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SENATE STATE AND LOCAL  
GOVERNMENT COMMITTEE  
FEBRUARY 6, 2025

TESTIMONY OF ALLYSON HICKS  
OFFICE OF ATTORNEY GENERAL  
SENATE BILL 2308

Chairman Roers, members of the Committee.

I am Allyson Hicks, Assistant Attorney General, General Counsel Division, and I appear on behalf of our clients, the Department of Health and Human Services (DHHS), the Information Technology Department (ITD), the Department of Water Resources (DWR), and the Department of Labor and Human Rights (DOLHR), in a neutral capacity to introduce an omnibus amendment to Senate Bill 2308. I will review the amendment section by section and address the purpose of the amendments.

The header was corrected pursuant to the Legislative Council drafting manual to match the amendments made in the upcoming sections.

**SECTION 1:** No amendments made to this section.

**SECTION 2:** No amendments made to this section.

**Former SECTION 3:** This section was entirely removed. As you will see later, the purpose of this section was to add the administration of the State Longitudinal Data System (SLDS) to the duties of the Superintendent of Public Instruction. The bill has been amended to move the administration of the SLDS back to ITD, so this section is no longer necessary and has been struck in its entirety.

**Newly numbered SECTION 3:** No amendments made to this section.

**SECTION 4:** ND DHHS, Public Health Division, does not regulate wastewater treatment and this is one of the areas that went with the Department of Environmental Quality (DEQ) when the legacy Department of Health and DEQ split, so the correction was made to place this obligation with the appropriate state agency.

**SECTION 5:** No amendments made to this section.

**SECTION 6:** Updates were made to this section to better align with the goals of the boards review task force, discussed in Section 7 of this bill, to avoid a duplication of efforts made under the prior administration.

**SECTION 7:** The requirement of the boards review task force to issue performance evaluations to all boards was removed. This unnecessary administrative burden was removed from DOLHR as the main goal of the boards review task force is information gathering such that recommendations for streamlining government operations can be made.

**SECTIONS 8 & 9:** No amendments made to these sections.

**SECTION 10:** This is clean-up language for DHHS to ensure that committees or councils for maintenance of federal fundings are retained. Additionally, the reference to early childhood education has been removed as that is not within the purview of DHHS.

**SECTIONS 11 through 16:** No amendments made to these sections.

**Newly added SECTIONS 17 through 19:** These sections relate back to the original Section 3 of the bill which was removed in its entirety. This amended language strikes the SLDS committee and adds administration of the SLDS back into the duties of ITD. Section 17 relates to the duties regarding administration of the SLDS. The language on page 14, lines 13-14 was taken from N.D.C.C. § 54-59-35, which this bill proposes to repeal. The language on page 14, lines 26 through 29 was taken from N.D.C.C. § 54-59-38, which this bill proposes to repeal, which ensures

that the currently negotiated interagency data sharing agreements related to the SLDS remain in effect. Additionally, the language on page 15, lines 26 and 27 was retained from the now repealed section 54-59-35. Section 18 relates to a report to legislative management regarding the SLDS, and Section 19 provides for the continuing appropriation of privately solicited funding related to the SLDS. Both sections 18 and 19 are preexisting in law and move responsibility from the dissolving SLDS committee to ITD. Effectively, with these changes, ITD assumes the role of administration of the SLDS due to the dissolution of the SLDS committee.

**SECTION 20:** This section pulls in preexisting language from N.D.C.C. § 54-59-38, which this bill proposes to repeal, which guarantees that an agency may enter into an interagency agreement with ITD subject to any applicable federal and state privacy laws governing disclosure and redisclosure of an agency's data.

**SECTION 21:** Clarifies language which moved licensure of water well contractors into the DWR and modified some of the originally proposed language for clarity and accuracy.

**SECTION 22:** No amendments made to this section.

**Newly added SECTION 23:** Originally section 61-04.1-08 was repealed. This section brings it back and just amends it to change all references to the "board of atmospheric resources" to the DWR.

**SECTIONS 24- 36:** No amendments made to these sections.

**SECTIONS 37 and 38:** These sections are amended to shift the funding to the water commission fund for disbursement.

**SECTION 39:** No amendments made to this section.

**SECTIONS 40, 42, and 43:** Internal citations were updated to reflect new numbering and the amendments made to the body of the bill.

I would stand for any questions.

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO  
SENATE BILL NO. 2308**

Introduced by

Senators Roers, Hogue

Representatives Lefor, Louser

1 A BILL for an Act to create and enact a new section to chapter 34-16 of the North Dakota  
2 Century Code, relating to a boards review task force; to amend and reenact section 6-09-43,  
3 subdivision j of subsection 2 of section 15.1-01-04, sections ~~15.1-02-04~~, 15.1-07-33, 23-35-  
4 02.2, 34-16-01, and 34-16-02, subsection 30 of section 38-14.1-02, subdivision t of subsection  
5 1 of section 38-14.1-14, subsection 1 of section 50-06-01.4, section 52-02-02, 52-02-08,  
6 subsection 1 of section 54-07-01.2, sections 54-54-05, 54-59-26, 54-59-27, 54-59-34, 54-59-  
7 36, 54-59-37, 54-59-39, 61-03-01.3, 61-04.1-03, 61-04.1-08, 61-04.1-09, 61-04.1-12, 61-04.1-  
8 14, 61-04.1-15, 61-04.1-16, 61-04.1-17, 61-04.1-18, 61-04.1-19, 61-04.1-20, 61-04.1-21, 61-  
9 04.1-33, 61-04.1-34, 61-04.1-37, 61-04.1-38, and 61-04.1-39, and subdivision a of subsection  
10 2 of section 65-02-03.1 of the North Dakota Century Code, relating to the wastewater  
11 recycling treatment guide, boards and commissions, soil classifiers, the unemployment  
12 insurance advisory council, gubernatorial appointments, the committee on aging, health  
13 information technology advisory committee, statewide longitudinal data system committee,  
14 atmospheric resource board, the department of health and human services, the council on the  
15 arts, the state engineer, the superintendent of public instruction, job service North Dakota, and  
16 workforce safety and insurance coordinating committee; to repeal chapter 8-11.1, section 12-  
17 48-06.1, chapter 17-07, sections 15.1-37-05, 15.1-37-06, 15.1-37-08, 19-24.1-38, 19.1-24.1-  
18 39, and 23-35-02.3, ~~chapters 43-35-01 – 43-35-17, 43-35-20 – 43-35-23~~, and chapter 43-36,  
19 sections 50-06-05.6, 50-06.4-10, 50-11.1-25, 50-11.1-26, 50-11.1-27, 52-02-07, 54-34.3-10,  
20 54-54-10, 54-59-25, 54-59-33, ~~54-59-34~~, 54-59-35, ~~54-59-36~~, ~~54-59-37~~, 54-59-38, 54-60-25,  
21 55-01-13, 55-01-14, 61-04.1-04, 61-04.1-05, 61-04.1-06, 61-04.1-07, ~~61-04.1-08~~, and 61-04.1-  
22 10, and chapter 61-36 of the North Dakota Century Code, relating to the Midwest interstate  
23 passenger rail compact, prison industry advisory committee, energy policy commission,  
24 medical marijuana advisory committee, onsite wastewater recycling technical committee, state  
25 board of water well contractors, state board of registration for professional soil classifiers,  
26 committee on aging, brain injury advisory council, early childhood council, unemployment  
27 insurance advisory council, commission on the status of women, health information

1 technology advisory committee, statewide longitudinal data system committee, poet laureate  
2 nominating board, rural development council, America 250 commission, atmospheric resource  
3 board, and Devils Lake outlet management advisory committee; to provide an effective date;  
4 and to provide an expiration date.

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

6 **SECTION 1. AMENDMENT.** Section 6-09-43 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **6-09-43. Health information technology planning loan fund - Appropriation.**

- 9 1. The health information technology planning loan fund is established in the Bank for  
10 the purpose of providing low-interest loans to health care entities to assist those  
11 entities in improving health information technology infrastructure. This fund is a  
12 revolving loan fund. All moneys transferred into the fund, interest upon moneys in  
13 the fund, and collections of interest and principal on loans made from the fund are  
14 appropriated for disbursement according to this section.
- 15 2. The Bank shall make loans from this fund to health care entities as approved by  
16 the health information technology office director, ~~in collaboration with the health-~~  
17 ~~information technology advisory committee,~~ in accordance with the criteria  
18 established by the health information technology director under section 54-59-26.
- 19 3. The Bank shall administer the health information technology planning loan fund.  
20 Funds in the loan fund may be used for loans as provided under this section and  
21 the costs of administration of the fund. Annually, the Bank may deduct a service fee  
22 for administering the revolving loan fund maintained under this section.
- 23 4. An application for a loan under this section must be made to the health information  
24 technology office. The health information technology office director, ~~in collaboration-~~  
25 ~~with the health information technology advisory committee,~~ may approve the  
26 application of a qualified applicant that meets the criteria established by the health  
27 information technology office director. The health information technology office  
28 shall forward approved applications to the Bank. Upon approval of the application  
29 by the Bank, the Bank shall make the loan from the revolving loan fund as provided  
30 under this section.
- 31 5. The Bank may do all acts necessary to negotiate loans and preserve security as  
32 deemed necessary, to exercise any right of redemption, and to bring suit in order to

1 collect interest and principal due the revolving loan fund under mortgages,  
2 contracts, and notes executed to obtain loans under this section. If the applicant's  
3 plan for financing provides for a loan of funds from sources other than the state of  
4 North Dakota, the Bank may make a loan subordinate security interest. The Bank  
5 may recover from the revolving loan fund amounts actually expended by the Bank  
6 for legal fees and to effect a redemption.

7 **SECTION 2. AMENDMENT.** Subdivision j of subsection 2 of section 15.1-01-04 of the  
8 North Dakota Century Code is amended and reenacted as follows:

9 j. The following gubernatorial appointees:

- 10 (1) ~~An individual representing the statewide longitudinal data system~~  
11 ~~committee;~~  
12 (2) An individual representing tribal school interests;  
13 (3)(2) An individual employes as a public school administrator;  
14 (4)(3) An individual employed as a public school principal;  
15 (5)(4) An individual employed as a public elementary school teacher;  
16 (6)(5) An individual employed as a public secondary school teacher;  
17 (7)(6) A director of a special education unit; and  
18 (8)(7) A director of a regional education association.

19 ~~**SECTION 3. AMENDMENT.** Section 15.1-02-04 of the North Dakota Century Code is~~  
20 ~~amended and reenacted as follows:~~

21 ~~**15.1-02-04. Superintendent of public instruction – Duties.**~~

22 ~~The superintendent of public instruction:~~

- 23 ~~1. Shall supervise the provision of elementary and secondary education to the~~  
24 ~~students of this state.~~  
25 ~~2. Shall supervise the establishment and maintenance of schools and provide advice~~  
26 ~~and counsel regarding the welfare of the schools.~~  
27 ~~3. Shall supervise the development of course content standards.~~  
28 ~~4. Shall supervise the assessment of students.~~  
29 ~~5. Shall serve as an ex officio member of the board of university and school lands.~~  
30 ~~6. Shall keep a complete record of all official acts and appeals.~~  
31 ~~7. As appropriate, shall determine the outcome of appeals regarding education~~  
32 ~~matters.~~  
33 ~~8. Shall direct school district annexation, reorganization, and dissolution and employ~~  
34 ~~and compensate personnel necessary to enable the state board of public school~~

- 1           ~~education to carry out its powers and duties regarding school district annexation,~~  
2           ~~reorganization, and dissolution.~~
- 3           ~~9. Shall facilitate a process to review and update annually the statewide~~  
4           ~~prekindergarten through grade twelve education strategic vision. The process must~~  
5           ~~include input and participation from a steering committee that includes~~  
6           ~~representatives of all state-level entities receiving state education funding and~~  
7           ~~education stakeholder groups. Each steering committee member entity receiving~~  
8           ~~state education funds shall provide components of the entity's strategic plan which~~  
9           ~~are aligned to the statewide strategic vision. The steering committee shall prepare~~  
10           ~~a collaborative report of the strategic plans of each committee member entity~~  
11           ~~receiving state education funds. The superintendent shall provide the collaborative~~  
12           ~~report and any updates to the strategic vision to the legislative management during~~  
13           ~~each interim and to a joint meeting of the education standing committees during~~  
14           ~~each regular legislative session.~~
- 15           ~~10. Shall facilitate the development and implementation of a North Dakota learning~~  
16           ~~continuum in collaboration with the department of career and technical education,~~  
17           ~~upon the recommendation of the kindergarten through grade twelve education~~  
18           ~~coordination council.~~
- 19           ~~11. Shall:~~
- 20           ~~a. Establish the terms and conditions under which a person may be authorized to~~  
21           ~~access data through the statewide longitudinal data system;~~
- 22           ~~b. Require all statewide longitudinal data system administrators to implement~~  
23           ~~approved data protection practices to ensure the security of electronic and~~  
24           ~~physical data which must include requirements for encryption and staff training;~~
- 25           ~~c. Provide for biennial privacy and security audits of the statewide longitudinal~~  
26           ~~data system;~~
- 27           ~~d. Establish protocols, including procedures, for the notification of students and~~  
28           ~~parents in the event of a data breach involving the statewide longitudinal data~~  
29           ~~system;~~
- 30           ~~e. Require that data retention and disposition by the statewide longitudinal data~~  
31           ~~system be governed by the same policies as those instituted for the information~~  
32           ~~technology department;~~
- 33           ~~f. Require the provision of annual training regarding data protection to any~~  
34           ~~individuals who have access to the statewide longitudinal data system,~~



1 ~~including school district employees, employees of the North Dakota university~~  
2 ~~system office and institutions under the control of the state board of higher~~  
3 ~~education, and elected or appointed state or local governmental officials; and~~  
4 ~~g. Provide a report regarding the statewide longitudinal data system outlining~~  
5 ~~recommendations for further development, cost proposals, proposals for~~  
6 ~~legislation, and recommendations for data sharing governance.~~

7 **SECTION 3. AMENDMENT.** Section 15.1-07-33 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **15.1-07-33. Student information system - Exemption.**

- 10 1. Notwithstanding any other technology requirements imposed by the superintendent  
11 of public instruction or the information technology department, each school district  
12 shall implement the state student information system administered by the  
13 information technology department and use it as its principal student information  
14 system. Each school district shall use a state course code, assigned by the  
15 department of public instruction, to identify all local classes in the state student  
16 information system.
- 17 2. ~~The statewide longitudinal data system committee~~ superintendent of public  
18 instruction may exempt a school district from having to implement and utilize the  
19 state student information system if the school district demonstrates ~~that~~:  
20 a. The district has acquired and is using a student information system determined  
21 to be compatible with the statewide longitudinal data system; or  
22 b. In accordance with requirements of the bureau of Indian education, the district  
23 has acquired and is utilizing a student information system that is determined to  
24 be comparable by the superintendent.

25 **SECTION 4. AMENDMENT.** Section 23-35-02.2 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **23-35-02.2. Public health units to adopt onsite wastewater recycling treatment**  
28 **guide.**

29 Each public health unit shall adopt the statewide technical guide for onsite wastewater  
30 recycling treatment technologies and sewage distribution technologies established by the  
31 ~~onsite wastewater recycling technical committee~~ department of ~~health and human~~  
32 services environmental quality.

33 **SECTION 5. AMENDMENT.** Section 34-16-01 of the North Dakota Century Code is  
34 amended and reenacted as follows:

1           **34-16-01. Definitions.**

2           1. "Board" means an occupational or professional board established under title 43  
3           and any other statutorily created board, commission, or council.

4           2. "Commissioner" means the labor commissioner.

5           **SECTION 6. AMENDMENT.** Section 34-16-02 of the North Dakota Century Code is  
6           amended and reenacted as follows:

7           **34-16-02. Duties of commissioner.**

8           The commissioner shall gather information regarding the continuing education  
9           requirements and the practice of licensing ~~out-of-state~~ practitioners for each ~~licensing~~ board  
10          under title 43, the education standards and practices board, and the state board of law  
11          examiners. The commissioner shall analyze the information to ~~develop and~~ update a strategy  
12          for more efficient continuing education requirements and more efficient practices for licensing  
13          ~~out-of-state~~ practitioners. As necessary, the commissioner may recommend introduction of  
14          legislation to implement this strategy.

15          **SECTION 7.** A new section to chapter 34-16 of the North Dakota Century Code is  
16          created and enacted as follows:

17          **Boards review task force.**

18          1. The commissioner shall provide staffing and administrative services to the boards  
19          review task force. The task force shall:

20           a. Review and assess all boards for inefficiencies and duplication of  
21           responsibilities; and

22           b. ~~Issue performance evaluations; and~~

23           ~~c.~~ Make recommendations to the legislative assembly regarding minimizing and  
24           streamlining government operations through the consolidation or elimination of  
25           boards.

26          2. In addition to the commissioner, who shall serve as the presiding officer of the task  
27          force, the task force must include:

28           a. A member of the senate, appointed by the senate majority leader.

29           b. A member of the house of representatives, appointed by the house of  
30           representatives majority leader.

31           c. A representative of an organization representing cities, appointed by the  
32           governor.

33           d. A representative of an organization representing counties, appointed by the  
34           governor.

- 1           e. A representative of the business community, appointed by the governor.  
2           f. A member at large, appointed by the governor.  
3        3. A member of the task force who is not a state employee is entitled to  
4           reimbursement for mileage and expenses as provided by law for state officers and  
5           employees, to be paid by the labor commissioner. A state employee who is a  
6           member of the task force is entitled to receive that employee's regular salary and is  
7           entitled to reimbursement for mileage and expenses to be paid by the employing  
8           agency. A member of the task force who is a member of the legislative assembly is  
9           entitled to receive per diem compensation at the rate provided under section 54-  
10          35-10 for each day performing official duties of the task force. The legislative  
11          council shall pay the per diem compensation and reimbursement for travel and  
12          expenses as provided by law for any member of the task force who is a member of  
13          the legislative assembly.  
14        4. Before October 1, 2026, the task force shall provide a report of its findings and  
15          recommendations and any proposed legislation necessary to implement the  
16          recommendations to the legislative management and the governor.

17        **SECTION 8. AMENDMENT.** Subsection 30 of section 38-14.1-02 of the North Dakota  
18 Century Code is amended and reenacted as follows:

- 19        30. "Soil classifier" means ~~a professional soil classifier as defined in subsection 4 of~~  
20           ~~section 43-36-01~~an individual who by reason of that individual's special knowledge  
21           of the physical, chemical, and biological sciences applicable to soils as natural  
22           bodies and of the methods and principles of soil classification as acquired by soils  
23           education and soil classification experience in the formation, morphology,  
24           description, and mapping of soils is qualified to practice soil classifying.

25        **SECTION 9. AMENDMENT.** Subdivision t of subsection 1 of section 38-14.1-14 of the  
26 North Dakota Century Code is amended and reenacted as follows:

- 27           t. A soil survey of all the suitable plant growth material within the permit area.  
28           Such survey must also locate and identify prime soils in the permit area. The  
29           survey must be made by a **professional** soil classifier as described in  
30           ~~subsection 4 of section 43-36-01~~section 38-14.1-02.

31        **SECTION 10. AMENDMENT.** Subsection 1 of section 50-06-01.4 of the North Dakota  
32 Century Code is amended and reenacted as follows:

- 33           1. The department includes the state hospital, the regional human service centers, a  
34           vocational rehabilitation unit, public health division, and other units or offices and

- 1 administrative and fiscal support services as the commissioner of the department  
2 determines necessary. The department must be structured to promote efficient and  
3 effective operations and, consistent with fulfilling its prescribed statutory duties,  
4 shall act as the official agency of the state in the discharge of the following  
5 functions not otherwise by law made the responsibility of another state agency:
- 6 a. (1) Administration of programs for children and families, including adoption  
7 services and the licensure of child-placing agencies, foster care services  
8 and the licensure of foster care arrangements, certification of shelter care  
9 services, child protection services, children's trust fund, licensure of early  
10 childhood programs, refugee services, in-home community-based  
11 services, quality control, and administration of the interstate compacts on  
12 the placement of children and juveniles, and early childhood services  
13 advisory council.
- 14 (2) Administration of programs to identify all available options for effectively  
15 maximizing the provision of early childhood education services within the  
16 state, address the coordinated utilization of facilities, ~~and personnel, and~~  
17 transportation, for the provision of early childhood education services  
18 within the state.
- 19 ~~(3) Distribute grants, in the amount of two thousand dollars for each child~~  
20 ~~enrolled in a program of early childhood education, if the child is eligible~~  
21 ~~for free lunches under the Richard B. Russell National School Lunch Act~~  
22 ~~[42 U.S.C. 1751, et seq.], and one thousand dollars for each child~~  
23 ~~enrolled in a program of early childhood education, if the child is eligible~~  
24 ~~for reduced lunches under the Richard B. Russell National School Lunch~~  
25 ~~Act [42 U.S.C. 1751, et seq.].~~
- 26 b. Administration of programs for individuals with developmental disabilities,  
27 including licensure of facilities and services, the establishment funding for  
28 family members and corporate guardianships, and the design and  
29 implementation of a community-based service system for persons in need of  
30 habilitation.
- 31 c. Administration of aging service programs, including nutrition, transportation,  
32 advocacy, social, ombudsman, recreation, and related services funded under  
33 the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and  
34 community-based services, and licensure of adult foster care homes, and the

1                   committee on aging.

- 2                   d. Administration of behavioral health programs, including reviewing and  
3                   identifying service needs and activities in the state's behavioral health system  
4                   in an effort to ensure health and safety, access to services, and quality of  
5                   services; establishing quality assurance standards for the licensure of  
6                   substance use disorder program services and facilities; providing policy  
7                   leadership in partnership with public and private entities; and providing chronic  
8                   disease management, regional intervention services, and twenty-four-hour  
9                   crisis services for individuals with behavioral health disorders.
- 10                  e. Administration of economic assistance programs, including temporary  
11                  assistance for needy families, the supplemental nutrition assistance program,  
12                  home energy assistance, child care assistance, refugee assistance, work  
13                  experience, work incentive, and quality control.
- 14                  f. Administration of medical service programs, including medical assistance for  
15                  children's health insurance program, Medicaid waivers, early and periodic  
16                  screening, diagnosis and treatment, utilization control, autism services, and  
17                  claims processing.
- 18                  g. Administration of general assistance.
- 19                  h. Administration of child support.
- 20                  i. Administration of program, services, and licensing outlined in title 23 and other  
21                  previous duties of the state department of health and state health council.
- 22                  j. Administration of a program to improve the quality of life for an individual with  
23                  brain injury and the individual's family through brain injury awareness,  
24                  prevention, research, education, collaboration, support services, and advocacy.

25                  **SECTION 11. AMENDMENT.** Section 52-02-02 of the North Dakota Century Code is  
26                  amended and reenacted as follows:

27                  **52-02-02. Powers, duties, organization, and methods of procedure of bureau –**  
28                  **Seal.**

29                  The bureau may adopt, amend, or rescind ~~such~~ rules and regulations, make ~~such~~  
30                  expenditures, require ~~such~~ reports, make ~~such~~ investigations, and take ~~such~~ other action as it  
31                  deems necessary or suitable in the administration of the North Dakota unemployment  
32                  compensation law. ~~Such rules~~All rules and regulations are effective upon publication in the  
33                  manner, not inconsistent with the provisions of the North Dakota unemployment compensation  
34                  law, which the bureau shall prescribe. The bureau shall determine its own organization and

1 methods of procedure in accordance with the provisions of the North Dakota unemployment  
2 compensation law and shall have an official seal which shall be noticed judicially.

3 **SECTION 12. AMENDMENT.** Section 52-02-08 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **52-02-08. Bureau and advisory councils to take steps to stabilize employment.**

6 The bureau, ~~with the advice and aid of its advisory councils,~~ and through its  
7 appropriate divisions, shall take appropriate steps to:

- 8 1. Reduce and prevent unemployment.
- 9 2. Encourage and assist in the adoption of practical methods of career and technical  
10 education training, retraining, and career development counseling.
- 11 3. Investigate, recommend, advise, and assist in the establishment and operation, by  
12 municipalities, counties, school districts, and the state, of reserves for public works  
13 to be used in times of business depression and unemployment.
- 14 4. Promote the re-employment of unemployed workers throughout the state in every  
15 other way that may be feasible.
- 16 5. Carry on and publish the results of investigations and research studies.

17 **SECTION 13. AMENDMENT.** Subsection 1 of section 54-07-01.2 of the North Dakota  
18 Century Code is amended and reenacted as follows:

- 19 1. Notwithstanding sections 2-05-01, 4.1-05-02, 4.1-26-02, 6-01-03, 6-09-02.1, 12-  
20 55.1-02, 12-59-01, 15-39.1-05.1, 15.1-01-01, 15.1-13-02, 20.1-02-23, 23.1-01-02,  
21 36-01-01, 37-18.1-01, ~~50-06-05.6, 54-34.3-10,~~ 54-54-02, 55-01-01, and 61-02-04,  
22 all members of the following boards and commissions must, subject to the  
23 limitations of this section, be considered to have resigned from such boards and  
24 commissions effective January first of the first year of each four-year term of the  
25 governor:
  - 26 a. The aeronautics commission.
  - 27 b. The milk marketing board.
  - 28 c. The dairy promotion commission.
  - 29 d. The state banking board.
  - 30 e. The state credit union board.
  - 31 f. The advisory board of directors to the Bank of North Dakota.
  - 32 g. The pardon advisory board.
  - 33 h. The state parole board.
  - 34 i. The state board of public school education.

- 1 j. The education standards and practices board.
- 2 k. The board of trustees of the teachers' fund for retirement.
- 3 l. The state game and fish advisory board.
- 4 m. The environmental review advisory council.
- 5 n. The board of animal health.
- 6 o. The administrative committee on veterans' affairs.
- 7 p. ~~The committee on aging.~~
- 8 q. ~~The commission on the status of women.~~
- 9 r. The North Dakota council on the arts.
- 10 s. ~~g.~~ The state historical board.
- 11 t. ~~r.~~ The state water commission.

12 **SECTION 14. AMENDMENT.** Section 54-54-05 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **54-54-05. Duties of council.**

15 The duties of the council are:

- 16 1. To stimulate and encourage throughout the state the study and presentation of the  
17 performing and fine arts and public interest and participation therein.
- 18 2. To make such surveys as may be deemed advisable of public and private  
19 institutions engaged within the state in artistic and cultural activities, including but  
20 not limited to, music, theater, dance, painting, sculpture, architecture, and allied  
21 arts and crafts, and to make recommendations concerning appropriate methods to  
22 encourage participation in and appreciation of the arts to meet the legitimate needs  
23 and aspirations of persons in all parts of the state.
- 24 3. To take such steps as may be necessary and appropriate to encourage public  
25 interest in the cultural heritage of our state and to expand the state's cultural  
26 resources.
- 27 4. To encourage and assist freedom of artistic expression essential for the well-being  
28 of the arts.
- 29 5. To determine the artistic value of property as provided by section 1-08-04.1.
- 30 6. To administer a poet laureate program that selects the poet laureate and requires  
31 the poet laureate to participate in at least four public events around the state each  
32 year.

33 **SECTION 15. AMENDMENT.** Section 54-59-26 of the North Dakota Century Code is  
34 amended and reenacted as follows:

1           **54-59-26. Health information technology office - Duties - Loan and grant**  
2 **programs.**

- 3           1. ~~The health information technology office is created in the department. The health-~~  
4 ~~information technology advisory committee shall make recommendations to the~~  
5 ~~health information technology office for implementing an interoperable health-~~  
6 ~~information infrastructure that is consistent with emerging national standards;~~  
7 ~~promote the adoption and use of electronic health records and other health-~~  
8 ~~information technologies; and promote interoperability of health information-~~  
9 ~~systems for the purpose of improving health care quality, patient safety, and the~~  
10 ~~overall efficiency of health care and public health services.~~
- 11           2. The health information technology office director, ~~in collaboration with the health-~~  
12 ~~information technology advisory committee,~~ shall:
- 13           a. Apply for federal funds that may be available to assist the state and health care  
14           providers in implementing and improving health information technology.
- 15           b. Implement and administer a health information exchange that utilizes  
16           information infrastructure and systems in a secure and cost-effective manner to  
17           facilitate the collection, storage, and transmission of health records.
- 18           c. Adopt rules under chapter 28-32 for the use of health information, use of the  
19           health information exchange, and participation in the health information  
20           exchange.
- 21           d. Adopt rules under chapter 28-32 for accessing the health information exchange  
22           to ensure appropriate and required privacy and security protections and relating  
23           to the authority of the director to suspend, eliminate, or terminate the right to  
24           participate in the health information exchange.
- 25           e. Establish a health information technology planning loan program to provide  
26           low-interest loans to health care entities to assist those entities in improving  
27           their health information technology infrastructure under section 6-09-43.
- 28           f. Facilitate and expand electronic health information exchange in the state,  
29           directly or by awarding grants.
- 30           g. Establish an application process and eligibility criteria for and accept and  
31           process applications for loans and grants under subdivisions e and f. The  
32           eligibility criteria must be consistent with federal requirements associated with  
33           federal funds received under subdivision a. The eligibility criteria for loans  
34           under subdivision f must include a requirement that the recipient's approved



1 health information technology be strategically aligned with the state's health  
2 information technology plan and the associated federal standards and that the  
3 recipient has passed an onsite electronic medical record readiness assessment  
4 conducted by an assessment team determined by ~~the health information-~~  
5 ~~technology advisory committee~~ and the health information technology office  
6 director.

7 h. Determine fees and charges for access and participation in the health  
8 information exchange. Any moneys collected under this subdivision must be  
9 deposited in the electronic health information exchange fund.

10 i. Consult and coordinate with the department of health and human services to  
11 facilitate the collection of health information from health care providers and  
12 state agencies for public health purposes, including identifiable health  
13 information that may be used by state agencies, departments, or institutions to  
14 comply with applicable state or federal laws.

15 3. ~~If the health information technology advisory committee determines that~~  
16 ~~establishing a health information exchange with another state or states will assist in~~  
17 ~~providing health information exchange services in a cost-effective manner, the~~The  
18 health information technology office director, ~~in collaboration with the health-~~  
19 ~~information technology advisory committee~~, may join with another state or states to  
20 establish, implement, and administer a health information exchange consistent with  
21 other provisions of this chapter.

22 **SECTION 16. AMENDMENT.** Section 54-59-27 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **54-59-27. Health information technology office - Electronic health information**  
25 **exchange fund.**

- 26 1. There is created an electronic health information exchange fund. The fund consists  
27 of moneys deposited in the fund from federal or other sources or moneys  
28 transferred into the fund as directed by the legislative assembly. The health  
29 information technology office shall administer this fund and shall distribute moneys  
30 in the fund accordingly. The moneys in the fund must be used to facilitate and  
31 expand electronic health information exchange. Moneys in the fund may be used,  
32 subject to legislative appropriations, to provide services directly, for grants as  
33 provided under this section, and for the costs of administration of the fund.
- 34 2. A grant applicant shall submit an application to the health information technology

1 office, which shall determine the applicant's eligibility based upon criteria  
2 established by the health information technology office director ~~in collaboration with~~  
3 ~~the health information technology advisory committee.~~

- 4 3. This section does not create an entitlement to any funds available for grants under  
5 this section. The health information technology office may award these grants to  
6 the extent funds are available and, within the office's discretion, to the extent such  
7 applications are approved.

8 **SECTION 17. AMENDMENT.** Section 54-59-34 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **54-59-34. Statewide longitudinal data system ~~committee~~ – Information**  
11 **technology department – Duties.**

- 12 1. The ~~statewide longitudinal data system committee~~information technology  
13 department shall manage a statewide longitudinal data system among education,  
14 workforce, and training entities that:
- 15 a. Provides for the dissemination of management information to stakeholders and  
16 partners of state education, training, and employment systems;
- 17 b. Is required to provide on an annual basis to education and workforce  
18 development programs, to the extent permitted by federal law, the wage record  
19 interchange system 2 data sharing agreement and the state wage interchange  
20 system data sharing agreement and state performance reports that measure  
21 the aggregate outcomes of participants in the workforce and continuing  
22 education programs, including private workforce and education programs that  
23 request the reports; and
- 24 c. Uses data from educational and workforce systems as central sources of  
25 statewide longitudinal data.
- 26 2. The department may, subject to federal and state privacy laws, enter interagency  
27 agreements, including agreements designating authorized representatives of the  
28 educational agencies participating in the system, pursuant to the Family  
29 Educational Rights and Privacy Act [20 U.S.C. 1232G; 34 CFR 99].

- 30 ~~2.3.~~ The ~~statewide longitudinal data system committee~~department shall establish  
31 policies and adopt rules addressing access to and the collection, storage, and  
32 sharing of information and the systems necessary to perform those functions,  
33 subject to applicable federal and state privacy laws and interagency agreements  
34 and restrictions relating to confidential information required to conform to applicable

1 federal and state privacy laws.

2 ~~3.4.~~ The ~~statewide longitudinal data system committee~~department shall provide  
3 operational oversight for information sharing activities and make recommendations  
4 for and provide oversight of information sharing budgets.

5 ~~4.5.~~ The ~~statewide longitudinal data system committee in consultation with the~~  
6 ~~information technology~~ department shall:

- 7 a. Establish the terms and conditions under which a person may be authorized to  
8 access data through the statewide longitudinal data system;
- 9 b. Direct that all statewide longitudinal data system administrators implement  
10 approved data protection practices to ensure the security of electronic and  
11 physical data, provided that the practices include requirements for encryption  
12 and staff training;
- 13 c. Provide for biennial privacy and security audits of the statewide longitudinal  
14 data system;
- 15 d. Establish protocols, including procedures, for the notification of students and  
16 parents in the event of a data breach involving the statewide longitudinal data  
17 system;
- 18 e. Require that data retention and disposition by the statewide longitudinal data  
19 system be governed by the same policies as those instituted for the information  
20 technology department; and
- 21 f. Require the provision of annual training regarding data protection to any  
22 individuals who have access to the statewide longitudinal data system,  
23 including school district employees, employees of the North Dakota university  
24 system office and institutions under the control of the state board of higher  
25 education, and elected or appointed state or local governmental officials.

26 6. The department may authorize studies to benefit and improve workforce training  
27 and education.

28 **SECTION 18. AMENDMENT.** Section 54-59-36 of the North Dakota Century Code is  
29 amended and reenacted as follows:

30 **54-59-36. Statewide longitudinal data system ~~committee~~ – Report to legislative**  
31 **management.**

32 During each interim the ~~statewide longitudinal data system committee~~department shall  
33 provide a report regarding the statewide longitudinal data system to one or more committees  
34 designated by the legislative management and shall provide recommendations for further

1 development, cost proposals, proposals for legislation, and recommendations for data sharing  
2 governance.

3 **SECTION 19. AMENDMENT.** Section 54-59-37 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **54-59-37. Statewide longitudinal data system ~~committee~~ – Continuing**  
6 **appropriation.**

7 The ~~statewide longitudinal data system committee~~department may solicit and receive  
8 gifts, grants, and donations from public and private sources. Any moneys received in  
9 accordance with this section are appropriated on a continuing basis for the support of the  
10 statewide longitudinal data system.

11 **SECTION 20. AMENDMENT.** Section 54-59-39 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **54-59-39. State agencies - Mandatory provision of information - Confidentiality.**

- 14 1. The information technology department may request from any state agency:  
15 a. All information required by 20 U.S.C. 9871(e)(2)(D);  
16 b. Any other educational information ~~the statewide longitudinal data system~~  
17 ~~committee determines~~ is required for a longitudinal data system to comply with  
18 state or federal law; and  
19 c. Unemployment insurance wage data from job service North Dakota for  
20 education and workforce development program evaluations, except that the  
21 information technology department may not redisclose any data identifying an  
22 individual unless the redisclosure is expressly permitted by a written agreement  
23 between job service North Dakota and the department or is otherwise expressly  
24 permitted or required by federal or state law.
- 25 2. A state agency providing information requested pursuant to subsection 1 shall  
26 enter an interagency agreement with the information technology department  
27 identifying the applicable federal and state privacy laws and agency established  
28 restrictions relating to its confidential information that the agency has determined is  
29 required to conform to applicable federal and state privacy laws.
- 30 3. Subject to applicable restrictions on the use and disclosure of confidential  
31 information required to comply with federal and state privacy laws and the terms of  
32 the interagency agreement, any state agency receiving a request for information  
33 under subsection 1 shall provide the information at the time and in the manner  
34 required by the information technology department.

1           **SECTION 21. AMENDMENT.** Section 61-03-01.3 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **61-03-01.3. Director - State engineer - Powers and duties.**

4           1. The director shall:

- 5           a. Enforce all rules adopted by the department;
- 6           b. Hire a state engineer who is a qualified professional engineer, has appropriate  
7 hydrology experience, and will report to the director;
- 8           c. Hire other employees as necessary to carry out the duties of the department  
9 and director;
- 10          d. Organize the department in an efficient manner; and
- 11          e. Take any other action necessary and appropriate for administration of the  
12 department.
- 13          f. Adopt rules to regulate license water well contractors, water well pump and  
14 pitless unit installers, monitoring well contractors, and geothermal system  
15 drillers.
- 16          g. Advise the governor and the state water commission regarding operations of  
17 Devils Lake outlets.
- 18          h. Recommend criteria for operation of each outlet based an operational plan for  
19 the Devils Lake outlet based on outflow volumes, Sheyenne River capacity and  
20 water quality considerations, and the risk of an overflow of Devils Lake.

21          2. The state engineer is responsible for and shall manage the department's oversight  
22 of dam safety, water appropriations, and construction and drainage permits, and  
23 associated technical duties related to public safety and property protection.

24           **SECTION 22. AMENDMENT.** Section 61-04.1-03 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **61-04.1-03. Definitions.**

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

- 28           1. ~~"Board" means the North Dakota atmospheric resource board which, in the~~  
29 ~~exercise of the powers granted under this chapter, has all of the powers of an~~  
30 ~~administrative agency as defined in chapter 28-32.~~
- 31           2. "Controller" refers to any licensee duly authorized in this state to engage in weather  
32 modification operations.
- 33           3.2. "Geographical region" means a geographical area with a contiguous boundary that  
34 may enclose a portion of any county or counties.

- 1           4-3. "Hail suppression" refers to the activation of any process that will reduce, modify,  
2           suppress, eliminate, or soften hail formed in clouds or storms.
- 3           5-4. "Increasing precipitation" refers to the activation of any process that will actually  
4           result in greater amounts of moisture reaching the ground in any area from a cloud  
5           or cloud system than would have occurred naturally.
- 6           6-5. "Initiating precipitation" refers to the process of causing precipitation from clouds  
7           which could not otherwise have occurred naturally or inducing precipitation  
8           significantly earlier than would have occurred naturally.
- 9           7-6. "Operation" means the performance of any weather modification activity undertaken  
10          for the purpose of producing or attempting to produce any form of modifying effect  
11          upon the weather within a limited geographical area or within a limited period of  
12          time.
- 13          8-7. "Research and development" means exploration, field experimentation, and  
14          extension of investigative findings and theories of a scientific or technical nature  
15          into practical application for experimental and demonstration purposes, including  
16          the experimental production of models, devices, equipment, materials, and  
17          processes.
- 18          9-8. "Weather modification" means and extends to the control, alteration, and  
19          amelioration of weather elements, including man-caused changes in the natural  
20          precipitation process, hail suppression or modification, and alteration of other  
21          weather phenomena, including clouds, temperature, wind direction, and velocity,  
22          and the initiating, increasing, decreasing, and otherwise modifying by artificial  
23          methods of precipitation in the form of rain, snow, hail, mist, or fog through cloud  
24          seeding, electrification, or by other means to provide immediate practical benefits.
- 25          10-9. "Weather modification authority" means the governing body created by a board of  
26          county commissioners under section 61-04.1-22.1, 61-04.1-23, 61-04.1-27, 61-  
27          04.1-29, or 61-04.1-31.

28           **SECTION 23. AMENDMENT.** Section 61-04.1-08 of the North Dakota Century Code is  
29           amended and reenacted as follows:

30           **61-04.1-08. Powers and duties of ~~board~~department.**

31           The ~~board~~department has the following powers and duties:

- 32           ~~1. The board shall appoint an executive director to serve at the board's discretion and~~  
33           ~~to perform duties assigned by the board.~~
- 34           ~~2. The board shall authorize the employment of staff the board deems necessary to~~

1 ~~carry out the provisions of this chapter. The executive director shall hire the staff,~~  
2 ~~subject to the approval of the board.~~

3 ~~3.1.~~ The boarddepartment shall adopt rules concerning qualifications, procedures, and  
4 conditions for issuance, revocation, suspension, and modification of licenses and  
5 permits; standards and instructions governing weather modification operations,  
6 including monitoring and evaluation, recordkeeping, and reporting, and the  
7 boarddepartment shall establish procedures and forms for this recordkeeping and  
8 reporting. The boarddepartment may adopt all other rules necessary to the  
9 administration of this chapter. The provisions of chapter 28-32 apply to this chapter  
10 and rules of the boarddepartment must be published in the North Dakota  
11 Administrative Code.

12 ~~4.2.~~ The boarddepartment may contract with any person to carry out weather  
13 modification operations and, in connection with regulated weather modification  
14 operations in a county or geographical region, shall carry on monitoring and  
15 evaluation activities.

16 ~~5.3.~~ The boarddepartment may order any person who is conducting weather  
17 modification operations in violation of this chapter or any rules adopted to  
18 implement this chapter, to cease and desist from those operations and the order is  
19 enforceable in any court of competent jurisdiction within this state.

20 ~~6.4.~~ The boarddepartment may cooperate and contract with any person engaged in  
21 activities similar to the work of the boarddepartment and may make contracts and  
22 agreements to carry out programs consistent with the purpose and intent of this  
23 chapter. The boarddepartment may request and accept any grants of funds or  
24 services from any person and expend these funds or use these services to carry  
25 out this chapter.

26 ~~7.5.~~ The boarddepartment shall monitor the current state of knowledge regarding the  
27 magnitude and impacts of possible regional and global climatic changes and shall  
28 provide information to other state agencies that may benefit from this knowledge.

29 ~~8.6.~~ The boarddepartment shall administer and enforce the provisions of this chapter  
30 and do all things reasonably necessary to effectuate the purposes of this chapter.

31 ~~9.7.~~ The boarddepartment may plan and study a hail suppression pilot program that  
32 would provide urban and rural hail suppression operations statewide or to any  
33 portion of the state.

34 **SECTION 24. AMENDMENT.** Section 61-04.1-09 of the North Dakota Century Code is

1 amended and reenacted as follows:

2 **61-04.1-09. ~~Board~~Department of water resources to establish research and**  
3 **development program - Hail suppression pilot program.**

4 1. The ~~board~~department of water resources shall establish a program of weather  
5 modification research and development in this state. The ~~board~~department shall  
6 supervise and coordinate all research and development activities in the state or  
7 research and development activities outside of the state participated in or  
8 conducted by any state institution or state or county agency.

9 2. If the ~~board~~department plans and studies a hail suppression pilot program, the  
10 ~~board~~department may conduct a planning phase that includes studying the impact  
11 on the environment, providing public education, and formulating an operations  
12 plan.

13 **SECTION 25. AMENDMENT.** Section 61-04.1-12 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **61-04.1-12. Exemptions.**

16 The ~~board~~department of water resources may provide by rule for exemption of the  
17 following activities from the license and permit requirements of section 61-04.1-11:

- 18 1. Research and development conducted by the state, political subdivisions of the  
19 state, colleges and universities of the state, agencies of the federal government, or  
20 bona fide research corporations.  
21 2. Weather modification operations of an emergency nature taken against fire, frost,  
22 or fog.

23 Exempted activities shall must be conducted so as not to unduly interfere with weather  
24 modification operations conducted under a permit issued in accordance with this chapter.

25 **SECTION 26. AMENDMENT.** Section 61-04.1-14 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **61-04.1-14. Issuance of license – Fee.**

28 The ~~board~~department of water resources shall provide, by rule, the procedure and  
29 criteria for the issuance of a license. The ~~board~~department, in accordance with its rules, shall  
30 issue a weather modification license to each applicant who:

- 31 1. Pays a license fee of fifty dollars.  
32 2. Demonstrates competence to engage in weather modification operations, to the  
33 satisfaction of the ~~board~~department.  
34 3. Designates an agent for the service of process pursuant to section 61-04.1-13 or



1 chapter 10-19.1.

2 Each license issued by the ~~board~~ department is nontransferable and ~~shall~~  
3 ~~expire~~ expires on December thirty-first of the year of issuance. A license ~~shall be~~ is revocable  
4 for cause at any time prior to such date if, after holding a hearing upon due notice, the ~~board~~  
5 ~~shall determine~~ department determines that cause for revocation exists. License fees collected  
6 by the ~~board~~ department ~~shall~~ must be paid into the general fund in the state treasury.

7 **SECTION 27. AMENDMENT.** Section 61-04.1-15 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **61-04.1-15. Revocation or suspension of license.**

10 The ~~board~~ department of water resources may suspend or revoke a license for any of  
11 the following reasons:

- 12 1. Incompetency.
- 13 2. Dishonest practice.
- 14 3. False or fraudulent representations made in obtaining a license or permit under this  
15 chapter.
- 16 4. Failure to comply with any provisions of this chapter or any rules adopted by the  
17 ~~board~~ department pursuant to this chapter.

18 **SECTION 28. AMENDMENT.** Section 61-04.1-16 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **61-04.1-16. Permit required - Issuance of permit - Fee.**

- 21 1. A weather modification permit ~~shall be~~ is required for each geographical area, as  
22 set out in the operational plan required by subdivision b, in which a person intends  
23 to conduct weather modification operations. Each permit issued by the ~~board~~ department of water resources  
24 ~~expire~~ expires on December thirty-first of the year of  
25 issuance. A person applying for a weather modification operational permit shall file  
26 an application with the ~~board~~ department, in such form as the ~~board~~ department  
27 ~~prescribe~~ prescribes, which application ~~shall~~ must be accompanied by  
28 an application fee of twenty-five dollars and contain such information as the  
29 ~~board~~ department, by rule, may require, and in addition, each applicant for a permit  
30 shall:
  - 31 a. Furnish proof of financial responsibility as provided by section 61-04.1-19.
  - 32 b. Set forth a complete operational plan for the proposed operation which  
33 ~~shall~~ must include a specific statement of its nature and object, a map of the  
34 proposed operating area which specifies the primary target area for the

- 1 proposed operation and shows the area that is reasonably expected to be  
2 affected by such operation, a statement of the approximate time during which  
3 the operation is to be conducted, a list of the materials and methods to be used  
4 in conducting the operation, and such other detailed information as may be  
5 needed to describe the operation.
- 6 2. The ~~board~~department may issue the permit if it determines that:
- 7 a. The applicant holds a valid weather modification license issued under this  
8 chapter.
- 9 b. The applicant has furnished satisfactory proof of financial responsibility in  
10 accordance with section 61-04.1-19.
- 11 c. The applicant has paid the required application fee.
- 12 d. The operation:
- 13 (1) Is reasonably conceived to improve water quantity or quality, reduce loss  
14 from weather hazards, provide economic benefits for the people of this  
15 state, advance scientific knowledge, or otherwise carry out the purposes of  
16 this chapter.
- 17 (2) Is designed to include adequate safeguards to minimize or avoid possible  
18 damage to the public health, safety, welfare, or the environment.
- 19 (3) Will not adversely affect another operation for which a permit has been  
20 issued.
- 21 e. The applicant has North Dakota workforce safety and insurance coverage for  
22 all employees working in this state.
- 23 f. The applicant has furnished a performance bond as required by section 61-  
24 04.1-34.
- 25 g. The applicant has complied with such other requirements for the issuance of  
26 permits as may be required by the rules ~~and regulations~~ of the  
27 ~~board~~department.
- 28 h. The applicant has furnished a bid bond.
- 29 i. The applicant has registered, with the North Dakota aeronautics commission,  
30 any aircraft intended to be used in connection with the operation.
- 31 To carry out the objectives and purposes of this chapter, the ~~board~~department may  
32 condition and limit permits as to primary target areas, time of the operation,  
33 materials, equipment, and methods to be used in conducting the operation,  
34 emergency shutdown procedure, emergency assistance, and such other

1 operational requirements as may be established by the ~~board~~department.

2 3. The ~~board shall~~department may issue only one permit at a time for operations in  
3 any geographical area if two or more operations conducted in such an area  
4 according to permit limitations might adversely interfere with one another.

5 4. All permit fees collected by the ~~board shall~~department must be paid into the  
6 general fund of the state treasury.

7 **SECTION 29. AMENDMENT.** Section 61-04.1-17 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **61-04.1-17. Hearings.**

10 The ~~board~~department of water resources shall give public notice, in the official county  
11 newspaper or newspapers in the area of the state reasonably expected to be affected by  
12 operations conducted under a permit, that it is considering an application for such permit, and,  
13 if objection to the issuance of the permit is received by the ~~board~~department within twenty  
14 days, the ~~board~~department may hold a public hearing for the purpose of obtaining information  
15 from the public concerning the effects of issuing the permit. The ~~board~~department may ~~also~~  
16 hold such hearings upon its own motion.

17 **SECTION 30. AMENDMENT.** Section 61-04.1-18 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **61-04.1-18. Revocation, suspension, or modification of permit.**

20 The ~~board~~department of water resources may suspend or revoke a permit if it appears  
21 that the permittee no longer has the qualifications necessary for the issuance of an original  
22 permit or has violated any provision of this chapter, or any of the rules adopted under it.

23 The ~~board~~department may revise the conditions and limits of a permit if:

- 24 1. The permittee is given notice and a reasonable opportunity for a hearing, to be  
25 held in accordance with chapter 28-32.
- 26 2. It appears to the ~~board~~department that a modification of the conditions and limits of  
27 a permit is necessary to protect the public's health, safety, welfare, or the  
28 environment.

29 If it appears to the ~~board~~department that an emergency situation exists or is impending which  
30 could endanger the public's health, safety, welfare, or the environment, the ~~board~~department  
31 may, without prior notice or hearing, immediately modify the conditions or limits of a permit, or  
32 order temporary suspension of a permit. The issuance of such an order ~~shall~~must include  
33 notice of a hearing to be held within ten days thereafter on the question of permanently  
34 modifying the conditions and limits or continuing the suspension of the permit. Failure to

1 comply with an order temporarily suspending an operation or modifying the conditions and  
2 limits of a permit ~~shall be~~ grounds for immediate revocation of the license and permit of the  
3 person controlling or engaged in the operation.

4 **SECTION 31. AMENDMENT.** Section 61-04.1-19 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **61-04.1-19. Proof of financial responsibility.**

7 Proof of financial responsibility is made by showing to the satisfaction of the  
8 ~~board~~department of water resources that the permittee has the ability to respond in damages  
9 to liability which might reasonably result from the operation for which the permit is sought.  
10 ~~Such proof~~Proof of financial responsibility may be shown by:

- 11 1. Presentation to the ~~board~~department of proof of a prepaid noncancelable  
12 insurance policy against such liability, in an amount approved by the  
13 ~~board~~department.
- 14 2. Filing with the ~~board~~department a corporate surety bond, cash, or negotiable  
15 securities in an amount approved by the ~~board~~department.

16 **SECTION 32. AMENDMENT.** Section 61-04.1-20 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **61-04.1-20. ~~Board~~Department of water resources may create operating districts -**  
19 **Representation of noncontracting counties.**

20 The ~~board~~department of water resources may place any county or geographical region  
21 for which a person contracts with the state for weather modification operations in any  
22 operational district the ~~board~~department determines necessary to best provide that county or  
23 geographical region with the benefits of weather modification. In determining the boundaries of  
24 an operating district, the ~~board~~deparatment shall consider the patterns of crops within the  
25 state, climatic patterns, and the limitations of aircraft and other technical equipment. The  
26 ~~board~~department may assign any county that has not created a weather modification authority  
27 under this chapter to an operating district solely for the purpose of representation on the  
28 operations committee of that district.

29 **SECTION 33. AMENDMENT.** Section 61-04.1-21 of the North Dakota Century Code is  
30 amended and reenacted as follows:

31 **61-04.1-21. District operations advisory committees created - Duties.**

- 32 1. There must be a district operations advisory committee in each operations district  
33 created in accordance with section 61-04.1-20. Each committee must be  
34 composed of one commissioner of the weather modification authority, if a weather

1 modification authority exists, from each county within the district; a representative  
2 of each person contracting for a geographical region assigned to the district; and  
3 one member of the board of county commissioners from each county assigned to  
4 the district. Each advisory committee, upon majority vote, with the concurrence of  
5 the ~~board~~department of water resources, shall adopt rules and bylaws necessary to  
6 govern that committee's procedures and meetings. Each committee shall evaluate  
7 weather modification operations within that committee's district and make  
8 recommendations and proposals to the ~~board~~department concerning these  
9 operations.

- 10 2. The weather modification authority of any county authorized to contract for weather  
11 modification operations under this chapter which is not assigned to an operations  
12 district shall assume the functions of the district operations committee and may  
13 exercise the powers and duties assigned to the operations committees by this  
14 chapter and by the rules of the ~~board~~department.

15 **SECTION 34. AMENDMENT.** Section 61-04.1-33 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **61-04.1-33. Bids required – When.**

18 ~~Whenever~~If the board shall undertake to contractdepartment of water resources  
19 contracts with any licensed controller in an amount in excess of ten thousand dollars in any  
20 one year, the ~~board~~department shall advertise for proposals for such weather modification  
21 activities and, in its proceedings with respect to bids therefor, shall substantially follow the  
22 manner and form required by the laws of this state for the purchase of supplies by the office of  
23 management and budget. The ~~board shall~~department may not enter into nea contract or  
24 agreement for weather modification services except with a controller, holding the permit as  
25 required by this chapter, except for the purpose of gathering technical information, and making  
26 studies or surveys.

27 **SECTION 35. AMENDMENT.** Section 61-04.1-34 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **61-04.1-34. Performance bond, cash, or negotiable securities required.**

30 Before the ~~board shall contract~~department of water resources contracts with any  
31 controller, ~~the~~the department shall require the controller to furnish a surety bond or cash or  
32 negotiable securities for the faithful performance of the contract in such amount as determined  
33 by the ~~board~~department, conditioned that the licensee and the licensee's agents will in all  
34 respects faithfully perform all weather modification contracts undertaken with the

1 ~~board~~department and will comply with all provisions of this chapter and the contract entered  
2 into by the ~~board~~department and the licensee.

3 **SECTION 36. AMENDMENT.** Section 61-04.1-37 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **61-04.1-37. Liability of controller.**

- 6 1. An operation conducted under the license and permit requirements of this chapter  
7 is not an ultrahazardous or abnormally dangerous activity which makes the  
8 permittee subject to liability without fault.
- 9 2. Dissemination of materials and substances into the atmosphere by a permittee  
10 acting within the conditions and limits of the permittee's permit ~~shall~~do not  
11 constitute trespass.
- 12 3. Except as provided in this section and in section 61-04.1-36, ~~nothing in~~ this chapter  
13 ~~shall~~does not prevent any person adversely affected by a weather modification  
14 operation from recovering damages resulting from negligent or intentionally harmful  
15 conduct by a permittee.
- 16 4. The fact that a person holds a license or was issued a permit under this chapter, or  
17 that the person has complied with the rules adopted by the ~~board~~pursuant-  
18 tedepartment of water resources under this chapter, is not admissible as a defense  
19 in any legal action which may be brought against the person.

20 **SECTION 37. AMENDMENT.** Section 61-04.1-38 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **61-04.1-38. ~~Board~~Department of water resources may receive and expend funds.**

23 The ~~board~~department of water resources may receive and accept in the name of the  
24 state any funds that are offered or become available from any federal grant or appropriation,  
25 private gift, donation, or bequest, county funds, or funds from any other source except license  
26 and permit fees, and to expend these funds for the expense of administering this chapter, and,  
27 with the exception of county funds and funds from any other person contracting with the  
28 ~~board~~department for weather modification operations, for the encouragement of research and  
29 development in weather modification by any private person, the North Dakota state university,  
30 the university of North Dakota, or any other appropriate state, county, or public agency in this  
31 state by direct grant, contract, or other means.

32 All federal grants, federal appropriations, private gifts, donations, or bequests, county  
33 funds, or funds from any other source except license and permit fees, received by the  
34 ~~board~~department must be paid over to the state treasurer, who shall credit this amount to a-

1 ~~special fund in the state treasury known as the state weather modification fund~~the water  
2 commission fund. All proceeds deposited by the state treasurer in the ~~state weather-~~  
3 ~~modification~~water commission fund are appropriated to the ~~board~~department and, if  
4 expended, must be disbursed by warrant-check prepared by the office of management and  
5 budget upon vouchers submitted by the ~~board~~department and must be used for the purpose of  
6 paying for the expense of administration of this chapter and, with the exception of county  
7 funds or funds from any other person contracting with the ~~board~~department for weather  
8 modification operations, for the encouragement of research and development in weather  
9 modification by any private person, the North Dakota state university, the university of North  
10 Dakota, or any other appropriate state, county, or public agency by direct grant, contract, or  
11 other means.

12 **SECTION 38. AMENDMENT.** Section 61-04.1-39 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **61-04.1-39. Payment for weather modification – State to provide funds.**

15 Any weather modification authority or person that contracted with the ~~board~~department  
16 of water resources for weather modification operations under this chapter shall appropriate to  
17 the ~~state weather modification~~ water commission fund the amount determined by the  
18 ~~board~~department to be necessary to provide that weather modification authority or person with  
19 weather modification operations. The ~~board~~department may expend, from the ~~state weather-~~  
20 ~~modification~~ water commission fund, the funds the ~~board~~department deems necessary to  
21 provide a contracting weather modification authority or person with weather modification  
22 operations.

23 **SECTION 39. AMENDMENT.** Subdivision a of subsection 2 of section 65-02-03.1 of  
24 the North Dakota Century Code is amended and reenacted as follows:

- 25 a. A departing member representing an employer must be replaced by a member  
26 representing an employer, most of whose employees are in a different rate  
27 classification than those of the employer represented by the departing member.  
28 ~~The governor shall appoint the member for an employer representative from a~~  
29 ~~list of three potential candidates submitted by a coordinating committee~~  
30 ~~appointed by the governor, composed of representatives from the associated~~  
31 ~~general contractors of North Dakota, the North Dakota petroleum council, the~~  
32 ~~greater North Dakota chamber of commerce, the North Dakota motor carriers~~  
33 ~~association, the North Dakota hospital association, the national federation of~~  
34 ~~independent business, the lignite energy council, and other statewide business~~

1 interests.

2 **SECTION 40. REPEAL.** Chapter 8-11.1, section 12-48-06.1, chapter 17-07, sections  
3 15.1-37-05, 15.1-37-06, 15.1-37-08, 19-24.1-38, 19.1-24.1-39 ~~and~~, 23-35-02.3, ~~chapters~~ 43-  
4 ~~35-01 – 43-35-17, 43-35-20 – 43-35-23,~~ ~~and~~ chapter 43-36, sections 50-06-05.6, 50-06.4-10,  
5 50-11.1-25, 50-11.1-26, 50-11.1-27, 52-02-07, 54-34.3-10, 54-54-10, 54-59-25, 54-59-33, ~~54-~~  
6 ~~59-34,~~ 54-59-35, ~~54-59-36,~~ ~~54-59-37,~~ 54-59-38, 54-60-25, 61-04.1-04, 61-04.1-05, 61-04.1-  
7 06, 61-04.1-07, ~~61-04.1-08,~~ and 61-04.1-10, and chapter 61-36 of the North Dakota Century  
8 Code are repealed.

9 **SECTION 41. REPEAL.** Sections 55-01-13 and 55-01-14 of the North Dakota Century  
10 Code are repealed.

11 **SECTION 42. EFFECTIVE DATE.** Section ~~38~~41 of this Act is effective December 31,  
12 2026.

13 **SECTION 43. EXPIRATION DATE.** Section ~~8~~7 of this Act is effective through  
14 December 1, 2026, and after that date is ineffective.



## Memorandum

To: Chairman Roers, Members of Senate State and Local Government Committee

Re: Section by Section Effect of Amended SB 2308.

**Section 1.** Removes references to the health information technology advisory committee (*repealed in section 40*).

**Section 2.** Removes the representative from the statewide longitudinal data system (SLDS) committee (*repealed in section 40*) from the kindergarten through grade twelve education coordination council.

**Section 3.** Transfers the ability to exempt a school district from having to implement and utilize the state student information system from the SLDS committee (*repealed in section 40*) to the superintendent of public instruction.

**Section 4.** Changes the responsibility to establish the statewide technical guide for onsite wastewater recycling treatment technologies and sewage distribution technologies from the onsite wastewater recycling technical committee (*repealed in section 40*) to the Department of Environmental Quality (DEQ).

**Section 5.** Adds any statutorily created board, commission, or council, to the definition of "board" as used in N.D.C.C. chapter 34-16. This change relates to section 7 of the bill.

**Section 6.** Cleans up the language of the statute to better align with the goals of Section 7 and to avoid duplication of efforts made under the prior administration.

**Section 7.** Creates the boards review task force and removes the administrative requirement that the task force issue performance evaluations of all the boards and focuses on recommendations for streamlining government operations.

**Section 8.** Removes the reference to section 43-36-01 and replaces it with a definition of a soil classifier because chapter 43-36 related to professional soil classifiers is repealed in section 40.

**Section 9.** Removes the word "professional" and the reference to section 43-36-01 (*chapter 43-36 is repealed by section 40*) and instead refers to the definition inserted by section 8 of the bill.

**Section 10.** Moves the duties of the North Dakota early childhood services advisory council under DHHS, moves the administration of early childhood services programs under DHHS, and moves the duties of the brain injury advisory council under DHHS.

**Section 11.** Technical corrections.

**Section 12.** Removes references to the state unemployment insurance advisory council (*repealed in section 40*).

**Section 13.** Removes references to chapters which are repealed in section 40.

**Section 14.** Moves the duties of the poet laureate nominating board (*repealed in section 40*) under the Council on the Arts.

**Sections 15-16.** Removes references to the health information technology advisory committee (*repealed in section 40*).

**Sections 17-19.** Moves the duties of the SLDS committee to ITD, requires ITD to provide a report to legislative management, and allows ITD to receive continuing appropriation.

**Section 20.** Allows ITD to request data from state agencies in order for the SLDS to comply with federal or state law and requires state agencies providing information with ITD to identify and apply the relevant state and federal privacy laws and agency restrictions regarding uses of confidential information.

**Section 21.** Moves the duties of the board of water well contractors and Devils Lake outlets management advisory committee to the State Engineer.

**Section 22.** Removes a reference to the atmospheric resource board (*repealed in section 40*)

**Section 23-38.** Moves the powers and duties of the atmospheric resource board (*repealed in section 40*) to the Department of Water Resources regarding licensure, permitting, contracting, licensure disciplinary actions, and regulation of weather modification.

**Section 39.** Removes coordinating committee from Century Code.

**Section 40.** Repeals the following:

- Chapter 8-11.1 (midwest interstate passenger rail compact)
- Section 12-48-06.1 (prison industry advisory committee)
- Sections 15.1-37-05, 15.1-37-06, and 15.1-37-08 (early childhood education program)
- Chapter 17-07 (energy policy commission)
- Section 19-24.1-38 (medical marijuana advisory committee)
- Section 23-35-02.3 (onsite wastewater recycling technical committee)
- Chapter 43-35-01 – 43-35-17, 43-35-20 – 43-35-23 (board of water well contractors)
- Chapter 43-36 (state board of registration for professional soil classifiers)
- Section 50-06.4-10 (brain injury advisory council)
- Section 52-02-07 (state unemployment insurance advisory council)
- Section 54-34.3-10 (commission on the status of women)
- Section 54-54-10 (Poet Laureate nominating board)
- Section 54-59-25 (health information technology advisory committee)
- Sections 54-59-33, 54-59-35, and 54-59-38 (statewide longitudinal data system committee)
- Section 54-60-25 (North Dakota rural development council)
- Sections 61-04.1-04, 61-04.1-05, 61-04.1-06, 61-04.1-07, and 61-04.1-10 (North Dakota atmospheric resource board)
- Chapter 61-36 (Devils Lake outlets management advisory committee)

**Section 41. Repeal.**

- Sections 55-01-13 and 55-01-14 (America 250 commission)

**Section 42. Effective Date.**

- Makes Section 41 (the repeal of the America 250 commission) effective on December 31, 2026.

**Section 43. Expiration Date.**

- Repeals the boards review task force (Section 7 of the bill) effective on December 2, 2026.