during that biennium.
5. Shall review requests for lease, purchase, or other contractual acquisition of information technology as required by this subsection. Each executive branch agency or institution, excluding the institutions under the control of the board of higher education, shall submit to the department, in accordance with guidelines established by the department, a written request for the lease, purchase, or other contractual acquisition of information technology. The department shall review requests for conformance with the requesting entity's information technology plan and compliance with statewide policies and standards. If the request is not in conformance or compliance, the department may disapprove the request or require justification for the departure from the plan or statewide policy or standard.
6. Shall provide information technology, including assistance and advisory service, to the executive, legislative, and judicial branches. If the department is unable to fulfill a request for service from the legislative or judicial branch, the information technology may be procured by the legislative or judicial branch within the limits of legislative appropriations.
7. Shall request and review information, including project startup information summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout information summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, regarding any major information technology project of an executive branch agency. The department shall present the information to the information technology committee on request of the committee.
8. May request and review information regarding any information technology project of an executive branch agency with a total cost of between one hundred thousand and five hundred thousand dollars as determined

necessary by the department. The department shall present the information to the information technology committee on request of the committee.

9. Shall study emerging technology and evaluate its impact on the state's system of information technology.
10. Shall develop guidelines for reports to be provided by each agency of the executive, legislative, and judicial branches, excluding the institutions under the control of the board of higher education, on information technology in those entities.
11. Shall collaborate with the state board of higher education on guidelines for reports to be provided by institutions under control of the state board of higher education on information technology in those entities.
12. Shall perform all other duties necessary to carry out this chapter.
13. May provide wide area network services to a state agency, city, county, school district, or other political subdivision of this state. The information technology department may not provide wide area network service to any private, charitable, or nonprofit entity except the information technology department may continue to provide the wide area network service the department provided to the private, charitable, and nonprofit entities receiving services from the department on January 1, 2003.
14. Shall assure proper measures for security, firewalls, and internet protocol addressing at the state's interface with other facilities.
15. Notwithstanding subsection 13, may provide wide area network services for a period not to exceed four years to an occupant of a technology park associated with an institution of higher education or to a business located in a business incubator associated with an institution of higher education.
16. Shall advise and oversee cybersecurity strategy for all executive branch state agencies, including institutions under the control of the state board of higher education, counties, cities, school districts, or other political subdivisions. For purposes of this subsection, the department shall consult with the attorney general on cybersecurity strategy.
17. Shall advise and consult with the legislative and judicial branches regarding cybersecurity strategy.
18. Notwithstanding chapter 54-40.2, may enter a memorandum of understanding with other state, local, tribal, or territorial governments of the United States for purposes of ensuring the confidentiality, availability, and integrity of state, local, and tribal information systems and data, including consulting, developing cybersecurity strategy, prevention of cybersecurity incidents, and response strategies to cybersecurity incidents. The department may charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund.
19. Notwithstanding chapter 54-40.2, may enter a mutual aid agreement with other state, local, tribal, or territorial governments of the United States agreeing to the reciprocal exchange of resources and services for mutual benefit of the parties related to cybersecurity efforts for the purposes of

responding to or mitigating active cybersecurity incidents. The department may receive in-kind benefits that reduce cybersecurity risks to information technology or shall charge an amount equal to the cost of the services rendered by the department to all agencies that receive and expend moneys from other than the general fund.

**SECTION 2. AMENDMENT.** Section 54-59-22 of the North Dakota Century Code is amended and reenacted as follows:

**54-59-22. Required use of electronic mail, file and print server administration, database administration, application server, and hosting services.**

Each state agency and institution, excluding the legislative and judicial branches, the institutions under the control of the state board of higher education, the attorney general, ~~the veterans' home,~~ and any entity exempted by the office of management and budget after advisement by the information technology department, shall obtain electronic mail, file and print server administration, database administration, storage, application server, and hosting services through a delivery system established by the information technology department in conjunction with the office of management and budget. The office of management and budget, after receiving advice from the information technology department, shall establish policies and guidelines for the delivery of services, including the transition from existing systems to functional consolidation, with consideration given to the creation of efficiencies, cost-savings, and improved quality of service.

Approved March 15, 2023

Filed March 16, 2023



## CHAPTER 522

### SENATE BILL NO. 2142

(Senators Mathern, K. Roers, Sorvaag)  
(Representatives Ista, Meier, Mitskog)

AN ACT to create and enact a new section to chapter 54-60 of the North Dakota Century Code, relating to the creation of an office of legal immigration; to provide an appropriation; and to provide for a report.

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

**SECTION 1.** A new section to chapter 54-60 of the North Dakota Century Code is created and enacted as follows:

##### **Office of legal immigration - Duties.**

There is created an office of legal immigration within the department of commerce. Employees of the office of legal immigration report to the commissioner. The office of legal immigration:

1. Shall develop and implement a statewide strategy to support businesses in recruiting and retaining foreign labor, including immigrants already in the United States and integration of immigrants into the state to promote economic opportunities for immigrant communities.
2. Shall advise and make recommendations to the governor, legislative assembly, and state agencies regarding immigrant integration and foreign labor issues.
3. Shall develop a pilot program to support businesses pursuing or employing legal immigrants and to support communities to develop immigration integration plans and activities.
4. May contract with other state agencies to develop and administer programs or services related to immigration integration and access to basic needs that promote entrance and movement throughout the workforce.
5. May contract with an organization with expertise related to the goals of the office of legal immigration.

**SECTION 2. APPROPRIATION - DEPARTMENT OF COMMERCE - OFFICE OF LEGAL IMMIGRATION - FULL-TIME EQUIVALENT POSITIONS - REPORT TO SIXTY-NINTH LEGISLATIVE ASSEMBLY.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$485,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of providing salaries and benefits for office of legal immigration staff, for the biennium beginning July 1, 2023, and ending June 30, 2025. The department of commerce is authorized two full-time equivalent positions to administer the office of legal immigration. The department of commerce shall report to the sixty-ninth legislative assembly regarding the number of immigrants and

employers assisted through the office of legal immigration during the 2023-25 biennium.

**SECTION 3. DEPARTMENT OF COMMERCE STUDY - IMMIGRATION - REPORT TO SIXTY-NINTH LEGISLATIVE ASSEMBLY.** During the 2023-24 interim, the department of commerce shall conduct a study to determine immigration opportunities in the state, goals of the office of legal immigration, performance indicators to measure progress and success of immigration goals, and a structure for a pilot program to support businesses and communities pursuing legal immigration, and to develop a fee-based system for services to be implemented in the 2025-27 biennium. The study must include input from employers in the state. The department of commerce shall report its findings and recommendations to the sixty-ninth legislative assembly.

Approved April 21, 2023

Filed April 24, 2023

## CHAPTER 523

### SENATE BILL NO. 2165

(Senators Patten, Kannianen, Kessel)  
(Representatives Bosch, Novak, Porter)

AN ACT to amend and reenact section 54-63.1-03 of the North Dakota Century Code, relating to membership of the clean sustainable energy authority.

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

**SECTION 1. AMENDMENT.** Section 54-63.1-03 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-63.1-03. Clean sustainable energy authority - Membership - Meetings.**

1. The clean sustainable energy authority consists of ~~sixteenseventeen~~ members, including ~~eightnine~~ voting members and eight nonvoting technical advisors.
2. The ~~eightnine~~ voting members consist of:
  - a. ~~One member~~Two members, one from the senate and one from the house of representatives, appointed by the legislative management to serve as ~~chairman~~co-chairmen;
  - b. Two members appointed by the lignite research council;
  - c. Two members appointed by the oil and gas research council;
  - d. Two members appointed by the renewable energy council; and
  - e. One member appointed by the western Dakota energy association.
3. The eight nonvoting technical advisors consist of:
  - a. One member appointed by the North Dakota outdoor heritage fund advisory board;
  - b. The commissioner of commerce or the commissioner's designee;
  - c. The director of the department of environmental quality or the director's designee;
  - d. The director of mineral resources or the director's designee;
  - e. The director of the North Dakota pipeline authority or the director's designee;
  - f. The director of the North Dakota transmission authority or the director's designee;

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- g. The director of the state energy research center or the director's designee; and
  - h. The president of the Bank of North Dakota or the president's designee.
  4. The term of office for ~~the chairman~~each co-chairman is two years. The term of office for the other voting members is four years, and the other voting members may not serve more than two consecutive terms. The terms of office for the voting members commence on July first. The initial terms for the voting members of the authority must be staggered following a method determined by the authority.
  5. The authority shall meet at least semiannually. The ~~chairman~~co-chairmen shall call a meeting upon written request from three voting members of the authority. Five voting members is a quorum at any meeting.
  6. The authority may not forward a recommendation to the commission unless the recommendation fulfills the purposes of this chapter and is approved by a majority of the voting members of the authority.

Approved March 22, 2023

Filed March 23, 2023

## CHAPTER 524

### HOUSE BILL NO. 1485

(Representatives Kasper, Headland, Heinert, Koppelman, Lefor, Louser, Monson,  
Rohr, Steiner)  
(Senators Meyer, Paulson, Vedaa)

AN ACT to create and enact a new section to chapter 54-66 of the North Dakota Century Code, relating to legislative assembly conflict of interest rules; to provide for application; and to declare an emergency.

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

**SECTION 1.** A new section to chapter 54-66 of the North Dakota Century Code is created and enacted as follows:

##### Conflicts of interest - Legislative assembly.

1. Each legislative assembly shall adopt conflict of interest rules. The rules must:
  - a. Require the disclosure by a member of a potential conflict of interest relating to any bill in which the member may have a direct, unique, substantial, or individual interest.
  - b. Ensure a mechanism is in place to record each disclosure and make it readily available to the public.
2. If the legislative assembly adopts rules under subsection 1 which are at least as restrictive as the conflict of interest rules adopted by the ethics commission, the disclosure process portion of the conflict of interest rules adopted by the ethics commission may not apply to members of the legislative assembly.

**SECTION 2. APPLICATION.** House Rule 321, Senate Rule 321, and associated rules relating to conflicts of interest of legislators, as enacted by the sixty-eighth legislative assembly, are at least as restrictive as the conflict of interest rules adopted by the ethics commission and control conflict of interest disclosure for members of the legislative assembly.

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

Approved April 6, 2023

Filed April 10, 2023

## CHAPTER 525

### SENATE BILL NO. 2048

(State and Local Government Committee)  
(At the request of the Ethics Commission)

AN ACT to amend and reenact sections 54-66-01 and 54-66-06 of the North Dakota Century Code, relating to the definitions and notice to an accused individual.

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

**SECTION 1. AMENDMENT.** Section 54-66-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-66-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Accused individual" means a lobbyist, public official, candidate for public office, political committee, or contributor who is alleged to have violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.
2. "Complainant" means ~~a North Dakota resident~~ an individual who, in writing or verbally, submits a complaint to the commission and is:
  - a. A North Dakota resident;
  - b. Subject to licensing by a state agency or other public official subject to the jurisdiction of the ethics commission; or
  - c. A party to a quasi-judicial proceeding before a state agency or other public official subject to the jurisdiction of the ethics commission.
3. "Complaint" means a verbal or written allegation to the commission that a lobbyist, public official, candidate for public office, political committee, or contributor has violated article XIV of the Constitution of North Dakota, this chapter, or another law or rule regarding transparency, corruption, elections, or lobbying.
4. "Ethics commission" or "commission" means the North Dakota ethics commission established by article XIV of the Constitution of North Dakota.
5. "Gift" means any item, service, or thing of value not given in exchange for fair market consideration including travel and recreation, except:
  - a. Purely informational material;
  - b. A campaign contribution; and
  - c. An item, service, or thing of value given under conditions that do not raise ethical concerns, as set forth in rules adopted by the ethics commission, to

advance opportunities for state residents to meet with public officials in educational and social settings in the state.

6. "Influence state government action" means promoting or opposing the adoption of a rule by an administrative agency or the commission under chapter 28-32.
7. "Lobby" means an activity listed in subsection 1 of section 54-05.1-02.
8. "Lobbyist" means an individual required to register under section 54-05.1-03.
9. "Public official" means an elected or appointed official of the state's executive or legislative branch, members of the commission, members of the governor's cabinet, and employees of the legislative branch.
10. "Receives the complaint" means one or more members of the commission learn of the complaint.
11. "Ultimate and true source" means the person that knowingly contributed over two hundred dollars solely to lobby or influence state government action.

**SECTION 2. AMENDMENT.** Section 54-66-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-66-06. Informing the accused individual - Written response permitted.**

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1. Within thirty calendar days, the commission shall inform an accused individual of the complaint and include, Subject to the confidentiality requirements set forth in section 54-66-05, the accused individual will be provided with the written complaint or written summary of the oral complaint, witness statements, and other documentary evidence considered as soon as reasonably possible but no later than twenty calendar days after the commission receives included with the complaint. The accused individual may respond provide a written response to the complaint in writing within twentythirty calendar days of receipt of, or after the commission requests a written response to the complaint or summary of the complaint, a period as set by the commission. This subsection does not preclude the accused individual from providing a written response to the complaint before receiving a request for written response from the commission.
2. If the commission has summarily dismissed the complaint under subsection 2 of section 54-66-05, before notifying the accused individual as required by this section, the notification to the accused individual must include notice of the summary dismissal.

Approved April 21, 2023

Filed April 24, 2023