

# VETOED MEASURES

## CHAPTER 598

### SENATE BILL NO. 2261

(Senators Klein, Barta, Kessel)  
(Representatives Nelson, Schauer)

AN ACT to create and enact a new section to chapter 57-38 and a new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to a prison industries workforce development income tax credit; to provide for a legislative management study; and to provide an effective date.

### VETO

March 21, 2025

The Honorable Michelle Strinden  
President of the Senate  
North Dakota Senate Chambers  
State Capitol  
Bismarck, ND

Re: Senate Bill 2261

Dear President Strinden:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Senate Bill 2261 and return it to the Senate.

Section 1 of Senate Bill 2261 establishes a new prison industries workforce development tax credit. Under the section, primary sector businesses are allowed a non-refundable tax credit equal to 10% of the cost of purchased components of final manufactured products or labor from prison industries. Rough Rider Industries is a self-sustaining state agency which would qualify as a prison industry providing final manufactured products.

Establishing a tax credit for the purchase of components made at Rough Rider Industries would discourage purchases from out-of-state manufacturers in a discriminatory manner. This potentially violates the Dormant Commerce Clause of the U.S. Constitution, which prohibits states from enacting laws that discriminate against or unduly burden interstate commerce.

This bill creates an uneven playing field by giving Rough Rider Industries an unfair competitive advantage over out-of-state manufacturers. By carving out a special market incentive in the form of a tax credit, the state is disrupting the longstanding principle of fair and equal market access for all participants.

The efforts of the prime sponsor to promote and advance the important work of Rough Rider Industries are laudable and deserve recognition. Rough Rider Industries provides necessary job skills training and opportunity for incarcerated individuals to assist in their successful reentry. However, the tax credit in Senate Bill 2261 will not help Rough Rider Industries in that mission in any meaningful way. In fact, it will only benefit businesses already doing business with Rough Rider Industries.

Tax credits, when given to micro-segments of the economy, decrease state revenue and further saddle those still paying taxes with a higher percentage of the tax burden. While this bill does not involve a lot of money in our state budget, any tax policy that creates this type of carve-out must be tied to a significant outcome that benefits the state's economic interests. This bill does not do that. Combined with the aforementioned legal concerns, the juice in this case is quite simply not worth the squeeze.

For the reasons stated above, Senate Bill 2261 is vetoed.

Sincerely,

Kelly Armstrong  
Governor

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

**SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is created and enacted as follows:

**Prison industries workforce development credit.**

1. A taxpayer that is a primary sector business, as defined in section 1-01-49, is allowed a nonrefundable credit against the tax imposed under section 57-38-30 or 57-38-30.3 for the cost of purchased components of final manufactured products or labor from prison industries. The amount of the credit under this section is ten percent of the cost of components and labor from prison industries purchased by the taxpayer in the calendar year. The credit must be claimed for the taxable year in which the components or labor are purchased.
2. The credit under this section may not exceed the taxpayer's liability as determined under this chapter for any taxable year. If the amount of the credit determined under this section exceeds the liability for tax under this chapter, the excess may be carried forward to each of the next five succeeding taxable years.
3. The aggregate amount of credits allowed each calendar year under this section may not exceed forty-five thousand dollars. If the aggregate amount of credits claimed under this section:

- a. Is less than the limit under this subsection, any remaining unclaimed credits may be carried forward and made available in the succeeding calendar year.
  - b. Exceeds the limit under this subsection, the tax commissioner shall prorate the credits among the claimants.
4. If a taxpayer entitled to the credit provided by this section is a member of a group of corporations filing a North Dakota consolidated tax return using the combined reporting method, the credit may be claimed against the aggregate North Dakota tax liability of all of the corporations included in the North Dakota consolidated return.
5. A passthrough entity entitled to the credit under this section must be considered to be the taxpayer for purposes of this section and the amount of the credit allowed must be determined at the passthrough entity level. The amount of the total credit determined at the passthrough entity level must be allowed to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity. An individual taxpayer may claim the credit passed through under this section against the individual's state income tax liability under section 57-38-30.3.
6. A taxpayer applying for a tax credit under this section for purchases in the preceding calendar year shall provide the following information to the tax commissioner by January thirty-first of each calendar year:
  - a. The name, address, and federal identification number or social security number of the taxpayer that made the purchase.
  - b. Substantiation of primary sector designation from the department of commerce division of economic development and finance as of the date of the purchase or payment.
  - c. A copy of the paid invoice that identifies the components or labor purchased.
  - d. A description of the components or labor purchased.
7. After January thirty-first, the tax commissioner shall notify each applicant of the amount of tax credit earned or allocated to the tax payer under subdivision b of subsection 3. Purchases resulting in tax credits under this section may not be used in the calculation of any other income tax deduction or credit allowed under this chapter.
8. The tax commissioner shall proscribe forms for the administration of this section.

**SECTION 2.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Prison industries workforce development credit under section 1 of this Act.

**SECTION 3. LEGISLATIVE MANAGEMENT STUDY - PRISON INDUSTRIES WORKFORCE DEVELOPMENT.** During the 2025-26 interim, the legislative management shall consider studying prison industries and workforce development programs for incarcerated individuals in the state, including how prison industries can work in alignment with the manufacturing industry and other private sector industries

to further the mission of workforce development for incarcerated individuals and to encourage positive outcomes for individuals exiting the criminal justice system. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the seventieth legislative assembly.

**SECTION 4. EFFECTIVE DATE.** Sections 1 and 2 of this Act are effective for taxable years beginning after December 31, 2024.

Disapproved March 21, 2025

Filed April 8, 2025

## CHAPTER 599

### SENATE BILL NO. 2307

(Senators Boehm, Erbele, Hogue, Weston)  
(Representatives Steiner, Tveit)

AN ACT to create and enact a new subsection to section 12.1-27.1-01 and two new sections to chapter 12.1-27.1 of the North Dakota Century Code, relating to the definition of a public library, required safety policies and technology protection measures, and the state's attorney's review of public libraries, school districts, and state agencies for compliance with statutes protecting minors from explicit sexual material; to amend and reenact subsection 5 of section 12.1-27.1-01, subsection 2 of section 12.1-27.1-03.1, and sections 12.1-27.1-03.5 and 12.1-27.1-11 of the North Dakota Century Code, relating to obscenity control; to provide for a report to the legislative management; and to provide a penalty.

### VETO

April 22, 2025

The Honorable Michelle Strinden  
President of the Senate  
North Dakota Senate Chambers  
State Capitol  
Bismarck, ND

Re: Senate Bill 2307

Dear President Strinden:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Senate Bill 2307 and return it to the Senate.

Senate Bill 2307 aims to regulate access to materials deemed "explicit sexual material" in public and school libraries. While I recognize the concerns that led to its introduction, Senate Bill 2307 represents a misguided attempt to legislate morality through overreach and censorship. The bill imposes vague and punitive burdens on professionals and opens the door to a host of unintended and damaging consequences for our communities.

In 2023, the Legislative Assembly passed House Bill 1205, which already imposed restrictions on certain materials in public libraries. Whether or not one agreed with House Bill 1205, the bill at least operated within a specific, defined scope. Now, less than two years later, Senate Bill 2307 attempts to expand that reach further - into local government decisions and the prosecutorial discretion of state's attorneys. It is redundant, overly burdensome, and places local librarians, school districts, and state's attorneys in an untenable situation.

Any individual can complain about any book. Under Senate Bill 2307, if that individual is not satisfied with the response, they can force the library to activate "a diverse decision-making committee" to reconsider the location of the book in question. If the individual is still unsatisfied, they may request the state's attorney to issue an opinion of the alleged violation. The state's attorney is required to issue that opinion within 60 days. If the state's attorney finds a violation, they now enter a hybrid civil and criminal action where they engage one of two state agencies (the North Dakota Department of Public Instruction or the State Treasurer's Office) to withhold funding and may prosecute the offending librarian criminally. This is more process power given to an aggrieved individual than anywhere else in Century Code - more than a criminal victim, a civil plaintiff or defendant, or a fired state employee.

Any individual can force these steps to occur with a complaint about **any** book. And nothing in the law requires that individual to be a North Dakota citizen. Do we want to give non-North Dakotans that much influence over which books North Dakotans can read? Process matters. This process is completely unworkable.

But the biggest problem is that many librarians and decision-makers will be resigned to simply accommodate the individual complaint. If something is even potentially controversial to some person, eliminating it will be easier than standing up a committee or getting the state's attorney involved.

And it won't just be the books cited as examples by the supporters of this bill that will be affected. In the last 10 years *The Diary of a Young Girl* by Anne Frank, *Of Mice and Men*, *Slaughterhouse-Five*, *The Kite Runner*, *1984*, and *To Kill a Mockingbird* have all been targeted by obscenity laws. I don't pretend to know what the next literary masterpiece is going to be. But I know that I want it available in a library. And if a parent doesn't think it is age appropriate for their child, then that is a parenting decision. It does not require a whole of government approach and \$1.1 million of taxpayer money.

In today's world of social media, streaming services, websites, cable TV and movies where profanity, drug use, violence and nudity are harder to avoid than to find, the amount of time, money and taxpayer resources spent on where a book is placed in a library would be better used elsewhere.

For the reasons stated above, Senate Bill 2307 is vetoed.

Sincerely,

Kelly Armstrong  
Governor

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

**SECTION 1. AMENDMENT.** Subsection 5 of section 12.1-27.1-01 of the North Dakota Century Code is amended and reenacted as follows:

5. As used in this chapter, the terms "obscene material" and "obscene performance" mean material or a performance which:

- a. Taken as a whole, the average person, applying contemporary North Dakota standards, would find predominantly appeals to a prurient interest;
- b. Depicts or describes in a patently offensive manner sexual conduct, whether normal or perverted; and
- c. Taken as a whole, the reasonable person would find lacking in serious literary, artistic, political, or scientific value.

Whether material or a performance is obscene must be judged with reference to ~~ordinary~~ ordinary reasonable adults, unless it appears from the character of the material or the circumstances of its dissemination that the material or performance is designed for minors or other specially susceptible audience, in which case the material or performance must be judged with reference to that type of audience.

**SECTION 2.** A new subsection to section 12.1-27.1-01 of the North Dakota Century Code is created and enacted as follows:

As used in this chapter, the term "public library" means a library containing collections of books or periodicals or both for the general population to read, borrow, or refer to which is supported with funds derived from taxation.

**SECTION 3. AMENDMENT.** Subsection 2 of section 12.1-27.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

2. As used in this section:

- a. "Nude or partially denuded human figures" means less than completely and opaquely covered human genitals, pubic regions, female breasts or a female breast, if the breast or breasts are exposed below a point immediately above the top of the areola, or human buttocks; and includes human male genitals in a discernibly turgid state even if completely and opaquely covered.
- b. "Where minors are or may be invited as a part of the general public" includes any public roadway ~~or~~ public walkway, public library, or public school library.
- c. The above ~~shall~~ may not be construed to include a ~~bona fide school, college, university, museum, public library, or art gallery.~~

**SECTION 4. AMENDMENT.** Section 12.1-27.1-03.5 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-27.1-03.5. Public libraries and school districts prohibited from maintaining explicit sexual material - Report.**

1. As used in this section:

- a. "Explicit sexual material" means any material which:

(1) Taken as a whole, appeals to the prurient interest of minors;

- (2) Is patently offensive to prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors; and
  - (3) Taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.
- b. "Public library" means a library established under chapter 40-38.
  - c. "School district" includes a school library or classroom library under the control of the school district.
2. A public library or a school district may not maintain in ~~its children's collection inventory books an area easily accessible to minors that contain~~ explicit sexual material.
  3. By January 1, ~~2024~~2026, each public library and school district shall develop a policy and process for reviewing library collections to ensure conformance with the requirements of this section. The policy must include a procedure:
    - a. For the ~~removal or~~ relocation of explicit sexual material in ~~the public library to an area in the library not easily accessible to minors;~~
    - b. For the development of a book and media collection that is appropriate for the age and maturity levels of the individuals who may access the materials, and which is suitable for, and consistent with, the purpose of the library or school district;
    - c. For the ~~public library to receive, evaluate, and respond to~~relocation of materials to an area not easily accessible to minors, upon a request from an individual ~~regarding the removal or relocation of~~to relocate one or more of the books or other materials in the library collection containing explicit sexual material in the library collection; and
    - d. For the activation of a diverse decisionmaking committee to reconsider the relocation of explicit sexual material in the library collection, if the individual is unsatisfied with the result under subdivision c;
    - e. To refer an individual to section 7 of this Act, if the individual is unsatisfied with the result of the reconsideration under subdivision d; and
    - f. To periodically review the library collection to ensure the library collection does not contain explicit sexual material in the children's collection compliance with this section.
  4. Each public library and school district shall provide a compliance report to the legislative management before May 1, ~~2024~~2026, on the implementation of collection development and relocation of materials policies as required by this section and to ensure sufficient compliance with this section.

**SECTION 5. AMENDMENT.** Section 12.1-27.1-11 of the North Dakota Century Code is amended and reenacted as follows:

**12.1-27.1-11. Exceptions to criminal liability.**

Sections 12.1-27.1-01 and 12.1-27.1-03 ~~shall~~may not apply to the possession or distribution of material in the course of law enforcement, judicial, or legislative activities; or to the possession of material by a ~~bona fide school~~, college, university,



museum, or public library for limited access for educational research purposes carried on at such an institution by adults only. Sections 12.1-27.1-01 and 12.1-27.1-03 ~~shall also~~ may not apply to a person who is returning material, found to be obscene, to the distributor or publisher initially delivering it to the person returning it.

**SECTION 6.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is created and enacted as follows:

**Safety policies and technology protection measures required - Report.**

1. As used in this section:
  - a. "Explicit sexual material" means the term as defined under section 12.1-27.1-03.5.
  - b. "Public library" does not include the state library.
  - c. "State agency" does not include the state library or institutions of higher education.
2. A school district, state agency, or public library may offer digital or online library database resources to students in kindergarten through grade twelve if the person providing the resources verifies all the resources comply with subsection 3.
3. Digital or online library database resources offered by a school district, state agency, or public library to students in kindergarten through grade twelve must have safety policies and technology protection measures that:
  - a. Prohibit and prevent a user of the resource from sending, receiving, viewing, or downloading materials constituting an obscene performance or explicit sexual material; and
  - b. Filter or block access to explicit sexual material.
4. Notwithstanding any contract provision, if a provider of digital or online library resources fails to comply with subsection 3, the school district, state agency, or public library shall withhold any further payments to the provider pending verification of compliance.
5. If a provider of digital or online library database resources fails to timely verify the provider is in compliance with the safety policies and requirements of subsection 3, the school district, state agency, or public library shall consider the provider's act of noncompliance a breach of contract.
6. A public school library and a public library shall submit an aggregate written report to the legislative management no later than December first of each year regarding any:
  - a. Issues related to provider compliance with technology protection measures required by subsection 3; and
  - b. Incidents of complaints regarding accessible materials.
7. By January 1, 2026, each school district, state agency, or public library offering digital or online library database resources to students in kindergarten through grade twelve shall develop a policy and process for reviewing digital

or online library database resources to ensure conformance with this section. The policy must include a procedure:

- a. For an individual to report to the school district, state agency, or public library materials containing explicit sexual material or an obscene performance in the digital or online library database resources;
- b. Upon receipt of a report under subdivision a. for the school district, state agency, or public library, to provide the report to the provider of digital or online library database resources and apprise the individual of the actions taken to comply with this section; and
- c. To refer an individual to section 7 of this Act, if the individual believes this section is being violated after being apprised of the actions taken to comply with the section.

**SECTION 7.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is created and enacted as follows:

**State's attorney - Obscenity review procedure - School districts - State agencies - Public libraries - Penalty.**

1. Any interested individual who has exhausted the procedures under section 12.1-27.1-03.5 or section 6 of this Act may request, in the manner prescribed by the local state's attorney, the local state's attorney's opinion to review an alleged violation under section 12.1-27.1-03.5 or section 6 of this Act. Within sixty days of receiving the request, the state's attorney shall issue an opinion on the alleged violation to the interested individual, the provider of digital or online library database resources, if any, and the school district, state agency, or public library under review.
2. If the state's attorney determines a public library or state agency has violated section 12.1-27.1-03.5 or section 6 of this Act, the state's attorney shall defer any prosecution and notify the public library or state agency. After receiving notice, the public library or state agency shall take corrective action to comply with the violated law within ten days. If the public library or state agency fails to comply with the law within ten days, the state's attorney:
  - a. Shall notify the state treasurer who shall withhold and return funds allocated to the state agency or public library, until the state's attorney has determined the state agency or public library is in compliance with the relevant statute and has notified the state treasurer accordingly; and
  - b. May prosecute for failure to comply with the law.
3. If the state's attorney determines a school district has violated section 12.1-27.1-03.5 or section 6 of this Act, the state's attorney shall defer any prosecution and notify the school district. After receiving notice, the school district shall take corrective action to comply with the violated law within ten days. If the school district fails to comply with the law within ten days, the state's attorney:
  - a. Shall notify the superintendent of public instruction who shall withhold funds allocated to the school district until the state's attorney has determined the school district is in compliance with the relevant statute and has notified the superintendent of public instruction accordingly; and

b. May prosecute for failure to comply with the law.

Disapproved April 22, 2025

Filed April 29, 2025

## CHAPTER 600

### HOUSE BILL NO. 1540

(Representatives Koppelman, Hauck, J. Johnson, Marschall, Morton, Rohr, Steiner)  
(Senators Clemens, Cory, Gerhardt, Wobbema, Boehm)

AN ACT to create and enact a new chapter to title 15.1 of the North Dakota Century Code, relating to an education savings account program for students who are not enrolled in public school or a homeschool program; to provide an appropriation; and to provide an effective date.

### VETO

April 23, 2025

The Honorable Robin Weisz  
Speaker of the House  
North Dakota House of Representatives  
State Capitol  
Bismarck, ND

Re: House Bill 1540

Dear Speaker Weisz:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed House Bill 1540 and return it to the House.

House Bill 1540 appropriates \$21.7 million from the general fund for a voucher program to defray tuition and other eligible costs for students attending nonpublic K-12 schools.

Our administration strongly supports expanding school choice to better meet students' individual education needs and foster competition within the K-12 system to drive innovation and improve student outcomes. House Bill 1540 falls far short of truly expanding choice as it only impacts one sector of our student population. Voucher debate aside, this legislation still needs work to address implementation issues. We get one chance to craft policy to benefit the most students and ensure implementation of the program is achievable and realistic.

During the 2023-25 interim, a group of legislators and education stakeholders engaged in a study regarding school choice. The bill drafted from that work proposed state funding for the families of all students - public, nonpublic and homeschool - to cover eligible expenses for their children's education.

Those families all pay taxes, regardless of whether their child attends a public or nonpublic school or is homeschooled, or whether the family lives in a rural or urban

school district. It is essential that an Education Savings Account (ESA) program using state tax dollars be made available to all families to enhance their child's education.

In its final form, House Bill 1540 fails to deliver the school choice North Dakota needs, especially in rural areas where nonpublic school options are few and far between. Of North Dakota's 168 school districts, only 19 have nonpublic schools, with the vast majority of those schools located in the larger communities. A meaningful and effective school choice policy should empower all North Dakota families. Senate Bill 2400 is still an available vehicle to combine the best parts of both bills. We encourage thoughtful collaboration and an all-in approach to ensure all students are being supported in an ESA program.

Passing a voucher bill that caters to only a small segment of North Dakota's student population all but guarantees a voter referendum and threatens to derail the prospect of good school choice policy for years to come. We only get one bite at this apple, and House Bill 1540 bites off more than North Dakota citizens can stomach.

For the reasons stated above, House Bill 1540 is vetoed.

Sincerely,

Kelly Armstrong  
Governor

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

**SECTION 1.** A new chapter to title 15.1 of the North Dakota Century Code is created and enacted as follows:

##### **Definitions.**

As used in this chapter:

1. "Administrator" means the Bank of North Dakota.
2. "Department" means the department of public instruction.
3. "Education service provider" means an individual or organization approved to provide qualified education services. The term does not include a participating school.
4. "Eligible postsecondary institution" means a community college, an accredited university, or an accredited private postsecondary institution.
5. "Eligible student" means:
  - a. An elementary or secondary student who is a resident of this state and is eligible to attend a public school; or
  - b. A student who has received a scholarship under the education savings account program until the student graduates high school or reaches twenty-one years of age, regardless of household income.

6. "Parent" means a resident of this state who is a parent, guardian, custodian, or other person with the authority to act on behalf of the eligible student.
7. "Participating school" means any nonpublic school providing education to elementary students, secondary students, or both, which charges tuition and has notified the administrator of the school's intention to participate in the education savings account program and comply with the education savings account program requirements under this chapter and related administrative rules.
8. "Private tutoring" means professional tutoring services approved by the program manager to receive payment under this chapter.
9. "Program manager" means an organization registered by the secretary of state to do business in North Dakota and designated by the Bank of North Dakota to assist in the implementation of this chapter.

#### **Parent agreement - Qualified expenses.**

1. A parent of an eligible student qualifies for an education savings account for the student if the parent signs an agreement with the department promising:
  - a. To provide an education for the eligible student in at least the subjects of English language arts, mathematics, social studies, and science;
  - b. Not to enroll the parent's eligible student in a public school or supervise home education under chapter 15.1-23 for the eligible student;
  - c. To use education savings account program funds solely for qualified expenses under this chapter;
  - d. To comply with the requirements outlined in this chapter and any related rules adopted by the Bank of North Dakota; and
  - e. If the participating student is a child with a disability, the parent has received information from the department and understands participation in the education savings account program qualifies as a parental placement of the parent's child under the Individuals with Disabilities Education Act [Pub. L. 108-446; 20 U.S.C. 1412(a)(10)(A)].
2. A parent participating in the education savings account program may use the funds deposited in the eligible student's account for any of the following qualifying expenses to educate the eligible student:
  - a. Tuition and fees at a participating school;
  - b. A textbook required by a participating school;
  - c. Payment for private tutoring or to another educational service provider;
  - d. Payment for purchase of curriculum;
  - e. Tuition or fees for a nonpublic online learning program;

- f. Fees for advanced placement examinations or similar courses, and any examinations related to college or university admission;
        - g. Computer hardware, software, or other technological device that is used solely for a student's educational needs and approved by the administrator, provided hardware purchased with education savings account funds may not be resold within three years of purchase;
        - h. Reasonable fees for transportation paid to a fee-for-service transportation provider for the student to travel to and from an education service provider;
        - i. Tuition and fees at an eligible postsecondary institution; and
        - j. A textbook required for college or university courses.
  - 3. A participating school, private tutor, eligible postsecondary institution, or other education service provider may not refund, rebate, or share a student's grant with a parent or student in any manner. Any refund must be provided to the administrator who shall deposit the funds into the appropriate student's education savings account.
  - 4. A parent may make a payment for the cost of educational programs and services not covered by the funds in the child's account.

#### **Bank of North Dakota - State treasurer - Duties - Transfer.**

- 1. The administrator shall:
  - a. Beginning with the 2026-27 school year, annually deposit into each education savings account:
    - (1) Thirty-five percent of the state per-pupil payment amount distributed per student under subsection 3 of section 15.1-27-04.1, if the eligible student's household has an annual income less than or equal to two hundred percent of the most recently revised poverty income guidelines published by the United States department of health and human services.
    - (2) Twenty percent of the state per-pupil payment amount distributed per student under subsection 3 of section 15.1-27-04.1, if the eligible student's household has an annual income greater than two hundred percent but less than or equal to four hundred percent of the most recently revised poverty income guidelines published by the United States department of health and human services.
    - (3) Ten percent of the state per-pupil payment amount distributed per student under subsection 3 of section 15.1-27-04.1, if the eligible student's household has an annual income greater than four hundred percent of the most recently revised poverty income guidelines published by the United States department of health and human services.
  - b. Qualify a program manager to manage and administer education savings accounts.
  - c. Establish the role and responsibilities of a program manager.

- d. Conduct or contract for the auditing of accounts and, at a minimum, conduct random audits of accounts on an annual basis. A program manager may conduct the audits. The administrator may determine a parent of an eligible student is ineligible for the education savings account program if the parent substantially misuses the funds in the account.
  - e. Refer cases of substantial misuse of funds to law enforcement for investigation, if evidence of fraudulent use of an account is obtained.
  - f. Make deposits into eligible students' education savings accounts on a quarterly basis.
  - g. Adopt rules and procedures under chapter 28-32 for the administration of the education savings account program, as necessary.
  - h. Upon a participating student's graduation from high school or termination of participation in the education savings account program, close the participating student's account and transfer any remaining money in the account to the general fund in the state treasury.
2. The administrator may bar a participating school or education service provider from the education savings account program if the administrator determines the participating school or education service provider has:
- a. Routinely failed to comply with the accountability standards established under this chapter; or
  - b. Failed to provide a participating student with the educational services funded by the education savings account.
3. If the administrator bars a participating school or education provider from the education savings account program, the program manager shall notify eligible students and parents of the decision as quickly as possible. A parent may appeal a decision of the administrator under chapter 28-32.
4. The state treasurer annually shall transfer the funds required for education savings accounts from the general fund to the Bank of North Dakota for quarterly deposit in each education savings account.
5. Funds, not to exceed twenty-five percent of the amount under subsection 1, not expended over the course of a school year may be carried forward for use in the following school year for a child who remains in the education savings account program. If a parent removes a child from the education savings account program before the end of the school year, any remaining funds from that school year must be returned to the state and be allocated to fund other accounts. A student may transfer to another nonpublic school and retain the funds in the education savings account.
6. Funds deposited in an education savings account do not constitute taxable income to the parent or the education savings account student.
7. The superintendent of public instruction may apply to a federal agency for additional funds to support this program. These funds must provide an additional benefit to each participating student's education savings account. If necessary to become eligible for the receipt of federal funds, the Bank of



North Dakota, with consideration of advice provided by the superintendent of public instruction, shall adopt rules that supersede any conflicting law under this chapter.

**Participating schools - Department - Accountability standards.**

**1. A participating school shall:**

- a. Comply with all health and safety laws or codes that apply to nonpublic schools.**
- b. Obtain certification of approval under section 15.1-06-06.1.**
- c. Hold a valid occupancy permit if required by the school's municipality.**
- d. Certify the school complies with the nondiscrimination policies under 42 U.S.C. 1981.**
- e. Provide a parent with a receipt for all qualifying expenses at the school.**
- f. Refund any payment for which a good or service was not provided to the student due to a participating student terminating participation in the education savings account program. A tuition payment must be refunded pro rata determined by the school days remaining in the term for which the tuition was paid. A refund must be paid to the administrator who shall deposit the funds into the appropriate student's education savings account.**
- g. Ensure the eligible student takes the state assessments, or other nationally norm-referenced tests, which measure learning gains in mathematics and English language arts, and provide for value-added assessment. If a parent selects the state assessment, the department shall pay associated costs and materials.**
- h. Ensure the results of the tests are provided to the department.**

**2. The department, or an organization chosen by the department, shall:**

- a. Ensure compliance with all student privacy laws.**
- b. Collect all test results.**
- c. Provide the test results, associated learning gains, and graduation rates to the public on the department's website after the third year of test and graduation-related data collection. The findings must be aggregated by the student's grade level, gender, family income level, number of years of participation in the education savings account program, and race. Data aggregation related to assessments may be limited to the state assessment, as determined necessary by the department.**
- d. Provide rates for high school graduation for participating students to the public on the department's website after the third year of test and test-related data collection.**

3. A participating nonpublic school or other education service provider is autonomous and not an agent of the state or federal government and, except as provided under this chapter and in related rules, the:
  - a. Department may not regulate the educational program of a participating nonpublic school or education service provider that accepts funds from an education savings account;
  - b. Creation of the education savings account program does not expand the regulatory authority of the state, its officers, or a school district to impose an additional regulation of nonpublic schools or education service providers beyond the regulations necessary to enforce the requirements of the education savings account program; and
  - c. Participating nonpublic schools and education service providers must have the freedom to provide for the educational needs of the school's students without governmental control.

### **Program manager - Duties.**

The program manager shall:

1. Ensure eligible students and parents are informed annually of the schools that will be participating in the education savings account program.
2. Create a standard form a parent of an eligible student may submit to establish a student's eligibility for the education savings account program. The program manager shall ensure the application is readily available to interested families through various sources, including the department's website.
3. Accept applications on a year-round basis and shall approve applications in a reasonable time frame.
4. Execute a multimedia marketing program targeting eligible families, especially those below the state's median household income, informing the families about the education savings account program and how to apply.
5. Establish a web and phone-based support system providing parents with education savings account program application support and ongoing account maintenance support.
6. Provide to the parent of a participating student a written explanation of the allowable uses of education savings accounts, the responsibilities of the parent, and the duties of the program manager.
7. Ensure the department is informed of a participating student's graduation from high school or a participating student's termination of participation in the education savings account program.
8. Coordinate with the administrator to develop procedures to implement the program in accordance with this chapter and related rules.
9. Upon request, determine whether an expense is allowable.
10. Establish a procedure for a participating school to provide data to the department as required under this chapter.

11. Administer an annual parental satisfaction survey requesting each parent of a student receiving an education savings account program grant indicate the number of years the child has participated in the education savings account program and express the parent's:
  - a. Satisfaction with the education savings account program; and
  - b. Opinions on other topics, items, or issues that may indicate the effectiveness of the education savings account program.

### **School districts of residence - Duties.**

The school district of residence:

1. Shall provide a participating school or education service provider that has admitted an eligible student under this chapter with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 [20 U.S.C. Section 1232(g)].
2. May provide transportation for an eligible student to and from the participating school or education service provider under the same conditions as the school district of residence is required to provide transportation for other resident students to nonpublic schools. The school district of residence qualifies for state transportation aid for each student transported.

**SECTION 2. APPROPRIATION - BANK OF NORTH DAKOTA - EDUCATION SAVINGS ACCOUNT PROGRAM.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$21,700,000, or so much of the sum as may be necessary, to the Bank of North Dakota for the purpose of implementing the education savings account program and funding education savings accounts beginning in the 2026-27 school year, for the biennium beginning July 1, 2025, and ending June 30, 2027.

**SECTION 3. EFFECTIVE DATE.** Section 1 of this Act becomes effective on July 1, 2026.

Disapproved April 23, 2025

Filed April 29, 2025

## CHAPTER 601

### SENATE BILL NO. 2160

(Senators Davison, Bekkedahl, Sorvaag)  
(Representatives Bosch, Stemen)

AN ACT to amend and reenact sections 54-52.1-01, 54-52.1-02, and 54-52.1-03.1 of the North Dakota Century Code, relating to health insurance benefits coverage provided by the uniform group insurance program; to provide an appropriation; to provide for a statement of legislative intent; and to provide an effective date.

### VETO

April 28, 2025

The Honorable Michelle Strinden  
President of the Senate  
North Dakota Senate Chambers  
State Capitol  
Bismarck, ND

Re: Senate Bill 2160

Dear President Strinden:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have vetoed Senate Bill 2160 and return it to the Senate.

Senate Bill 2160 permanently closes the door on a grandfathered health insurance plan for state employees. If we repeal our current health plan, an Affordable Care Act compliant, nongrandfathered plan must take its place. This new plan contained in Senate Bill 2160 includes mandatory added benefits that will result in increased costs passed on to our public employees as an out-of-pocket expense. Public employees did not ask for this. In fact, surveys conducted by OMB's Human Resource Management Services (HRMS) in 2022 and 2024 showed the current state health plan is the most valued benefit by our state employees, and one of the state's strongest and most useful recruitment and retention tools. Senate Bill 2160 disposes of that tool and replaces it with a more expensive alternative.

Senate Bill 2160's effective date of January 1, 2027, also underscores the cost of the new plan. By having a January 1, 2027, effective date, the \$6.5 million fiscal note for the 2025-2027 biennium is only for the last six months of the biennium. The cost for the full 2027-2029 biennium and subsequent biennia is an estimated \$25.8 million or more every two years. This higher price tag would either be passed on to the state or its employees.

PERS solicits bids for the new health insurance contract every six years. The next bid process will begin in the summer of 2026 for use in the 2027-2029 biennium. The bid process includes estimates for continuation of the current grandfathered plan, as well as non-grandfathered plans. The better route would be to compare the 2026 estimates for continuation of the current plan versus a non-grandfathered plan, so the 70th Legislative Assembly may make a better-informed decision for the future of North Dakota's public employees.

The current health plan is better for state employees and employees of political subdivisions. Currently, they pool together in the same grandfathered plan. If Senate Bill 2160 passes as enrolled, state employees and employees of political subdivisions will be in separate pools, resulting in higher costs for both. This is unacceptable.

For the reasons said above, Senate Bill 2160 is vetoed.

Sincerely,

Kelly Armstrong  
Governor

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

**SECTION 1. AMENDMENT.** Section 54-52.1-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **54-52.1-01. Definitions.**

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

1. "Board" means the public employees retirement board.
2. "Carrier" means:
  - a. ~~For the hospital health insurance benefits coverage, an insurance company authorized to do business in the state, or a nonprofit hospital service association, or a prepaid group practice hospital or medical care plan authorized to do business in the state, or the state if a self-insurance health plan is used for providing hospital or medical benefits coverage.~~
  - b. ~~For the medical benefits coverage, an insurance company authorized to do business in the state, or a nonprofit medical service association, or a prepaid group practice medical care plan authorized to do business in the state, or the state if a self-insurance health plan is used for providing medical benefits coverage.~~
  - c. For the life insurance benefits coverage, an insurance company authorized to do business in the state.
3. "Department, board, or agency" means ~~the departments, a department, boards, board, agencies, agency, or associations~~ a department, board, agency, or association of this state. The term includes the state's charitable, penal, and higher educational institutions; the Bank of North Dakota; the state mill and elevator association; and counties, cities, district health units, and school districts.

4. "Eligible employee" means every permanent employee who is employed by a governmental unit, as that term is defined in section 54-52-01. "Eligible employee" includes members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workforce safety and insurance fund. As used in this subsection, "permanent employee" means one whose services are not limited in duration, who is filling an approved and regularly funded position in a governmental unit, and who is employed at least seventeen and one-half hours per week and at least five months each year or for those first employed after August 1, 2003, is employed at least twenty hours per week and at least twenty weeks each year of employment. For purposes of sections 54-52.1-04.1, 54-52.1-04.7, 54-52.1-04.8, and 54-52.1-11, "eligible employee" includes retired and terminated employees who remain eligible to participate in the uniform group insurance program pursuant to applicable state or federal law.
5. "Health insurance benefits coverage" means ~~hospital~~:
  - a. A nongrandfathered health plan sponsored by a large employer which meets the applicable requirements of 42 U.S.C. chapter 6A, subchapter XXV, without regard to 42 U.S.C. 18011, including benefits provided under the uniform group insurance program's grandfathered preferred provider organization plan;
  - b. Hospital benefits coverage ~~or medical~~;
  - c. Medical benefits coverage; ~~or both~~
  - d. Both hospital and medical benefits coverage.
6. "Health maintenance organization" means an organization certified to establish and operate a health maintenance organization in compliance with chapter 26.1-18.1.
7. "Hospital benefits coverage" means a plan that either provides coverage for, or pays, or reimburses expenses for hospital services incurred in accordance with the uniform contract.
8. "Life insurance benefits coverage" means a plan that provides both term life insurance and accidental death and dismemberment insurance in amounts determined by the board, with a minimum of one thousand dollars provided for the term life insurance portion of the coverage.
9. "Medical benefits coverage" means a plan that either provides coverage for, or pays, or reimburses expenses for medical services in accordance with the uniform contract.
10. "Member contribution" means the payment by the member into the retiree health benefits fund pursuant to sections 54-52-02.9 and 54-52-17.4.
11. "Member's account balance" means the member's contributions plus interest at the rate set by the board.

12. "Nongrandfathered health plan" means a plan that does not qualify as a grandfathered plan under the Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152].
13. "Self-insurance health plan" means a plan of self-insurance providing health insurance benefits coverage under section 54-52.1-04.2.
- 43-14. "Temporary employee" means a governmental unit employee who is not filling an approved and regularly funded position in an eligible governmental unit and whose services may or may not be limited in duration.

**SECTION 2. AMENDMENT.** Section 54-52.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-02. Uniform group insurance program created - Formation into subgroups.**

In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and offer an incentive to high-grade individuals to enter and remain in the service of state employment, there is created a uniform group insurance program.

1. The uniform group insurance program must ~~be~~:
  - a. Be composed of eligible and retired employees and be formed to provide hospital benefits coverage, medical benefits coverage,;
  - b. Except as provided in subsection 2 of section 54-52.1-03.1, provide coverage as defined in subdivision a of subsection 5 of section 54-52.1-01; and
  - c. Provide life insurance benefits coverage ~~in the manner set forth in this chapter.~~
2. The board may divide the uniform group ~~may be divided~~ into the following subgroups ~~at the discretion of the board~~:
  4. ~~Medical and hospital~~
    - a. Health insurance benefits coverage group consisting of active eligible employees and retired employees not eligible for Medicare, except for employees who first retire after July 1, 2015, and are not eligible for Medicare on their retirement. In determining premiums for coverage under this ~~subsectionsubdivision~~ for retired employees not eligible for Medicare, the rate for a non-Medicare retiree single plan is one hundred fifty percent of the active member single plan rate, the rate for a non-Medicare retiree family plan of two people is twice the non-Medicare retiree single plan rate, and the rate for a non-Medicare retiree family plan of three or more persons is two and one-half times the non-Medicare retiree single plan rate.
    2. b. In addition to the coverage provided in ~~subsection 4subdivision a~~, another coverage option may be provided for retired employees not eligible for Medicare, except for employees who first retire after July 1, 2015, and are not eligible for Medicare on their retirement, provided the option does not

increase the implicit subsidy as determined by the governmental accounting standards board's other postemployment benefit reporting procedure. In offering this additional option, the board may have an open enrollment but thereafter enrollment for this option must be as specified in section 54-52.1-03.

- 3. c. Retired Medicare-eligible employee group ~~medical and hospital health insurance~~ benefits coverage.
- 4. d. Active eligible employee life insurance benefits coverage.
- 5. e. Retired employee life insurance benefits coverage.
- 6. f. Terminated employee continuation group ~~medical and hospital health insurance~~ benefits coverage.
- 7. g. Terminated employee conversion group ~~medical and hospital health insurance~~ benefits coverage.
- 8. h. Dental benefits coverage.
- 9. i. Vision benefits coverage.
- 10. j. Long-term care benefits coverage.
- 11. k. Employee assistance benefits coverage.
- 12. l. Prescription drug coverage.

**SECTION 3. AMENDMENT.** Section 54-52.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution.**

- 1. If eligible under federal law, a political subdivision may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to ~~minimum~~ requirements established by the board and ~~as follows:~~
  - a. A minimum period of participation of sixty months. If the political subdivision withdraws from participation in the uniform group insurance program, before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision shall make payment to the board in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the political subdivision's employees as determined under rules adopted by the board.
  - b. The Garrison Diversion Conservancy District, and district health units required to participate in the public employees retirement system under section 54-52-02, shall participate in the uniform group insurance program under the same ~~terms and conditions~~ premium structures as state agencies.



- c. A retiree who has accepted a retirement allowance from a participating political subdivision's retirement plan may elect to participate in the uniform group under this chapter without meeting minimum requirements at age sixty-five, when the employee's spouse reaches age sixty-five, upon the receipt of a benefit, when the political subdivision joins the uniform group insurance plan if the retiree was a member of the former plan, or when the spouse terminates employment. If a retiree or surviving spouse does not elect to participate at the times specified in this ~~section~~subdivision, the retiree or surviving spouse must meet the minimum requirements established by the board.
  - d. Each retiree or surviving spouse shall pay directly to the board the premiums in effect for the coverage then being provided. The board may require documentation that the retiree has accepted a retirement allowance from an eligible retirement plan other than the public employees retirement system.
2. For purposes of this section, the uniform group insurance program must provide health insurance benefits coverage as defined in section 54-52.1-01.

**SECTION 4. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - HEALTH INSURANCE PREMIUM POOL.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,442,991, or so much of the sum as may be necessary, and from other funds derived from federal funds and special funds, not otherwise appropriated, the sum of \$1,851,509, or so much of the sum as may be necessary, to the office of management and budget for the purpose of a health insurance premium pool, which the office of management and budget shall use to distribute appropriation authority to state agencies for paying a portion of health insurance premium cost increases related to this Act, for the biennium beginning July 1, 2025, and ending June 30, 2027.

**SECTION 5. LEGISLATIVE INTENT.** It is the intent of the sixty-ninth legislative assembly that the public employees retirement system use an estimated amount of \$3,294,500, or so much of the sum as may be necessary, from the health insurance reserve fund established in section 54-52.1-06 for a portion of the state employer share of any increase in premiums for health benefits resulting from the provisions of this Act for the period beginning with the effective date of this Act and ending June 30, 2027.

**SECTION 6. EFFECTIVE DATE.** Sections 1 through 3 of this Act become effective on January 1, 2027.

Disapproved April 28, 2025

Filed May 1, 2025

## CHAPTER 602

### HOUSE BILL NO. 1003

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the attorney general; to amend and reenact sections 31-01-16, 54-12-11, 54-12-30, and 54-27-25 of the North Dakota Century Code, relating to compensation and mileage and travel expenses for witnesses, the salary of the attorney general, twenty-four seven sobriety program fees, and the tobacco settlement trust fund; to provide for a report; to provide for a transfer; and to provide an exemption.

### VETO

May 19, 2025

The Honorable Robin Weisz  
Speaker of the House  
North Dakota House of Representatives  
State Capitol  
Bismarck, ND

Re: Section 12 of House Bill 1003

Dear Speaker Weisz:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have signed House Bill 1003 and filed it with the Secretary of State. I also have vetoed Section 12 of HB 1003.

The North Dakota Constitution authorizes the governor to veto items in an appropriation bill. House Bill 1003 is an appropriation bill for the expenses of the attorney general, and Section 12, relating to 24/7 sobriety program fees, is an item in the appropriation bill. Section 12 was not in HB 1003 when the bill was introduced. Section 12 was a standalone measure introduced as Senate Bill 2365, which went through the legislative process and ultimately failed in the House. It has been resurrected as Section 12 in House Bill 1003, but the failings of this policy remain: It invites a constitutional challenge and will only increase costs and jail overcrowding for counties.

Currently, a district court judge has the flexibility to waive the costs for an individual participating in the 24/7 sobriety program. Section 12 prohibits a judge from waiving these fees, even in cases of hardship or indigency. One reason for allowing a judge to waive the fees is to protect the program from constitutional challenge. If the fee is not waivable, the individual is found not guilty, and the fee is not refunded, the fee becomes a pretrial punishment. This gives an individual grounds for challenging the program because the Constitution protects individuals from being punished for a crime prior to conviction.

Today, the 24/7 program fees are only waivable if a judge issues a finding of hardship. This is a similar process used when a judge finds an individual indigent, which is not an arbitrary decision. By removing the flexibility to waive the 24/7 fees, an indigent individual will be held in pre-trial custody for the inability to pay, likely with an added unaffordable bond. This would require the indigent individual to be placed in custody until the resolution of their case. This will have an adverse effect on counties, becoming far more expensive than the 24/7 program itself and contributing to the overcrowding of county jails.

Section 12 is a previously rejected policy item logrolled into an appropriation bill. This legislative maneuver does not restrict the executive's line-item veto authority. To do so would force the executive to choose between accepting a standalone policy item or risking the entire appropriation for a state agency. Allowing the Assembly to shoehorn general substantive policy provisions into an appropriation bill, while not simultaneously allowing the executive to veto those provisions, would undermine our system of checks and balances, and violate the longstanding principle of separation of powers.

For the reasons said above, Section 12 of House Bill 1003 is vetoed.

Sincerely,

Kelly Armstrong  
Governor

Disapproved May 19, 2025

Filed May 19, 2025

NOTE: For the full text of House Bill No. 1003, including section 12, see chapter 3.

## CHAPTER 603

### HOUSE BILL NO. 1019

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the parks and recreation department; to create and enact a new section to chapter 55-08 of the North Dakota Century Code, relating to the creation and naming of state parks; to provide for a transfer; to provide for a report; and to provide an exemption.

### VETO

May 19, 2025

The Honorable Robin Weisz  
Speaker of the House  
North Dakota House of Representatives  
State Capitol  
Bismarck, ND

Re: Section 8 of House Bill 1019

Dear Speaker Weisz:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have signed House Bill 1019 and filed it with the Secretary of State. I also have vetoed Section 8 of House Bill 1019.

The North Dakota Constitution provides the governor may veto items in an appropriation bill. Section 8 of House Bill 1019 is an item in an appropriation bill, specifically a policy item aimed at curtailing the Parks and Recreation Department's authority to create and rename state parks. Section 8 requires Legislative Assembly approval for the creation or renaming of state parks. This policy not only encroaches on the executive branch's function to faithfully execute laws passed by the Assembly but also leads to absurd results. For instance, if federal dollars were contingent on the renaming of a state park, or if the Director of Parks and Recreation exercised his statutory duty to acquire land for a new state park, a special session would be required. The entire Legislative Assembly must then convene, agree on a new name, have the new name pass through both chambers, and be signed into law.

The christening and renaming of state parks is not a decision made lightly by the Parks and Recreation Department or this office. It requires input from multiple stakeholders, including historians and local members of the community. Asking permission from the Legislative Assembly to perform a statutory duty squarely within the executive branch's purview by inserting legislative directives into operational decisions that are already subject to appropriate checks and balances disregards the notion of three coequal branches. Good governance demands clarity, efficiency, and respect for the separation of powers, and this provision undermines all three.

Even though Section 8 itself does not contain an appropriation, not allowing the line-item veto power would force the executive branch to either accept a policy amendment or risk the overall appropriation for an executive branch agency. This would encourage the practice of logrolling, thereby disrupting an essential check and balance and violating the principle of separation of powers.

For the reasons said above, Section 8 of House Bill 1019 is vetoed.

Sincerely,

Kelly Armstrong  
Governor

Disapproved May 19, 2025

Filed May 19, 2025

NOTE: For the full text of House Bill No. 1019, including section 8, see chapter 18.

## CHAPTER 604

### SENATE BILL NO. 2001

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the legislative branch of state government; to amend and reenact sections 48-08-04, 54-03-10, 54-03-20, and 54-35-10 of the North Dakota Century Code, relating to use of legislative rooms and halls and legislative compensation; to provide a statement of legislative intent; to provide for a report; to provide an exemption; and to provide for application, transfer, and cancellation of unexpended appropriations.

### VETO

May 19, 2025

The Honorable Michelle Strinden  
President of the Senate  
North Dakota Senate Chambers  
State Capitol  
Bismarck, ND

Re: Senate Bill 2001

Dear President Strinden:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have signed Senate Bill 2001 and filed it with the Secretary of State. I also have vetoed Section 6 of Senate Bill 2001.

Section 6 of Senate Bill 2001 reserves the 15th floor of the Capitol building "for the exclusive use of the legislative council." Legislative Council consists of attorneys, accountants, researchers, and auxiliary personnel who serve the members of the Legislative Assembly. The Legislative Council currently occupies the entire second floor of the Capitol building except for one legislative committee room.

The 15th floor currently is occupied by the Department of Career and Technical Education (CTE), which recently remodeled the space. The acquisition of the newly remodeled space in Section 6 of Senate Bill 2001 was proposed without input or consultation with our administration, CTE, or anyone else from the executive branch and without public discussion during the 2023-2025 interim session. Legislative council testified that additional space is needed to accommodate the increase of its staff from 45 full-time equivalent (FTE) positions to 70 FTEs as approved by the Legislative Assembly in Senate Bill 2001.

For government to work, it must work cohesively. It is crucial to foster open communication, align goals and objectives, and encourage collaboration across

departments and levels. My administration is more than willing to help Legislative Council accommodate its growing staff by identifying available space in the Capitol building, including space on the 15th floor. However, requiring the acquisition of a specific floor of the Capitol building via state law is superfluous and undermines our ongoing efforts to find ways to better utilize the Capitol building's square footage to reduce costs and save taxpayers money.

The fact Section 6 of Senate Bill 2001 is a policy item logrolled into an appropriation bill does not restrict the executive's line-item veto authority. Doing so would force the executive to choose between accepting a standalone policy item or risking the entire appropriation for a state agency. Allowing the Legislative Assembly to shoehorn general substantive policy provisions into an appropriation bill, while not simultaneously allowing the executive to veto those provisions, would undermine our system of checks and balances, and violate the longstanding principle of separation of powers.

For the reasons said above, Section 6 of Senate Bill 2001 is vetoed.

Sincerely,

Kelly Armstrong  
Governor

Disapproved May 19, 2025

Filed May 19, 2025

NOTE: For the full text of Senate Bill No. 2001, including section 6, see chapter 34.

## CHAPTER 605

### SENATE BILL NO. 2004

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the ethics commission; to create and enact a new section to chapter 54-03 and two new sections to chapter 54-66 of the North Dakota Century Code, relating to immunity and a defense for individuals voting on legislation, closure of a matter of the ethics commission, rules for complaint management time standards, and an ethics commission annual report; to amend and reenact sections 12.1-13-02, 54-66-01, 54-66-04, 54-66-05, 54-66-06, and 54-66-07, subsection 2 of section 54-66-08, and sections 54-66-09, 54-66-10, 54-66-12, and 54-66-18 of the North Dakota Century Code, relating to immunity from criminal prosecution, definitions, ethics commission meetings, complaints, an informal resolution process, law enforcement referrals, findings, appeals, confidential information related to a complaint, and conflicts of interest; and to declare an emergency.

### VETO

May 19, 2025

The Honorable Michelle Strinden  
President of the Senate  
North Dakota Senate Chambers  
State Capitol  
Bismarck, ND

Re: Senate Bill 2004

Dear President Strinden:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have signed Senate Bill 2004 and filed it with the Secretary of State. I also have vetoed Section 5 of Senate Bill 2004.

Section 5 of Senate Bill 2004 establishes a new statutory immunity provision for members of the Legislative Assembly. While transparency and ethical conduct are essential in a representative democracy, this provision elevates internal legislative procedure above state law, effectively shielding lawmakers from accountability under our criminal code.

The state already has opaque campaign finance laws. Public confidence in government is built on the belief that no one, especially elected officials, is above the law. Codifying legislative immunity in this context undermines that principle. Moreover, this immunity provision sends the wrong message to North Dakotans: that legislative disclosure, however minimal or selective, is enough to avoid the legal consequences that any private citizen would face under similar circumstances.



Section 4 of Senate Bill 2004 is acceptable and reasonable because it appropriately clarifies that legislators must have the freedom to perform their official duties without fear of prosecution. However, Section 5 of the bill is flawed, as it attempts to grant blanket immunity from prosecution to legislators simply by virtue of their office. Disclosure is not absolution.

The fact Section 5 of Senate Bill 2004 is a policy item logrolled into an appropriation bill does not restrict the executive's line-item veto authority. Doing so would force the executive to choose between accepting a standalone policy item or risking the entire appropriation for a state agency. Allowing the Legislative Assembly to shoehorn general substantive policy provisions into an appropriation bill, while not simultaneously allowing the executive to veto those provisions, would undermine our system of checks and balances, and violate the longstanding principle of separation of powers.

I urge the Legislative Assembly to reconsider granting categorical immunity to its members and return next legislative session with mechanisms for enforcing accountability and earning back public trust.

For the reasons said above, Section 5 of Senate Bill 2004 is vetoed.

Sincerely,

Kelly Armstrong  
Governor

Disapproved May 19, 2025

Filed May 19, 2025

NOTE: For the full text of Senate Bill No. 2004, including section 5, see chapter 37.

## CHAPTER 606

### SENATE BILL NO. 2014

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the industrial commission and the agencies under its control; to create and enact a new section to chapter 6-09 and a new subdivision to subsection 2 of section 38-08-04.5 of the North Dakota Century Code, relating to a rail revolving loan fund and uses of the abandoned oil and gas well plugging and site reclamation fund; to amend and reenact subsection 7 of section 6-08.1-02 and sections 6-09-35, 6-09-46.2, 6-09.7-05, 6-09.14-04, and 49-17.1-02.1, subsection 1 of section 54-17-40, and subdivision a of subsection 4 of section 54-17.7-04 of the North Dakota Century Code, and section 15 of chapter 14 of the 2023 Session Laws, relating to confidential and exempt records of the Bank of North Dakota, the rebuilders loan program, loan guarantees through the strategic investment and improvements fund, interest rate buydown limits for the partnership in assisting community expansion fund, department of transportation review and approval of rail projects, uses of the housing incentive fund, North Dakota pipeline borrowing authority, and a salt cavern underground energy storage research project; to repeal section 3 of Senate Bill No. 2188, as approved by the sixty-ninth legislative assembly, relating to a transfer from the strategic investment and improvements fund to the clean sustainable energy fund; to provide a deficiency appropriation; to provide for a transfer; to provide an exemption; to provide for a legislative management study; to provide for a legislative management report; to provide for a report; to provide an effective date; and to declare an emergency.

### VETO

May 19, 2025

The Honorable Michelle Strinden  
President of the Senate  
North Dakota Senate Chambers  
State Capitol  
Bismarck, ND

Re: Senate Bill 2014

Dear President Strinden:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have signed Senate Bill 2014 and filed it with the Secretary of State. I also have vetoed items in Section 7 and Section 31 of Senate Bill 2014.

#### Section 7

Section 7 of Senate Bill 2014 directs a \$150,000 passthrough grant from the Housing Incentive Fund to a Native American-focused organization for the purpose of funding a homelessness liaison position. While it is important to make culturally informed

efforts to address homelessness, especially in our Native American communities, I cannot support this provision within Section 7.

Addressing homelessness and housing insecurity requires a comprehensive, sustainable, and statewide strategy, not isolated, one-time allocations to individual entities. A piecemeal approach risks fragmentation, inefficiency, and duplication of effort. Instead, we should invest in solutions that are coordinated across agencies, regions, and communities, ensuring all vulnerable populations are reached through a unified system.

In addition, using one-time funding to establish or support a permanent position sets up both the recipient and the state for long-term uncertainty. Staffing needs, particularly for roles as critical as homelessness liaisons, should be supported through stable, recurring funding with clear performance expectations and oversight, not one-time passthroughs. Without a sustainable funding mechanism, the impact of this grant will be short-lived, and the continuity of service will be jeopardized.

### Section 31

Section 31 mandates the Bank of North Dakota to allocate up to \$250,000 from its appropriation to conduct a study focused on sustaining the economies of communities in western North Dakota as oil and gas development activities decrease.

While I support proactive economic planning and diversification, Section 31 is premature, duplicative, and misaligned with our most effective and current strategies. North Dakota remains a global leader in energy production. The Bakken formation continues to be a robust and vital engine of economic activity, and current projections indicate it will remain so for the foreseeable future. Prematurely investing resources into planning for a post-oil regional economy risks sending the wrong signal about the strength and longevity of our energy industry.

Moreover, the Department of Commerce already possesses the statutory authority and expertise to conduct studies of this nature. Should a regional economic transition become necessary, Commerce is well-positioned to initiate and lead such planning efforts using existing resources, without the need to divert \$250,000 from the Bank of North Dakota's mission-focused funds.

Finally, our most effective strategy for long-term economic diversification lies in strengthening our workforce, not in isolated studies. Investments in Career and Technical Education (CTE) centers across the state are actively expanding our capacity to prepare students and workers for high-skill, high-demand jobs across industries. These CTE programs offer an immediate and scalable impact in rural and urban communities alike and represent the best path forward for building a resilient and adaptive economy.

For the reasons said above, items within Section 7 and Section 31 of Senate Bill 2014 are vetoed.

Sincerely,

Kelly Armstrong  
Governor

Disapproved May 19, 2025

Filed May 19, 2025

NOTE: For the full text of Senate Bill No. 2014, including sections 7 and 31, see chapter 46.

## CHAPTER 607

### SENATE BILL NO. 2018

(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the department of commerce; to provide an appropriation to the attorney general; to provide an appropriation to the department of career and technical education; to provide an appropriation to the state fair association; to provide a contingent appropriation; to create and enact a new section to chapter 54-60 of the North Dakota Century Code, relating to department of commerce grant reporting requirements; to amend and reenact subsection 1 of section 10-30.5-02, sections 54-60-09, 54-60-19, 54-60-28, 54-60-29, 54-60-29.1, and 54-60-31 of the North Dakota Century Code, relating to the purpose of the North Dakota development fund, duties and talent strategy of the division of workforce development, the uncrewed aircraft systems program, the uncrewed aircraft systems program fund, the beyond visual line of sight uncrewed aircraft system program, and changing the name of the office of legal immigration to the global talent office; to authorize a Bank of North Dakota line of credit; to provide for a transfer; to provide an application; to provide an exemption; and to provide for a legislative management report.

### VETO

May 19, 2025

The Honorable Michelle Strinden  
President of the Senate  
North Dakota Senate Chambers  
State Capitol  
Bismarck, ND

Re: Senate Bill 2018

Dear President Strinden:

Pursuant to Article V, Section 9 of the North Dakota Constitution, I have signed Senate Bill 2018 and filed it with the Secretary of State. I also have vetoed Section 7 of Senate Bill 2018.

Section 7 of Senate Bill 2018 appropriates \$350,000 to the State Fair Association for sanitation restoration projects. While I acknowledge the importance of maintaining and improving facilities at the North Dakota State Fairgrounds, this appropriation was not included in the State Fair Association's primary budget, Senate Bill 2009, where it rightly belonged. Adding the appropriation to Senate Bill 2018, which is a bill unrelated to the State Fair Association, at the end of the legislative session is a clear example of logrolling, which undermines transparency, accountability, and the principle of deliberative budgeting.

The appropriate forum for evaluating the merits and necessity of this funding was during consideration of Senate Bill 2009. That bill was the proper vehicle for determining the State Fair's operating and capital needs in a comprehensive and transparent manner.

Furthermore, if later it is determined the State Fair Association's budget in Senate Bill 2009 is insufficient to address sanitation restoration projects, the Association has several avenues of recourse. These include applying for funding through the Emergency Commission, seeking grants, or requesting a deficiency appropriation during the 2027 legislative session. These existing mechanisms provide a more appropriate and orderly way to address emerging needs without circumventing the standard appropriations process.

For the reasons said above, Section 7 of Senate Bill 2018 is vetoed.

Sincerely,

Kelly Armstrong  
Governor

Disapproved May 19, 2025

Filed May 19, 2025

NOTE: For the full text of Senate Bill No. 2018, including section 7, see chapter 50.